

## **The proposed Community Empowerment and Renewal Bill : Consultation**

A consultation paper seeking responses to ideas for the proposed Bill along with a covering letter inviting responses, a respondent information form, and questionnaire form.

**Q1.** What would you consider to be effective community engagement in the Community Planning process? What would provide evidence of effective community engagement?

*Effective community engagement should be rooted in existing community structures. For example, if Community Councils were to be given more powers & increased grant-giving ability while also making them more accountable & transparent, they could be effective bodies for community engagement.*

**Q2.** How effective and influential is the community engagement currently taking place within Community Planning?

*Local authorities can be cynical in their attitude, which can make minimal the influence of communities.*

**Q3.** Are there any changes that could be made to the current Community Planning process to help make community engagement easier and more effective?

*See answer to Q1 above.*

**Q4.** Do you feel the existing duties on the public sector to engage with communities are appropriate?

*No. The introduction of an overarching duty would make clear that engagement not token consultation is the way forward.*

**Q5.** Should the various existing duties on the public sector to engage communities be replaced with an overarching duty?

Yes.

If yes -

**a.** What factors should be considered when designing an overarching duty?

**b.**

*The factors should include cost considerations, clear structures including responsibility to be taken at senior level to ensure buy-in*

**b.** How would such a duty work with existing structures for engagement?

*The duty should simplify existing structures.*

**Q6.** What role, if any, can community councils play in helping to ensure communities are involved in the design and delivery of public services?

*Community Councils when well run, resourced and formed of members who are elected by their communities can be hugely important in involving communities in the design & delivery of public services. At present, it is often difficult to access information on Community Councils as they have no website and no budget to leaflet their area.*

**Q7.** What role, if any, can community councils play in delivering public services?

*If well resourced and their elected members given appropriate training & support, Community Councils could deliver a range of services that are rooted in communities such as support for the elderly, community arts, community gardening and health & wellbeing projects.*

**Q8.** What changes, if any, to existing community council legislation can be made to help enable community councils maximise their positive role in communities?

*No answer given.*

**Q9.** How can the third sector work with Community Planning partners and communities to ensure the participation of communities in the Community Planning process?

*If integrated into the renewed Community Council structure set out above, the third sector could form partnerships to deliver local services jointly with the Community Councils.*

**Q10.** Should there be a duty on the public sector to follow the National Standards for Community Engagement?

*Absolutely. Our experience in South Ayrshire is that community engagement is poorly understood, valued & delivered.*

**Q11.** Should there be a duty on the public sector to publish and communicate a community engagement plan?

*Yes.*

*If yes -*

**a.** What information would be included in a community engagement plan?

*The information would be what the local community seeks to include. The plan would result from community engagement.*

**Q12.** Should community participation be made a more significant part of the audit of best value and Community Planning?

*Absolutely.*

**Q13.** Should each public sector authority have a named accountable officer, responsible for community participation and acting as a primary point of contact for communities?

*It should be a senior officer, preferably at Director level or sitting within the Chief Executive's office. There has to be Chief Executive buy-in for this to work.*

**Q14.** Can the Scottish Government do more to promote the use of the existing tenant management rights in sections 55 and 56 of the Housing (Scotland) 2001 Act?

No answer given.

**Q15.** Should the current provisions be amended to make it easier for tenants and community groups to manage housing services in their area?

*Absolutely. That would seem to fit with the principles of the Bill.*

**Q16.** Can current processes be improved to give community groups better access to public service delivery contracts?

*Absolutely.*

**Q17.** Should communities have the right to challenge service provision where they feel the service is not being run efficiently and that it does not meet their needs?

