

Scottish Government Consultation on the proposed Community Empowerment and Renewal Bill

CUKT Response 2012

The Carnegie UK Trust welcomes the opportunity to respond to the consultation on the proposed Community Empowerment and Renewal Bill. The Trust works to improve the lives of people throughout the UK and Ireland. Over the past 100 years we have been actively involved in community assets and empowerment, originally through grants for public libraries, playing fields and village halls and more recently through support to the community land trust movement in Scotland and across the UK as a whole.

INTRODUCTION

The Community Empowerment and Renewal Bill has the potential to enable people to play a much larger role in their communities, both in relation to their engagement with service providers and by providing opportunities to go beyond ‘co-production’ to actively encouraging community ownership of assets. To do this effectively the Bill must not simply be about transferring financially struggling assets from the public sector to communities. It must be about a fundamental change of approach, which leads to community ownership or management of assets, with appropriate support from the public sector. Some assets which are currently financially successful, or are being well used, could potentially be even more successful if managed by the community.

We have chosen only to respond to the questions where we have experience and relevant evidence. Further information on our work is available on our [website](#).

PART 1: STRENGTHENING COMMUNITY PARTICIPATION

Community Planning

Q1. What would you consider to be effective community engagement in the Community Planning process? What would provide evidence of effective community engagement?

The Carnegie UK Trust welcomes the aim of the proposed legislation to improve the active engagement of communities in public services. Our experience across a range of policy areas is that sustainable solutions to community problems are often community-led solutions.

Effective community engagement in the Community Planning process is an essential pre-requisite to the range of potential powers and duties that are discussed in this consultation paper. For communities to be more active,

for example through managing or owning community assets, they must firstly be involved in discussions about the priorities for their area.

Our experience from our [Pride in Place: Tackling Environmental Incivilities](#) shows clearly that local people may well have different priorities to those assumed by service providers.

In considering this, we were struck by the number of terms used in the consultation paper. This section asks us to consider 'participation' by which we have taken to mean the involvement of members of the community (be they users, residents or communities of interest) in the planning mechanisms used by public authorities for the design of public services. There is not necessarily anything 'empowering' about participating in a consultation and we would ask the Scottish Government to consider whether it could be more radical in this section. For example, rather than exploring duties placed on public authorities, what would a 'right to engage' look like for communities? This would arguably shift the power from public authorities who currently invite people to participate, towards communities who could claim a right to be involved in decisions.

The Carnegie UK Trust has a long history of supporting effective community engagement. Our experience in a number of areas, including public libraries, improving local environments, children and youth participation and rural development, suggests that there are a number of key components to effective engagement:

- the community as a whole must be aware of the opportunity to participate and actively encouraged to do so.
- the community must be involved in defining what the problems and priorities for action are, as well as providing their views on options for delivering services.
- the organisation carrying out the engagement process must have the skills to engage effectively, and have a culture

of valuing contributions from a range of stakeholders.

- the organisation carrying out the engagement has clear and publicly available information on their role and vision for the community.
- the organisation carrying out the engagement activity reports publicly on the outcome, including the difference that occurred due to community engagement.

One of the keys to effective community engagement in community planning processes is the culture of valuing contributions. While many public servants will be enthused about this agenda, we are aware that not all have the skills and approach required for it to flourish. Public servants have to accept that communities have a right to debate, discuss and contest service delivery plans. They may do this in public spaces that are not controlled by public authorities such as local radio and newspapers and increasingly on local websites and social media. Such debate is healthy for democracy and should be embraced and encouraged even though we recognise it is at times challenging.

In terms of measuring impact, over time, we would expect successful community engagement in community planning to lead to increased numbers of people who say that they are involved in local decisions, as measured by the Scottish Social Attitudes Survey. This information is already identified as a national indicator as part of the National Performance Framework. While the number of people who feel that they have influence local decisions is increasingly, it is important to note that [less than a quarter of people](#) in Scotland currently feel that they have any involvement.

