



5th September 2014

Barnardo's Scotland response to the Local Government and Regeneration Committee's call for evidence on the Community Empowerment (Scotland) Bill

About Barnardo's Scotland

Barnardo's Scotland is Scotland's largest children's charity, running over 100 projects around Scotland and working with over 10,000 children and families every year.

Our services work with children, young people and their families in some of the most vulnerable and disadvantaged communities in Scotland. These communities are often disempowered in comparison with other communities in Scotland and have often become the communities that are easiest for public services to ignore.

The overwhelming majority of Barnardo's Scotland's services involve some form of relationship with statutory partners, including local authorities and health boards. Many of our services are commissioned by local authorities or other community planning partners.

Summary

Barnardo's Scotland has welcomed and supported the introduction of a Community Empowerment Bill by the Scottish Government and we urge the Local Government and Regeneration Committee to recommend that the Parliament supports the principles of the Bill at Stage 1.

However, we also believe that it is imperative that the Bill is strengthened in a number of ways and through our evidence we have outlined some suggestions that we believe will help ensure that the Bill empowers the most disempowered communities in Scotland, ensures that the Bill fits with the rest of the Scottish Government's programme of public service reform and ensures that the Bill supports the rights of children as laid out in the United Nations Convention on the Rights of the Child (UNCRC).

We also support the joint evidence provided by Barnardo's Scotland, Oxfam Scotland and the Poverty Alliance, entitled *Strengthening the Community Empowerment Bill to empower every community in Scotland*¹, and further supported by a large number of other civic organisations including the Church of Scotland, the Scottish Community Development Centre and Children in Scotland, and we call on the Local Government and Regeneration Committee to support the proposals outlined in that paper.

In this evidence we suggest a number of ways that the Bill could be strengthened, including:

- Placing National Standards for Community Engagement onto a statutory footing.

¹ Available as evidence to the Local Government and Regeneration Committee here - http://www.scottish.parliament.uk/S4_LocalGovernmentandRegenerationCommittee/General%20Documents/18_Joint_Submission_from_Barnardos_Scotland_Oxfam_Scotland_and_Poverty_Alliance.pdf

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- Requiring Community Planning Partnerships to create local outcomes improvement plans through a participative process of community engagement.
- Requiring Community Planning Partnerships to allocate a proportion of their budget through a participatory budgeting process.
- Requiring the Scottish Government to involve children and young people in the identification of the National Outcomes, and to undertake a Children's Rights Impact Assessment.
- Measures that would ensure that the Bill was aligned with other parts of the Scottish Government's programme of public service reform, including the integration of Health and Social Care and the recently passed Children and Young People (Scotland) Act 2014.
- The establishment of a suitable appeals process for participation requests, and a duty to support disadvantaged communities to utilise the process.

We have provided responses to the Committee's specific questions below:

1. To what extent do you consider the Bill will empower communities, please give reasons for your answer?

Barnardo's Scotland has welcomed and supported the introduction of a Community Empowerment Bill by the Scottish Government and we urge the Local Government and Regeneration Committee to recommend that the Parliament supports the principles of the Bill at Stage 1. Empowered and connected communities, that have control over their collective destinies and that are able to organise their public services to suit their needs, experience better outcomes and are more likely to have all of their human rights upheld. The concept of community is a complex one, with individual people often feeling a sense of belonging to a complicated set of interconnected communities. We are therefore pleased that the Bill adopts a broad definition of 'community' throughout, and that these definitions include communities of interest.

Governments cannot, on their own, fully empower communities, nor should legislation be the only means with which governments should seek to assist the empowerment of communities. However, our view is that there is an important role for legislation to play, establishing new rights that empower communities and ensuring that public services in Scotland are structured around the ethos of the Christie Commission which states that public services should be designed and delivered with communities, rather than "delivered 'top down' for administrative convenience"². The empowerment of communities should be one of the fundamental purposes of all public services. However, legislation must be accompanied by other policies, including funding and supporting community development activities and other initiatives that help to make communities more connected.