*Absolutely. We agree that a community right to challenge should be introduced (similar to the provisions under the Localism Act 2011 that apply in England and Wales), where communities can challenge a public sector authority if they feel an area of public service delivery is not being run efficiently or does not genuinely meet their needs. If following investigation, the public sector authority agrees with the challenge, they will begin the search for a new provider. The community could at this stage bid to take on the contract themselves.*

**Q18.** Should communities have a greater role in deciding how budgets are spent in their areas?

*Absolutely. We agree that communities could, in addition to being involved in the budgetary decision making process, be directly responsible for an area or areas of spending in their community. Community organisations could be given a right to request responsibility for a defined amount of spending in one or more specific areas where Community Planning partners have powers and duties.*

**Q19.** Should communities be able to request the right to manage certain areas of spending within their local area?

Yes.

If yes -

**a.** What areas of spending could a community be responsible for?

*a. The areas of spending would be decided at local level as the result of community engagement. The areas would therefore vary from authority to authority.*

**b.** Who, or what body, within a community should be responsible for making decisions on how the budget is spent?

*Community Councils once renewed & resourced would seem ideally placed, despite cynicism that they would not be up to the job. Other community groups that have the respect of communities such as tenant groups or community associations could also be given this responsibility. Again, communities could decide by process of engagement.*

**b.** How can we ensure that decisions on how the budget is spent are made in a fair way and consider the views of everyone within the community?

*Audit Scotland would have the powers to investigate spend. Elections on a three-or four year cycle would ensure that the Community Council or other group/association was accountable to its community.*

**Q20.** Please use this space to give us your thoughts on any definitions that may be used for the ideas in Part 1. Please also give us examples of any definitions that you feel have worked well in practice.

**Q21.** Would you support a community right to buy for urban communities?

Yes.

If yes -

- a.** Should an urban community right to buy work in the same way as the existing community right to buy (as set out in Part II of the Land Reform (Scotland) Act 2003)?

Yes.

- b.** How should an 'urban community' be defined?

*The legal definition would be written to capture the sense of "village" in the urban setting.*

- c.** How would an urban and rural community right to buy work alongside each other?

*The lessons from the rural right to buy would be applied in the urban setting but the distinct nature of the urban would prevail (the consideration should be made that people have to work harder to get to know each other in urban settings, for example)*

**Q22.** The public sector owns assets on behalf of the people of Scotland. Under what circumstances would you consider it appropriate to transfer unused or underused public sector assets to individual communities?

*Where the wishes of the people as demonstrated by community action have been overruled by local or national Government or their representatives. (one example is the decision of the Scottish Government Reporter in overruling the settled decision of South Ayrshire Council and the people of Ayr (as demonstrated in petitions & letter writing campaigns) in deciding in favour of the developer of Plot 9 on Ayr seafront who has succeeded in gaining permission for an unwanted office/ flatted building. This public sector asset is now lost to the community.)*

- a.** What information should a community body be required to provide during the asset transfer process?

*Robust information commensurate with the responsibilities it is opting to take on.*

- b.** What information should a public sector authority be required to provide during the asset transfer process?

*The body should undertake all surveys in accurately determining the value & condition of the asset that is subject of transfer. There should be a presumption in favour of the community body in this process to require the authority to undertake this work in a timeous fashion.*

- c.** What, if any, conditions should be placed on a public sector authority when an asset is transferred from the public sector to a community?

*Answered at b. above*

- d.** What, if any, conditions should be placed on a community group when an asset is transferred from a public sector authority to a community?

*Answered in a. above*

**Q23.** Should communities have a power to request the public sector transfer certain unused or underused assets?

*Absolutely.*

**Q24.** Should communities have a right to buy an asset if they have managed or leased it for a certain period of time?

Yes.

If yes -

- a.** What, if any, conditions should be met before a community is allowed to buy an asset in these circumstances?

*It should be proven that the asset will benefit the community and that the body has the assets – financial and managerial – to support the asset purchase.*

**Q25.** Do the current rules surrounding common good assets act as a barrier to their effective use by either local authorities or communities?

