

Consultation on the Community Empowerment (Scotland) Bill

Consultation Response 2014

The Carnegie United Kingdom (UK) Trust welcomes the opportunity to respond to this consultation on the Community Empowerment (Scotland) Bill. The Carnegie UK Trust was established by Scots-American philanthropist Andrew Carnegie in 1913 and works to improve the lives of people throughout the UK and Ireland, by influencing policy, and by changing lives through innovative practice and partnership work.

We have chosen only to respond to the parts of the questions for which we have experience and relevant evidence. Further information on our work is available on our website www.carnegieuktrust.org.uk.

Chapter 3 - Proposals with draft legislation

3.1 Community Right to Request Rights in Relation to Property

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

NO - We are not clear why it would be necessary for a community body that wishes to take on ownership of an asset to be set up as a company rather than say, a Scottish Charitable Incorporated Organisation. Unless there are good legal reasons for restricting what kind of community organisations are eligible to take on ownership of community assets we would urge that the definition within section 1 is as broad as possible to avoid creating any unnecessary hurdles for community organisations.

Q3 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)?

It is important that community organisations receive a prompt but considered response to their request from the local authority. We think that a time period of 12 weeks or less is reasonable for the local authority to respond to a request from a community group. If a longer timescale is necessary this could be agreed with the community group.

Putting together a reasonable offer could take time, it is likely to involve detailed business planning, securing the necessary funds and negotiating partnerships with third parties. Many community groups are entirely voluntary and may be juggling other commitments. It is important that community groups are given a sufficient period to pull together their offer. We think that

it is reasonable to allow a community group 18 months to put together an offer. We think that a period of 9 months to agree a contract following an offer is reasonable.

Q4 Do you agree that community bodies should have a right of appeal to Ministers as set out in section 8?

YES - We agree that community bodies should have the right to appeal to Ministers. We suggest that the time period in section 8 (c) should be extended to 18 months.

Q6 Do you have any other comments about the wording of the draft provisions?

We would like to see an assumption in favour of granting the asset transfer request included in Section 5. We are concerned that the prevailing culture of public authorities is to be risk-averse and to limit the opportunities for community ownership of assets. This assumption would not prevent public authorities from carrying out the necessary checks to ensure that transfer of the asset will be to the public benefit. It would however, help signal that a new relationship is being forged between the state and communities, one in which communities have the right to exercise much greater control over public services and their own wellbeing.

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

Q10 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 - We are pleased to see that provisions for a community right to participate in public service delivery included in the draft bill however we are concerned that the suggested process may, in its current form be overly onerous.

Our recommendations are therefore to simplify Section 13 as follows:

- **Simplify the language:** while the language of ‘outcome improvement’ will be very familiar to civil servants it is unrealistic and potentially unfair to expect all communities to be able to articulate their request in this form. A more inclusive approach might be to ask community bodies to articulate what they would like to do and how this would make things better for the local community.
- **Make it easier for communities to submit a request:** while it may be good practice for a community group to submit a request that includes the detail outlined in parts (2) (a)–(d) we do not believe it is necessary to include these requirements in the legislation. We are concerned that in a risk-averse culture these could be used as a checklist to invalidate community requests to participate. Our recommendation is that this detail is reserved for accompanying guidance and the legislative provisions simplified so that to make a request the community body simply has to outline in their written request what they would like to do and how this would make things better for the local community.

3.3 Increasing Transparency about Common Good

Q14 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?

NO - We welcome these draft provisions however we are not clear why the register would be limited to common good assets and local authorities. Community bodies may have an interest in a wide range of public sector assets and a publically available database of publically

owned assets which details: where the asset is; what it is currently used for; which public sector body owns it and who to speak to about it would be very helpful. We therefore recommend that the proposed provisions are extended to all public sector bodies and that there is a duty on all public sector bodies to make their asset registers publically available. To avoid community bodies having to search multiple databases to find a particular asset we would like to see the bill include provisions for the establishment of a national readily accessible and searchable database of publically owned assets that can be added to and modified over time.

