

Land Reform Review Group: Call for evidence

SCVO response
11 January 2013

Summary

To give more communities the opportunity to own and manage land and land assets it is SCVO's view that the Land Reform Review Group (LRRG) should investigate the following areas:

Amend the Land Reform Act 2003 to:

- Extend the application of community right to buy within the Act to all communities in Scotland – urban and rural
- Strengthen the Act by removing the absolute reliance on a willing seller for community right to buy legislation - as a last resort following negotiated transfer and provided public benefit can be evidenced
- Streamline the processes within the Act for community right to buy - to reduce the barriers and make the rights more accessible for communities

Investigate the possibility of:

- Reallocating existing resources and expertise to establish a Land Agency to support, promote and act as mediator for land transfers
- Establishing a regular source of finance for facilitating land transfers to communities

Our response

SCVO views the issue of land reform primarily in terms of the individuals and communities who live on the land. We are concerned with the potential for their relationship with the land to empower them to take voluntary action to help themselves and others and to bring about social change. This is the fundamental work of the third sector in Scotland, and existing community land trusts are excellent examples of the power and effectiveness of this strand of civil society in promoting social, environmental and economic development.

The importance of community empowerment and local control of assets is now well established in Scottish public policy, and the push to allow more communities the opportunity to own their land and land-based assets could be a quantum leap in progressing this agenda.

LRRG, Objective 1 - Enable more people in rural and urban Scotland to have a stake in the ownership, governance, management and use of land, which will lead to a greater diversity of land ownership, and ownership types, in Scotland.

The power relationships involved in the ownership of land and land-based assets make land reform primarily, in our view, an issue of social justice. This analysis is resisted by most land-owning interests but without it, any reform is likely to merely tinker around the edges of the issue and leave the current pattern of land ownership largely untouched.

Land is an asset like no other: it is the foundation on which all other developments occur. Ownership of land can empower and enable communities to take control over their own futures in a way that no other opportunity can match.

The opportunity of ownership is denied to most of Scotland's communities because the pattern of land ownership in Scotland is concentrated in the hands of such a small number of owners. This is very abnormal in a European and global context, and should not be meekly accepted as unchangeable "for fear of something worse". As Andy Wightman has noted "the dispensation of land we have today is the result of centuries of vested interests organising things to their own advantage".

The claim of many of Scotland's current land-owners to be uniquely worthy to hold on to the land in perpetuity needs to be challenged. There are indeed many well-managed rural estates with strong relationships with local communities. And there are many urban landlords, in the public and private sector, whose management of land-based assets is exemplary.

But these examples do not defeat the argument in principle that it should be the norm that land and land-based assets are owned by the communities who live and work on them. Community ownership can offer a more stable and resilient method for managing land

assets than the hereditary succession of individual ownership currently practised on many estates.

Accepting that ownership of land assets is undoubtedly a powerful force for communities it is also important to acknowledge that there will be instances where taking on management of land without ownership would be a better option for communities. The consultation on the Community Empowerment & Renewal Bill raised the possibility of a new class of permitted development for community use and it is our view that ideas like this would benefit from further investigation by the LRRG.

Ensuring that people in the most deprived and marginalised communities have the same opportunities and can exercise their rights effectively will be a significant challenge for the LRRG as it develops its proposals. Some communities will need additional support and guidance to progress their ideas and develop projects.

LRRG, Objective 2 - Assist with the acquisition and management of land (and also land assets) by communities, to make stronger, more resilient and independent communities which have an even greater stake in their development;

So far, community land ownership has largely been seen in terms of the buyout of large estates in the north-west Highlands & Islands. The success of these Community Land Trusts is clear, and the return on public investment is inarguable, especially when compared to the other public investment such as the vast sums paid out in agricultural subsidies. However, there are also other many recent examples of smaller-scale community purchase of land and land-based assets, including Comrie, where the community now own Cultybraggan Airfield, and Neilston, where the old Clydesdale Bank was bought over. As well as these, many of Scotland's community woodlands are owned by their communities.

The common factor in the huge majority of these instances of community ownership is that they have been resounding successes. The communities involved have been energised and activated by the experience of ownership, and have proved themselves to be capable of managing their land and land-based assets with confidence, creativity and initiative. Certainly, we have heard of none who would ever consider selling back into private ownership.

Because this experience is common to many different places, there is no reason to believe it is a rural phenomenon. The impact of ownership is real and, while the context and practicalities may be different, it is as relevant in urban communities as in rural ones.

However, there should be no compulsion on communities to take ownership of their land. Where they are uninterested or content with current arrangements then the status quo continues to be an option. But where the community is united in the desire to take ownership, then the opportunity for them to do so in as orderly a manner as possible must be available, and the barriers to doing so must be removed.

To progress this agenda and assist communities with the acquisition of land the most important change will be to strengthen and improve the community right to buy (CRTB) legislation and we have detailed some specific suggestions for improvements below. However, in addition to legislation there are a number of other areas we would like to see the LRRG investigate.

