

FALKIRK COUNCIL

**Subject: COMMUNITY EMPOWERMENT AND RENEWAL BILL
CONSULTATION - RESPONSE**
Meeting: LEISURE, TOURISM AND COMMUNITY COMMITTEE
Date: 11 SEPTEMBER 2012
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1. INTRODUCTION

- 1.1 This paper outlines the Scottish Government's consultation on the proposed Community Empowerment and Renewal Bill, and provides a draft response for Members' approval.
- 1.2 The Community Empowerment and Renewal Bill has been under development for over a year. This included a series of informal discussions and an open request for initial ideas from the Scottish Government. This has resulted in the publication of formal consultation, with responses to be submitted no later than 26th September. The Scottish Government has been clear that the consultation is deliberately broad at this point, with the aim being to identify which issues are priorities for action and, of these, which are appropriately tackled through legislation. The proposed response is attached as Appendix 1.
- 1.3 The consultation covers three key areas:
- **Strengthening Participation** – in response to the Christie Commission on the future of public services. The consultation seeks ideas on how services can be, 'built around and with people and communities – paying attention to their needs, aspirations, capacities and skills.'
 - **Unlocking Enterprising Community Development** – issues around asset transfer and community ownership as, 'a catalyst for unlocking community empowerment, enterprise and increasing social capital.'
 - **Renewing our Communities** – addressing concerns around blight caused by vacant or unused property, and the powers for tackling these issues.
- 1.4 The basic idea of empowering and renewing communities is to be welcomed and resonates with the Council's Community Participation Strategy, published in 2011. Along with most local authorities, Falkirk Council recognises the essential contribution that our communities make and the value of co-production as budgets are squeezed. At this early stage, the proposals for the Bill are deliberately wide-ranging, as it is not clear which areas could be tackled through legislation. The Council's draft response therefore gives a general welcome to the spirit of many of the proposals, whilst laying out a number of detailed caveats regarding potential legislation.
- 1.5 It should be noted that the consultation is open to communities and to all public, private and third sector organisations. Hence some of the questions are less relevant to local

authorities, because we already do (or have the powers to do) some of the actions being proposed.

2. KEY POINTS AND DRAFT RESPONSE

- 2.1 The key points in each section and an outline of the draft response are provided below. The full response is attached as Appendix 2.

Strengthening Community Participation	
Key questions/proposals	Draft response
Replace existing duties to engage with communities with single over-arching duty.	This would help to reduce confusion and inconsistency, but would need to be implemented carefully to avoid creating further confusion and/or loss of momentum in community engagement activity.
Role of Community Councils in designing and delivering public services.	We welcome the recognition of the important role that Community Councils can play, and the potential for expanding their activities beyond the statutory minimum. However, this needs to be balanced by a recognition that there is a lot of variation in the strengths of Community Councils. It should also be noted that not every community is covered by a Community Council. The key issue is support to Community Councils, which does not require new legislation.
Duty to follow National Standards for Community Engagement	We do not find this a helpful proposal, as the National Standards are very broad and are more useful as a set of principles than a concrete performance standard that can be met. However, this would not be a major concern for Falkirk Council, as our own Principles for Community Involvement are similar to the National Standards.
Duty to publish community engagement plan.	This is current practice in Falkirk Council.
Enabling greater access to public service contracts for community groups.	We already do some of this through the Public Social Partnership approach.
New community 'right to challenge' services.	Unlikely to create any major change – communities can already challenge services if they think they are not being run efficiently or effectively, through Elected Members or our complaints system.
Giving communities a greater role in deciding how budgets are spent in their areas ('Participatory Budgeting')	This is a complex issue – we already give communities a role at a strategic level through budget consultations, etc., and at a local level through consultations around particular projects. Significant parts of the Council budget however cannot be practically devolved to a local level. Elected Members already provide democratic accountability for budget decisions.
Giving communities the right to request community management of certain areas of spending.	This is again quite a complicated issue and could be very problematic in practice. Significant issues with identifying which areas might be appropriate and clarifying what a 'right to request' might involve.

Unlocking Enterprising Community Development	
Key questions/proposals	Draft response
Extending community 'right to buy' from rural to urban communities.	This is a reasonable suggestion, so long as the 'right to buy' is not automatic. There needs to be a clear public interest test and sufficient safeguards put in place to deal with situations where a community organisation disbands.
Transferring public sector assets to communities.	Local authorities already have the power to do this, and would consider proposals from community organisations. In all cases, we would want to see an appropriate business case, as well as evidence that the community organisation is sufficiently robust, and democratically accountable.
Simplifying rules surrounding common good assets.	A positive suggestion, as the complex legal rules surrounding some common good assets makes it very difficult to use them flexibly for the good of the community.
Transferring responsibility for common good assets away from local authorities.	The crucial issue is simplifying the rules – if this is done, their management becomes less burdensome to the local authority, and they could also be treated like other public sector assets, with varying degrees of community input being possible.
Asset management – publication of asset register and asset management plan.	This is current practice in Falkirk Council.

Renewing Our Communities	
Key questions/proposals	Draft response
Community right to use or manage unused public sector assets	As with 'right to buy' above, this is already possible and we would consider appropriate proposals from community organisations.
Dangerous and defective buildings – recovering costs	Reintroduction of charging orders on property would assist, although cost recovery is likely to remain difficult in the current property market.
Community 'right to request' use of dangerous and defective buildings powers.	Not clear that this would add anything to existing options to request local authority action, and there is a danger that it would raise expectations that the local authority could address unsightly buildings which are not dangerous.
Community 'right to request' compulsory purchase.	We already respond to community concerns where appropriate and have used CPO's in some instances. Introducing a specific right to request is not likely to be problematic, so long as the local authority retains discretion as to when a CPO should be used.
Community 'right to request' that they take over a compulsorily purchased property.	In appropriate circumstances this would already be possible, with the same caveats applying to 'right to buy' above.
Additional local authority powers to buy or lease long-term empty homes from the private sector.	A positive suggestion, which would help to effectively manage empty homes.

3. CONCLUSION

- 3.1 The proposed Community Empowerment and Renewal Bill offers a significant opportunity to tackle some issues which can act as barriers to community empowerment. However, considerable care needs to be taken in identifying those areas which would be appropriate for legislation, to ensure that existing good practice is not undermined by onerous new responsibilities.

4. RECOMMENDATIONS

It is recommended that Committee:

- 4.1 **Agree the proposed response to the Community Empowerment and Renewal Bill consultation.**

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DIRECTOR OF CORPORATE & NEIGHBOURHOOD SERVICES

Date: 31 August 2012
Ref: ABM0912SR – Community Participation Strategy
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LIST OF BACKGROUND PAPERS

1. Consultation on the proposed Community Empowerment and Renewal Bill which is available at: <http://www.scotland.gov.uk/Resource/0039/00394524.pdf>