There is also an important role for Audit Scotland in ensuring that Community Planning Partnerships see community participation as a priority area for their work.

*An overarching duty to engage***Q4. Do you feel the existing duties on the public sector to engage with communities are appropriate?**

We agree with the Scottish Government that while there are many existing duties, these are not comprehensive and they can lead to silos within the groups that are created as a result. This means that public services often fail to capitalise on the community resources that are available, for example, it does not appear common for health services to consult with Parent Forums or tenants groups to be asked about local school provision. These existing groups are important community assets in their own right. A new duty to engage does not necessarily require new community groups to be established, rather it would ensure we are making the best use of the community assets that we already have.

An overarching duty would firstly ensure that departments which do not currently have statutory duties and those that do not have a strong history in community engagement (such as environmental health) are encouraged to develop activities and secondly, would help to overcome the silo mentality by encouraging departments and agencies to make use of existing community groups – regardless of which department is responsible for their support.

Q5. Should the various existing duties on the public sector to engage communities be replaced with an overarching duty?

We would not support removing existing duties, as these often exist alongside the support structures that allow community groups to flourish, for example in Parent Forums, tenant management groups and patient forums. There is a risk that removing the legislation that gives legitimacy to these community groups would be seen as a retrograde step.

*Community Councils***Q6. What role, if any, can community councils play in helping to ensure communities are involved in the design and delivery of public services?**

The Carnegie UK Trust was an early supporter of community councils in Scotland and across the UK as we recognised the important role that they could play in local democracy.

We share the concerns raised by a number of groups that Community Councils are not broadly representative of the communities that they serve. However, we would see this as a need for them to be revived and reformed, rather than abandoned.

In addition to the clear need for additional funding and support, there are two specific issues that we think would assist with a renewal of Community Councils. Firstly, we are concerned that despite their potential to carry out an essential role as community representatives they are often perceived as being limited to a statutory role in planning. Their role as community representative in a wider sense should be reinforced.

Secondly, Community Councils currently exist somewhere between representative and participatory democracy. Members are not formally part of our representative democracy and yet structures seem to reinforce the sense that they are a lower tier of elected representatives. On the other hand, at a time when their role as facilitators of participatory democracy should be developing, they appear to be struggling to understand this role and lack the skills and resources to deliver it effectively.

We recommend that Community Councils are clearly seen as mechanisms for participatory democracy and that community councillors are provided with a clear remit to facilitate wider

community participation. To do this effectively, they will require substantial training and ongoing support.

Q7. What role, if any, can community councils play in delivering public services?

As facilitators of local participatory democracy, community councils are well placed to understand the needs of the local community. For some, this will lead them towards discussions about whether they can play a role in delivering public services, particularly where there is unmet need or where there existing public services are under threat.

However, we would caution against any specific rights or duties to be placed on them that are not available to other community groups. Any active role in delivering public services must be driven by the community council themselves, and not imposed on them, otherwise it is unlikely to be sustainable or effective.

Similarly, any 'special' powers or privileges given to community councils in relation to delivery of public services may inadvertently dissuade other types of community groups from considering action as they may perceive that they are not empowered to do so. Rights in relation to managing or owning community assets should be available to all properly constituted community groups.

Third sector

Q9. How can the third sector work with Community Planning partners and communities to ensure the participation of communities in the Community Planning process?

The third sector has a particular role to play in ensuring that the voices of marginalised members of the community are heard in the Community Planning process. Some groups in society are unlikely to be actively engaged in community groups due, for example, to chaotic

lifestyles, or a lack of confidence. Charities and voluntary organisations are often in direct contact with groups that are likely to be disengaged. Third sector organisations should, and often do, act as intermediaries to enable consultation and engagement with otherwise excluded groups. It is important however to separate out their role as gatekeepers to 'hard to reach' groups from their views as stakeholders in their own right.

National standards

Q10. Should there be a duty on the public sector to follow the National Standards for Community Engagement?

We agree with the proposal to place a duty on the public sector as a whole to follow the National Standards for Community Engagement. A uniform approach would help communities to understand what they should be able to expect from any participation and engagement activity.

