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Community Empowerment Unit
The Scottish Government
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29th January 2014

Dear Sirs

Consultation response: Community Empowerment (Scotland) Bill

Built Environment Forum Scotland (BEFS) is a forum that brings together non-governmental organisations with a built environment remit and acts as national intermediary for Scotland's historic environment sector. BEFS held a workshop on the consultation on 15th January 2014 – the workshop report is enclosed and key points summarised below:

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

Q1 - Definition of Community body: The wide scope of the definition is welcomed however it is still not clear as to whether the definition under this section is targeted at geographical communities rather than communities of interest. The definition in relation to public service delivery seems more applicable to communities of interest; clarity is sought on the different approaches taken to the definition of community body in relation to parts 1 and 2 of the draft Bill. It should be recognised that there may well be a variety of communities interested in a particular asset.

Q2 – Public bodies: Historic Environment Scotland should be listed as a public body in the legislation once it is established. Clarity is sought on the public bodies selected for inclusion in each of the two proposed lists at annex C – might those subject to freedom of information requests be a more complete list?

Q3 – Timescales for dealing with requests: 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 & 5 - Right of appeal: The right of appeal should be extended to cover situations where the relevant authority *is* the local authority or Ministers. A neutral body should be established to manage all appeals. Any appeals process should be Aarhus compliant ie transparent and independent.

Q6 – Other comments: Communities will need support, especially in situations where community bodies are 'competing' against commercial interests.

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

Q8 – see Q1.

Q9 – see Q2.

Q12 – *Other comments*: The proposals should help add weight to the views of community groups in decision-making – this is welcomed. The scope of the proposals is very broad and further clarity is sought on how this will be administered, along with associated cost. It is suggested that community councils should already fill this function.

Increasing Transparency about Common Good

Q14: The consultation document is ambiguous in the meaning of common good; clarity is sought around whether proposals are restricted to common good as defined by CIPFA (owned by local authorities) or whether other classes of common good are to be covered. Since property held under common good carries important title restrictions (which may be potentially burdensome) - clarity is sought on whether such properties would be made available to community bodies under Asset transfer. Authorities will need to be explicit about which assets are clearly not available for Asset transfer.

The proposal for local authorities to create a register of common good assets (once the meaning is clarified) is welcomed. The content and format of registers needs to be consistent across local authorities. It could usefully include categories of information on, say, particular conditions and (if a wider meaning of common good is intended) ownership. Communities should have a right of appeal around disposal of common good assets.

Defective and Dangerous Buildings – recovery of expenses

Q15: The proposal is welcomed however challenges remain, for example in tracing owners, the initial cost of repair work and time lag in recovering costs.

Community Right to Buy

Q17: Proposals may help ‘unlock’ situations where property has been abandoned. There may be tensions between what is good for the local community and ‘public good’.

Q20: 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 Town and Country Planning (Scotland) Act 1997 (section 179).

Community Planning Partnerships

Q55: Perhaps given the broad scope of Community Planning Partnerships (CPPs), the partners do not necessarily operate at the local level. Clarity is sought on how local groups could interact more effectively with CPPs and how these relate to other groups such as neighbourhood planning partnerships.

Q60: There is recognition that community planning is largely focussed on service delivery and that this does not relate clearly to 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?

Allotments

Q63: The proposed duty to provide allotments was generally welcomed.

Scotland Performs – embedding the outcomes approach in legislation

Q70: There are varying views on whether it is necessary to embed the National Performance Framework into legislation.

I trust these comments are useful – please get in touch if you require any further information.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Jo Robertson', written in a cursive style.

Jo Robertson

Senior Policy Officer – Historic Environment
Built Environment Forum Scotland

Enc: Workshop Report