In the Scottish Government's response to the Christie Commission's Final Report, amongst other actions, the Scottish Government committed to;

*"Developing a Community Empowerment and Renewal Bill that will significantly improve community participation in the design and delivery of public services, alongside action to build community capacity, recognising the particular needs of communities facing multiple social and economic challenges"*³

We believe that this statement continues to provide a good summary of what this Bill should be trying to achieve, and much of our comments arise from this statement providing a benchmark for comparison. However, as an organisation working with vulnerable children, young people and families in some of Scotland's most disadvantaged and disempowered communities, we are concerned that the Bill, as introduced, does not go far enough in helping to address Scotland's most significant inequalities – it does not, as yet, fully recognise the particular needs of

² Page ix, Final Report of the Commission on the Future Delivery of Public Services, Christie Commission, June 2011.

³ <http://www.scotland.gov.uk/Resource/Doc/358359/0121131.pdf>

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communities facing multiple social and economic challenges. We believe that it is imperative that this Bill is able to empower communities right across Scotland. In this evidence, and in the joint evidence we have submitted with Poverty Alliance and Oxfam Scotland, we suggest a number of ways that this can be achieved, including the placing of the Community Engagement Standards onto a statutory footing, proposals that make community empowerment central to the purpose of Community Planning Partnerships, a strengthened right to request to participate and the introduction of participatory budgeting to the Bill.

If community empowerment is made central to the purpose of all of Scotland's public services, it is also imperative that the provisions laid out in the Community Empowerment Bill are in keeping with the remainder of the Scottish Government's programme of public service reform, and in particular with other recently passed public service legislation. In particular, as an organisation that supported the Children and Young People (Scotland) 2014 Act, we are keen to ensure that the Community Empowerment Bill builds on the provisions in that Act that relate to the rights of children and the delivery of children's services.

Community Planning Partnerships (CPPs) have played a role in the development of more effective, more closely-aligned public services in Scotland. In particular, CPPs have been successful in bringing together public services to plan for communities, as they have so far been principally designed to do. Whilst this has successfully encouraged collaborative, cross-sector working, it has not directly empowered communities. We believe that if communities are going to become more empowered in relation to their public services, Community Planning Partnerships must focus much more on the potential of local people to participate in, shape and improve these services. We believe there is much more that the Community Empowerment Bill could do in this area, so that communities come together with agencies to co-produce their public services. For example, the development of local outcomes improvement plans or Single Outcome Agreements (SOAs) should, ultimately, be through a participative process of community engagement.

Most CPPs have also, to varying extents, involved Third Sector Interfaces (TSIs) in their work. Across Scotland, third sector organisations, like Barnardo's Scotland, deliver a wide range of services that support the improvement of communities' outcomes. On that basis, we believe that it is important that the third sector continue to contribute to the shared decision making of Community Planning Partnerships, and we therefore hope that the Community Empowerment Bill can be amended to ensure that TSIs continue to represent the third sector in CPP areas.

We support the intention of putting the National Outcomes onto a statutory footing, on the basis of the proven benefits of focusing service delivery on the achievement of outcomes. However, this will only be empowering for communities in Scotland if those communities have an opportunity to shape and decide upon what those outcomes are. We therefore recommend that the Bill is strengthened, to require Ministers to involve communities in Scotland, and encourage their participation in deciding upon the National Outcomes. We also suggest that this should specifically include a requirement to involve children, and that the National Outcomes should be subject to a Children's Rights Impact Assessment, before they are agreed to.

2. What will be the benefits and disadvantages for public sector organisations as a consequence of the provisions in the Bill?

Barnardo's Scotland supports the principle that people using services are experts in those services, and are often best-placed to judge how those services can be improved and made more effective. As the Bill recognises in its definitions, communities are diverse in nature, and include communities of interest, geographic communities as well as groups of service users. Therefore, it is from the principle that communities of service users are experts in the services that they use that the benefits of sections 2 and 3 (the sections where we have concentrated our comments) will come to public sector organisations.

