

COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015: HEADLINE MESSAGES

Summary [*slide 1*]

The Scottish Parliament passed the Community Empowerment (Scotland) Bill in June 2015 and it received Royal Assent (meaning the Bill becomes an Act) in July. The new Act provides a legal framework that will promote and encourage community empowerment and participation, by creating new rights for community bodies and placing new duties on public authorities.

The provisions include an array of new duties in Part 2 of the Act to strengthen community planning. CPPs and partner bodies need to be clear about what these duties mean for them.

Key Reforms to Community Planning [*slides 2-4*]

The Act makes a number of significant changes to legislation covering community planning [the Local Government in Scotland Act 2003 described community planning as a process for planning public service provision where co-operation is considered appropriate, with duties on the local authority to maintain and facilitate the process and on certain other public sector bodies to participate].

- ***Community planning now has a statutory purpose focused on improving outcomes:*** Explicitly about how public bodies work together and with the local community to plan for, resource and provide services which improve local outcomes in the local authority area.
- ***The 2015 Act gives CPPs a statutory footing for the first time.*** It places specific duties on CPPs around improving local priority outcomes and acting with a view to tackling inequalities of outcome across communities within their area. In particular, CPPs are required to:
 - prepare and publish a local outcomes improvement plan (LOIP) which sets out the local outcomes which the CPP will prioritise for improvement¹
 - identify which geographical areas have communities that experience the poorest outcomes, and prepare and publish locality plans to improve outcomes on agreed priorities for these communities
 - review and report publicly on progress towards their LOIP and locality plans, and keep the continued suitability of these plans under review.
- ***The 2015 Act places specific duties on statutory partner bodies, linked to improving outcomes.*** These include:
 - working collaboratively with other partners in carrying out community planning
 - taking account of LOIPs in carrying out its own functions;

¹ Note: LOIP is the term the 2015 Act gives to what are presently SOAs – there is no significant difference between these in practice

- contributing such funds, staff and other resources as the CPP considers appropriate to improve local outcomes in the LOIP and secure participation of community bodies in community planning.
- ***The 2015 Act expands the number of public sector bodies that are subject to these duties.*** The 2003 Act listed as statutory partners: the local authority, the Health Board; Scottish Enterprise / Highlands and Islands Enterprise (SE / HIE); Police Scotland, the Scottish Fire and Rescue Service (SFRS), and the Regional Transport Partnership. Schedule 1 to the 2015 Act expands this list to include:
 - Skills Development Scotland
 - the integration joint board (health and social care)
 - Scottish Natural Heritage
 - Scottish Environment Protection Agency
 - Historic Environment Scotland
 - a National Park authority
 - Scottish Sports Council (i.e. Sportscotland)
 - VisitScotland
 - the board of management of a regional college
 - a regional strategic body in Further and Higher Education (Scotland) Act 2005
- ***Running the CPP and making sure it works effectively is now a shared enterprise.*** Under the 2003 Act, it is the duty of the local authority alone to facilitate and maintain the community planning process. The new Act introduces duties to support shared leadership and collective governance on named governance partners, i.e. the local authority, NHS board, SE / HIE, Police Scotland and SFRS. These duties include:
 - facilitating community planning
 - taking all reasonable steps to ensure the CPP conducts its functions effectively and efficiently.
- ***Participation with communities lies at the heart of community planning.*** Consultation from time to time is no longer enough. The 2015 Act requires CPPs to take all reasonable steps to secure the involvement in community planning of any community body which it considers is likely to be able to contribute to it. CPPs must in particular have regard to community bodies which represent those communities experiencing socio-economic disadvantage. Statutory partner bodies must contribute funds, staff or other resources to secure that participation.

Making These Statutory Duties Work [slide 5]

Provisions in the 2015 Act underpin effective community planning, but effective community planning requires more than simply complying with these duties. CPPs and partner bodies still need to apply the principles of effective community planning, which have been consistently set out in the Statement of Ambition, pronouncements by the National Community Planning Group and audit reports by the Accounts Commission and Auditor General.

Other Features in 2015 Act Relevant to CPPs and Partner Bodies [*slide 6*]

- **Part 3 - Participation Requests:** Provides a new way for communities to initiate dialogue with public service authorities on their own terms. The new Act allows communities to raise proposals or issues that may not be on the authority's agenda, or outwith their consultation structures. Public service authorities must agree to the request for dialogue, unless there are reasonable grounds for refusal. They are not required to agree to the community body's proposals, but will have to listen and report on the outcomes.
- **Part 4 – Community Right to Buy:** Amends the Land Reform (Scotland) Act 2003, extending the community right to buy to all of Scotland, urban and rural, and improving procedures. It also introduces a new provision for community bodies to purchase land which is abandoned, neglected or causing harm to the environmental wellbeing of the community, where the owner is not willing to sell that land. This is if the purchase is in the public interest and compatible with the achievement of sustainable development of the land.

We expect that asset transfer under Part 5 will be an easier option for community bodies to pursue in relation to public sector land and buildings, but community right to buy is still available to them if they wish to use that mechanism.

- **Part 5 – Asset Transfer Requests:** Provides community bodies with a right to request to purchase, lease, manage or use land and buildings belonging to local authorities, listed Scottish public bodies or Scottish Ministers. There will be a presumption of agreement to requests, unless there are reasonable grounds for refusal. Reducing inequalities will be a factor for public authorities to consider when making a decision. Relevant authorities will be required to create and maintain a register of land which they will make available to the public. [See *Annex A for further information*].
- **Part 10 - Participation in Public Decision-Making:** A new regulation-making power enabling Ministers to require Scottish public authorities to promote and facilitate the participation of members of the public in the decisions and activities of the authority, including in the allocation of its resources. Involving people and communities in making decisions helps build community capacity and also helps the public sector identify local needs and priorities and target budgets more effectively. The regulations can specify which authorities are included, which of their decisions are affected and who should be able to participate in them.

Next Steps [*slide 7*]

No commencement dates for the new Act have yet been set. Implementation is likely within 12 months of Royal Assent (i.e. by July 2016), with more than one commencement date likely. We expect to produce guidance on several elements of the Act, including community planning, and will want to engage stakeholders on this.

PART 5: ASSET TRANSFER REQUESTS – FURTHER INFORMATION

Appeals?

- Community bodies will be able to appeal or request a review if their asset transfer request is refused, is not decided within the prescribed deadline, or if the terms and conditions (including price) set out by the relevant authority differ significantly from those included in the request.
- Local authorities will be required to carry out a review by Councillors. A further appeal is available to Ministers following that review.
- For requests made to public bodies, the appeal will be to Ministers.
- Ministers will review decisions on requests made to them. An external panel will be involved, to provide a degree of independent scrutiny.

Grounds for refusal/market value?

- It is important that public sector authorities continue to be able to carry out their functions. But they do need to consider carefully the benefits of community proposals and whether the current use of premises is necessarily the best use.
- Local authorities can dispose of property at less than market value if there are other public benefits. So can public bodies, with Ministerial approval, and we have already revised the Scottish Public Finance Manual to encourage them to consider the wider benefits of community ownership.
- But it is also legitimate that bodies may need to achieve a certain level of capital receipt to fund other activity or developments, and such developments can be taken into account in comparing benefits.