

The Highland Community Planning Partnership

Community Planning Board - 5 December 2014

Agenda Item	5
Report No	

Community Empowerment Bill – implications and opportunities for the CPP

Report by Head of Policy and Reform, Highland Council

Summary

This report invites the Board to discuss the opportunities and implications arising for the CPP from the Community Empowerment (Scotland) Bill. The Bill can be welcomed by the Board. The Board is asked to agree that joint work is progressed to ensure the CPP is prepared well for implementation.

1. Background

- 1.1 In June 2014 the Community Empowerment (Scotland) [Bill](#), was introduced to the Scottish Parliament. The Local Government and Regeneration Committee recently completed its oral evidence sessions on the Bill in Lochaber. The stage 1 report on the Bill is likely to be published by mid-January 2015 with the first stage debate taking place in late January or early February 2015. Parliament will agree the dates for stages 2 and 3 after the end of stage 1 consideration.
- 1.2 While the Bill is not expected to be enacted until summer 2015 and further amendments may be proposed, it is helpful to highlight the implications and opportunities for the CPP to ensure the CPP is ready for compliance. The Council has considered the Bill in October. This was shared with the Chief Officers Group in November when opportunities for joint working in implementing expected new duties were identified. These are described for the Board to consider.
- 1.3 The Bill provides a framework for empowering communities including through the community control of land and buildings, meaningful community participation in the decisions affecting people and communities and improving community planning. The Bill draws on the definition of community empowerment agreed between the Government and Cosla as:
‘...a process where people work together to make change happen in their communities by having more power and influence over what matters to them.’¹
- 1.4 The Bill and [accompanying documents](#) recognise that empowerment in practice can mean different things to different communities but they also recognise that empowerment is not the same as consultation or engagement;

¹ The Scottish Community Empowerment Action Plan: Celebrating Success: Inspiring Change: published jointly in 2009 by the Scottish Government and COSLA.

empowerment is about communities leading change for themselves.

- 1.5 The Bill reinforces the view that public bodies should focus on the assets within communities and on the potential individuals have to improve the quality of their lives, moving away from an expectation that this is the sole responsibility of public bodies whose efforts have largely and traditionally focused on planning services around shortcomings and deficits. The Bill supports the preventative agenda.

2. Opportunities and implications from the Bill for the CPP

- 2.1 The Community Empowerment Bill as introduced has eight key sections. Those affecting the CPP are summarised below.

2.2 Part 1 - National Outcomes

The Bill confirms that future Governments will develop a set of national outcomes, publish these and review them at least every five years. The Bill provides for consultation on the outcomes before determining them. Progress is to be monitored and reported.

2.3 Implications for the CPP

The Bill gives legislative force to continue the current process of the Government specifying national outcomes. Currently there are 16 national outcomes. As the Bill requires the Government to consult on national outcomes the CPP would have to make full use of all mechanisms to provide views and to ensure the issues that matter to the Highlands are taken fully into account.

2.4 Part 2 - Community Planning

The Bill aims to place community planning on a firmer statutory footing and provides:

- A definition of community planning which can be summarised as improving outcomes through public service provision;
- A new statutory duty that each Local Authority area must have a Community Planning Partnership (CPP);
- A defined list² of who must participate in community planning. Those listed are regarded as the CPP and as community planning partners. The CPP should consider which community bodies should participate and where they wish to, enable them to do so. Structures for participation are at the discretion of the CPP.
- That community planning must be facilitated by five identified partners and not solely by local authorities. The identified partners are: local

² Defined partners that must participate with each other in community planning are: the local authority; community bodies (whether or not formally constituted established to promote or improve their community's interest); the management board of a regional college of further and higher education and any regional strategic body for further and higher education; Police Scotland; Health Board; HIE or Scottish Enterprise; any integration board (established for health and social care); National Park Authority; SEPA; Scottish Fire and Rescue Service; SNH; Scottish Sports Council; Skills Development Scotland; Regional Transport Partnership; and Visit Scotland.

authorities; Health Boards; HIE; Police Scotland; and the Scottish Fire and Rescue Service.

- That each CPP publishes a plan for improving local outcomes based on local circumstances and consistent with national outcomes. The plan must be subject to consultation. Progress must be monitored and reported annually, with each partner to be equally accountable for the delivery of this plan.
- That all community planning partners must co-operate and contribute funds, staff and other resources as appropriate for the plan and securing the involvement of community bodies in the process.
- That the CPP must comply with guidance issued for community planning.
- Scottish ministers must promote community planning and consider requests from CPPs to become corporate bodies.

2.5 Issues for the CPP

Improving legislation to support community planning can be welcomed. Having a defined list of core CPP partners and the flexibility to include others locally as appropriate is helpful, especially as the duties and accountabilities of community planning partners are shared and notably across five partners with responsibility for facilitating community planning.