The involvement of people who use services in the design and delivery of public services has tremendous potential to improve services, whether that is the identification of new service needs,

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ways to improve the efficiency of services, or simply to improve outcomes. However, we believe that, whilst there is good practice in many places across Scotland, the full potential of service user involvement in public services is not yet being fully realised. Indeed, in the case of community planning, the 2013 Audit Scotland report on community planning⁴ found that,

*"... there is a long way to go before services are truly designed around communities and the potential of local people to participate in, shape and **improve** local services is realised."* [our emphasis]

Ultimately, more consistent, high quality engagement of service users will lead to public services in Scotland that are more effective, efficient and that are more attuned to the needs of the public who live and work in Scotland. However, as stated elsewhere in this consultation response, we believe that the Bill as introduced could be strengthened, and many of our suggestions would help ensure more regular, higher quality, community engagement by public bodies. We believe, therefore, that the suggestions we make for strengthening would help the Bill to achieve further benefits for public sector organisations.

3. Do you consider communities across Scotland have the capabilities to take advantage of the provisions in the Bill? If not, what requires to be done to the Bill, or to assist communities, to ensure this happens?

As an organisation working with some of Scotland's most disempowered and disadvantaged communities in Scotland, we believe that the Bill must empower communities across all of Scotland, and help to address Scotland's most significant inequalities. Whilst we support the general principles of the Bill, and see some merit in all of the provisions it contains, we are concerned that the Bill will not create a significant shift in the empowerment of Scotland's most disempowered communities, unless it is amended and strengthened.

Together with Oxfam Scotland and Poverty Alliance we have created a number of proposals that we believe would help ensure the Bill empowers all communities. One of these is a proposal to place the National Standards for Community Engagement onto a statutory basis.

Standards for community engagement

There is much good practice in the public sector when it comes to consultation with communities. However, this practice is not always of a consistently high standard. To genuinely involve communities in the design of public services, the high quality involvement of communities in local decision making must become second nature to public services, as well as being a part of their everyday core purpose.

There are already existing National Standards for Community Engagement, that have been endorsed by a number of national agencies, but their implementation is varied across Scotland, and the passing of a Community Empowerment Act would create an ideal moment to renew them and place them on a statutory footing. Requiring all public bodies to adhere to a set of national standards for the engagement of communities, and to regularly report on them, would be a major advance for the rights of communities to participate in decisions that affect them.

A key part of the standards should be a focus on addressing inequality and empowering Scotland's most disempowered communities.

More than two thirds of respondents to the Scottish Government's consultation on Community Empowerment in summer 2012 responded favourably to this proposal, including a clear majority

⁴ "Improving community planning in Scotland", Audit Scotland, March 2013, http://www.audit-scotland.gov.uk/docs/central/2013/nr_130320_improving_cpp.pdf

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of local authorities and other public bodies⁵. The Scottish Government's Policy Memorandum on the Bill does not include any explanation of why this proposal has since been dropped.

It may be helpful, in amending the Bill, to make it a requirement for public bodies to follow the National Engagement Standards or other statutory guidance when undertaking particular forms of engagement with communities. We would suggest that, in particular, CPPs should have to follow the standards for community engagement when engaging with communities participatively to draw up local outcomes improvement plans. Ministers should also have to follow the standards when involving people in Scotland in drawing up national outcomes under Part 1 of the Bill. Other engagement exercises, which public bodies must now undertake under recent legislative changes, where a requirement to follow the National Engagement Standards could include consultation on children's services plans, as required by the Children and Young People (Scotland) Act 2014, consultation on procurement strategies required by the Procurement Reform (Scotland) Act 2014 and consultation on the creation of integration schemes under the Public Bodies (Joint Working) (Scotland) Act 2014, should be considered.

4. Are you content with the specific provisions in the Bill, if not what changes would you like to see, to which part of the Bill and why?

The parts of the Bill that have most relationship to Barnardo's Scotland's work are parts 1, 2 and 3. We have supplied further comment on these sections, and suggestions for changes that would further strengthen the Bill, below.