Chapter 4 - Detailed Policy Proposals

4.1 Improve and extend Community Right to Buy

Q17 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 - We are pleased that the Scottish Government is proposing to extend the right to buy to all communities in Scotland and to streamline the existing legislation to allow communities to more readily activate their right to buy. The introduction of the Community Right to Buy in rural areas signalled a change in government policy and was essential in encouraging groups to come forward.

We anticipate that the extension of the Community Right to Buy to all communities in Scotland and the introduction of the other new Community Rights outlined in this consultation will allow even more communities to take greater control over local assets and services.

There is however a real risk that more affluent communities have the most to gain the most

from these new opportunities and that other communities are left behind.

It is crucial therefore that this new legislation is accompanied by investment in the support outlined in our response to Q73.

Q19 Do you think that there should be a compulsory power for communities to buy neglected or abandoned land in certain circumstances?

YES - We agree that a compulsory power should exist as a legislative backstop in certain circumstances. Clearly which circumstances would apply requires careful consideration. We suggest the following:

- where the community body has registered an interest in the land and can demonstrate that community ownership would deliver a clear public benefit ,and;
- where the community body can demonstrate that they have raised concerns about neglect or abandonment with a nominated body and the current owner over a period of time and the landlord has failed to or refused to address these concerns.

In practical terms we suggest that this achieved by :

- **Including any community concerns about neglect and/or abandonment in the Register of Community Interests in Land:** it is reasonable to provide the current owner with the opportunity to respond to community concerns, particularly if sustained concerns over a period of time lead to a case for compulsory purchase. Ideally communities would engage directly with the landlord but this may not always be possible (for example in the case of absentee landlords). A system which allows the community to log their concerns over time about neglected or abandoned land alongside their interest

in community ownership on the Register of Community Interests in Land may be the fairest solution. Community concerns could be verified by an independent third party.

Q20 How do you think this should work in practice? How do you think that the terms “neglected” and “abandoned” should be defined?

It is clearly difficult to define what constitutes neglect and abandonment as this will vary according to the land in question. We suggest that the best way to approach this may be to:

- **Ask the wider local community:** the local community are often best placed to determine whether land is abandoned or neglected and whether community ownership could improve the situation. This could be established in the community ballot.
- **Independent verification:** communities could seek opinion from an independent third party.

Q21 Do you think that the criteria to be met by a community body in section 38(1) of the Act are appropriate?

NO - We would like communities of interest as well as geographical communities to be in a position to exercise the Community Right to Buy. It is possible that a community of interest may not have any existing geographical connection with a particular asset or area of land but may nonetheless have a legitimate interest in the land and be able to demonstrate that their community ownership would deliver public benefit. For example, a national support network may wish to take on asset where they could provide training, host meetings or provide specialist care. With this in mind we suggest that a provision is inserted in section 38 (1) (b) that allows a ‘community interest’ to be registered in circumstances where the community is a community of interest and a

public benefit from community ownership can be demonstrated.

Q22 Do you think that the information that is included in the Register of Community Interests in Land is appropriate?

YES

Q23 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)?

The current application is reasonably onerous, particularly for community bodies that have limited resources and/or experience in this area. It requires community bodies to pull together a wide range of information and get in touch with range of disparate public bodies.

We believe that there are a number of places where the requirements placed on community bodies could be reduced or simplified and/or where some of the information requested such as details of existing compulsory purchase orders on the land in question could be more efficiently provided by an appropriate public body. In addition we think there is scope to more clearly signpost community bodies to relevant sources of information or support.

Our recommendation is that a full review of the application form, the requirements within and the accompanying guidance is carried out by the Scottish Government in partnership with community bodies.

