

# The Community Empowerment (Scotland) Act 2015



# Policy Aims of the Community Empowerment Act:

- Maximising resource use to achieve a ‘flourishing’ Scotland through sustainable economic growth.
- People are our greatest asset and best placed to make decisions about the future, sustainable and resilient communities
- Scottish Government commitment to supporting subsidiarity and local decision-making.
- Community Empowerment and improving outcomes
- Meaningful participation in the decisions which affect our lives.

# Act's Contents

<b>Part 1</b>	National Outcomes
<b>Part 2</b>	Community Planning
<b>Part 3</b>	Participation Requests
<b>Part 4</b>	Community Right to Buy Land
<b>Part 5</b>	Asset Transfer Requests
<b>Part 6</b>	Delegation of Forestry Commissioners'
<b>Function*</b>	

# Act's Contents

<b>Part 7</b>	Football Clubs*
<b>Part 8</b>	Common Good Property
<b>Part 9</b>	Allotments
<b>Part 10</b>	Participation in Public Decision Making
<b>Part 11</b>	Non Domestic Rates*
<b>Part 12</b>	General

# National Outcomes

- Currently 16 National Outcomes
- Embeds on outcome focus in legislation
- Creates a duty on the Scottish Ministers to:
  - Consult on and publish a set of national outcomes for Scotland.
  - They must have regards to the reduction of inequalities of outcome which result from socio-economic disadvantage.
  - It requires that this must be reviewed once every five years
  - Must publish reports on progress made towards achieving those outcomes.

# Community Planning

Community Planning means planning that is carried out with a view to improving the achievement of outcomes in relation to the Local Authority are resulting from, or contributed to by, the services and provision of public agencies.

# What changes for the CPP with the CEA?

- Provides a legislative framework for the CPP
  - Requires the contributing public agencies to work together to plan and resource services against a local outcome plan.
- Requires them to prepare and publish a Local Outcome Improvement Plan (LOIP) - this will replace the SOA.
- Requires them to consider inequalities based on socio-economic disadvantage.
- Review and report publically on their progress against the LOIP.

- Resource the activities agreed to achieve the LOIP, includes staff and finances as well as other resources as necessary.
- Expansion of membership required to contribute to the CPP
- Expanded the responsibility for facilitation and maintenance of the CPP processes to include the LA, NHS, Police Scotland, HIE and the SFRS.



# Participation Requests

A participation request is a request to a public service authority to participate in an outcome improvement process.

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The intention to empower communities to initiate dialogue with Public agencies on their own terms and to have those views properly considered.

# What can you use a PR for?

- Have your voice heard, start a dialogue about something that matters to your community.
- Participating in the process:
  - Sharing your intelligence
  - Participating in the design of services and provision
  - Monitoring and reviewing existing service provision
  - Participating in the delivery of services

# Who can make a PR?

A request can be made by any *Community Participation Body*, which means:

- A community controlled body,
  - Means a body (incorporated or unincorporated) with a written constitution what includes the following:
    - Definition of the community the body relates to,
    - Provision for the majority of the members of the body to be consistent with members of that community, membership to the body is open to any member of that community,
    - The Body's aims and purposes statement which includes promotion of a benefit for that community
    - Provision that any surplus funds or assets of the body are to be applied for the benefit of that community.
- A community council
- A.N. Other designated so by the Scottish Government

# What do you need to put into a PR?

- Outcome improvement process
  - *...an outcome that results from, or it contributed to...the provision of a service provided to the public by or on behalf of the authority.*
- Why they should participate
- Details of the knowledge, expertise and experience they have in relation to the specified outcome
- Anticipated improvement that is anticipated to arise from their participation.

# What happens once we make a PR?

- The Public Service Authority needs to decide to agree or refuse the request.
  - Have the group provided clear information on what they want to participate in, why they should participate and what impact they will have if they do participate, detailing the improvement they anticipate?
  - Any additional information submitted
  - Consider whether the request would be likely to promote or improve
    - Economic development
    - Regeneration
    - Public health
    - Social or environmental wellbeing

- They must also consider whether or not the request would be likely to reduce inequalities of outcome which result from socio-economic disadvantage.
- Would it encourage more participation from those who experience socio-economic disadvantage?
- Would it encourage more participation in the design and delivery of public service provision generally?
- They need to ensure that they approach this in a manner that encourages equality of opportunity

- They must agree to the request unless there are reasonable grounds for refusing it.
- If they refuse the request they must detail the reasons for doing so.
- They can refuse to consider a PR where it is substantially the same as a previous PR if it is submitted within two years of the previous PR being received.
- Right of appeal
- Reports will have to be produced detailing the number, outcome and actions in relation to PRs annually.

# Community Right to Buy

## Changes to the Land Reform Act 2003 as part of this Bill:

- Ability to purchase abandoned or neglected land without a willing seller.
- Applicability of the right to buy extended to include the whole of Scotland.
- Ability to define 'community' by things other than postcode.
- Extension to the legal entities with a right to buy to include a SCIO
- Ballot required after the process has been triggered to be paid for by the Scottish Ministers with the ability for a third party to arrange it.
- Extended period for completion of the process.
- Greater clarity around what to include by way of explanation for a late application.
- Counter representation around the valuation of the property
- Ability for Scottish Ministers to recover costs of independent valuation where landowners have removed the land for sale after the valuer has been appointed.