*Absolutely. Councils seem to be able to trade their Common Good assets with impunity and without recourse to consulting the community. One recent example (June 2012) is of South Ayrshire Council taking £750,000 from the Ayr Common Good fund to fund the opening of a one-stop-shop-type Council offices in Ayr.*

**Q26.** Should common good assets continue to be looked after by local authorities?

*No. Common good assets should be managed by a Common Good Asset Board made up of Local Authority & Community members.*

If yes -

- a.** What should a local authority's duties towards common good assets be and should these assets continue to be accounted for separately from the rest of the local authority's estate?

*Councils can be cavalier in their treatment of Common Good assets, which should be accounted for separately.*

**b.** Should communities have a right to decide, or be consulted upon, how common good assets are used or how the income from common good assets is spent?

*Absolutely.*

If no –

**Q27.** Should all public sector authorities be required to make their asset registers available to the public?

Yes.

If yes -

**a.** What information should the asset register contain?

*The information should be available on the Council website & in print form by map & property description. The value should be given, the condition, the terms on which the asset was gifted to the town/community & the purpose for which it was intended to be used. There should be a strategy for conserving the asset into the future.*

**Q28.** Should all public sector authorities be required to make their asset management plans available to the public?

Yes.

If yes -

**a.** What information should the asset management plan contain?

*See answer to Q27 a. above*

**Q29.** Should each public sector authority having an officer to co-ordinate engagement and strategy on community asset transfer and management?

*Absolutely. This officer must be at senior level. Preferably at Director or a staff member of the Chief Executive's Department.*

**Q30.** Would you recommend any other way of enabling a community to access information on public sector assets?

*Yes. An annual public meeting to discuss the past year and look ahead in monitoring the assets.*

**Q31.** What, if any, changes should be made to existing legislation on allotments?

*No answer given.*

**Q32.** Are there any other measures that could be included in legislation to support communities taking forward grow-your-own projects?

*Yes. Underused Public land and assets in public ownership of Local authorities, public agencies (such as Forestry Commission, Scottish Natural Heritage, Scottish Government, Crown Estates) should be available for the use of local communities as a right. There should be a presumption in favour of community use of unused public land, unless the owner can show good reason why not, in a timely manner.*

## **Definitions- Part 2**

**Q33.** Please use this space to give us your thoughts on any definitions that may be used for the ideas in Part 2. Please also give us examples of any definitions that you feel have worked well in practice.

*No answer given.*

**Q34.** Should communities have a right to use or manage unused and underused public sector assets?

Yes.

If yes -

- a.** In what circumstances should a community be able to use or manage unused or underused public sector assets?

*There should be a presumption in favour of community use of unused public land, unless the owner can show good reason why not, in a timely manner.*

- b.** What, if any, conditions should be placed on a community's right to use or manage public sector assets?

*Simply the condition to respect the land & utilise it for the benefit of the wide community.*

- c.** What types of asset should be included?

*Land owned by, for example, Forestry Commission, Scottish Natural Heritage, Scottish Government, Crown Estates*

*Encouraging temporary use agreements*

**Q35.** Should a temporary community use of land be made a class of permitted development?

*Absolutely.*

**Q36.** Should measures be introduced to ensure temporary community uses are not taken into account in decisions on future planning proposals?

*No answer given.*

**Q37.** Are there any other changes that could be made to make it easier for landlords and communities to enter into meanwhile or temporary use agreements?

*A presumption in favour of community use as this would focus the mind of the landlord, for example, when deciding whether to leave a property empty.*

**Q38.** What changes should be made to local authorities' powers to recover costs for work they have carried out in relation to dangerous and defective buildings under the Building (Scotland) Act 2003?

*Make this more effective. There needs to be greater speed & resolve in bringing buildings back into use.*

**Q39.** Should a process be put in place to allow communities to request a local authority exercise their existing powers in relation to dangerous and defective buildings under the Building (Scotland) Act 2003?

*Absolutely.*

**Q40.** Should communities have a right to request a local authority use a compulsory purchase order on their behalf?

Yes.