Below we have highlighted a few key sections of the application form where we think there may be particular scope for simplification:

- **In section 36 (2) (a)** unless there are good legal reasons why the body should specifically be incorporated as a company this requirement should be broadened to include

a range of other possible legal constitutions such as Scottish Charitable Incorporated Organisation.

- **Section 36 (2) (f)** requires community bodies to provide: ‘a description of the land, including maps, plans or other drawings (prepared to such specifications as are prescribed)’. Professor Jim Hunter highlights in his book [From the Low Tide of the Sea to the Highest Mountain Tops](#) concerns about the level of detail of the maps that applicant community bodies are required to provide to exercise their powers under the Land Reform Act. While we understand the importance of providing detailed maps not all community bodies have the resources to provide detailed maps, indeed Jim Hunter suggests that: ‘to map a piece of [crofting] land in strict compliance with the Land Reform Act would cost more than the land is worth’. With this in mind we would like the [Land Reform \(Scotland\) Act 2003: Part 2 Community Right to Buy: Guidance](#) reviewed to ensure that the requirements placed on community bodies are reasonable.
- **Part b (Q3)** of the application requires that the community body must provide names and addresses of all community members. We do not think this is necessary at application stage. Ministers could simply request to interrogate a membership list if required. In particular we do not think the question is relevant to communities of interest.
- **Part b (Q7)** we are concerned that this question may not be relevant for communities of interest please refer to our answer to Q21 above.
- **Part b (Q12-13)** we suggest that it may more efficient for the appropriate public body to address these questions.

- **Part b (Q14, 15 and 18)** we think there is an opportunity to combine and simplify this part of the application form.

Community Land Scotland has suggested in its [evidence](#) to the Land Reform Review Group that a Land Agency, a dedicated body to assist communities to take on ownership of land and other assets should be established. A dedicated Land Agency could provide the specialist support, advice and resources to help community bodies complete the application form.

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

YES

Q24 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 - The prospect of a forthcoming sale may be the ‘trigger’ for community action. It is important that Community Empowerment legislation allows communities to capitalise on energy and enthusiasm whatever the trigger. For this reason communities should be able to apply to register an interest in land in cases where it unexpectedly comes on the market. We do not see any good reason why the criteria for applications under these circumstances should be any more onerous than those for ‘timeous’ applications and suggest that the provisions in section 39 are modified to reflect this.

Q25 Do you agree that the process to re-register a community interest should be a re-confirmation of a community interest in land?

YES

Q26 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

Q27 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.

We suggest that the length of the statutory period for completing the right to buy is extended to 18 months. This would give communities a sufficient period of time to secure appropriate funds and update any relevant feasibility studies or business plans.

Q29 Do you agree that Scottish Ministers should organise the undertaking of a community body’s ballot and pay its costs.?

NO - We agree that Scottish Ministers should support community bodies in undertaking a community ballot however we do not believe that Scottish Ministers should necessarily do this on behalf of communities (unless this is what the community body wishes).

Undertaking a community ballot can be an onerous task however we believe that it is important that the community body is closely involved in the process. Community members may for example, be less likely to respond to a ballot issued by an unknown third party than a known community body. The community ballot is also an important opportunity for the community body to re-engage the wider community on the pros and cons of community ownership particularly if some time has now passed since the original application.

Financial, administrative and specialist advice and support should be made available to the community body in order to conduct the ballot fairly and reasonably.

Q31 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 - A pro-forma and appropriate guidance would help ensure that appropriate information is provided by communities in support of their ‘right to buy’ application. This should be developed in partnership with community bodies to ensure that the pro-forma is easy to use, in plain English and not overly onerous.

Q32 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?

We understand that it is important that community bodies can clearly define their community for the purposes of the community ballot however we are concerned that the proposed methods (whilst more flexible than existing options) may not be appropriate for all communities. In the case of communities of interest for example, the community body may more usefully define their community in terms of membership rather than geographic area, this may also be true in densely populated urban communities. We therefore recommend that the legislation simply requires the community body to define their community in as clear a manner as possible (accompanying guidance could be prepared to help communities do this).