2.6 However there are concerns that the provisions:

- Do not include Third Sector Interface organisations in the defined list of CPP partners alongside public bodies.
- Do not require community groups to be formally constituted to be community planning partners.
- Do not enable CPPs to include their own priorities where those may diverge from the national outcomes. Without the ability to do this, this could disempower communities if national policies do not reflect the needs in a CPP area and are too top down.
- Do not cover the audit and inspection process for community planning.

The Council has fed back these issues during written and oral evidence submissions.

2.7 Implications for the CPP

Many of the Bill provisions build on the progress the CPP has already made, for example:

- The CPP has been reviewing its governance and membership arrangements and the provisions on governance, including the shared responsibilities among partners, will be helpful to this process.
- The sharing of responsibility for achieving outcomes is already underway in the CPP as Highland partners do take lead responsibility for the achievement of specific outcomes.
- The Bill will push the partnership to increase the pace on community planning arrangements at a local level, joining up engagement and

empowerment processes and on integrating and sharing resources. The CPP is well placed to progress with this agenda, given the CPP/SOA development plan in place.

- We have shared the chairing of COG meetings across the partners and should pursue this for the Board meetings as well. We should also consider sharing the support required for Board and COG meetings and co-ordinating responses on behalf of the CPP. Currently this is done by the Council.

2.8 **Part 3 - Participation Requests**

The Bill outlines that, if a community group feels it can improve the outcome of a public service, it has the statutory right to request to take part in a process to improve that outcome. The process for handling requests is prescribed, including how to establish the process and meeting various timescales, for example the process being underway within 90 days of it being established. At the end of the process the public body must also publish reports on whether the outcome was improved and describe the community group's contribution to that. In this process community groups may come together and public bodies may come together. Public service providers can disagree to requests only where there are reasonable grounds and these must be explained. The current provisions have simplified the various definitions of a community body from earlier drafts of the Bill and now include a clause to enable public service authorities to decline multiple participation requests for the same outcome.

2.9 Issues for the CPP

The CPP can welcome this approach and guidance is expected to clarify the process further. Requests to participate in improving health and social care outcomes will be aided by the integration of those services.

2.10 Implications for the CPP

The encouragement for communities to be involved in improving outcomes is not necessarily new for the community planning partners. Examples of related practise include self-directed support for people with care needs, the work of community health co-ordinators, the Council's Community Challenge Fund and the partnership LEADER programme. However the legislation requires that each public body will need to design a process to comply with the prescribed stages and timescales. This is likely to need organisations to build their capacity to respond to requests positively.

2.11 Given that local outcomes are likely to involve more than one service provider, it would make sense for the process to be designed in the CPP rather than in each partner organisation separately. It would also offer consistency in approach to the communities we all serve. The COG recommends this approach. In addition it also raises opportunities for:

- the role of District Partnerships in the process;
- the scope to share resources on how we build capacity across the CPP so that we can respond well to participation requests, for example sharing training, development, briefing and peer support/review.

2.12 **Part 4 - Community control of land and buildings: Community Right to Buy**

This section of the Bill is written to replace provisions in the Land Reform (Scotland) Act 2003. It aims to broaden the right and make purchase of land and property in private and public ownership easier. New and replaced provisions include:

- Extending community right to buy to urban as well as rural communities, lifting the 10,000+ population exclusion so that all of Scotland is included;
- Community groups will also be able to buy abandoned or neglected land and buildings, even if the owner does not want to sell, subject to Ministerial approval;
- Streamlining the processes for purchase and clarifying aspects of the process including defining communities and group eligibility, ballot arrangements, extending the period for concluding sales, dealing with late applications and the valuation process.

2.13 Issues for the CPP

The CPP can welcome the extension to the Community Right to Buy. There are still issues around the complexity of a number of the provisions, including mapping and late registrations and how communities would be able to demonstrate land is abandoned or neglected. Also there are restrictions on Community Councils being able to own land and property; these are not addressed in the Bill and this affects the asset transfer provisions described below. With views on these issues fed back, it is hoped provisions will be amended and/or clear guidance provided.

2.14 Implications for the CPP

Across Scotland nearly half a million acres of land have transferred into community ownership and the Government has set a target of increasing this to one million acres by 2020. Community buy-outs have been pioneered in the Highlands and Islands. In Highland over 60 community owned assets (mostly land and including forests) have been assisted by HIE and the Council has supported the community ballot process. Increased capacity in HIE and the Council to respond to additional requests is likely to be needed.