# Asset Transfer Requests

- Asset Transfer requests by community transfer bodies
  - Act lays out what information should be contained in a request
  - Also it lays out eligibility of a Community Transfer Body for lease and ownership.
    - Lease – which means a body (whether corporate or unincorporated) which has a written constitution that includes certain criteria as specified in the act
    - Ownership - a Company, SCIO or Community Benefit Society with specific requirements within the constitution, as defined in the act

## Eligibility:

To become eligible for any form of asset transfer you need to be considered to be a “Community Transfer body”,

Within the Community Transfer Body criteria there are two distinctions made between:

- what is required to apply for management/lease
- what is required for a full transfer of title.

# Lease/Management Agreement:

Your group will need to be regarded as a:

- Community-Controlled Body
  - Means a body (incorporated or unincorporated) with a written constitution what includes the following:
    - Definition of the community the body relates to,
    - Provision for the majority of the members of the body to be consistent with members of that community, membership to the body is open to any member of that community,
    - The Body's aims and purposes statement which includes promotion of a benefit for that community
    - Provision that any surplus funds or assets of the body are to be applied for the benefit of that community.

# Full Title Transfer

Your group will need to be:

- A Scottish Charitable Incorporated Organisation (SCIO) the constitution of which includes provision that the organisation must have not fewer than 20 members,
- A Community Benefit Society (BenComm) the registered rules of which include provision that the society must have not fewer than 20 members

# OR...

OR

Your group will need to be:

- a company the articles of association of which include provision such as:
  - (a) the company must have not fewer than 20 members, and
  - (b) on the winding up of the company and after satisfaction of its liabilities, its property (including any land, and any rights in relation to land, acquired by it as a result of an asset transfer request under this Part) passes—
    - (i) to another community transfer body, or
    - (ii) to a charity.

# Making a request

A community transfer body making an asset transfer request must specify in the request—

- the land to which the request relates,
- the reasons for making the request,
- the benefits which the community transfer body considers will arise if the authority were to agree to the request,
- the price that the community transfer body would be prepared to pay for the transfer of ownership of the land
- In the case of a lease request, they must state the amount of lease and term and any other conditions that they want to include
- any other terms or conditions applicable to the request

# Public Agency Requirements

- Agreement to transfer
  - Lays out what must be considered by public bodies when taking decisions
  - States that must agree to request unless there are reasonable grounds for refusing
  - Lays out what must be communicated to community bodies when accepting a request, including min timelines.
  - Support for the process must be made available to community groups

# Public Agency Requirements

- The authority must decide whether to agree to or refuse the request.
- In reaching its decision, the authority must take into consideration the following matters—
  - the reasons for the request,
  - any other information provided in support of the request (whether such other information is contained in the request or otherwise provided),
  - whether agreeing to the request would be likely to promote or improve on the conditions set in the 2010 Disposal of Land Regulations for Local Authorities



- whether agreeing to the request would be likely to reduce inequalities of outcome which result from socio-economic disadvantage,
- any other benefits that might arise if the request were agreed to,
- any benefits that might arise if the authority were to agree to or otherwise adopt an alternative proposal in respect of the land to which the request relates,
- how such benefits would compare to any benefits provided by the community proposal

- **Appeals**
  - As part of the Asset Transfer Policy
  - Reviewed initially by another group within the public body
  - To Scottish Ministers in certain circumstances
- **Duty to publish register of land**
  - For all land owned by the public body
  - To be made public, free of charge, in hard copy and via electronic means (e.g. website)
- **Annual reports**
  - Published each year on asset transfer requests and decisions
  - Lays out what should be included in the report

# Common Good Property

- Bill requires increased visibility of the existence use and disposal of common good assets (moveable and heritable).
- Also to increase community involvement in the above.
- Statutory duty to maintain a register of all property held by a public authority for the common good.
  - Community Councils must be invited to comment
  - Must be published online and available for inspection.

# Allotments

- Bill repeals previous legislation.
- Definition of an allotment has been updated.
- Duty on Local Authorities to maintain a waiting list for allotments.
- Duty on LA to take steps to increase the number of Allotments if the waiting list exceeds certain trigger points.
- Prevents the LA from changing the use of land used for Allotments without agreement from Scottish Ministers.
- An annual Allotments report and food growing strategy must be produced by the LA

# Public Decision-Making

- *‘The purpose is promoting or facilitating participation in relation to decisions...’* made by public authorities.
- *include the allocation of... financial resources“*
- Participatory Budgeting?

# Where next?

- Participation Request Working Group
- Learning Points:
  - Diversity of views
  - SOA awareness
  - Community Councils
  - Community Capacity and Fragility
  - Inequality of relative relationships
  - Protectionism