Q33 Are there any other ways that a “community” could be defined?

See our answer to Q32 above.

Q34 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

Q35 Do you agree that SCIOs should be able to apply under the provisions?

YES

Q36 What other legal entities should be able to apply under the community right to buy provisions – and why?

See our response to Question 23: unless there are good legal reasons to restrict community ownership on the basis of constitution we recommend that applications under the community right to buy provisions should be open to the broadest range of legal entities.

Q38 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?

We think that there is a strong argument for the length of a registered interest in land to be extended to 10 years although we do not agree that this merits a more rigorous application process than that already in place. We believe this to be rigorous enough and indeed overly onerous in some respects (see our responses to the preceding questions). The argument against extending the registered interest period may be that over a longer period of time community interest in taking on ownership might wane and/or the original public benefit that might be derived from community ownership may no longer apply. We argue however that this is sufficiently guarded against by the requirements placed on community bodies to activate their community right to buy when the land comes up for sale. The ballot of the community ensures that an interest within the wider community in taking on the land or asset remains and similarly, the requirement for community bodies to restate their plans for the sustainable development of the land and community ensures that a public benefit is still apparent.

Q41 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

Q42 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 - We agree that there should be greater flexibility. While a 50% turnout may be readily achievable in a small rural community we think this could be unrealistically high in larger urban populations.

Clearly however the level of turnout is important and we might query whether a favourable vote is valid if only a small proportion of the community participate in the ballot.

We think this question requires careful consideration and should be based on community’s experience of what is achievable in different circumstances. Accompanying guidance could make recommendations about the different levels of support required for a valid ballot in communities of different sizes, in geographical communities and in communities of interest. The flexibility that ministers currently have to consider the validity of individual ballots with a lower than recommended turnout should however remain.

Q43 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

Q44 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 - We agree that it is important that Scottish Ministers should be able to for additional information relating to their right to buy ‘application’ however we think that the timescale of 7 days is very tight, particularly for voluntary community groups. We suggest that this period is extended to 14 days.

Q48 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

Q51 Do you think that Ministers should monitor the impact of the community right to buy?

YES - It is vital that the impact of community right to buy is monitored so that the legislation, guidance and support can be improved and developed over time.

We think that as a minimum Ministers should seek to monitor the following quantitative information (this would not require the collection of any additional data) :

- number of assets under community ownership in Scotland;
- number of applications received to register a community interest in land;
- proportion of successful applications to register a community interest in land;
- proportion of registered interests converted into community rights to buy;
- proportion of successful applications to activate the community right to buy;

- proportion of community owned land in Scotland secured through the community right to buy and broken according to socio-economic groupings, type of community group and geographical location.

This should be supplemented by qualitative information including:

- feedback from communities on the ease of registering a community interest in land and activating their community right to buy;
- longitudinal studies to gauge the social, economic and environmental benefits of community ownership.

Should the monitoring process be a statutory requirement, including provisions for reporting?

YES

4.2 Strengthening Community Planning

Q52 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?

We broadly welcome these proposals. In our recent report [Shifting the Dial in Scotland](#) we identified that Scotland had the mechanisms in place to be a world leader in a wellbeing approach to policy (see our response to Section 5 of this consultation). We also identified the importance of Single Outcome Agreements (SOAs) and CPPs in achieving an effective local approach to wellbeing, and in making progress on joint working and preventative policy making. We share however the concerns outlined by the Accounts Commission and the Auditor General for Scotland that CPPs are not currently able to show that they have had a significant impact in delivering improved outcomes across Scotland.

