



## Community Empowerment (Scotland) Bill Workshop

15<sup>th</sup> January 2014, McDonald Rooms Conference Centre, 95 McDonald Road, Edinburgh

### Workshop Report

#### **Introduction**

On 6<sup>th</sup> November 2013 the Scottish Government published a consultation on the proposed Community Empowerment (Scotland) Bill. This Bill is about placing people at the heart of local decision-making. Coupled with public sector reform, community empowerment is central to the Scottish Government's agenda. The context is provided by the SNP 2011 manifesto, which proposed a Community Empowerment Bill to '*give local people a greater say in their area, enabling them to deal more easily with derelict and eyesore properties and take over underused or unused public buildings for the benefit of their community*'. This is an important Bill for BEFS members and indeed anyone interested in communities participating in decisions about their local environment. It also addresses the increasing role of communities in owning and managing assets. BEFS hosted a workshop on 15<sup>th</sup> January 2014 on the consultation to enable BEFS members and colleagues within the sector to discuss the legislative and policy proposals.

#### **Community Right to Request Rights in Relation to Property "Asset Transfer Requests"**

*The draft Bill makes provisions (called Asset Transfer Requests) for communities to express interest in owning or using public sector land and buildings. Key points arising in discussion were as follows:*

*Q1 - Definition of Community body:* the definition of community body was broadly welcomed and participants welcomed that the definition would not be drawn too tightly. Recognising community groups in this way may strengthen the role of existing groups. A word of caution highlighted that there may be multiple interests in an asset (a variety of community groups may have different expectations) thereby creating a competitive environment around asset transfer. It was noted that groups often form around a shared common interest in a particular asset. However in circumstances where multiple properties are available it may be necessary to encourage groups to take a more strategic approach by looking at places and prioritise assets within an area in collaboration with other groups. It was noted that the Big Lottery takes a geographical perspective of community and that it

cannot be assumed that all local groups will have all the necessary 'expertise' to manage an asset or deliver a service. A partnership approach would allow transfer requests to be assessed on the basis of groups *having access to* relevant expertise such as that provided by Building Preservation Trusts and the Development Trust Association Scotland (DTA Scotland).

*Q2 & Q9 – Public bodies:* Historic Environment Scotland should be listed as a public body in the legislation once it is established. It was commented that there could be opportunities for community groups to take on a role in helping to manage property owned by Historic Environment Scotland. Clarity was sought on the public bodies selected for inclusion in each of the two proposed lists at annex C. It was suggested that the list could align with the bodies that can be subject to freedom of information requests.

*Q3 – Timescales:* In terms of timescales for dealing with transfer requests, it was noted that there should be an end point for making decisions in order that decisions do not drag on. There needs to be a strong onus on public bodies to provide information – for example to be explicit in their reasons for refusing an asset transfer request.

*Q4 - Right of appeal:* There was support for a right of appeal to Minister, however participants believed that this should be extended to cover circumstances where the relevant authority is a local authority or Scottish Ministers (ref section 8 (2)). A neutral body needs to be established to manage the appeal process in such circumstances, and it was suggested that this neutral body should in fact manage all appeals.

*Q6 – Other comments:* There were comments relating to capacity within community groups. It was highlighted that it is hard for community groups to compete with developers when raising finance, especially in urban areas, not only to purchase an asset but also continue to support the ongoing maintenance and management of the asset. Concern was raised over how bids are assessed – whether it is fair to judge a community based project on the same terms as a commercial proposal. Guidance for communities is necessary – reference was made to the community ownership support service run by DTA Scotland. A 'communities portal' was also suggested.

*Q7 – Evaluation:* It would be useful to carry out a review of assets which have been managed by community groups for some time.

### **Right to Request to Participate in Processes to Improve Public Service Delivery**

*This part of the draft Bill aims to empower communities by giving them the lead in starting discussions with the public sector on issues that matter to them. Key points arising in discussion were as follows:*

The scope of the proposals is very wide. It would be helpful to have further explanation of the public services covered by the proposals – it is understood that the Bill covers all

services which is very broad. The proposals would provide opportunities to access skills and expertise, however the cost of enabling people to participate may be significant. Clarity is sought on how this role is currently filled by community councils. It was recognised that communities of interest (bodies such as BEFS, Institute of Historic Building Conservation, Scottish Civic Trust) could seek to participate in improving and delivering services. This would enable more dialogue between service providers and communities (whether these be 'geographical' or of 'interest'). It would strengthen the weight of communities in decision-making – this would help improve current methods of community engagement where communities often feel that their input (which can be considerable) is ignored.

