



Community Empowerment and Renewal Bill

The UNISON Scotland Submission on Community Empowerment and
Renewal Bill

September 2012

Introduction

UNISON is Scotland's largest public sector trade union representing over 165,000 members delivering services across Scotland. UNISON members deliver a wide range of services in the public, community and private sector. It is essential that the voices of all those involved in public services contribute to the debate on its future. UNISON Scotland is able to collate and analyse members' experience to provide evidence to inform the policy process. We therefore welcome the opportunity to participate in this consultation of the Community Empowerment and Renewal Bill.

Response

Public services as we know them evolved due to the failure of the voluntary and private sectors to meet the needs of the people. The infrastructure required both to support business and people to achieve their potential required co-ordination, local control and financial investment. While the well-off could buy many things for themselves, infrastructure like roads, water supply and sewerage needed coordinated action and investment. As our understanding of disease began to grow it became obvious to even the wealthy that it was in their own self interest to ensure that everyone had clean water to drink and wash in and that waste was dealt with. The fire and police services grew from recognising that we need to organise and pay to provide services in a local area. Not only is it cheaper if everyone pays towards services, but everyone suffers when others aren't covered. A street where only half the homes were signed up to receive a fire service would be a street where every home would be at risk. The vermin attracted to a street where only half the bins are emptied would be a problem for everyone.

As demand grew for improved lives so the services delivered grew. The demand though was not just for a service to be provided. The reason why our services came to be provided through the public sector is that people increasingly wanted a say in their services. They did not want welfare provision decided by what a group of volunteers were able or willing to provide. Until relatively recently for many people "charity" was a dirty word associated with what the great and the good thought that ordinary people should have or be doing: well-off ladies assessing your moral fibre before granting you a pittance. Public sector growth in the 20th century was about providing fair and equal access to services.

Local government is run by elected councillors who have to answer to citizens directly both at regular elections and in person at regular surgeries. Local government **is** community involvement: 1222 councillors who are directly accountable to communities. UNISON has consistently campaigned for public sector reform including direct elections to health boards. We believe that services should strive for continuous improvement. None the less we believe that across the world people look to the UK as an example of the value of public service delivery both in terms of high standards and democratic accountability.

UNISON believes that it is democracy that makes public services responsive to the needs of the communities which they serve. This means the devolution of not just more powers to Scotland but also from Edinburgh into communities. The current government seems intent on taking power away from local government and therefore communities. The moves to national police and fire services will do nothing to give ordinary people control over these essential services. This Bill will not counter this centralising agenda. What is needed to genuinely empower

ordinary people will be tackling reasons why people are not involved in community decision making like poverty and social exclusion rather than privatising services or even more reorganisation.

To involve people in setting the agenda for public service reform and delivery Scotland needs to shrink the NDPB sector in a meaningful way, and to involve users and staff in both framing what the problems are and deciding the solutions. Recent research by the Fabian Society shows that the public are very keen for staff to have a real say in how services are run. This UK wide survey shows that people want their services delivered in the public sector and that while people are suspicious of managers, they really want the staff who deliver to have a real say in the design and control of services (<http://www.fabians.org.uk/publications/for-the-public-good/>). This is in line with the findings of Christie Commission in which people want a real say on their services but there is little evidence of support for them to actually run those services themselves.

UNISON is supportive of a role for communities and voluntary organisations including trade unions in influencing the planning and delivery of services. There needs to be much greater clarification of what is meant by community. There is a great deal of difference between a group of activists in a community and the many large third sector organisations who currently deliver outsourced services. Many are in the conflicted position of providing advocacy for disadvantaged groups and also delivering services directly to those groups. Communities are not homogenous whether they are geographical or of interest. Even in small rural communities there will be differing needs and more and less powerful individuals. Graduates are more likely to be active already than those with no qualifications 23% versus 3%. (2020 report *What do people want, need and expect from public services*). UNISON is concerned that those people who already are or feel disempowered could be further marginalised if community groups take over the running of services. The two key issues which will determine the success of community empowerment will be accountability and financial resources.

UNISON believes that empowering communities through increased participation is not about transferring assets or ownership of services to groups of people but about ensuring that citizens are consulted and listened to at all points of the process. This requires appropriate resources. These are not just financial. Though funding will be crucial to the success of this bill, politicians and workers will need to develop listening skills and tools in order to get people together to discuss issues and also to ensure that the voices of marginalised groups not just the most articulate and well resourced groups who are heard.

All Public Service Organisations (PSOs) should be required to produce a corporate strategy for participation and involvement which demonstrates how users, community organisations, staff and their trades unions can be involved in the planning, design, monitoring and review of services. There is a range of voluntary sector organisations which are skilled at participatory policy making and budgeting. They could play an important role through providing training in these skills for the public sector.

Meaningful involvement requires access to information. The Freedom of Information Act has been of real benefit but it is clear that more needs to be done. Citizens should be able to access information about the public services they use and about public and political decisions which affect them. This must be the case

whatever type of body holds the information or provides the service. The availability of information is key to community empowerment and any body including community groups that deliver a service or takes control of a public asset must be subject to the Act. They should also be subject to the same equalities duties as a public body.

