

Consultation on the Community Empowerment (Scotland) Bill



RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Scottish Community Development Network

Title Mr Ms Mrs Miss Dr **Please tick as appropriate**

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3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick ONE of the following boxes

Please tick as appropriate

Yes No

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

No

3. Please indicate which category best describes you or your organisation (Tick one only). If you are a representative or umbrella body, please tick the category you represent.

Community organisation	<input type="checkbox"/>
Third sector / equality organisation	<input type="checkbox"/>
Private sector organisation	<input type="checkbox"/>
Representative body for professionals	<input type="checkbox"/>
Local government	<input type="checkbox"/>
Community Planning Partnership	<input type="checkbox"/>
Public Body, including Executive Agencies, NDPBs, NHS etc	<input type="checkbox"/>
Academic or Research Institute	<input type="checkbox"/>
Individual	<input type="checkbox"/>
Other – please state... Member led organisation for community development practitioners in Scotland.	<input checked="" type="checkbox"/>

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Response Questionnaire

Chapter 3 - Proposals with draft legislation

Please read the draft Bill provisions before you answer these questions. You do not need to answer all the questions in this questionnaire, only answer the questions that you have an interest in. Separate questionnaires are provided for each chapter of the consultation paper.

Please make sure you also return the Respondent Information Form with your response, so that we know how to handle it.

The Scottish Community Development Network (SCDN) is a member led organisation for people who, paid or unpaid:

- ***Have community development as their main role or part of their remit***
- ***Actively use community development approaches***
- ***Support the values and principles and approaches of community development***
- ***Aspire to use community development approaches in their practice***

3.1 Community Right to Request Rights in Relation to Property

Please read Part 1 of the draft Bill (Annex C pages 1 to 9) before you answer these questions:

Q1 Do you agree with the definition of community body at section 1?

Yes No

Do you have any changes to suggest?

Whilst we acknowledge that there is a need to ensure that community bodies have governing documents (constitutions), the use of the term 'company' could potentially exclude community organisations that are not incorporated. Perhaps using the term community organisation with relevant governing documents, which include commitment to equalities. It would also be important to ensure that, in relation to participation in decision making that community organisations are able to demonstrate that they are recognised, by the wider community that they represent, as representative of their views. Reference to the Community Engagement Standards:

"The people who are involved, whether from agencies or community groups:

- ***have the authority of those they represent to take decisions and actions***
- *have legitimacy in the eyes of those they represent*
- *maintain a continuing dialogue with those that they represent"*

(Extract from Involvement Standard indicators)

Q1 Do you agree with the list of public bodies to be covered in this Part at Schedule 1 (Annex C page 21)?

Yes No

What other bodies should be added, or removed?

Q2 What do you think would be reasonable timescales for dealing with requests, making an offer and concluding a contract, in relation to sections 5(6), 6(2)(c) and 6(6)?

Q3 Do you agree that community bodies should have a right of appeal to Ministers as set out in section 8?

Yes No

Are there other appeal or review procedures that you feel would be more appropriate?

Communities should have recourse to challenge public bodies who exclude them from engagement in the decisions which affect their lives. However, the terminology of appeal further re-in forces the passive position of community organisations, with the power to decide on participation resting with public bodies.

Q4 What form of appeal or review processes, internal or external, would be appropriate in relation to decisions made by local authorities and by Scottish Ministers?

Rather than appeal, communities should have a fundamental role to play in evaluating community engagement within Local authority areas, including the processes and methods used and the impact which the engagement has had on the design, delivery and evaluation of public services.

Q5 Do you have any other comments about the wording of the draft provisions?

There appears to be no explicit provision to ensure that all public authority decisions on asset transfer requests are adequately publicised. This should be included.

A requirement on public authorities to publish a register of assets should be considered. This would make it easier for communities to assess the assets they are interested in.

Communities 'right to buy' or ownership of assets must be accompanied by clear guidelines for public services and community organisations, including commitment to equalities. There should also be a clear duty on public services to provide both technical and community development support to communities that chose to explore community ownership options.

Legislation should also recognise inequalities between communities by including a duty on local authorities to ensure that resources do not flow to the more affluent areas at the expense of the more disadvantaged groups and areas.

Q6 What costs and savings do you think would come about as a result of these draft provisions? Please be as specific as you can.

Safeguards should be included in the Bill to ensure that Local Authorities do not 'off-load' their most inefficient 'assets' as cost saving exercises.

3.2 Community Right to Request to Participate in Processes to Improve Outcomes of Service Delivery

Please read Part 2 of the draft Bill (Annex C pages 9 to 14) before you answer these questions:

Q7 Do you agree with the definition of community body at section 11?

Yes No

Do you have any changes to suggest?