The increased focus on outcomes that these proposals provide is therefore welcome. From a wellbeing perspective however it is crucial that this legislation leads to a more holistic approach to improving outcomes and does not simply encourage siloed working by partners in pursuit of their 'own' allocated outcomes. To this end we recommend that the proposed legislation creates a duty on all CPP partners to ensure that their internal priorities reflect the priorities of the CPP and that all public bodies have a duty to ensure that they are contributing to the local SOA in a holistic manner.

Q53 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?

We welcome the proposed core duties for CPPs and we agree that CPPs should be required to develop and ensure delivery of a shared plan for outcomes. We believe this is a necessary precondition for effective joined up and preventative working. As outlined above however, it is important that this duty is framed in such a way as to encourage a holistic rather than siloed working. In other words it is important that we avoid a situation where one partners efforts to deliver progress against one outcome undermines the delivery of another outcome.

We therefore also recommend that a full review of the implementation of the National Performance Framework and SOAs is carried out and guidance is developed on how an outcome approach can be best used to inform and evaluate policy development at a national and local level (see our response to Section 5 for further detail).

Finally, it is critical that the opportunity to engage communities more fully in the outcomes planning process is taken. The development of local SOAs offers the perfect opportunity to engage local

people in a debate about what matters most to them. We expand on how this might be achieved in our answers to question 54.

Q54 Do the proposed duties of the CPP support effective community engagement and the involvement of the third and business sectors?

NO - The proposed duties to consult and engage with the third sector, business and communities is welcome, each group has important insights and strengths to bring to community planning. It is particularly important that the public have the opportunity to debate local priorities and identify outcomes. It is local people who often understand best what local priorities should be and what needs to happen to improve things.

There is an opportunity for the proposed duties to require CPPs not just to simply consult with communities but to go further and support communities to *participate* in the CPP process and in identifying and prioritising local outcomes.

In this context the duty to 'consult and engage with communities in identifying and prioritising the outcomes that are to be delivered would be amended to something more radical to: 'ensure that all sections of the community have the opportunity to exercise their right to participate in the community planning process and to work in partnership with local communities to identify and prioritise local outcome that are to be delivered.'

Of course not all communities are equal. Some sections of the community are much better equipped to exercise their right to participate and to take advantage of new opportunities to participate in the CPP. The big challenge for CPPs will therefore be to ensure that all communities have the opportunity to take part in the CPP process.

To this end it may be appropriate to include an additional duty to: Ensure that partners work

together to support community councils and other local voluntary groups to participate in local decision making - particularly those communities that face significant social, economic and environmental challenges.

Q55 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?

NO - We believe there is an opportunity for the legislation to go further in ensuring that all relevant partners play a full role in improving outcomes in each CPP area.

We don't believe that a duty on each partner to simply consider SOAs when setting their own priorities is sufficient to ensure that partners contributions to improving local outcomes are given appropriate priority and are carried out in a holistic manner. We believe that for CPPs to function holistically each partner needs to be properly accountable for achieving all agreed outcomes. This means placing a duty on each partner to ensure that their priorities reflect those of the CPP and that they contribute holistically to the agreed outcomes each CPP is seeking to achieve.

Q57 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?

We believe that a more expansive and enabling approach is required and that a duty should be placed upon all public bodies to take part in CPP where their involvement would contribute to the improvement of local outcomes.

Q58 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?

Placing a duty on all public bodies to play a role in CPP and improving local outcome will help make it clear that all public bodies are equally responsible for improving local wellbeing. It makes sense however for the convening role to remain with the local authority.

Chapter 5 – Wider Policy Proposals

5.1 Scotland Performs – embedding the outcomes approach in legislation.

Q70 We invite your views on the proposal to include in the Bill a provision that places a duty on Ministers to develop, consult on and publish a set of outcomes that describe their long term, strategic objectives for Scotland, and include a complementary duty to report regularly and publicly progress towards these outcomes.

We welcome these proposals.

