

Community Empowerment (Scotland) Bill - Briefing for Stage 3 Debate. 17th June 2015

A number of organisations supported amendments to the Bill at stage 2 which strengthens the legislation so that it addresses Scotland's most significant inequalities and empowers communities across the country. The Local Government and Regeneration Committee also supported these amendments. The signatories to this briefing strongly believe that the Scottish Government should support the amendments made to the Bill by the Committee which increase transparency, accountability and local democracy. **Support for the amendments will make sure that empowerment remains central to the legislation.**

Improving the approach to National Outcomes

In its Stage 1 report the Committee asserted that engagement and consultation on National Outcomes with the aim of empowering communities should be enshrined in legislation. We supported the Committee's view that Part 1 of the Bill should be amended to reflect this when preparing the National Outcomes. That is why we supported Alex Rowley MSP's amendments – accepted by the Committee – which will:

1. Improve parliamentary scrutiny of National Outcomes

Before the Bill was amended there was limited scrutiny of the National Outcomes by Parliament. As a result of Alex Rowley's amendment at stage 2 Scottish Ministers must publish and lay proposed National Outcomes with the Parliament for 60 days. During this period Scottish Ministers must consult with the public including specified individuals and groups. The draft National Outcomes cannot be laid for approval until the Scottish Ministers also lay an explanation of that consultation, any representations received and changes made to the regulations. Parliament must then approve the National Outcomes. Given the importance of the National Outcomes to everyone in Scotland this level of scrutiny is crucial to ensure the Scottish Government's priorities are aligned with the priorities of the people of Scotland.

2. Ensure wider consultation and participation on the National Outcomes

Committee amendments at stage 2 improved the level of consultation required in relation to the National Outcomes. The legislation is now very clear on who must be

consulted and crucially does not prohibit the Scottish Government in widening who they consult with. The list of consultees set out in the Bill as it stands **should be considered a floor and not a ceiling in terms of consultation**. We do recognise that including “individuals registered to vote” could be restrictive and we have suggested to the Scottish Government that this be changed to “individuals normally resident in the local authority area”. *This* change would avoid unintentionally restricting who would be consulted with. It appears to us that the Committee’s intention was to see the widest possible meaningful consultation.

Making democracy work – the right to appeal a refusal of a request to participate

In our original [briefing on the Bill](#) we welcomed that the proposals set out participation requests, as a right of communities. Involvement in decision-making is very much a human right. However, we argued that in order that this right can be fairly and equitably exercised by all communities, **there must be a clearer arbitration and review mechanism**.

That is why we fully support the Committee’s amendment to introduce a right of appeal for communities when a participation request is refused.

Public bodies have the power to decide whether to accept or decline requests, as well as how to facilitate requests. It is clear that many different communities including communities of interest will make such requests and will give up a significant amount of their time, effort and expertise to do so. It is likely that a right of appeal would not be required in relation to the vast majority of requests. Nevertheless there will be cases where Ministers will have to take a view on whether the decision to refuse a request is the right one and has been taken in accordance with the law and in guidance. It will also help shift the balance of power so that public bodies engage meaningfully with communities’ participation requests at an earlier stage, in the knowledge that not doing so could lead to an appeal further down the line.

In stage 2 evidence in relation to an amendment from Michael Russell MSP to introduce appeals in relation to asset transfers the Minister for Local Government and Communities said:

“There is no doubt that, in a very few exceptional cases, giving community bodies a route of appeal to Scottish ministers could be beneficial because it would strengthen part of the bill’s focus on openness, transparency and consistency. It may well be a proportionate measure”.

We believe that this also applies to participation requests.

Making participatory budgeting work.

We congratulate the Scottish Government on amending the legislation to include a power for Scottish Ministers to bring forward legislative proposals to establish a participatory budgeting approach in Scotland. As such we believe that Ministers should establish a working group including, community representatives, which will work with the Scottish Government on a process of consultation, the mechanisms to be legislated for and a **clear timetable for introduction**.

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