2.15 **Part 5 - Community control of land and buildings: Asset Transfer Requests**

The Bill provides for community organisations to request ownership, lease or management of publicly owned buildings or land³, whether or not they are available for sale or deemed surplus to requirements by the owning body. The initiative is placed with communities and their requests must be granted unless there are reasonable grounds for refusal. Public bodies must also respond to information request about the assets it holds when requested. Communities

³ The public bodies affected by this part of the Bill are: Boards of management of a college of further education and of further and higher education; the British Waterways Board; the Crofting Commission; a Health Board; HIE; a local authority; National Park Authority; Scottish Court Service; Scottish Enterprise; SEPA; SFRS; Scottish Ministers; SNH; Scottish Police Authority; Scottish Water; a Special Health Board; a Regional Transport Authority.

have the right to appeal to Ministers where requests are refused; although for Councils the appeal route is through the Council's own appeals process. If an asset transfer is agreed the public authority must make an offer to the community body within 6 months, unless the community body and public authority agree to an extension.

2.16 Issues for the CPP

Further clarity is required on some provisions such as:

- How to deal with multiple asset transfer requests (ATR) for the same asset;
- The need for any ATR to evidence how each of the core criteria will promote, improve and deliver benefits to the community;
- That safeguards are required within the legislation or regulations to ensure that any successor owner benefiting from the asset transfer delivers benefit to the community.
- Whether the ATR process removes the discretion of the public body to seek a Best Value outcome to a property disposal, potentially foregoing a capital receipt that could be reinvested through its capital programme to deliver improved public services. This would require other aspects of legislation to be repealed.

With views on these issues fed back in the Bill consultation, it is hoped that provisions will be amended and/or clear guidance provided.

2.17 Implications for the CPP

Since 2010 the Council has transferred 24 assets into community ownership, including 10 village halls. Most transfers to communities take place for £1 (with income of up to £1.975m foregone) and arise from communities approaching the Council about vacant properties. The number of transfers from other partners, and the income foregone, are not currently quantified.

2.18 Experience to date in the Council shows that sometimes when a group approaches the Council for a property they may have interest but not capacity to take it on and this can delay the asset transfer process. At other times the asset transfer process takes too long for those groups able to move more quickly.

2.19 The Bill means that:

- communities can request to own, lease or manage buildings or land in public ownership and regardless of their current use as partners can be approached about land and buildings in use;
- all partners will have to design a transfer process that it complies with the Bill's timescales and makes the process clear, transparent and with a view to enabling more transfers;
- communities need to be supported through the process and good practice identifies the need for support pre, during and post transfer. For some communities, leasing may be a route to ownership in the longer term.

- 2.20 Given that the duties currently fall on all partners in the CPP and that at least two partners, HIE and the Council, have experience of asset transfer, it would make sense for the CPP to share experience and design a common process to comply with the Bill and to support community groups in a consistent way. The COG recommends that this is done and that partners should be open to sharing resources to deliver asset transfer in the Highlands. This will also mean reviewing the implications for the CPP Property Group.
- 2.21 **Part 6 - Common Good Property**
The Bill aims 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. It requires Councils (as trustees) to establish and maintain a list of all common good property and make this publicly available. When establishing this register, Community Councils and other community bodies must be invited to comment on it as a way to highlight any items they believe should be included or omitted. The Council must also consult on any decisions to sell or change the use of common good property, and the public must be informed of any decisions.
- 2.22 Implications for the CPP
Registers of Common Good property currently exist and in future will need to be published on the Council's website. These could be of interest to partners in knowing the resources that some communities can benefit from.
- 2.23 **Part 7 – Allotments**
The Bill repeals allotments legislation dating from 1919, simplifies provisions and recognises the interest in community growing. A new definition of allotments is provided, and can be summarised as land owned or leased by a local authority on a non-profit basis to grow vegetables, fruit, herbs or flowers. Councils must keep a waiting list for allotments and take reasonable steps to provide more allotments if the list becomes too long. The Council will need Scottish Government permission to sell or change the use of land used for allotments. An allotments report must be published each year along with a food growing strategy. This must set out the land identified for allotments and other community growing and how it will meet demand. The Council must set regulations for allotments covering allocations, rent, maintenance and whether keeping livestock and selling surplus produce are allowed.
- 2.24 Implications for the CPP
Currently the Bill refers only to Local Authority owned or leased land. It does not place duties on all public sector land owners to make suitable surplus land available. However the SOA includes the interest of other partners in supporting more allotment gardening, for example NHSH, given the nutritional and well-being benefits, and SNH, given the environmental benefits.
- 2.25 For interest, there have been 19 new allotment sites supported by the Council (nine since 2009), a further five allotment associations identifying suitable land and six associations seeking sites across the Highlands. In addition 33 community gardens are identified. The Council is to target financial support for community growing initially in areas of multiple deprivation and supported by

NHSH community dieticians and local health coordinators.

