
The Implications for Scottish Borders Community Planning Partnership of the Community Empowerment (Scotland) Bill

Report by the Director Strategy and Policy

Scottish Borders Community Planning Partnership

1 PURPOSE AND SUMMARY

- 1.1 **The purpose of this report is to set out the implications for the Scottish Borders Community Planning Partnership and its membership in relation to the Community Empowerment (Scotland) Bill.**
- 1.2 The Community Empowerment Bill aims to:
- Empower our communities.
 - Make the most of the talents that exist in our communities.
 - Deliver high quality and improving services.
 - Support strong local democracy.
- 1.3 It is considered that the provisions of the Bill have the potential to strengthen community planning by reinforcing partnerships, networking and engaging with and involving communities. It is crucial that the Scottish Borders Community Planning Partnership considers the issues arising from the Bill in order to ensure its effective implementation.

RECOMMENDATION

- 2 **It is recommended that the Scottish Borders Community Planning Partnership should:**
- **Undertake a review of the membership of the Scottish Borders CPP to ensure that the potential contribution from the wider range of public service and other bodies is fully brought into the community planning process.**
 - **Consider whether the Community Planning Partnership should become an incorporated body.**
 - **Use the proposed Community Engagement Framework to carry out consultation and engagement at a local level.**
 - **Discuss whether more support will be required for community groups, particularly those in more disadvantaged areas, to ensure they can effectively engage in community planning (including influencing the services delivered in a locality), community participation requests, community right to buy and asset transfers.**
 - **Consider how community planning partners should contribute specific resources to the CPP.**
 - **Consider what the proposed local outcomes improvement plan reporting process and monitoring means to the Scottish Borders CPP.**

3 BACKGROUND

- 3.1 The Community Empowerment (Scotland) Bill (see attached document) was put forward to the Scottish Parliament on the 11th June 2014. The Scottish Parliament's Local Government and Regeneration Committee are currently looking in detail at the Bill and produced its Stage 1 Report on the 26th January 2015. The Stage 2 process is about to begin. It is intended that the Bill will be laid before Parliament on 11 June 2015. Royal assent is expected in May or June 2015.
- 3.2 It is recognised in the Bill that community empowerment means different things to different communities. Some communities will want to take on the ownership or management of land or buildings; or delivery of services to members of their community. Others may be more interested in engaging with the public sector to have more say in how services are delivered or how assets are used.
- 3.3 The Policy Memorandum (see attached document) that accompanies the Bill refers to the inconsistent practices across Scotland in relation to community empowerment operated by public bodies. It states that the Bill is giving communities clear rights to play a more pro-active role, and placing clear duties on public sector bodies to engage with communities and to respond to their requests.
- 3.4 There are a number of sections to the Bill. These are:
- National Outcomes.
 - Community planning.
 - Community participation requests on public bodies.
 - Asset transfer arrangements.
 - Community right to buy.
 - Common good property.
 - Allotments, and
 - Changes to non-domestic rates.

The most important part of the Bill to the Scottish Borders Community Planning Partnership is the Community Planning Section. However the other sections of the Bill are also relevant.

4 GENERAL

- 4.1 From the point of view of the Scottish Borders Community Planning Partnership it is considered that the thrust of the Community Empowerment Bill should be welcomed in relation to its aims of:
- Empowering our communities.
 - Making the most of the talents that exist in our communities.
 - Delivering high quality and improving services.
 - Supporting strong local democracy.
- 4.2 Working with local communities is crucial to the socio-economic development and well-being of the Scottish Borders. The Scottish Borders is very fortunate in having strong communities in its towns, villages and more rural areas.
- 4.3 There are many examples in the Scottish Borders of community

engagement and community development work which are resulting in good economic, social and environment outputs and outcomes. For example a great deal of joint work has been done in relation to services for Older People, Transport, Young People and Children's services, Community Safety, Community Resilience, Culture and Sports, Economic Development and Regeneration. There has been a particular focus of this work in supporting disadvantaged communities and groups

- 4.4 The main issues in the Bill arise from the implications of the details set out in the clauses within the proposed legislation.

5 National Outcomes

- 5.1 The Bill confirms the importance of the existing National Outcomes Performance 'Scotland Performs' approach by the Scottish Government based on national outcomes. It places a duty on the Scottish Ministers to develop, consult on and publish a set of national outcomes for Scotland, which must be reviewed at least once every 5 years. They must also regularly and publicly report progress towards those outcomes.
- 5.2 This section of the Bill reinforces the national planning and performance approach that currently provides the framework for the Single Outcome Agreements (SOAs) including the SOA developed by the Scottish Borders Community Planning Partnership.