Legislation should include elements of accountability to wider communities – seeking evidence of processes to actively involve the communities that they represent. Again, referring to the National Standards for Community Engagement could assist:

“Community groups:

- o have the authority of those they represent to take decisions and actions*
- o have legitimacy in the eyes of those they represent*
- o maintain a continuing dialogue with those that they represent”*

(Extract from Involvement Standard indicators)

Q8 Do you agree with the list of public bodies to be covered in this Part at Schedule 2 (Annex C page 21)?

Yes No

What other bodies should be added, or removed?

Q9 Do you agree with the description at section 13 of what a participation request by a community body to a public service authority should cover?

Yes No

Is there anything you would add or remove?

The starting point should be a right to participate not just to request to participate and that the participation should be broadened to include needs assessment and the development and evaluation of outcomes. There should also be an explicit role for community organisations in the development of plans for effective community engagement at all levels and across all services. Public bodies would have a corresponding duty to plan and evaluate effective community engagement processes – legislation could refer to Best Value 2 framework, VOiCE and the National Standards for Community Engagement.

Q10 Do you agree with the criteria at section 15 that a public service authority should use when deciding whether to agree or refuse a participation request?

Yes No

Are there any other criteria that should be considered?

The right to request participation places communities in a very passive position and would contribute very little to the development of community empowerment.

Communities' right to participate and a duty on public bodies to plan effective community engagement processes would require different criteria which would include desire and commitment to work with authorities to develop outcomes, authority to represent and processes for accountability to the wider communities.

Q11 Do you have any other comments about the wording of the draft provisions?

There are dangers in requiring community groups to prove their expertise.

Previous community participation processes have consistently failed to recognise expertise as 'lived experience'. It is more important to ensure that there is recognition of the value of local knowledge, skills and vision to the development of outcomes. In addition, the requirement for community groups to prove that their involvement would make a difference would effectively exclude the most disadvantaged communities and groups.

Q12 What costs and savings do you think would come about as a result of these draft provisions? Please be as specific as you can.

Implementation of these provisions, and even more so the broader cultural changes that we hope might result, could provide a massive boost both to co-production of services and to the strengthening of the role of communities in preventing social and economic harms, with consequent savings.

There will, or should, however be additional costs in order to provide adequate support to enable community groups to take part in the process effectively and on an equal basis, including a need for community development support. To create a culture where communities feel confident enough to ask to be heard requires community development work.

It will also be important to build the capacity of public sector to respond positively to requests; both culturally and in practical terms.

3.3 Increasing Transparency about Common Good

Please read Part 3 of the draft Bill (Annex C pages 14 to 16) before you answer this question:

Q13 Do you think the draft provisions will meet our goal 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?

Yes No

What other measures would help to achieve that?

3.4 Defective and Dangerous Buildings – Recovery of Expenses

Please read Part 4 of the draft Bill (Annex C pages 17 to 19) before you answer these questions:

Q14 Do you agree that the cost recovery powers in relation to dangerous and defective buildings should be improved as set out in the draft Bill?

Yes No

Q15 Do you agree that the same improvements should apply to sections 25, 26 and 27 of the Building (Scotland) Act 2003?

Yes No

Chapter 4 - Detailed Policy Proposals

Please read the draft Bill provisions before you answer these questions. You do not need to answer all the questions in this questionnaire, only answer the questions that you have an interest in. Separate questionnaires are provided for each chapter of the consultation paper.

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4.1 Improve and extend Community Right to Buy

Q16 The Scottish Government proposes to extend right to buy to communities in all parts of Scotland, where the Scottish Government is satisfied that it is in the public interest. Do you agree with this proposal?

Yes No

Are there any additional measures that would help our proposals for a streamlined community right to buy to apply across Scotland?

Q17 Do you think that Ministers should have the power to extend “registrable land” to cover land that is currently not included as “registrable land”?

Yes No

What other land should also be considered as being “registrable”?

Q18 Do you think that there should be a compulsory power for communities to buy neglected or abandoned land in certain circumstances?

Yes No

What should these circumstances be?

Q19 How do you think this should work in practice? How do you think that the terms “neglected” and “abandoned” should be defined?

Q20 Do you think that the criteria to be met by a community body in section 38(1) of the Act are appropriate?

Yes No

Do you think that there should be additional criteria? Please set out what changes or additions should be made to the criteria.

Q21 Do you think that the information that is included in the Register of Community Interests in Land is appropriate?

Yes No

If not, what should that information include?

Q22 How could the application form to register a community interest in land be altered to make it easier to complete (eg, should there be a word limit on the answers to particular questions)?

Should the questions be more specifically directed to the requirements of sections 36(2) and 38(1) of the Act?

Yes No

Do you have any other suggestions?

Q23 Do you agree that communities should be able to apply to register an interest in land in cases where land unexpectedly comes on the market and they have not considered using the community right to buy?

Yes No

If so, what changes should be made to section 39 to ensure that such communities can apply to register a community interest in land?

