



Third Sector
Dumfries and Galloway

Policy Briefing No 3 Community Empowerment Bill

Working together to put our sector first

In this briefing:

This briefing provides information on the provisions of the Community Empowerment (Scotland) Bill including:

- ◇ Participation Requests
- ◇ The Community Right To Buy
- ◇ Community Assets
- ◇ 'Common Good' Register
- ◇ Allotments
- ◇ Non-Domestic Rates

Third Sector, Dumfries and Galloway will be seeking to engage the third sector as the Bill makes its way through the Parliamentary Procedures

The [Community Empowerment \(Scotland\) Bill](#) was introduced by John Swinney MSP on 11th June 2014. The main provisions of the Bill are:

- ◇ Provides a mechanism for communities to initiate a dialogue on the delivery of services, and have their voices heard through [participation requests](#)
- ◇ The [Community Right to Buy](#) extended as part of the Land Reform (Scotland) Act 2003
- ◇ Take control of [community assets](#)— Communities have the right to request to purchase, lease or manage land and buildings belonging to local authorities
- ◇ Local authorities are required to establish and maintain a ['common good' register](#)
- ◇ Updates and simplifies legislation on [allotments](#) – can request to lease an allotment from the local authority
- ◇ A new power which will allow councils to create and fund their own [localised business rate relief](#) schemes

Participation Requests

The Christie Commission recommended that this Bill should seek to strengthen communities' voices in shaping the services that affect them. The provisions in Part 3 of the Bill will allow this to happen, as it states that a 'community participation body' can make a 'participation request'. This gives community bodies an additional power to initiate the dialogue with partners on their own terms, which set the priorities for their own communities, with the right to have their views properly considered.

A 'community participation body' may be a community-controlled body, which means a body with a written constitution, and aims, purposes and rules that include a promotion of a benefit for the community. It can also be a community council or a body designated by the Scottish Ministers.

A 'participation request' is: "a request to take part in a process established by the authority with a view to improving an outcome of a public service". This means that where an appropriate community

body, or group of bodies, believes it could help to improve the outcomes of a service, it will be able to make a request to the public body or bodies that deliver that service. They must explain why they should be involved, what they can bring to the process, and what improvement they expect might be achieved through this engagement.

The Bill has provided for Scottish Ministers to have powers to make regulations setting out further detail on participation requests. Regulations can cover: how requests are to be made; how public service authorities should deal with them; and additional information to be provided in connection with requests.

Public service authorities must agree to the request for dialogue, unless there are reasonable grounds for refusal. If they do refuse, they must explain their reasons. Following a participation request, a public service authority must send out a decision notice to the community participation body, where they have 28 days to comment on the process. The public service authority then has a further 28 days to finalise the details and then must establish and maintain the process within 90 days.

The public body does not need to set up a separate outcome improvement process for each community body that makes a request. If it has a number of requests relating to the same service, or already has a participation process in place, it may invite other community bodies to join in the existing process. Community bodies may also choose to come together to make a request jointly.

When an outcome improvement process has been completed, the public service authority must publish a report on the process.

[The Community Right to Buy](#)

The Community Right to Buy is a modification of the Land Reform (Scotland) Act 2003 – the Bill extends Part 2 and introduces a new Part 3A. Part 2 provides for an extension of the community right to buy to the whole of Scotland, in order to give urban areas the same rights as rural areas have. Part 3A provides a framework for community bodies representing communities across Scotland to purchase abandoned or neglected land without a willing seller, in order to further the achievement of sustainable development of land.

A 'community body' is eligible to register an interest in land. Previously in the 2003 Act, a community body was a company limited by guarantee that met certain criteria. The Bill extends the types of body which may be classed as 'community bodies' to include Scottish Charitable Incorporated Organisations ('SCIOs') and any other type of body which Ministers specify in regulations.

The amendments made by the Bill include:

- ◇ Making it easier for communities to define their community in a greater variety of ways, not just by postcode;
- ◇ Extending the legal entities that can use the community right to buy provisions to include Scottish Charitable Incorporated Organisations (SCIOs), and allowing for other legal entities to be added by further legislation;
- ◇ In relation to the ballot required after the right to buy has been motioned, providing for the Scottish Ministers to arrange for this to be conducted by an independent third party and for Ministers to meet the cost of this, making the community right to buy process easier for community bodies;
- ◇ Extending the period available to complete the right to buy;
- ◇ Replacing the 'good reasons' test for late applications with one which sets out clear requirements to be met by community bodies when submitting a late application;
- ◇ Making the valuation process more robust by allowing for counter-representations between the landowner and the community body;

- ◇ Giving Ministers discretion to allow them to recover the cost of the independent valuation from the landowner where the landowner has withdrawn the land from sale after the valuer has been appointed, thus deterring landowners from allowing the process to proceed where the land is not genuinely being offered for sale.