6 Community Planning

- 6.1 The Bill places a duty on local authorities and core community planning partners to facilitate community planning and to ensure that community planning partnerships carry out their functions efficiently and effectively. This involves initiating, maintaining and facilitating a process by which public services are planned and provided in the local authority area. Core partners are under a duty to participate in the process. These core partners are the local authority, the Health Board, Police Scotland, the Scottish Fire and Rescue Service, and Scottish Enterprise.
- 6.2 The Bill extends the list of other key partners to be involved in community planning to include a wider range of public bodies that may have a role in influencing local outcomes, including Scottish Natural Heritage, Skills Development Scotland, and the new integration joint boards formed under the Public Bodies (Joint Working) (Scotland) Act 2014. Individual partners have a duty to work collaboratively and to take into account the plan for local outcomes when setting their individual priorities (see paragraph 6.3). Partners are also expected to commit resources to deliver the plan and report to the Community Planning Partnership (CPP) on their contribution i.e. each partner must contribute 'such funds, staff and other resources' as required by the CPP. There is also a clause that enables CPPs to become independent corporate bodies if required.
- 6.3 The Bill requires the community planning partners to come together in each local authority area to form a CPP. The role of a CPP is to prepare a plan

for improving local outcomes, in consultation with community bodies and others. These outcomes are to be consistent with the national outcomes determined by the Scottish Ministers under Part 1 of the Bill. The CPP must publish the local improvement plan, monitor progress being made and report annually (by the beginning of April each year) on progress. The Policy Memorandum to the Bill indicates that local improvement plans are the equivalent of Single Outcome Agreements but it does not explain why the new terminology has been used in the Bill.

- 6.4 The Bill requires CPPs to 'make all reasonable efforts to secure the participation' of community bodies it considers are 'likely to be able to contribute to community planning'. The Bill also requires consultation with community groups in the preparation of the local outcomes improvement plan. There is likely to be an amendment to the Bill which says that CPPs must take account of the national standards of community engagement in their consultations and involvement with local communities. It is considered that a focus on partnership working in localities and more effective use of Area Forums would make a major contribution to community engagement in Community Planning.
- 6.5 The implications of this section of the Bill on Community Planning are that:
- A review of the membership of the Scottish Borders CPP is undertaken to ensure that the potential contribution from the wider range of public service bodies is fully brought into the community planning process.
 - Consideration should be given to whether the Community Planning Partnership should become an incorporated body.
 - The proposed Community Engagement Framework should be used to carry out consultation and engagement at a local level.
 - Consideration should be given as to how community planning partners should contribute specific resources to the CPP.
 - Consideration should be given as to what the local outcomes improvement plan reporting process and monitoring means to the Scottish Borders CPP.

7 Community Participation Requests on Public Bodies

- 7.1 This section enables community organisations to make representations to public bodies including local authorities with suggestions to improve services. Public bodies will be required to set up a process for receiving these suggestions and must have good reasons for refusing these. If a public body decides to go ahead with a suggestion it must set up a process with timescales and involve the community body. At the end of the process it must produce a report on whether the outcomes were improved and how the community body contributed to that improvement on what is reasonable.
- 7.2 It is considered that whilst the process set out in the Bill for dealing with community participation requests is rational and logical, there are a number of matters that need to be clarified and considered. These relate to the:
- Implementation of the process.

- Nature of community participation requests.
- Support needs of communities.

Implementation of the Process

- 7.3 It is recognised that some community participation requests could result in increased savings and efficiencies for the delivery of services by local authorities and public bodies. However there is the concern that the processing of requests could lead to increased costs at a time of public expenditure constraints over the next few years.

Nature of Community Participation Requests

- 7.4 Over the next few years public bodies will be required to make more and more difficult decisions to ensure services are delivered within budget. There is the concern that once the budget changes are decided or about to be decided the community participation process could lead to requests from communities that have been adversely affected by these decisions. This could result in significant delays in decision making with the resulting budget pressures. It is recognised however that the proposed community participation process does allow for dealing with requests and there is a specific clause about dealing with repeat requests. However the practical implementation of this may be more difficult due to differing interpretations on what is reasonable in terms of refusal of community bodies

Support Needs of Communities.

