

Community Empowerment Bill Briefing



The Community Empowerment (Scotland) Bill was introduced in Scottish Parliament on 11 June 2014.

Policy aims

The underlying principles of the Bill are:

- subsidiarity (decentralisation to the smallest effective level)
- community empowerment, and
- improving outcomes.

Consultation

In February 2014, Voluntary Health Scotland held a sounding board to feed the voluntary health sector's priorities into the formation of the Bill. Our main interests in the Bill are;

- how it will enable Community Bodies to inform, influence and shape services more effectively
- how this can impact on the delivery of health and social care services, and
- how the Bill interacts with proposed and existing healthcare legislation.

As part of this, we proposed that there should be a significant focus on:

- Community participation in the design and delivery of services
- Community empowerment and capacity building
- Tackling inequalities
- Christie Commission priorities – People, Partnerships, Prevention, Performance
- Accountability, impact and reporting
- Linking with other legislation

The policy memorandum, which accompanies the Bill addresses these priorities and in particular recognises the benefits of empowering communities to be more confident and resilient and how this in turn can lead to a range of other improvements, including promoting good health and reducing inequalities. Each section of the memorandum sets out the importance of supporting resilient communities and sustainable places.

The policy memorandum also recognises the:

- differences in types of empowerment
- differences between engagement and empowerment
- differences in levels of involvement, engagement and empowerment across the country
- responsibility of all public service providers to support strong, independent and resilient communities, and
- potential scope of the Bill to strengthen the legal base for community planning.

Framework

It is intended that the Bill will help ensure people can meaningfully participate in decisions that affect their lives – building empowerment through a human rights based approach.

The Bill aims to build on the existing guidance and experience of communities. As such it doesn't seek to introduce new concepts, but to put in place a consistent and transparent framework and processes that will “underpin, extend and improve good current practice to make it universal and enduring”.

This framework will:

- empower community bodies through the ownership of land and buildings and strengthening their voices in the decisions that matter to them; and
- support an increase in the pace and scale of public service reform by cementing the focus on achieving outcomes and improving the process of community planning.

The Policy Memorandum also recognises that people may need support in understanding the Bill and taking up the opportunities it offers. The Scottish Government expects public service providers to support communities in these processes – full guidance will be developed in partnership with stakeholders.

Provisions of the Bill

Part 1: National Outcomes

Scotland Performs introduced in 2007 and refreshed in 2011 sets out the Government's core purpose – supported by 5 strategic objectives and 16 National Outcomes. All devolved public services are aligning to this single framework.

This provision of the Bill embeds the outcomes approach in the legislation – placing a duty on Scottish Ministers to develop, consult on and public a set of national outcomes in Scotland, which must be reviewed (at least) every 5 years. This requires that outcomes are determined, but that there is flexibility around how they are presented and measured.

The Scottish Ministers must also prepare and publish reports about the extent to which the national outcomes have been achieved.

Part 2: Community Planning

The *Local Government in Scotland Act 2003* places duties on the provision of the way public services are planned and delivered in a local authority area. The guidance in this Act, while not making it a statutory requirement, promotes the establishment of Community Planning Partnerships (CPPs). There are 32 CPPs in Scotland – one for each local authority area.

CPPs should be engaging with their communities to identify and prioritise outcomes and working with them to develop their capacity to participate in this process. However, this is not a statutory requirement.

This provision of the Bill seeks to put CPPs on a statutory basis with defined roles and responsibilities:

- Community planning partners must come together to form a CPP.
- Each CPP must prepare and publish a local outcomes improvement plan. This will set out local outcomes, proposed improvements and timescales, and should be done in consultation with community bodies and other persons that the local authority deems appropriate. These plans must be reviewed and report annually on progress.

Consultation - Local authorities must participate with interested community bodies in community planning. Community planning is improving the achievement of outcomes, consistent with the national outcomes. Community bodies are defined as “bodies, whether or not formally constituted, established for purposes which consist of or include that of promoting or improving the interests of any communities (however described) resident or otherwise present in the area of the local authority”.

- Governance – The Bill places a duty on public sector bodies to ensure that the CPP carries out its functions efficiently and effectively and that all partners work collaboratively.

Part 3: Participation Requests

Scottish Government has expectations for public sector organisations engage with communities and that their participation on setting priorities and designing and delivering services is supported. This provision of the Bill gives community bodies additional power to initiate this on their own terms. **This allows communities to challenge service provision if they are not satisfied with it.**

- A community participation body may make a request to a public service authority to take part in a process to improve the outcome of a service.