Again however, we are unsure whether duties on the public sector to follow standards is necessarily 'empowering'. The National Standards could be rewritten relatively easily as rights for communities. This would allow for the inclusion of an overriding 'right to be involved' as well as specific rights in relation to information and accessibility.

In taking this forward, we recommend that the Scottish Government conduct a wide-ranging consultation exercise. The National Standards must be seen as fit for purpose across all public services, and relevant to all communities. They will need to dovetail with existing legislation such as the user focus duty on scrutiny bodies and they should also reflect international best practice which has developed since they were first implemented.

*Community engagement plans***Q11. Should there be a duty on the public sector to publish and communicate a community engagement plan?**

We agree with the proposal that a duty be placed on the public sector to publish and communicate a community engagement plan. Such basic information on how to engage with public authorities is often the first barrier to engagement and many do not pursue past this point. To be effective, it is essential that these documents are accessible (in the broad sense of being clear and easy to read, as well as the specific sense of being accessible to those with disabilities).

It would also allow public authorities to manage our proposed 'right to engage' as authorities could legitimately point to their engagement plan as the appropriate way to do this and reduce concerns about how to deal with inappropriate requests for engagement from community members.

We would stress the need for the public sector to gather community views on their proposed community engagement plans prior to publication in order to ensure that these plans have legitimacy amongst community members.

We would also recommend an explicit link is made between engagement plans and Single Outcome Agreements. While some local authorities, such as Glasgow City Council, have used the Single Outcome Agreements process as a catalyst to engage communities, others have not. Our recent work on measuring wellbeing explored how community groups in Canada have used existing wellbeing indicators to spark a community conversation on priorities for action. This approach is similar to that taken by Oxfam Scotland in their Humankind Index. The key to the success of these approaches is the ability to track community priorities to measurable change using wellbeing indicators.

*Community service delivery***Q17. Should communities have the right to challenge service provision where they feel the service is not being run efficiently and that it does not meet their needs?**

We would support the introduction of a community right to challenge, as outlined in the consultation paper. There is currently a significant gap in the powers of community members to challenge the levels of provision. While individual complaints about maladministration or service failure can be investigated by the Scottish Public Services Ombudsman, those that relate to the approved policies of the public sector have no avenue to be heard. So, for example, there is no opportunity for communities to challenge a properly made decision to reduce the opening hours of an essential community service, despite often profound concerns about the impact that this would have. On a more positive aspect of the community right to challenge, community members may have insight into inefficiencies, and possible solutions, which are not immediately apparent to public servants (for example, they may pose solutions similar to the post offices in pubs that have sprung up in rural areas in recent years).

We are not convinced that it should be the public authority itself that carries out the investigation however, as there is a clear conflict of interest where they have made the decision that results in the challenge. We would recommend that consideration is given to whether there is an appropriate independent agency to carry out such an investigation.

*Community directed spending – participatory budgeting***Q18. Should communities have a greater role in deciding how budgets are spent in their areas?**

We would welcome an increased role for communities in budget setting. Our rural action research programme included examples of participatory budgeting which were successful in targeting financial resources on local need.

Participatory budgeting is a powerful tool for community engagement and can help communities to feel empowered as their views have a direct impact on services in their areas.

While we support further development of participatory budgeting, we are not clear how legislation would assist with this. Participatory budgeting could be a way that Community Planning Partnerships engage with local communities in the development of community plans. Similarly it could be used by departments as a way of carrying out their responsibilities under the proposed duty to engage. Neither of these require legislation further to what is proposed, but they do require a culture shift within public authorities to encourage them to be more 'empowering' than merely consultative.

PART 2: UNLOCKING ENTERPRISING COMMUNITY DEVELOPMENT

Community right to buy

Q21. Would you support a community right to buy for urban communities?

We have seen how community ownership of land has transformed communities in rural areas (see, for example, [From the Low Tide of the Sea to the Highest Mountain Top](#), Island Book Trust/Carnegie UK Trust, 2012). We strongly support proposals to extend the right to urban communities.