- 7.5 Not all communities are in the same position in terms of taking part in the community participation process. For instance communities in more disadvantaged areas and communities where there is limited capacity because of their relatively low population may be unable to use the community participation process as effective as compared to more active and stronger communities. Further support will be required to enable lower capacity community groups to take part in the community participation process. This will have resource implications.

8 Community Right to Buy

- 8.1 This section of the Bill tidies up the existing legislation and extends community right to buy of land and buildings to community groups in urban areas. Before, it was only communities in rural areas that had this right.
- 8.2 Land that is neglected or abandoned may prevent the community from developing or improving facilities. There are also cases where derelict or neglected sites become a blight on the surrounding area, and the community could bring the land back into productive use. The Scottish Government considers that in such circumstances, where all other options fail to achieve improvement, communities should be able to acquire the land without having to wait for it to be put on the market. Section 48 inserts a new Part 3A into the 2003 Act providing for community bodies to acquire land in certain circumstances, without a willing seller. Where

Ministers approve the community's application, the owner will be required to transfer the land to the community body, which will be required to pay market value for the land.

- 8.3 Overall this legislation should provide more opportunities for community groups in the Borders to buy land and buildings by the extension of the community right to buy to Hawick and Galashiels. It should be recognised that the cost of buying urban land and property can be greater than in rural areas and this might present greater risks to communities. Also the purchases involved are likely to be buildings which require a great deal of maintenance. This reinforces the need to ensure that communities are supported to have the capacity and business skills to take advantage of the opportunities available.

9 Asset Transfer Arrangements

- 9.1 This section of the Bill sets a legal requirement on public bodies to have a process in place for considering requests from community organisations who ask to take over control of these buildings or land. The process that is required is similar to that for Community Participation Requests. Reasons have to be set for rejecting a transfer request and that there is an appeals process. There is also a particular process for requests for land that is derelict or under used (see para 8.2).
- 9.2 There are major opportunities for communities in taking over assets in terms of: generating income; delivering important local economic, social, and environmental benefits; and in attracting external funding.
- 9.3 Scottish Borders Council's own asset transfer scheme includes most aspects of the points made in the Bill. Examples of asset transfers – allotments at Tweedbank; Chirnside Community Centre; Hawick Youth Centre; Meeting Room at Jedburgh; Birgham Village Hall; Burnmouth Village Hall; and St Abbs Village Hall.
- 9.4 It is vital that community groups have effective business plans for taking control of assets and for the organisation of these groups to be robust and sustainable. Most community bodies will require specialist support for taking forward aspects of asset transfer process. More intensive support will be required by community groups in disadvantaged areas to take on assets, as evidenced by the current assistance being given to the Burnfoot Community Hub project.

10 Common Good Properties

The Bill places a legal requirement on Councils to make a list of all their common good properties and make this available for viewing by the public. People will be able to tell the local council about any common good property they have missed off the list. This will make sure that the local council's list of common good property is correct. It is considered that this approach is in line with the procedures already adopted by Scottish Borders Council.

11 Allotments

- 11.1 The Bill provides a new definition of an allotment and an allotment site, reflecting current usage. 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 prevents local authorities from disposing of or changing the use of an allotment site without the consent of the Scottish Ministers, thereby providing 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.

12 Non Domestic Rates

- 12.1 The Bill introduces a new power to allow local authorities to create localised relief schemes to better reflect local needs and support communities. 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. Any local reliefs introduced by a local authority will need to be fully funded by that authority, so it will need to balance the interests of taxpayers across its area. Local authorities will not be able to change the poundage rate or introduce local supplements.

13 IMPLICATIONS

13.1 Financial

- (a) There could be significant financial implications directly arising from this report once the Community Empowerment Bill is implemented particularly in relation to supporting community groups.

13.2 Risk and Mitigations

- (a) This legislation is likely to be fully implemented and it is considered that early planning is carried out to ascertain and mitigate any risks.

13.3 Equalities

- (a) An Equalities Impact Assessment is not required at this stage. However there is a danger that community groups could be disadvantaged if they are not supported to exploit the opportunities arising from the Bill.

13.4 Acting Sustainably

- (a) The Community Empowerment Bill has the potential to create more sustainable communities

13.5 Carbon Management

- (a) There are no known effects on carbon emissions associated with this report.

13.6 **Rural Proofing**

- (a) There could be considerable benefits to rural communities arising from the intention of the Bill to promote community engagement and empowerment.

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Background Papers:

Previous Minute Reference:

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