National Outcomes – Part 1

Barnardo's Scotland welcomes the embedding of the National Performance Framework (NPF)⁶ into legislation, as we support a focus on outcomes across public services. Indeed, we believe that the embedding of an outcomes focus into the exercise of government has the potential to become an extremely important part of the democratic process in Scotland. We have said before that the Outcomes in the NPF are overdue for review, as some have been overtaken by events, and the requirement in legislation that this Bill provides for them to be regularly reviewed is welcome.

However, we are keen to suggest a number of ways in which we believe that the National Outcomes part of the Bill can be strengthened.

If the creation of National Outcomes is going to be a process that is empowering for people in Scotland, then it is important that national outcomes are created through a participative process that involves people who live and work in Scotland. On that basis, we believe it is important that the provisions in the Bill which require Ministers to consult⁷ on the creation of national outcomes are strengthened, to make it clear that everybody should have an opportunity to have an input. We also believe it should be made clear that children and young people, and organisations working with children and young people, should have an opportunity to shape the national outcomes, in order that the voices of children and young people do not become marginalised or ignored. We also suggest that Ministers should have to follow standards for community engagement when consulting on the national outcomes, to help ensure that consultation occurs in a positive and effective way.

We also believe that the Parliament should give consideration to whether parliamentary scrutiny of the national outcomes, would be an appropriate mechanism to help ensure that Ministers have

⁵ Consultation on the proposed Community Empowerment and Renewal Bill: An analysis of responses, Scottish Government, 2012,

<http://www.scotland.gov.uk/Resource/0041/00410864.pdf>

⁶ Also often referred to as Scotland Performs -

<http://www.scotland.gov.uk/About/Performance/scotPerforms>

⁷ Section 1(2) and section 2(5) of the Community Empowerment (Scotland) Bill as introduced.

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involved people who live and work in Scotland in a participative process to determine the National Outcomes.

The recently passed Children and Young People (Scotland) Act 2014 created a new requirement on Ministers to take steps to secure the further effect in Scotland of the United Nations Convention on the Rights of the Child (UNCRC)⁸. On that basis we suggest that the Bill should be amended to include a requirement of Ministers to undertake and publish a Children's Rights Impact Assessment, and then take account of it, before the National Outcomes are finalised.

There are also a number of outcomes that have already been placed into legislation by other pieces of legislation and we believe it is important that the Community Empowerment Bill is appropriately linked to these other pieces of legislation. In particular, we would not wish to see the Bill overshadow the requirements of the Child Poverty Act 2010, which require the Scottish Ministers to achieve a particular set of outcomes, relating to levels of child poverty in Scotland, by 2020. These important outcomes, which continue to enjoy cross-party support in Scotland, should not be superseded by the National Outcomes provision in the Bill. We therefore suggest that the Parliament consider appropriate mechanisms to ensure that the statutory child poverty targets continue to be key national outcomes.

Similarly, the Children and Young People (Scotland) Act 2014 creates a set of wellbeing outcomes for each child in Scotland, collectively described as SHANARRI. This outcome definition has wide support and is already in use by many professionals working with children in Scotland. The SHANARRI framework has also been linked to the rights set out in the UNCRC⁹. Again, the Parliament should consider what opportunities exist to link the national outcomes to the SHANARRI wellbeing definition.

Community Planning – Part 2

Barnardo's Scotland has long been supportive of moves by successive Scottish Governments to support greater working across organisational boundaries within the public sector. This is most obvious in the development of Community Planning, but is also evident in the provisions in the Children & Young People (Scotland) Act 2014 and the Public Bodies (Joint Working) (Scotland) Act 2014 which both also create local joint service plans, with a statutory footing. Barnardo's Scotland welcomes this kind of cross public-sector working for the potential improvements in effectiveness and efficiency that it brings, and we therefore support placing community planning onto a statutory basis in order to further improve joint-working across public bodies. We therefore particularly welcome the emphasis that the Bill gives on community planning as a shared endeavour of all public bodies in the area, and we believe that this will help to address the perception that community planning is primarily the responsibility of the local authority, rather than a shared endeavour.