### **Community Right to Buy**

*The Scottish Government is proposing to extend the Community Right to Buy to all of Scotland to include urban areas and settlements with a population of 10,000 or more; the consultation addresses proposed improvements to the existing Right to Buy process. Key points arising in discussion were as follows:*

It is important to understand the constraints that can lead to property being neglected. It may be that planning permission has been granted but that the economic climate is not conducive to development going forward. It may not be possible to trace owners, there may be protracted negotiations between different parties over a property or a 'back-to-back' purchase may fall through. The proposals may help unlock such situations.

The term abandonment is easier to define than neglect, although the concept of neglect remains useful for buildings since it is a recognised term within Local Authorities, amenity notices being applied to neglected sites under the Buildings (Scotland) Act. There was discussion around whether all land needs to be actively managed. Deterioration is a relevant term, and the length of time of neglect could also be a measure. The definition of good stewardship was discussed along with the practicalities of who values the land.

Overall there were varying views put forward on the proposal. There may be tensions between what is good for the local community and 'public good'. There was a feeling that it may be more workable in the urban context. The cost of administration would be significant – who would be responsibility for managing and funding the compulsory purchase process in a context of diminishing public resources?

### **Community Planning Partnerships**

*The consultation proposes putting the roles and responsibilities of Community Planning Partnerships (CPPs) on a statutory footing. Key points arising in discussion were as follows:*

Participants would like to see closer working between landuse planning and community planning – there is recognition that community planning is largely focussed on service delivery, and this does not align with landuse planning. Confusion can arise around use of

the word 'planning' in this context – might there be opportunity to refer instead to, for example, service delivery partnerships?

Perhaps given the broad scope of the partnerships, the bodies involved are not in themselves operating at a local level. Clarity is sought on how local groups could more effectively interact with CPPs and how these relate to other groups such as neighbourhood planning partnerships. Participants are looking through the CPPs for a greater focus on geographical place.

### **Scotland Performs – embedding the outcomes approach in legislation**

*The consultation proposes embedding Scotland Performs and the National Performance Framework in legislation. Key points arising in discussion were as follows:*

Participants discussed whether the Scottish Government should 'embed Scotland Performs and the National Performance Framework in legislation'. Varying views were put forward, some welcoming the opportunity to be consulted on proposed outcomes and also the regular monitoring against outcomes while others less certain as to whether this is necessary.

### **Increasing Transparency about Common Good**

*The draft Bill places a new statutory duty on local authorities to establish and maintain a register of all property held by them for the common good. Key points arising in discussion were as follows:*

There is variable treatment of common good assets. Participants welcomed the proposal of authorities creating a register and consultation on this. It was suggested that this would usefully be categorised – to include say whether property is alienable or inalienable. The content and format of registers needs to be consistent across local authorities.

The issue of common good is especially relevant in urban areas where green space is at a premium. It was suggested that communities should have a say on sale proceeds where assets have been disposed of and also that communities should have a right of appeal to Ministers around disposal of common good assets.

### **Defective and Dangerous Buildings – recovery of expenses**

*The proposals provide for a charging order or 'notice of liability' for expenses to be registered against a property in a property register. Key points arising in discussion were as follows:*

Participants broadly welcomed the proposal, suggested that it will be effective in most circumstances and that it offers another lever for local authorities to undertake repair work with greater security that cost will be recouped. However, the timescales for recovering expenses may still act as a disincentive and this will be of little help in cases where the

owner cannot be traced, or indeed where there is no owner (for example if a property is owned by a company that has gone into liquidation). There remains the cost of undertaking the repair work against a backdrop of diminishing resources. It was also recognised that, in promoting this legislation, public bodies need to set a stronger example in maintaining assets in public ownership, where there is a significant maintenance backlog.

## **Allotments**

*Proposals cover amending the existing duty on local authorities to provide allotments, so that it more readily responds to level of demand for allotments.* Key points arising in discussion were as follows:

The proposed duty to provide allotments was generally welcomed. Some comments were made around design – it was noted that there is guidance available on good site design. Also historic sites and walled gardens offer opportunities.

## **Acknowledgements and participants**

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Architectural Heritage Society of Scotland  
Cockburn Association  
Dedridge Community Council  
Glasgow City Council  
Historic Houses Association for Scotland  
National Trust for Scotland  
Nick Allan Associates  
Planning Aid for Scotland  
Royal Commission on the Ancient and Historical Monuments of Scotland  
Royal Society of Arts Fellows' Media Creative Industries, Culture & Heritage Network  
Scottish Civic Trust  
Scottish Government Historic Environment Policy Unit  
Scottish Land & Estates  
Society of Antiquaries of Scotland