Q24 Do you agree that the process to re-register a community interest should be a re-confirmation of a community interest in land?

Yes No

Q25 Do you think that the community body should be asked to show that its application is (1) still relevant, (2) has the support of its “community”, and that (3) granting it is in the public interest?

Yes No

Q26 What do you think should be the length of the statutory period for completing the right to buy, taking into account both the interests of the landowner and the community body? Please explain the reasons for your proposal.

Q27 Do you think that some of the tasks within the right to buy (such as valuation, ballot etc) should be rearranged and the timescales for their completion changed in order to make the best use of the time available within the right to buy? Please set out what changes you think should be made and why.

Q28 Do you agree that Scottish Ministers should organise the undertaking of a community body's ballot and pay its costs.?

Yes No

If you disagree, please provide your reasons.

Q29 Should Scottish Ministers notify the ballot result to the landowner?

Yes No

Please explain your reasons.

Q30 Do you think Ministers should develop a pro-forma for community bodies to set out their plans for the sustainable development of land and community?

Yes No

Please give reasons for your view.

Q31 Do you agree that community bodies should be able to define their “community” in a more flexible way by the use of either postcodes, settlement areas, localities of settlements, and electoral wards, or a mixture of these, as appropriate?

Yes. There is no reason of principle why groups representing different sizes of area might not meet the required criteria of representativeness and public support. E.g. a whole town for one purpose and a neighbourhood within it for another. It is also important to recognise communities of interest, such as carers, ethnic minorities, LGBT, elderly, etc. as well as geographical communities.

Q32 Are there any other ways that a “community” could be defined?

Communities exist where people share common experiences, concerns and aspirations. A community can therefore be:

◆ *a community of geography, such as a neighbourhood or town*
or

◆ *an excluded community of interest, such as people with disabilities, minority ethnic groups, young people, etc.*

It might be useful to draw on the experience of developing Common Bonds to clarify the operating arena of Credit Unions.

Q33 Do you agree that other legal entities in addition to the company limited by guarantee should be able to apply to use the community right to buy provisions?

Yes No

Q34 Do you agree that SCIOs should be able to apply under the provisions?

Yes No

Q35 What other legal entities should be able to apply under the community right to buy provisions – and why?

Housing Associations and Co-operatives.

Q36 Do you agree that Ministers should only have to “approve” the changes to Articles of Association for community bodies that are actively seeking to use or are using the community right to buy?

Yes No

Q37 Do you think that the length of a registered interest in land should remain as five years or be changed? If it should be changed, how long should it be – and what are your reasons for making that change?

Q38 Do you agree that the valuation procedure should include counter representations by the landowner and community body?

Yes No

If you disagree, please give your reasons for your decision.

Q39 Do you think that there should be a provision to deter landowners from taking the land off the market after they have triggered the right to buy?

Yes No

Please explain your reasons.

Q40 Do you think that there should there be greater flexibility in a community body's level of support for a right to buy in the ballot result than is currently permitted?
Yes No

Q41 Do you think that the ballot result should focus on a sufficient amount of support to justify the community support to proceed with the right to buy the land?
Yes No

If yes, please explain how secured community support should be measured

Q42 Do you agree that community bodies should be able to submit evidence to Ministers in support of their ballot result where they believe that their ballot has been affected by circumstances outwith their control?
Yes No

Q43 Do you think that Scottish Ministers should be able to ask community bodies for additional information relating to their right to buy "application" which Ministers would then take into account in considering their right to buy "application"?
Yes No

Please explain your reasons.

Q44 Do you think that Ministers should be able to accept an application to register a community interest in land which is subject to an option agreement (on part or all of the land)?
Yes No

Q45 If there is an option agreement in place, do you think that the landowner should be able to transfer the land as an exempt transfer while there is a registered interest over that land?

Yes No

Please explain your answer.

Q46 Do you think that the prohibition on the landowner from taking steps to market or transfer the land to another party should apply from the day after the day on which Ministers issue the prohibition letter rather than the day when the owner/heritable creditor receives the notice?

Yes No

Please explain your answer.

Q47 Do you agree that public holidays should be excluded from the statutory timescales to register a community interest in land and the right to buy?

Yes No

Q48 Do you agree that where a landowner makes an “exempt” transfer, this should be notified to Scottish Ministers?

Yes No

If you disagree, please provide reasons for your decision.

4.2 Strengthening Community Planning

Q49 What are your views on our proposals for requiring a CPP to be established in each local authority area, and for amending the core statutory underpinning for community planning to place stronger emphasis on delivering better outcomes??

Legislation should be more explicit in requiring the effective involvement of communities in developing, implementing and evaluating outcomes.

Q50 What are your views on the core duties for CPPs set out above, and in particular the proposal that CPPs must develop and ensure delivery of a shared plan for outcomes (i.e., something similar to a Single Outcome Agreement) in the CPP area?