However, as the Scottish Government has recognised, placing Community Planning onto a statutory basis provides a golden opportunity to improve its functioning. We have provided a number of ways in which community planning could be strengthened through the Bill below.

Making community empowerment central to Community Planning

The role of Community Planning in creating joint working between public bodies should not be confused with the purpose of involving communities in planning *their* future and *their* public services. As things stand, the focus of CPPs tends to be on bringing public bodies together to plan for communities. In the spirit of the Christie Commission, this must be fundamentally

⁸ Section 1(1) of the Children and Young People (Scotland) Act 2014

<http://www.legislation.gov.uk/asp/2014/8/part/1/enacted>

⁹ <http://www.scotland.gov.uk/Resource/0041/00417256.pdf> is ongoing work by the Scottish Government to create a methodology that links the UNCRC to the eight SHANARRI wellbeing indicators.

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changed, so that, instead, communities come together with agencies to co-produce their public services.

The need for change is supported by the 2013 Audit Scotland report on Community Planning¹⁰, which found that:

"Community planning takes account of a wide range of consultation activity, but there is a long way to go before services are truly designed around communities and the potential of local people to participate in, shape and improve local services is realised."

We therefore suggest that the Bill is strengthened, so that the local outcomes improvement plans that each CPP must create (the equivalents of current single outcome agreements) have to be created through a participative process of community engagement. This would also bring the Bill together ensuring that community empowerment is a common thread throughout the Bill, including in Part 2.

The Bill currently places a great deal of emphasis on the role of community groups, and whilst community groups have a very valuable role and their recognition is welcome in the Bill, their role should not be a substitute for direct engagement. This is particularly the case in the most disempowered communities, which, by definition, tend to have the least community capacity. Whilst the Bill includes a duty to support the participation of community groups in community planning, the Bill does not include any resources, or any duty on public bodies, to support the formation of community groups or the connecting of communities.

The Bill should also make it clear that Community Planning Partnerships, when involving people participatively in the creation of local outcomes improvement plans, should involve children and young people. This would also ensure that the Bill is consistent with the duties imposed by the Children and Young People (Scotland) Act 2014 on public bodies to further the rights of children (which includes a right for children to be involved in decisions which affect them) and the duty imposed on health boards and local authorities to consult users and potential users of children's services in constructing a children's services plan.

It is also important that the quality of involvement of people is high, and we therefore suggest that Community Planning Partnerships are required to follow the Community Engagement Standards (suitably revised, and placed on a statutory footing by the Bill) when drawing up a local outcomes improvement plan. In particular, we would hope that suitable recognition of equality, poverty and socio-economic disadvantage within the community engagement standards would help ensure that CPPs involve, and give power to the most disempowered and disadvantaged communities.

Lastly, as we have previously referenced there are diverse notions of community, and the way people experience their communities is often different to how statutory bodies define communities. For example, in its current consultation duty, the Bill does not recognise that for many people 'community' means a rather smaller and more local area than the scale of a CPP. For example, in our experience, for many families with young children, the primary school catchment area is much closer to their understanding of their local community. As things stand, there is currently limited development across Scotland of this scale of micro-local decision making and involvement. Even where Local Authorities have developed micro-local decision making or planning processes, or where there are thriving community councils, there may not be strong links between the more local decision making and the geographic scale of planning at CPP level. Most CPPs will have a more nuanced understanding of the communities in the CPP area, and we suggest that the Bill could be amended to require CPPs to demonstrate the range and nature of communities in their area, and how this links to the outcomes identified with those

¹⁰ "Improving community planning in Scotland", Audit Scotland, March 2013, http://www.audit-scotland.gov.uk/docs/central/2013/nr_130320_improving_cpp.pdf

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communities. This could be particularly important in terms of addressing inequalities, as it could also require CPPs to identify those communities (whether geographic or otherwise) that are particularly disadvantaged, disempowered or vulnerable, and consequently demonstrate in their outcomes how they would make a particular difference for those communities.

