

GCVS Members' Briefing

Draft Community Empowerment (Scotland) Bill 20th December 2013

1. Introduction

GCVS will be holding a consultation seminar with our members on the morning of **16th January** 2014, which will inform our response, prior to our submission to the Scottish Government. We would encourage you to attend and make your views known.

The Scottish Government is now consulting on the draft legislation in the form of the Community Empowerment Bill and this consultation closes on the 24th of January 2014.

To help member organisations consider the issues, we have summarised some key questions we think that respondents may wish to consider. Although some of these may seem quite technical they are attempt to respond to specific ideas in the draft legislation. We will be able to clarify the key issues at our members briefing. As well as seeking our own member's views we also want to encourage detailed consideration of the Bill for your own organisations, community groups and service users.

2. Key Aims of the Bill

The Bill's aim is to support community led action, enable people to be more involved in decisions affecting their lives and communities and deliver a range of improved social, economic and environmental benefits. Its provisions emphasise increasing locally driven, enterprising community development and sustainable economic growth.

The consultation paper is extensive and asks respondents to consider draft legislation including, but not limited to, the following areas:

- Community Right to Request to purchase or use Property – allows underused or unused public sector assets to be taken over by community bodies.
- The right to “Request to Participate in Processes to Improve Outcomes of Service Delivery” – where a community is unhappy with a local service they can request to participate in processes to improve outcomes or take over services.
- Increased transparency about common good assets – includes a register of common good assets to be created by each local authority. Community Councils will have a new statutory role in relation to this.
- A compulsory right for communities to purchase land for community use – this will improve and extend on the existing community right to buy in rural areas.
- Compulsory powers for communities to acquire neglected or abandoned buildings or land more generally.

- Strengthening Community Planning - includes measures which clarify the roles and responsibilities of CPPs and places new duties on public sector partners to play a full and active role in community planning and the resourcing and delivery of local priority outcomes.
- Community rights in relation to the provision of allotments – The Bill proposes that policy on allotment provision should be demand led. If demand exceeds supply local authorities must consider additional land acquisition.
- Local relief schemes for non-domestic (business) rates - this would allow councils to create and fund their own localised business rate relief schemes to better reflect local needs and support communities.
- Scotland Performs – This suggests embedding the outcomes approach in the National Performance Framework in legislation.

3. Empowerment & Engagement

GCVS welcomes the Bill as a positive development in addressing significant barriers to communities and third sector organisations participating meaningfully in community planning and the improvement of public services.

Many aspects of the Bill have been widely welcomed by a range of commentators in the community development and third sectors, but questions about how some provisions will work in practice have also been raised by some working in this field. Many of these concerns have focused on how the draft provisions in the Bill can be strengthened, especially with regard to community engagement and capacity building. Some questions raised include:

- Are the definitions of what constitutes a community body appropriate and what role should statutory services play in deciding this?
- In Glasgow the question of whether the right to request to participate extends to the provision of services by ALEOs. Are they covered adequately in the Bills definition of a public body?
- Should the decisions of public bodies, regarding requests to participate in improving services or to transfer public assets to communities, be subject to an appeal process? If so how should it work?
- How does the proposed “right to request” participation add additional weight to existing democratic processes and the developing rights of communities to engage with public bodies as enshrined in other legal frameworks e.g. for the promotion of Human Rights and Equalities? To what extent must this take account of the existing empowerment and engagement practices of public bodies?
- How can the Bill ensure that this right does not introduce more bureaucracy to empowerment, which inadvertently weakens community or third sector partners who

may lack experience knowledge or skills to participate effectively with public bodies?

- How does the issue of access to help, which strengthens communities, affect empowerment and how can we ensure that more disadvantaged communities are also able to participate meaningfully?
- Previous consultation proposed a locally planned approach to engagement and empowerment and an enhanced role for the [National Standards for Community Engagement](#) in creating a more consistent starting point for it. These issues were important to many in the third and community sectors, should they be raised again in the current consultation or should they be detailed in associated guidance when the Bill is implemented?

4. Community Planning

Often, our members report that community engagement is problematic and often happens with insufficient involvement from the people affected. It is therefore important that the starting point for the Bill should be to ensure that people living in communities understand community planning and other participation opportunities and how these can support positive change in people lives. To achieve this it is essential that they have the opportunity, tools and support to be effectively involved. In looking at the existing proposals we think it would be helpful to consider the following questions:

- Many of the Bill's community planning proposals address the important issue of integration of public services and how this should be achieved. We suggest that meaningful integration with the needs and aspirations of third and community sector partners has equal weight. How can we ensure that these aims are mutually supportive in the legislation?
- For example could the proposed right to request participation in improving services be applied to existing arrangements for engagement in community planning and with other public bodies? Could this help assess and improve outcomes for communities and third sector partners?
- Do the proposed duties for improved third and community sector engagement in CPPs go far enough?
- Should third sector and community sector partners have more formal rights in the proposed new "established" community planning partnerships?
- Do proposed duties regarding reporting to communities improve on the current situation?
- How can the Bill ensure that community engagement is properly planned, resourced and linked to other guidance for CPPs e.g. on the planning of community learning and development?

- Are the proposed scrutiny and accountability arrangements for community planning adequate? In particular are community and third sector interests suitably represented in these arrangements?

5. Asset Transfer

The complexity of legal processes around the transfer of assets may be off-putting for some, we think there may be a danger that those with more capacity and knowledge will benefit most from the Bill's introduction, while those living in the most marginalised and vulnerable communities will see less improvement. The proposals raise a number of key questions that members may want to consider:

- Should there be a requirement to provide support to communities wishing to take advantage of the opportunities provided by the Bill as part of the wider requirement for the planning of community development?
- Should the Bill oblige public bodies to look at more than commercial gain when assessing best value in relation to the disposal of land or property to communities? Should such assessments specifically consider the social and possible long-term economic benefits of such transfers, in addition to short-term considerations about price?
- Should there be more emphasis on co-production - where public sector and community groups work together to transform local assets, without necessarily passing on the full transfer of liabilities to groups who may not be equipped to deal with them?
- How can an appeals process deliver an independent process of arbitration in the wider public benefit in situations where requests to transfer assets are refused?
- How does the situation in Glasgow with ownership and management of most property lying outwith the direct control of Councillors and managed by City Property affect the intention of the legislation? Are ALEOs subject to the provisions of the Bill?

6. Community Right to Buy

Extending the community right to buy abandoned or derelict land/property to transform unsightly or dangerous spaces and buildings is welcome. We do suggest that members consider whether Government's expectations of the arrangements for provision of capacity building support in these circumstances should be explicit in the provisions of the Bill or its associated guidance.

These are just some of the issues that we have identified, which organisations may wish to consider in advance of our consultation event or in their response to this consultation.

7. Additional Information

The draft Bill and associated consultation can be found here:-
<http://www.scotland.gov.uk/Publications/2013/11/5740>

For additional views from other organisations supporting community empowerment see [Scottish Community Development Centre](#) and the [Community Learning & Development Standards Council](#) briefings on the Bill.

If you would like more information about any of the issues covered in this briefing please contact:

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