Community participation body – this definition includes a community controlled body that has a written constitution that states:

- a definition of the community to which the body relates,
- the majority of the members of the body is made of members of that community and they have control of the body
- membership of the body is open to any member of that community,
- a statement of the body’s aims and purposes, including the promotion of a benefit for that community, and
- provision that any surplus funds or assets of the body are to be applied for the benefit of that community.

- The community body will need to demonstrate experience of a service and how it could contribute to its improvement.
- The public body must agree to the request for dialogue unless there are reasonable grounds for refusal. If this is refused, the reasons must be explained. The Bill sets out criteria to facilitate this decision-making process – this includes whether the request contributes to :
 - economic development
 - regeneration
 - public health

- social wellbeing, or
 - environmental wellbeing.
- The public body must publish a report on whether the community body contributed to improving outcomes.

In practice, this means that community bodies can talk to public bodies about how a service can better meet the needs of its users, provide support to a service, or take over the delivery of a service. The public body will make a decision as to whether the structure and capacity of the community body is appropriate to do so.

Parts 4 & 5 - community right to buy and asset transfer requests

Sections 4 & 5 relate to the community control of land and buildings; specifically community right to buy and asset transfer requests. The Policy memorandum notes that the key to effective community-led action, may be around ownership or control of land or buildings – these assets can help to achieve economic, social and environmental benefits for local populations.

The community right to buy, introduced by Part 2 of the Land Reform (Scotland) Act 2003 (the 2003 Act), came into effect in June 2004. Alongside this, the Scottish Government and other bodies have put in place a range of funding and advice to help communities take control of assets.

In the past 20 years, nearly half a million acres of land have transferred into community ownership, either through the community right to buy or by negotiation. The Scottish Government has set a target of increasing this to one million acres by 2020.

Section 4 of this Bill makes amendments to the community right to buy. For more detail on these provisions, see the full legislation at <http://www.scottish.parliament.uk/parliamentarybusiness/Bills/77926.aspx>

Section 5 of this Bill focuses on asset transfer requests, whereby a community body makes a request for the use of a public sector asset. Many communities may wish to take control of assets in their area, enabling them to address local needs and deliver community benefit. The decisions for asset transfer requests will be based on the economic, social and environmental benefits of proposals, and other factors that may be relevant including the functions and purposes of the authority. The authority must agree to the request unless there are reasonable grounds for refusal.

Part 6: Common Good Property

Common good, in Scotland, refers to certain assets which were originally acquired by former burghs, and to which title has been passed down to local authorities through successive rounds of local government re-organisation.

The aim of Part 6 of the Bill is to increase transparency about the existence, use and disposal of common good assets, and to increase community involvement in decisions taken about their identification, use and disposal.

Part 7: Allotments

The existing legislative framework for allotments is complex. The principal legislation is the Allotments (Scotland) Act 1892 as amended by the Land Settlement (Scotland) Act 1919 and the Allotment (Scotland) Acts of 1922 and 1950. In addition to the two consultations on the Bill, a separate consultation on the allotments legislation was held in April-May 2013, which has informed the detail of the provisions in the Bill. The Bill repeals the existing legislation and makes new, simplified provision.

Part 7 of the Bill provides a new, clear definition of an allotment and an allotment site. It places a duty on local authorities to hold and maintain waiting lists for allotments, and to take reasonable steps to provide more allotments if the waiting list exceeds certain trigger points. The Bill also adds a level of protection to sites that prevents local authorities from disposing of or changing the use of an allotment site without the consent of the Scottish Ministers.

Part 8: Non-domestic rates

There is a wide range of business rate relief schemes set nationally, which benefit small businesses or those in particular sectors or geographic areas. Local authorities currently have very little scope to vary the reliefs locally. Part 8 of the Bill introduces a new power to allow councils to create localised relief schemes to better reflect local needs and support communities.

Evidence Requests

Following the introduction of the Community Empowerment (Scotland) Bill to the Scottish Parliament, the Parliament's Local Government and Regeneration (LGR) Committee has issued a call for written evidence on the Bill. Details are on the Committee's website: <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/78599.aspx> The deadline for submitting written evidence is Friday 5 September 2014.

Voluntary Health Scotland will be responding to this evidence request. If you wish to discuss the Bill please contact Susan Lowes, Policy and Engagement Officer susan.lowes@vhscotland.org.uk

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