

Community Empowerment & Renewal Bill

Response from Andy Wightman (1)

INTRODUCTION

I welcome this consultation and am an enthusiastic advocate of community empowerment and renewal. I offer the following brief response to the proposals outlined in the consultation paper. Had time permitted, I would have liked to have provided a more in depth response..



I would like to start with a personal observation. I grew up in Kinross, a Burgh and County town of Kinross-shire. It was an active community with a wide range of local activities such as playgroups, cinema clubs, and sports associations. There was an annual agricultural show and annual Kinross Folk Festival. Many of the town's activities took place in the Town Hall (pictured above) and we were served with a very fine Carnegie Library (pictured above to the left). Much of what happened in Kinross was the responsibility of the Town Council and it provided leadership for the community as well as facilitating and supporting the wide range of local community-based activities.

In 1975 the Town Council was abolished. Local services were delivered from Perth. local Councillors had other priorities and responsibilities. No-one was on hand to provide political leadership. Critical fora for debate and discussion in the town disappeared. The community became disempowered. Today the Kinross Town Hall and Kinross Carnegie Free Library lie empty, abandoned and riddled with dry rot.

I say this by way of introduction because it is my view that how Scotland is governed is a vitally important part of any debate on community empowerment and renewal. In paragraph 14 of the Consultation paper you draw attention to concern over voter turnout at the recent local government elections of around 39%. This compares with Italy (75%), France (64%), Spain (73%) and Denmark (69%). Indeed on almost every measure Scotland is bumping along the bottom with the most concentrated pattern of government of almost any country in Europe and no real local democracy. Indeed Local Government in Scotland is arguably neither local nor does it govern. It attempts with minimal fiscal freedom and inadequate democratic participation to deliver vital services. It is, in fact a Regional or County Service delivery structure. (2)

The central issue I have with the intellectual framework of the bill is a fundamental conflict between genuine empowerment and the essentially ad-hoc voluntary approach to community empowerment advocated in the paper.

The proposals in this bill are broadly welcome and in some cases long overdue and I have no problem with endorsing the thrust of what is being proposed. I support far greater powers for communities but as things stand many of these good intentions will, even then fail to empower communities. Why?

1. because communities don't know about the powers
2. because communities have no formal definition
3. because communities need to set up all the architecture of representation
4. because this architecture will have to be different for different purposes

This is why I believe that the time has come in Scotland to put in place a universal statutory governance framework at the local level - what I term hard-wired local governance rather than ad-hoc voluntarism. This means statutory boundaries. This means universal coverage across Scotland so that empowerment is not limited in its practise to those communities better placed to take advantage of what new powers are going to be offered.

It is very easy for national politicians to throw a few crumbs from the table to satiate the appetite of "communities" that want to take more control over their own affairs but if this is to be a genuine transfer of power then it needs to be precisely that a transfer of power - statutory power to begin the process of re-democratising Scotland so that political power emanates from the citizen and flows upward through local, regional and national government.

PART 1 STRENGTHENING COMMUNITY PARTICIPATION

Q. 1-5

I have no views on Community Planning.

Q.6-8

Community councils were a sop - a concession grudgingly granted in the debate around the 1973 Local Government (Scotland) Act as a pathetic and powerless replacement for the abolition of Scotland's 196 statutory, powerful, Town Councils.

Community Councils should be abolished and replaced with a new tier of statutory governance based on new boundaries reflecting existing parishes, community council areas and wards.

Q.9-19

I have no view.

PART 2 UNLOCKING ENTERPRISING COMMUNITY DEVELOPMENT

Q.21-23

Part 2 of the Land Reform (Scotland) Act 2003 is not fit for purpose. It is a minefield of petty bureaucracy, legal niceties and complex demands. The Act needs to be simplified and decision-making removed from central government which should have no role in making decisions about local land priorities. Only when it is reformed will it be appropriate to consider extending its scope to urban areas.

Q.22-24

Community asset transfer is responsible I understand for the genesis of this Bill. Question 22 is prefaced by the claim that

“The public sector owns assets on behalf of the people of Scotland. Under what circumstances [is it appropriate to transfer it to individual communities]?”

The imperative to even consider this question arises in substantial part because local communities no longer have the statutory representation they had in the past through Parish Councils (abolished 1930) and Town Councils (abolished 1975). Whilst I am a supporter of asset transfer, it is worth noting that a significant benefit from a new statutory local framework is that it would create a new tier of **public bodies** - public bodies that, like the *kommunes* and municipalities of Europe, represent the democratic aspirations of the community.

And here's the big advantage. This bill started life as a means of overcoming some of the barriers to asset transfer between local authorities and community groups. However, if such community groups were in fact statutory public bodies there would be no such problem since any transfer would be from one public body to another which gets round all manner of legal, state aids, and financial issues.

Q.25-26

Common Good represents a substantial portfolio of land (or heritable) assets and moveable property that belongs to the residents of the burghs of Scotland but title to which is vested in existing unitary authorities. I am currently completing a review of common good for 2009 and 2012 and have been working with a number of groups across Scotland to explore how the law might be reformed to modernise the law and provide communities with a tangible, transparent and clear framework for assuming responsibility for their common good. The recent Portobello Park decision underlines how vital it is to modernise the law in this area.

My view is that common good reform should be taken forward as a stand-alone statute, the Common Good (Scotland) Bill to replace the existing Common Good Act of 1491. reform should aim to take forward four key principles.

1. to provide a statutory definition of common good

2. to establish a statutory register of common good assets
3. to establish a statutory governance framework for the administration of common good funds that includes (or indeed wholly consists of) representatives of the burghs to which the common good relates.
4. to create a statutory right for appropriately constituted bodies to take back legal title to all common good assets of their Common Good Fund on a lock, stock and barrel basis.

The reform of common good would in itself go a long way to providing the kind of empowerment and asset-based democracy that lies at the heart of the proposed Bill.

Q. 27-30

All information on publicly owned assets should be available in an accessible map-based format.

Q. 31-32

Allotments provide a welcome and vital opportunity for people to grow food. I believe that allotment legislation should be reviewed and expanded to allow the development of a wider recreational purpose to urban gardens. In particular, to allow for the development of simple residential opportunities along the lines of the German schrebergarden.

Furthermore, this legislation might provide an opportunity to reform planning law to facilitate the lawful development of huts in suburban and rural areas of the country.

Q.34-37

I broadly agree with the proposition but have had no time to consider the detailed questions posed.

Q.38-39

I have no view.

Q. 40-41

Compulsory purchase powers should be made far more easy for local authorities to use to advance community empowerment and should be integrated with new opportunities such as community land auctions. (3)

Q.42-49

I have had no time to consider a response to these questions.

Andy Wightman
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(1) And Wightman is an independent writer and researcher on land, governance, power and money www.andywightman.com

(2) For more on this , see Bort, McAlpine and Morgan, *Silent Crisis. Failure and Renewal in Local Democracy in Scotland*. Jimmy Reid Foundation. Figures for turnout are derived from table on page 7-8. See also www.andywightman.com/?p=336

(3) See www.centreforum.org/index.php/mainpublications/279-community-land-auctions