If yes -

- a. What issues (in addition to the existing legal requirements) would have to be considered when developing such a right?

*The public benefit that would accrue from making the building available to the community again. The detrimental effect on the built fabric of the town that the building is having in its ruinous state and the positive effect that the CPO would achieve in the restoration process.*

**Q41.** Should communities have a right to request they take over property that has been compulsory purchased by the local authority?

Yes.

If yes -

- a. What conditions, if any, should apply to such a transfer?

*That appropriate financing is made available (by SFT/ SG/ another means) to enable this responsibility to be taken on by the community.*

**Q42.** Should local authorities be given additional powers to sell or lease long-term empty homes where it is in the public interest to do so?

Yes.

If yes -

- a. In what circumstances should a local authority be able to enforce a sale and what minimum criteria would need to be met?

*If the building is blighting a neighbourhood and the owner is intransigent in refusing to restore & make available for housing once more the building.*

- b. In what circumstances should a local authority be able to apply for the right to lease an empty home?

*See answer at a. above.*

- c. Should a local authority be required to apply to the courts for an order to sell or lease a home?

*No answer given.*

**Q43.** Should local authorities be given powers to sell or lease long-term empty and unused non-domestic property where it is in the public interest to do so?

Yes.

If yes -

- a. In what circumstances should a local authority be able to enforce the sale of a long-term empty and unused non-domestic property and what minimum criteria would need to be met?

*See answer to Q42 a. above.*

- b. In what circumstances could a local authority be able to apply for the right to lease and manage a long-term empty non-domestic property?

*Answer as above.*

- c. Should a local authority be required to apply to the courts for an order to sell or lease a long-term empty non-domestic property?

*No answer given.*

**Q44.** If a local authority enforces the sale of an empty property, should the local community have a 'first right' to buy or lease the property?

*Yes, in circumstances where the property is blighting a neighbourhood or is a much-loved property that the community wishes to save.*

If yes -

- a. In what circumstances should a community have the right to buy or lease the property before others?

*In circumstances where the property is blighting a neighbourhood or is a much-loved property that the community wishes to save.*

### **Definitions - Part 3**

**Q45.** Please use this space to give us your thoughts on any definitions that may be used for the ideas in Part 3. Please also give us examples of any definitions that you feel have worked well in practice.

*No answer given.*

**Q46.** Please tell us about any potential impacts, either positive or negative, you feel any of the ideas in this consultation may have on a particular group or groups of people?

*The ideas in the consultation will have a positive effect on communities in Scotland who feel that they are not listened to or valued by the local authorities that they have elected to serve them. It will have a positive effect in engendering community spirit and a sense of empowerment in changing lives for the better.*

*We agree with the Government's stated belief that by empowering communities we will promote positive social, economic and environmental impacts.*

*We agree with the Scottish Government's stated belief that Scotland's people are its greatest asset and are a rich source of creativity and talent. We, too, want to "see all Scots having increased opportunities to shape and decide on their own futures".*

*We agree with the Scottish Government's aim to make it easier for communities to take over unused and underused public sector assets and to introduce measures to help communities deal more effectively with vacant and unused property in their areas. Both aims have a shared goal of increasing locally driven, enterprising community development - an important step to achieving sustainable economic growth.*

*We agree with the Scottish Government's proposal for the Bill to strengthen opportunities for communities to take independent action to achieve their own goals and aspirations and ensure communities are able to have a greater role in determining how their local public services are delivered.*

**Q47.** Please also tell us what potential there may be within these ideas to advance equality of opportunity between different groups and to foster good relations between different groups?

*There is great potential in this regard.*

### **Environmental**

**Q48.** Please tell us about any potential impacts, either positive or negative, you feel any of the ideas in this consultation may have on the environment?

*The effect on the environment could be massively positive.*

### **Business and Regulatory**

**Q49.** Please tell us about any potential economic or regulatory impacts, either positive or negative, you feel any of the ideas in this consultation may have?

*No answer given.*