The introduction of the National Performance Framework (NPF) and Scotland Performs in 2007 marked a move away from more traditional approaches to public sector performance management based on process and input to a greater focus on the things that matter - improving the lives of people in Scotland. The abolition of government departments at the same time meant that national government was united in the pursuit of shared national outcomes. This outcomes based approach of the NPF also formed the basis of a new more flexible relationship between national and local government -founded on Single Outcome Agreements- creating a more collective public sector approach vertically as well.

In this context the establishment of the NPF was a critical point for public sector reform in Scotland,

it has enjoyed cross party support and has attracted international recognition.

Our own international research [Weathering the Storm: A look at small countries' public services in times of austerity](#) highlights the significance of the NPF in facilitating a holistic approach to public service reform. Our rapid review looked at public sector reform in six small countries facing economic and demographic challenges. We found that while many of the small countries we looked at were fundamentally changing their approach to service delivery through co-production, the social economy and preventative policy making, only one country -Scotland -was taking a holistic approach. We believe that the NPF is critical in supporting the 'golden thread' that we found linking service specific policy developments to overarching strategy and resources in Scotland.

We also believe that the NPF and Scotland Performs is instrumental in delivering the public sector reform priorities identified by the Christie Commission. These include a public sector more orientated toward prevention, joined up services and a stronger focus on outcomes. Additionally it helps us move to long-term thinking on areas where there is broad agreement in Scottish politics of the direction of travel (for example in relation to public health).

The NPF also puts Scotland in a position to be a world leader in terms of a wellbeing approaches to policymaking. It ensures that we are paying attention to a range of social, economic and environmental measures of progress. In our report [Shifting the Dial in Scotland](#) we called for Scotland to build on this potential by embedding the NPF and Scotland Performs in legislation.

Embedding the outcomes approach in legislation ensures the longevity of an outcomes approach to public services and the 'Scottish Model' of public services. Without a legislative basis there is a risk that this significant innovation could be lost due

to a change of government. Putting the NPF and Scotland Performs on the statute books also sends out a strong signal that increasing GDP should no longer be the sole priority of government and that rather a more holistic approach to policymaking should be taken. Finally, it allows the Scottish Parliament, civil society and the wider public to more readily call the Scottish Government to account on Scotland Performs and opens up new opportunities for civic debate on national wellbeing.

We also made a number of other recommendations that are equally important if Scotland is to be a global leader. We are delighted to be working with John Swinney, MSPs and stakeholders to review the NPF and in particular to explore the areas below:

- **Engage the public in a refresh of Scotland Performs:** Our international research showed that Scotland was alone amongst other jurisdictions pursuing a wellbeing approach in not having engaged the general public during the development of the Scotland Performs dashboard. We therefore welcome the proposal to place a duty on Ministers to consult on outcomes that describe their long term, strategic objectives for Scotland however we think that there is the opportunity to go further and to develop these outcomes in partnership with the public. This means engaging the public in the refresh of the dashboard at an early stage and including them directly in the outcome setting process rather than simply gathering views at a late stage in the process. It also means ensuring that those groups who would not typically participate in consultation exercises have the opportunity to engage in the process.
- **Sets up a review of the impact of the National Performance Framework on public policy development at a local and national level:** We believe that the NPF is not currently being used to its full effect to inform

public policy making at the local and national level. We think that there are opportunities to better use Scotland Performs (at the national level) and Single Outcome Agreements (at the local level) to identify gaps in policymaking and to contribute to public service reform priorities such as preventive policy making and joined up working. Putting the NPF and Scotland Performs on the statute book is a crucial step forward however it is just as critical that the reporting is of practical use and that the outcomes approach of the NPF and Scotland Performs is implemented properly. We recommend that a short lived expert working group is established to identify how Scotland Performs, single Outcome Agreements and other data can be best used to inform and evaluate effective public policymaking (see also our response to Q53).