Community Asset Transfers

The public sector owns a wide range of land and buildings throughout Scotland, ranging from forests to schools, hospitals to waterworks. Many communities may wish to take control of assets in their area, enabling them to address local needs and deliver community benefit. In many cases this will also contribute to achieving the outcomes set by public sector bodies, and can lead to reduced demand for public services.

It is always important for community bodies to consider what assets would be appropriate for their needs and what form of control is best for them. The focus should not be just on buildings or land that a public authority is closing, but on what the community seeks to achieve and what property would help them achieve that. Another option is to lease or manage the site on behalf of the owner, which benefits include a division of costs and responsibility. This could lead to ownership in the future, however it is important to know the difference between owning an asset and managing it on behalf of someone.

The Bill allows for communities to again initiate the dialogue, identify the assets they are interested in, and places a duty on public authorities to agree to the request unless they can show reasonable grounds for refusal.

Common Good Property

This part of the Bill seeks to increase transparency about the existence, use and disposal of common good assets, and to increase community involvement in the decisions made.

Common good property is property owned by local authorities for the common good of the inhabitants in their areas which has been passed down, through local government reorganisation, from the former burghs. Those burghs would have received it as a gift or purchased it. It includes land and buildings, moveable items such as furniture, art, and cash funds. Common good assets often have strong historical and emotional value to local communities, as well as being of practical use to them.

A new statutory duty will be placed on local authorities to establish and maintain a register of all property held by them for the common good. When establishing the register, a proposed list must be published and community councils and other community bodies must be invited to comment on it. The completed register must be made available online. This gives everyone the opportunity to say whether they think the local authority has missed any common good property from the list, or included anything which is not part of the common good.

Further provisions require local authorities to publish their proposals and consult community councils and other community bodies before disposing of or changing the use of common good assets.

This is a positive step for community empowerments, as having a clear and accessible register encourages good practice for asset management and asset transfers, and meets the rights of communities being fully involved in decisions that matter to them.

Allotments

An allotment as defined in the Bill is *“land that is either owned or leased by a local authority”*. Privately leased or owned allotments are not covered by the Bill. Additional requirements include land that is leased, or intended to be leased, by a person resident in the local authority area and that the land is used wholly or mainly for the non-commercial cultivation of vegetables, fruits, herbs or flowers.

In 2009 the Scottish Government published its first National Food and Drink Policy – “Recipe for Success”.

This Policy made a clear commitment to strategically support allotments and community growing spaces. A recent discussion document was launched by the Scottish Government for a proposed '2025 Vision' for Scotland's Food and Drink industry, available [here](#)*.

The Bill 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. This addresses a key concern about the level of demand for allotments and the length of time people may be on a waiting list. The Bill also prevents local authorities from disposing of or changing the use of an allotment site without the consent of the Scottish Ministers, ensuring a level of protection to allotment sites.

Local authorities must publish an Annual Allotments Report and a food-growing strategy, setting out land that has been identified for allotments or other community growing in the local authority's area and how it will meet demand. They are required to make regulations about allotments (which was previously optional). These will cover issues such as allocations, rent, maintenance, and whether tenants are allowed to keep livestock or sell surplus produce.

[Non-domestic rates](#)

Supporting businesses to flourish is a key strand in promoting resilient communities and sustainable places. One element of that is ensuring that non-domestic rates (also known as business rates) are set appropriately and reflect the needs of businesses and the local economy.

Local authorities currently have very little scope to vary the reliefs locally. The Bill introduces a new power to allow councils to create localised relief schemes to better reflect local needs and support communities, in any financial year from 2015/16 onwards. There will be no restrictions on this power; local authorities will be able to grant the relief to any type of ratepayer or for any reason, as they see fit.

['Communities leading change'](#)

This Bill will help to strengthen the role of the third sector in communities. A wide range of groups often play an anchor role within communities including Community Controlled Housing Associations, Community Development Trusts and more informal associations. The Community Empowerment Bill will build on this and provides the opportunity for communities to lead change for themselves.

The Dumfries and Galloway Community Planning Partnership provided a response to the consultation in 2012/2013, available [here](#).

[Notes](#)

*If you wish to make a response to the consultation on the Food and Drink Strategy, please email: consultations@thirdsectorfirst.org.uk

[Sources](#)

[The Community Empowerment \(Scotland\) Bill \(as published on 11th June 2014\)](#)

[Community Empowerment \(Scotland\) Bill, Policy Memorandum \(as published on 11th June 2014\)](#)

[The Community Empowerment \(Scotland\) Bill Explanatory Notes](#)

[The Christie Commission: Commission on the Future Delivery of Public Services](#)

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