The role of the Third Sector in Community Planning

The Third Sector makes a significant contribution to the delivery of services and improvement of outcomes across Scotland. This has been reflected in the involvement of Third Sector Interfaces (TSIs) as the representatives of the third sector in every Community Planning Partnership in Scotland. Barnardo's Scotland is of the view that this involvement by the third sector in community planning must continue, and there must be a continuing right for TSIs to be full partners in community planning partnerships, in order to represent the contribution that the third sector makes to improved local outcomes. This may require complicated legislation, to ensure that TSIs do not become subject to ministerial direction or control and maintain their important independence from government, however, we believe that it is possible to find a way that embeds the role of TSIs within community planning partnerships, and that this is very much desirable.

Whilst the Bill currently recognises the role of 'community bodies' in legislation, Barnardo's Scotland does not believe that this definition would include (or is intended to include) TSIs.

Alignment with the remainder of the Scottish Government's programme of public service reform

The Scottish Parliament has recently passed a number of other Bills that form part of the Scottish Government's programme of public service reform. In order that the Bill is as effective as possible in empowering communities, Barnardo's Scotland believes it is imperative that the Bill fits with the remainder of the Scottish Government's programme of public service reform.

The recently passed Children and Young People (Scotland) Act 2014 requires health boards and local authorities to jointly produce children's services plans. Barnardo's Scotland believes it is important that there is close co-ordination between local outcomes plans and children's services plans, and that community planning does not supersede children's services planning. MSPs should consider opportunities in the legislation to ensure that this co-ordination takes place.

The Children and Young People Act also makes clear some of the issues that children's services plans must address. This includes a focus on early intervention within children's services plans. A greater focus on early intervention has cross-party support in the parliament, proven financial benefits and was highlighted in the Christie Commission final report as a priority for change. Nevertheless there is still progress to be made in achieving a significant shift in public spending, across the board, towards early intervention. However, we were disappointed to see that there was not an explicit focus on early intervention within the Bill. In order that this does not become a missed opportunity, we suggest that again consideration is given to opportunities within the Bill to further focus public bodies on early intervention and preventative spending.

Barnardo's Scotland and NSPCC Scotland also recently published a joint report, *Challenges from the frontline: Supporting families with multiple adversities in a time of austerity*¹¹, which reported experiences from the managers of 14 services across Scotland. The report found that families were finding it increasingly difficult to make ends meet and that there were a growing number of families experiencing very extreme forms of poverty and destitution. The report's conclusion recommends that all public services take responsibility for addressing child poverty, and that they set out how they will do this in the range of plans that they are now required to produce as

¹¹ Kirsty Scullin and Susan Galloway for NSPCC Scotland and Barnardo's Scotland, *Challenges from the frontline: Supporting families with multiple adversities in a time of austerity*, 2014, http://www.nspcc.org.uk/Inform/research/findings/multiple-adversities-report_wdf103854.pdf

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a result of recent legislation¹². In turn, we suggest that there is a need to ensure that all CPPs take responsibility for addressing child poverty on a local level through community planning processes, in order that Scotland achieves its duties under the Child Poverty Act 2010. We would recommend that the Committee and MSPs consider options for how this could be ensured through this Bill.

Lastly, we would welcome clarification from the Scottish Government that any body-corporates established under the Public Bodies (Joint Working) Act 2014 are suitably included under the Act, that they would be suitably required to contribute to Community Planning Partnerships and that they would be subject to the participation request provisions. This may be an area in which amendments to the Bill as introduced are necessary. Additionally, we would welcome clarification from the Scottish Government as to whether there is a need to amend any aspects of the Public Bodies Act, which includes a schedule of local authority duties that may be delegated to an integration scheme¹³, to ensure that, in the event that key services are integrated, integration bodies are able to suitably contribute to community planning partnerships.