The benefits of community ownership can be:

- financial: levering in finance from other sectors and other fund raising activities
- economic: contributing to the regeneration of

the local economy which in turn will improve the value of local land and buildings.

- social: opportunities for participation, pride in the local environment and individual and community wellbeing ([Appreciating Assets](#), CUKT, 2011).

As our report *Appreciating Assets* sets out, asset-based approaches put people at the heart of the community. When we talk about tangible assets (building, lands and finance) it needs to be recognised that these alone do not create communities, the ownership of tangible assets such as buildings is helpful to communities only if they leverage the development of intangible assets (such as social capital) which lead to improved outcomes.

a. Should an urban community right to buy work in the same way as the existing community right to buy (as set out in Part II of the Land Reform (Scotland) Act 2003)?

Yes, though it should take account of the findings of the Land Reform Review Group to ensure that the legislation is as effective as possible.

b. How should an 'urban community' be defined?

While we appreciate that there is an existing rural community right to buy, we would want the proposed Community Empowerment and Renewal Bill to extend these rights to all communities. This may seem obvious but setting up the definitions in terms of urban and rural runs the risk of inadvertently creating gaps in coverage and, more of a concern, may make some areas unsure of whether their community is covered by the legislation.

c. How would an urban and rural community right to buy work alongside each other?

We would caution against creating two markedly different structures for 'urban' and 'rural' communities. All communities embarking on a

journey to own a community asset require advice and support, artificial distinctions between urban and rural may hinder their ability to access such support and create unnecessary duplication of effort both in public authorities and the third sector.

Q22. The public sector owns assets on behalf of the people of Scotland. Under what circumstances would you consider it appropriate to transfer unused or underused public sector assets to individual communities?

Unused and underused public assets can have a significant negative impact on communities, particularly where they are allowed to fall into disrepair. Our experience from our [Pride in Place: Tackling Environmental Incivilities](#) research shows clearly the impact of the local environment on the wellbeing of individuals and communities. We welcome the proposal to allow communities to take ownership of these assets where they are interested in doing so.

The consultation paper talks only of asset transfer in this section, but this is only one of a number of options available to communities and public authorities when exploring the future of an asset. Other options include long-term leasing, joint or cooperative ownership and gradual equity purchase. There is no 'one size fits all' approach to identifying the correct solution for community assets but all should be considered by the public authority and community groups.

We would make two further comments. Firstly, there is an important step in the process of community ownership or management of assets which is not adequately dealt with by the consultation paper. In order to understand the assets in their area (tangible and intangible), local people need to be provided with the opportunity to explore these issues together. There are many techniques for facilitating discussions about local assets, including asset mapping, appreciative

enquiry and community-led planning (see, for example [The Power of the Plan](#), CUKT, 2011). To be effective, they must start with accessing the views of people in the community as to what they think the assets are. If public authorities fail to invest in this initial step in the process (for example as part of their development of asset management plans), there is a risk that the legislation will not be used to its full potential.

Secondly, and following on from this point, it is essential that this is articulated as a right to request transfer of an unused or underused asset. Taking over community assets must come from a desire from the community to do things differently, not pressure from public authorities to take responsibility for assets that they can no longer maintain effectively.

a. What information should a community body be required to provide during the asset transfer process?

There are a range of practical requirements that we would expect to be in place before a community body can take ownership, for example they must be legally constituted and provide information on how they would finance the asset transfer. In addition, we would welcome the inclusion of a duty to provide evidence that they had the support of the wider community in their plans for the future development of the asset.

b. What information should a public sector authority be required to provide during the asset transfer process?

From our experience, community bodies require information from the public authority in terms of the ongoing costs of running the asset including any back office functions (such as payroll) which will no longer be provided by the authority. It is essential that community groups considering asset transfer are provided with a full picture of the costs in order to allow them to plan accordingly.