- **Capitalise on the interest from civil society organisations:** Scotland Performs is the perfect starting point for a dialogue between the public sector and wider civil society about why some groups of society perform better than others or why Scotland is doing well on some indicators but not so great on others. The aim would be to shed some light on some of these complex areas of policy. The Scottish Government should seek to use Scotland Performs to open up these discussions by establishing a government advisory group on measuring wellbeing.
- **Issue guidance on using the National Performance Framework to holistically evaluate local and national policies:** At the moment we know very little about what kind of impact that the NPF and SOAs have had on policy and vice versa. If we are to move toward more joined up policy and delivery and to preventative approaches however it is vital that we move beyond silo based evaluations of policy and that we better understand the holistic impact of our policies (see also our response to Q53).

- **Support Community Planning Partnerships to see Single Outcome Agreements as a wellbeing approach:** see our answers to Q53-58).

5.2 Subsidiarity and local decision-making

Q71 Given the actions that the Government and others already take to enable and support local democracy, together with the additional measures proposed in this consultation, are there any other actions we could take to reflect local democracy principles that would benefit communities?

We would like to see a greater emphasis on participatory democracy, transformational coproduction and promoting the social economy in accompanying guidance.

Chapter 6: Assessing Impact

Equality

Q73 What differences might there be in the impact of the Bill on communities with different levels of advantage or deprivation? How can we make sure that all communities can access the benefits of these proposals?

There is a real risk that more affluent communities have the most to gain from these new opportunities and that other communities are left behind. We have already seen this borne out in the pattern of community ownership in Scotland where over 90% of community owned assets are located in the 80% least deprived neighbourhoods in Scotland and just 3% in the most deprived neighbourhoods.¹

It is crucial therefore that this new legislation is accompanied by investment in the following support for disadvantaged communities:

¹ Wallace J, The Rise of the Enabling State, Carnegie UK Trust: Dunfermline 2013 <http://www.carnegieuktrust.org.uk/publications/2013/the-rise-of-the-enabling-state>

- **Financial support:** without the financial means to purchase land or assets or run services these new community rights are simply the right to buy land or assets/ participate in services and not the means. The dedicated Scottish Land Fund helps provide equal access for all communities to financial capital to purchase land. The Trust would like to see a Fund similar to the Scottish Land Fund continued, strengthened, broadened and increased in the future so that both urban and rural communities have the opportunity to access this financial support to take on ownership of assets and to allow them to participate in public services.
- **Access to skills, knowledge, training and social capital:** ‘Tangible’ community assets such as land or buildings can only be sustained if communities also have the appropriate ‘intangible’ or people assets (skills, knowledge and access to networks) in their community. Communities across Scotland are not equal and there may be a need to invest more heavily in some communities than others, to bring them to a level where they are able to contemplate management, ownership or participation in local services. Community development support should be made available to all rural and urban communities at each stage of the journey toward ownership and increased participation through vehicles such as development networks. A dedicated Community Land and Assets Agency that facilitates and encourages the spread of community ownership has been proposed and this agency could also seek to improve the equality of access to these new community rights across Scotland.
- **A greater emphasis on transformational co-production at the national and local level:** the direct involvement of users in the production of their own services. Transformational co-production goes beyond user consultation. It taps into users’ own strengths and experiences and puts service redesign, delivery and development in the control of service users. Contemporary examples of transformational co-production such as The Self Management Fund and Local Area Coordination can be found in the Trust’s recent report [The Enabling State: From Rhetoric to Reality](#).
- **On-going review:** A regular programme of review and development should be identified so that outcomes are improved over time and the Community Empowerment legislation and package of supporting measures remains relevant and appropriate over time. We suggest that a 3 year review programme is established. For more detail see our response to Q51.

The Carnegie UK Trust works to improve the lives of people throughout the UK and Ireland, by changing minds through influencing policy, and by changing lives through innovative practice and partnership work. The Carnegie UK Trust was established by Scots-American philanthropist Andrew Carnegie in 1913.

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