Participatory Budgeting

Barnardo's Scotland supports the principle that people using services are experts in those services, and are often best-placed to judge how those services can be improved and made more effective. This applies just as much in decisions about where funding can be directed, and this means communities are well placed to determine which services are most beneficial to the community and therefore should be a priority for public spending. Community engagement in decisions about funding are also very much engagements that give people a strong sense of involvement in important decisions. On this basis Barnardo's Scotland supports the further development of participatory budgeting approaches, of all types, in Scotland.

Although there is a great deal of enthusiasm for participatory budgeting across Scotland there are only pockets of existing good practice, and therefore Barnardo's Scotland, along with Oxfam Scotland and the Poverty Alliance, sees the Community Empowerment Bill as an opportunity to further extend the use of participatory budgeting approaches by public bodies in Scotland. In particular we recommend that, in order to give community planning partnerships an initial focus on participatory budgeting, each Community Planning Partnership is required to set aside 1% of its budget (calculated on the basis of the combined local spend by the statutory partners in the area covered by the CPP) to be decided on by an appropriate community participation process.

Participation Requests – Part 3

The policy memorandum describes these provisions as additional to the requirements on public bodies to regularly consult and involve communities in decision making. On this basis, and notwithstanding our recommendations about how the regular duties of public bodies should be strengthened through putting the Community Engagement Standards onto a statutory footing, we support the creation of these additional provisions.

¹² In their foreword, Martin Crewe, Barnardo's Scotland Director and Matt Forde, National Head of Service at NSPCC Scotland, say (page 2):

"The first round of Children's Services Plans, which will be required under Part 3 of the Children and Young People (Scotland) Act 2014, the strategic plans created by each of the integration authorities created by the Public Bodies (Joint Working) Act 2014 and the procurement strategies developed by public bodies under the Procurement Reform (Scotland) Act 2014 will all have a major impact on the future shape of children's services. ... We would hope that the wider issues raised by this research – the impact of austerity, benefit sanctions or delays in payments and increasing prices for basic commodities – are recognised as the context for these new statutory plans, and that tackling the growth in, and changing nature of, child and family poverty is therefore recognised as a key priority."

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However, our view is that there needs to be a clearer arbitration and review mechanism, in order that this right can be fairly and equitably exercised by all communities. The current proposals give the public body the power to decide whether to accept or decline requests, as well as how to facilitate requests and so on. We therefore believe that a third party must be able to act as the protector of this right, through a challenge mechanism or appeals procedure. On the basis that the involvement in decision making is very much a human right (and is also recognised as a right of the child in the UNCRC), we suggest that the Scottish Human Rights Commission could be an appropriate body for appeals to be directed to, recognising that this might require some changes in the responsibilities of the SHRC, and that there are also other bodies that could provide a suitably independent appeals facility.

We are also concerned that there is no provision in the Bill that would place a duty on public bodies to support the involvement of community organisations in participation processes (in the event that a participation request is accepted) or a duty that would require public bodies to support communities to come together, connect, form community groups and make participation requests. We suggest an order making power for Ministers, which would allow them to address these issues in further statutory regulation or guidance.

To further ensure that all communities are able to take advantage of the new right and to exercise it in a way that gives them power in relation to the public body, we suggest that the Bill requires public bodies to give an opportunity for the community body to contribute to the final report required in section 25 of the Bill as introduced. We also suggest that the list of matters that a public body must take into account when reaching a decision about a participation request is extended to include poverty, inequality and the rights of children.

5. What are your views on the assessment of equal rights, impacts on island communities and sustainable development as set out in the Policy memorandum?

In this evidence we have raised a number of concerns relating to the impact of the Bill on socially and economically disadvantaged communities, and set out a number of ways that we believe that this can be addressed.

We have also set out a number of ways in which we believe the Bill can be strengthened in order to ensure that children have equal access to the rights set out in the Bill. We are disappointed that a children's rights impact assessment of the Bill was not carried out, particularly given the new duty imposed on Ministers through the Children and Young People (Scotland) Act 2014 to take steps to promote and improve access to the rights set out in the UNCRC.