2.26 **Part 8 - Non-Domestic Rates**

Bill provisions enable Councils to create localised business rate relief schemes to encourage businesses in the area. Other partners, notably HIE, may have an interest in the potential for this provision; although any local reliefs will need to be fully funded by the Council.

3. **Further opportunities for empowerment**

3.1 The Bill raises the issue of how the CPP can ensure communities currently disempowered or those least ready to participate can be supported to participate and have more power and influence over what matters to them. In the SOA we do currently have action targeted in areas of concentrated multiple deprivation and other action targeting disadvantaged groups (e.g. fuel poor households, people with care needs, people living with low incomes and affected by welfare reform and people affected by hate crimes).

3.2 In June this year the Council included an expanded set of questions in its annual survey of the Citizens' Panel about civic and democratic engagement. This showed that even among the Citizens' Panel, a group of adults agreeing to provide their views on public services, there is a sense of disempowerment. Key survey results are that:

- Only 18% felt they had some or a great deal of influence over decision-making in their local area, compared to 43% saying they had not very much influence and 38.5% saying they felt they had no influence at all.
- The main personal barriers for limiting influence were: lack of time, feeling their opinion would not be listened to, not being given the opportunity, not knowing how to get involved, not feeling qualified enough, not knowing enough about decisions and not feeling able to make a difference.
- More people disagreed than agreed that the Council represented their views (26% compared to 25%) and involved them in how it spends money (48% compared to 20%).
- More people disagreed than agreed that they would do a good job as a local councillor or MSP/MP (36% compared to 31%).
- More people disagreed than agreed with the statement 'when people like me get involved in politics they can really change the way the country is run.' (36% compared to 33%).

Clearly more needs to be done to empower communities and individuals, including increasing their confidence about being involved in decisions affecting them. This is an issue for the CPP as a whole.

3.3 Feedback from the Council survey noted above shows that there is an appetite and need for more participation in the democratic process. Positive responses on being involved in the democratic process include:

- 77% of respondents said they were interested in the democratic process;
- Over 50% said in the past 12 months they participated in voting in an election, created or signed a paper or e-petition and contacted their Councillor, MSP, MP or MEP;

- 69% said they wanted to be involved in decision in their area (with people aged 16-24 years more likely to want this involvement – at 89% compared to 56% of those aged over 65 years).
- 53% said they wanted to be involved in decision making in the country as a whole, with higher levels among 16-24 year olds (at 72% compared to 41% of those aged over 65 years).
- More people agreed than disagreed that every citizen should get involved in politics if democracy is to work (48% compared to 22%) and that they enjoyed working with other people on common problems in their community (39% compared to 20%).
- More people agreed than disagreed that the Council is helpful and listens to local people.

3.4 Interestingly when asked what had the most impact on people's everyday lives, from a choice of seven, the top three were media, Parliament and local people working together. These were chosen more often than local councils, charities and voluntary organisations and community organisations.

3.5 It is timely for the CPP to consider how to ensure people and communities can be involved in decisions affecting them. In addition to the Community Empowerment Bill, we have political and civic momentum to increase democratic participation following the Referendum; the publication of [Effective Democracy: Reconnecting with Communities](#); and the current work of the Smith Commission.

4. Further opportunities to respond to the Bill

4.1 Partners were aware of the opportunity to observe or provide evidence to the Local Government and Regeneration Committee on 24th November at Lochaber High School in Fort William. The session also included a community engagement events to hear the views of individuals and organisations active in the community.

4.2 It will be important to continually review the provisions within the Bill as it progresses through Parliament and the implications for the CPP. Some implications will not become clear until the guidance/regulations to support the Bill are published.

5. Recommendations

5.1 Board Members are asked to note:

- the provisions of the Bill, the stage it is at in the Parliamentary process and that enactment is expected in summer 2015;
- that some provisions affect some partners more than others, for example there is likely to be a great call on HIE and Council resources to support the extension of the community right to buy, but all partners will have an interest in all parts of the Bill, given the connections between them and the outcomes in the Highland SOA;
- that further reports on the Bill and the CPP response to it can be prepared for the Board.

5.2 Board members are asked to agree that the CPP works in partnership by sharing staff time and resources to be ready for implementation in the areas of: facilitating community planning (including rotating the chair for Board meetings); and designing the process for participation requests and asset transfer requests.

5.3 Board members are asked to consider the need for the CPP to ensure communities currently disempowered or least ready to participate in new rights to be afforded to them are supported to participate and have more power and influence over what matters to them.

Author: Carron McDiarmid, Head of Policy and Reform tel. (01463) 702852
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