To help facilitate purchases (particularly in urban areas) the LRRG should investigate ways of tackling the issue of high market values for land. We would like to see many communities taking ownership of land but with the current high valuations and limited funding available it seems unlikely that this will happen on a significant scale without change in this area.

The renewal of the Land Fund until 2015 is a welcome step and will provide a vital source of finance for community purchases. To ensure the momentum is maintained a permanent fund should be established which ensures regular funding is made available for communities to facilitate purchases.

In addition to financial support, communities will require specialist information and advice at the various stages involved in the CRTB process and beyond to the managing the land itself. Communities in the Highlands have benefitted from the support available from the HIE Community Assets team and we would like to see similar services offered throughout Scotland. This will be particularly important if the CRTB is extended to urban communities.

We are also strongly in favour of negotiated land transfers and would also wish to see mechanisms established to require mediated negotiations between landowners and communities who wish to purchase the land, before the right to buy is exercised. Ministers should have the power to secure and support this mediation. These support and mediation functions could be delivered through the creation of a Land Agency. This need not be a new and costly quango, but could involve the reallocation of existing resource and expertise in Scottish Government and agencies such as HIE.

There should also be the opportunity for communities to take ownership of land currently held by the public sector. Similar approaches to The National Forest Land scheme could be brought in for other public bodies which would allow communities to take ownership or lease land where appropriate. The consultation on the Community Empowerment and Renewal Bill has made proposals for public sector asset transfer to communities. It is our view that the CERB is the best place to take forward action in this area but the LRRG should work closely with the bill team and investigate the opportunities and challenges specific to land.

Amending the Land Reform (Scotland) Act

It is our view that for more communities to take control of land, changes will be required to the Land Reform Act which increase its scope, streamline its processes and place more power in the hands of communities.

We support changes to the Land Reform legislation which would extend the Community Right to Buy to all communities in Scotland. We appreciate that there will be different opportunities and challenges in urban communities that require further investigation but we see no reason why they should not enjoy the same rights as rural areas. Beyond its direct application, the introduction of the Land Reform Act brought about an improved confidence in rural communities about what could be achieved and we would like to see a similar change in urban communities brought about by this review.

We would like to see the LRRG investigate the removal of the absolute reliance on a willing seller, so that communities will have the right to buy land if it can be shown to be in the public interest and important for their sustainable development. This is currently the case in parts of Scotland, so the principle has already been conceded in legislation. This would simply be an extension of that principle to all land in private ownership, removing the privilege extended to crofting communities.

While we support this radical change in the underpinning presumptions about ownership, there would be a responsibility on the community to establish they have the will and capacity to take on the responsibilities of ownership, and that they have pursued other avenues before seeking to exercise this right.

To encourage more communities to make use of the CRTB legislation it will be important to streamline the processes and remove the barriers which currently hinder communities and block their attempts to utilise the Act. Many of those problems have been identified in the research compiled for the 2010 report 'Post Legislative Scrutiny of the Land Reform (Scotland) Act 2003'¹. It is critical that the LRRG find ways of removing those restrictions which have frustrated and blocked community efforts.

Conclusion

At a time when public spending is being squeezed, and economic activity is in the doldrums, there is a practical as well as principled case for investing in the hope and opportunity that comes with community ownership and management of land. In existing community land trusts, a modest public investment has resulted in significant social and economic benefits including new local enterprises providing employment, new and renovated housing and renewable energy for local use and export.

This review must provide the opportunity for more communities to take control of their future and deliver increased benefits and improved outcomes. It can do this by providing the same rights to all communities, placing more power in the hands of communities and providing the resources and expertise to enable them to achieve their ambitions.

¹ <http://www.crrs.uhi.ac.uk/publications/reports/reports-and-other-papers>

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About us

The Scottish Council for Voluntary Organisations (SCVO) is the national body representing the third sector. There are over 45,000 voluntary organisations in Scotland involving around 137,000 paid staff and approximately 1.2 million volunteers. The sector manages an income of £4.4 billion.

SCVO works in partnership with the third sector in Scotland to advance our shared values and interests. We have over 1300 members who range from individuals and grassroots groups, to Scotland-wide organisations and intermediary bodies.

As the only inclusive representative umbrella organisation for the sector SCVO:

- has the largest Scotland-wide membership from the sector – our 1300 members include charities, community groups, social enterprises and voluntary organisations of all shapes and sizes
- our governance and membership structures are democratic and accountable - with an elected board and policy committee from the sector, we are managed by the sector, for the sector
- brings together organisations and networks connecting across the whole of Scotland

SCVO works to support people to take voluntary action to help themselves and others, and to bring about social change. Our policy is determined by a policy committee elected by our members.²

Further details about SCVO can be found at www.scvo.org.uk.

² SCVO's Policy Committee has 24 members elected by SCVO's member organisations who then co-opt up to eight more members primarily to reflect fields of interest which are not otherwise represented. It also includes two ex officio members, the SCVO Convener and Vice Convener.

References

Scottish Voluntary Sector Statistics 2010, SCVO

www.scvo.org.uk/evidencelibrary/Home/ReadResearchItem.aspx?f=asc&rid=1078

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