There is a danger that CPPs will see the duty to involve communities as limited to the Single Outcome Agreement (or equivalent), rather than contributing their knowledge, skills, information and commitment to broader processes.

Q51 Do the proposed duties of the CPP support effective community engagement and the involvement of the third and business sectors?

Yes No

What other changes may be required to make this more effective?

The term “the Community Planning process” suggests there is some degree of consistency in community planning structures and the ability and commitment of CPPs toward the engagement of communities in the decisions that are subsequently made on their behalf. Across Scotland there are many incarnations of community planning; some more effective in engaging and empowering communities than others.

In some ways inconsistency in both the approach and delivery processes of Community Planning structures, have made it more difficult for communities to engage where the real decisions are being made. Opportunities should be created to enable community engagement in meaningful decision-making at local level.

There is a pre-occupation with structures as opposed to the quality of the process.

Feedback from community members has highlighted that there are a number of areas which require improvement:

- Communities not involved in the larger more strategic decisions
- Communities input is often overlooked or undervalued
- There is little experience of mutual respect
- Timescales are often unrealistic
- Communities are rarely involved at the beginning of decision making processes

Community engagement has to be the first consideration in the process. It is important for communities to identify the need. Outcomes of Community Planning and communities may be similar. However, indicators may need to be improved and communities are best placed to provide detail on “why” and “ how” in order to shape services which will provide a real, long term, positive impact on the improvement agenda for communities.

It is also important to ensure that communities have access to skilled community development support to assist them to navigate their way through complex decision making structures.

Q52 How can we ensure that all relevant partners play a full role in community planning and the delivery of improved outcomes in each CPP area? Do the proposed core duties achieve that?

Yes No

What else might be required?

CPPs should invest in skilled Community Development (CD) support for communities on an on-going basis to enable communities to understand, analyse and collectivise needs, issues and aspirations and to effectively engage

CPPs should resource CD to develop the important relationship between representative and participatory democracy.

The focus should not necessarily be on making community engagement easier but to make it more effective in terms of the extent to which CPPs work with communities to respond to community need.

Q53 What are the respective roles of local elected politicians, non-executive board members and officers in community planning and should this be clarified through the legislation?

Reference could be made to local democracy and the extent to which elected politicians and indeed community organisations are accountable to those they represent. There would therefore need to be safeguards developed to ensure that 'power' is not simply transferred to bodies with no accountability at Local Authority level.

- Q54 Should the duty on individual bodies apply to a defined list of public bodies – if so, which ones? Or should we seek to take a more expansive approach which covers the public sector more generally?

A more expansive approach would be helpful.

- Q55 Local authorities are currently responsible for initiating, facilitating and maintaining community planning. How might the legislation best capture the community leadership role of Councils without the CPP being perceived as an extension of the local authority?

It is correct that Local Authorities maintain this responsibility. Legislation should clarify the community leadership role and the extent to which this role enables Local Authorities to hold other public sector partners accountable.

- Q56 How can the external scrutiny regime and the roles of organisations such as the Accounts Commission and Auditor General support the proposed changes? Does this require changes to their powers or functions?

Single Outcome Agreements should be underpinned by commitment to the implementation of empowerment duties, with community empowerment and co-production automatically considered as important contributions to achieving agreed outcomes.

Additional specific indicators of empowerment and its effectiveness should be considered. These could be linked to equalities outcome indicators, with particular reference to empowering disadvantaged communities (of geography and interest).

- Q57 What other legislative changes are needed to strengthen community planning?

The draft bill does not include duties to develop and support community empowerment or engagement.

4.3 Allotments

Q58 Do you agree with the proposed definition of an allotment site and allotment plot?

Yes No

How else would you suggest they be defined?

Q59 In order to include all existing allotments in the new legislation they must fit within the size range. What is the minimum and maximum size of one allotment plot in your area/site?

Q60 Do you agree with the proposed duty to provide allotments?

Yes No

Are there any changes you would make?

Do you agree with the level of the trigger point, ie that a local authority must make provision for allotments once the waiting list reaches 15 people?

Yes No

Q61 Do you prefer the target Option A, B or C and why? Are there any other target options you wish to be considered here? Do you agree with the level of the targets?

Q62 Do you agree with the proposed list of local authority duties and powers?
Yes No

Would you make any changes to the list?

Q63 Do you think the areas regarding termination of allotment tenancies listed should be set out in legislation or determined by the local authority at a local level?

Legislation
Determined by local authority

Q64 Are there any other areas you feel should apply to private allotments?

Q65 Do you agree that surplus produce may be sold?

Yes No

If you disagree, what are your reasons?

Q66 Do you agree with the proposed list of subjects to be governed by Regulations?

Yes No

Would you make any changes to the lists?