

# Briefing – Community Empowerment (Scotland) Act 2015

## Current Consultations

The Scottish Government currently have a number of consultations in relation to the Community Empowerment (Scotland) Act 2015.

A summary of the four which will directly affect the Third Sector are listed below.

**If you would like to be involved in a formal response via a small working group facilitated by Voluntary Action South Lanarkshire on any part of the Community Empowerment (Scotland) Act 2015, please email [Heather.Petrie@vaslan.org.uk](mailto:Heather.Petrie@vaslan.org.uk)**

## ASSET TRANSFER (Consultation closes 20 June 2016)

The Community Empowerment (Scotland) Act 2015 introduces a right for constituted community bodies to make requests to all local authorities, Scottish Ministers and a wide-ranging list of public bodies, for any land or buildings they feel they could make better use of. It requires public authorities to assess requests transparently against a specified list of criteria and to agree to requests unless there are reasonable grounds for refusal.

Part 5 of the Community Empowerment (Scotland) Act 2015 sets out the key rights and duties and provides a framework for the asset transfer process. In simplified terms:

- A community body makes a request for an asset transfer to a relevant authority. They can ask to buy, lease, manage or use any land or buildings which are owned by, or are leased to, the relevant authority. They have to set out what they plan to do with the property, and how much they are prepared to pay.
- The relevant authority has to decide whether to agree to the request or not, taking into account whether the community body's proposals (including the price) provide more benefit than the current use, or any other proposals that have been made. The request must be agreed to unless there are reasonable grounds for refusal. Then the community body make an offer and a final contract is negotiated.
- If a request is refused, or no answer is given, or the community body does not agree with conditions set by the relevant authority, the community body can ask for the decision to be reviewed or can appeal to Scottish Ministers. They can also appeal if the request is agreed and an offer made but no contract is completed within 6 months of the date of the offer.

Guidance will set out what information authorities should include in their register and how it should be published and updated, as well as the transparent process which should be adhered to by both the community body and relevant authority throughout the whole process, including the appeals process. Scottish Government are currently consulting on Asset Transfer. For more information, and to include your views, see: <https://consult.scotland.gov.uk/community-empowerment-unit/asset-transfer-procedures>

## **COMMUNITY PLANNING (Consultation closes: 13 June 2016)**

Community Planning is a key driver for public service reform at local level. It brings together local public services and the services they serve. It provides a focus for joint working, driven by strong leadership, directed towards distinctive local circumstances.

The Community Empowerment (Scotland) Act 2015 provides a renewed vision for community planning, with the expectations intended to be ambitious and challenging with a clear statutory purpose focussed on improving outcomes. It is about how public bodies work together with the local community to plan for, resource and provide services which improve local outcomes in the local authority area.

The Act requires CPP's to:

- Prepare and publish a Local Outcomes Improvement Plan (LOIP) by October 2017 which sets out the local outcomes which the CPP will prioritise for improvement
- Identify smaller areas within the locality which experience the poorest outcomes, and prepare and publish locality plans by October 2017 to improve outcomes on agreed priorities for these communities.
- Review and report publically on progress towards their LOIP and Locality Plans, and should detail how the CPP has participated with community bodies during the reporting year and how effective this has been in enabling community bodies to shape and influence community planning. These reports must be published within 4 months following the end of the reporting year.

The Act and Guidance make it clear that consultation is no longer enough, and the CPPs and community planning partners must act to secure the participation of communities, including contributing funds, staff and other resources the CPP considers appropriate to improve local outcomes and secure participation of community bodies in community planning.

Traditionally community planning has tended to be council-led in which other partners contributed but did not lead. Effective community planning now requires every community planning partner to contribute to strong shared leadership. This includes partners which participate while not having statutory community planning duties (i.e. Third Sector Interfaces; community representatives; housing associations).

The CPP should also engage with third sector organisations, and third sector interfaces should support effective community planning by building links between third sector bodies and the CPP (Third Sector Forum).

Scottish Government are currently consulting on the draft regulations and are looking for responses by **13 June 2016**. For further information, and electronic access to the consultation, click on the link: <https://consult.scotland.gov.uk/community-empowerment-unit/community-planning-guidance>

## **PARTICIPATION REQUESTS (Consultation closes: 15 June 2016)**

The Christie Commission recommended that Government should seek to strengthen communities' voices in shaping services that affect them. Evidence shows that involving people more regularly and more effectively in the decisions that affect them leads to better outcomes, making the most of knowledge and talent that lies in communities. It also increases confidence and fosters more positive relationships between communities and the public sector.

Where a community body believes it could help to improve an outcome it will be able to request that a public body (for example: local authority; Health Board; Board of Management of a college; Police Scotland; Scottish Fire & Rescue Service; National Park authority; Scottish Natural Heritage; Regional transport partnership etc.) takes part in a process to improve the outcome.

Community bodies might use the Act to discuss with service providers how they could better meet the needs of users, to offer volunteers to support a service, or even propose to take over the delivery of the service themselves.

Part 3 of the Community Empowerment (Scotland) Act 2015 sets out the process for how Participation Requests will work. In simplified terms:

- A community body puts forward a participation request to a public service authority asking them to take part in a process that will improve the outcome set out by the community body.
- The public service authority must agree to the request, and set up a process unless there are reasonable grounds for refusal. If it refuses they must explain the reasons.
- At the end of the process the public service authority, must publish a report on whether the outcomes were improved and how the community body contributed to that improvement.
- Public service authorities must publish any decisions on a website.
- Annually a Public service authority must publish a report stating: number of requests received; agreed; refused; number of requests which resulted in changes to a public service provided by, or on behalf of the public service authority and any action taken by the public service authority to promote and support the use of participation requests.

The legal framework is not yet in force, so it cannot be used. The regulations and guidance needs to be agreed and published before the procedure can be used. Scottish Government are currently consulting on the draft regulations and are looking for responses by **15 June 2016**. For further information, and electronic access to the consultation, click on the link: <https://consult.scotland.gov.uk/community-empowerment-unit/participation-request-regulations>

## **RIGHT TO BUY ABANDONED, NEGLECTED OR DETRIMENTAL LAND (Consultation closes: 20 June, 2016)**

Part 3A of the Land Reform (Scotland) Act 2003 is being introduced into Part 4 of the Community Empowerment (Scotland) Act 2015. This gives community bodies the right in certain circumstances to buy land without a willing seller, when the land is wholly or mainly abandoned or neglected, or the use or management of the land is causing harm to the environmental wellbeing of the local community.

Before submitting the right to buy application, the community body must fulfil certain criteria, for example:

- The community body must have tried to purchase the land.
- If the use or management of the land is causing harm to the environmental wellbeing of the local community, the community must have approached all relevant regulators and asked that they take steps to reduce or remove the harm being caused to the community.
- The purchase of the land must be in the public interest.
- The purchase of the land must be compatible with furthering the achievement of sustainable development of the land.

Scottish Government are currently consulting on these proposals, particularly around:

- How Ministers decide if land is eligible, and what constitutes as not eligible land.
- List of the regulatory bodies community bodies will be required to approach
- What prohibitions or suspensions of rights will be placed on the transfer or dealing with land following an application
- Circumstances in which a community body can apply for the cost of a public ballot to be reimbursed by Ministers
- The procedure by which any person (other than the applying community body) may apply for compensation in respect of a loss or expense as a result of the application.

The consultation is open for comment until the 20<sup>th</sup> June, 2016. For further information, click on the link: <https://consult.scotland.gov.uk/community-land-team/abandoned-land>