The public authority should be under a duty to provide advice and support to community groups to facilitate the transfer of ownership.

c. What, if any, conditions should be placed on a public sector authority when an asset is transferred from the public sector to a community?

There should be a duty placed on the public sector to continue to provide advice and support to community groups which have taken ownership of previously public sector assets.

Q23. Should communities have a power to request the public sector transfer certain unused or underused assets?

As in our response to Q22, we agree that communities should be allowed to request the transfer of unused or underused assets and suggest further that there is a presumption in favour of transfer. We would be concerned if the legislation were drafted in such a way as it appears as though the process can only be instigated by the public authority itself.

Q24. Should communities have a right to buy an asset if they have managed or leased it for a certain period of time?

We agree that communities should be allowed the option of taking full ownership of an asset that they have managed or leased for a period of time. In these circumstances they will have a strong sense of the financial implications of such a change in ownership and the benefits of the asset to the community.

We are unsure whether the change in language from 'transfer' to 'buy' in this section is significant? We would not wish to restrict the public authority from a transfer in this situation.

a. What, if any, conditions should be met before a community is allowed to buy an asset in these circumstances?

There should be no additional conditions other than those placed on community groups who are taking ownership through transfer, or where they have not previously leased the asset.

Asset management

Q27. Should all public sector authorities be required to make their asset registers available to the public?

Information on what assets are in a community is an essential pre-requisite to empowering communities to take on a greater role in using, managing or owning those assets.

We support a duty to be placed on public authorities to publish their asset registers but would stress that this is a necessary but not sufficient condition for greater community ownership of assets.

Public authorities should also be required to consult with community groups on their current use of assets as outlined in our response to Q22.

In relation to private sector assets, we welcome the introduction of the Land Register of Scotland which will include assets regardless of whether the property is owned by the public, private or third sector. However, we would stress that it will take time to gather this register and that, even once established community groups will need to be informed that the register exists and may need help in accessing it. We would welcome an additional duty on local authorities to provide advice and information to individuals and community groups to help them identify the owner of assets in the local area.

a. What information should the asset register contain?

Basic information about where the asset is, what it is currently used for and contact details

of who to speak to in the public authority regarding the asset.

Q28. Should all public sector authorities be required to make their asset management plans available to the public?

Yes, as with our answer to Q27, this information is essential to community groups who may have an interest in using, managing or owning public assets. While the asset management plans would be under the proposed general duty to engage, we recommend that the Scottish Government highlight the importance of engaging with communities as part of the development of asset management plans.

PART 3: RENEWING OUR COMMUNITIES

Leases and temporary uses

Q34. Should communities have a right to use or manage unused and underused public sector assets?

The Carnegie UK Trust supports the future development of community ownership of assets however we appreciate that ownership is not appropriate for every asset or every community. It is important that all options for the sustainability of our public sector assets is considered by both public authorities and community groups before agreeing on the more appropriate solution for their area. We therefore support the proposal to provide a right to use or manage unused and underused public sector assets.

Our recent case studies on [Pride in Place](#) (Carnegie UK Trust, 2012) showcases examples of communities taking action to improve their neighbourhood by investing time, energy and funds into improving their local environment. This type of activity does not usually involve 'owning' the asset but rather allowing accessing to community groups who want to put it to better use or improve its appearance.

Where a community group has exercised this right, it is still important that the public authority retains an active interest in the asset. This includes providing advice and support to the community groups.

a. In what circumstances should a community be able to use or manage unused or underused public sector assets?

Where the community group can show that their use or management of the asset would lead to improved outcomes for individuals or the wider community.

b. What, if any, conditions should be placed on a community's right to use or manage public sector assets?

The use or management of public sector assets must be for the benefit of the community. This benefit should be monitored by the public authority to ensure that the desired outcomes are achieved.

c. What types of asset should be included?

While we can envision a large number of assets, we are not convinced that naming them in legislation is helpful as it may lead to unnecessary omissions.

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 and we are delighted to be celebrating our centenary in 2013. Please see our website for further information on our centenary plans.

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