UNISON is concerned that both the Scottish and UK governments see community empowerment as a way to deliver services more cheaply through cutting public sector jobs. Community empowerment risks becoming a cover for privatisation of services whether the provider is a charity or a private company—the democratic oversight is gone once a service or asset is handed over. As with the Localism Bill in the rest of the UK communities (however they are defined) asking to take over a service or asset triggers the procurement process. This means that the service is put out to tender and a range of private and voluntary sector bodies can then bid. The process then follows all relevant legislation which means that the service or assets could easily be privatised. It is our experience that markets for public services lead to a concentration of providers largely from the private sector moving services further away not closer to communities. (Localism Threat or Opportunity TUC and National Coalition for Independent Action https://www.tuc.org.uk/tucfiles/354/Localism_Guide_2012.pdf)

A range of surveys show that people are very wary of privatisation and support the delivery of public services in the public sector. Most people understand that the private sector has to make a profit for shareholders and that means money that should be available for service delivery is lost. While many, particularly private sector consultants selling their off-the-shelf solutions, punt the famed efficiency of the private sector the reality is very different. There are a range of private sector failures both in terms of delivering for the public sector and in the private sector; Southern Cross care homes and the BP oil leak in the Gulf of Mexico to name two. APSE has published a guide to bringing services back in house in response to the less high profile private failure to deliver in the public sector. There is clear evidence that privatisation costs, not saves, money. The APSE report indicates that the benefits of bringing services in house include:

- Improved performance and governance
- Cost efficiency
- Community wellbeing and satisfaction
- Local economy
- Flexibility and added value
- Service integration
- Employment considerations
- Quality of services.
- Sustainability.

(See *Insourcing: A guide to bringing local authority services back in-house* <http://www.apse.org.uk/publications/order-form/iinsourcing.pdf>).

In order to improve our services and empower communities it is important to listen to what people actually want rather than what commentators, lobbyists and salespeople are promoting. The key findings from *For the Public Good*: Natan Doron and Andrew Harrap are:

- 62% of people thought that public services should be provided mainly or only by government
- People were concerned about the practical implications of an enlarged role for non-state providers

- 64% agreed that public services should not be run like a business but depend on the values and ethos of public good

While increasing user choice was the third most popular method for improving services, allowing private companies and charities to deliver more was the least popular option. 53% thought that when a politician used the phrase “public service reform” it meant a lot of time and money being spent on reorganising. The public place a high priority on staff having more power to drive improvements:

- 59% thought giving staff more decision making power would improve services.
- 70% thought improved user voice would improve services.

Information and communications about services are really important to people but only a small minority want to be involved in local decision making. What is clear is that people are not asking to take over delivery of services; just to be heard. People want to be able to be part of deciding what the problem is not just yes or no to proposals.

The recent 2020 report found that “overall the implication seems to be that people want public services delivered by the public sector but to private standards, especially round efficiency and flexibility” (http://www.ipsos-mori.com/DownloadPublication/1345_sri_what_do_people_want_need_and_expect_from_public_services_110310.pdf page 25). There is also a belief in the public sector ethos, that people will tolerate some inefficiencies or lower standards of service in order to preserve a public sector ethos. People are often sceptical about the role of the private sector in public service delivery. The Scottish Government should therefore focus on ensuring that services are not privatised and develop the skills across the public sector to ensure that people have a real say in the delivery of service locally.

CONSULTATION QUESTIONS

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?

Effective community engagement in any process involves people having a genuine say from the beginning of the process. This means framing the questions as well as deciding the solutions. Communities are rarely homogenous therefore it is also important that a wide range of views are heard, not just the best educated, wealthiest or loudest.

Q2. How effective and influential is the community engagement currently taking place within Community Planning?

UNISON believes that the picture is mixed. There are problems not only with community engagement but also with the very different ways that the various public services work. Staff need to be empowered to make decisions about their own work and there needs to be much more training and support around genuine

community engagement strategies. Change requires investment and the current cuts make it very difficult for staff to undertake the changes required.

Q3. Are there any changes that could be made to the current Community Planning process to help make community engagement easier and more effective?

UNISON is generally supportive of the recommendations of the Christie Commission with regard to community planning. Crucial to this and the success of this Bill in general though is the definition of community. Even in small rural areas there are differing needs/wants and more and less powerful groups and individuals. It is essential that powerful well-organised groups within communities cannot use their power to exclude other more marginalised users (or potential users) of public services. UNISON believes that as local authorities are directly elected they have their own legitimate political mandate. The Scottish Government should therefore produce guidance of best practice rather than specific duties.

An overarching duty to engage

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

As stated above the current system needs appropriate resources in terms of money and staff time in order to work. Instead of placing duties on directly elected bodies it would be more appropriate to produce guidance on best practice. Staffs, at all levels, also need training and the opportunity to develop and implement community engagement skills.

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

No

Please give reasons for your response below.

As stated above the current system needs appropriate resources in terms of money and staff time in order to work. Instead of placing duties on directly elected bodies it would be more appropriate to produce guidance on best practice. Staffs, at all levels, also need training and the opportunity to develop and implement community engagement skills.

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?

Community Councils should have a key role in collating and sharing the views of the communities they represent. They must therefore be genuinely representative of their communities.

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

UNISON believes that public services should be run in the public sector by directly employed staff. Community Councils should have a key role in collating and sharing the views of the communities they represent.

Q8. What changes, if any, to existing community council legislation can be made to help enable community councils maximise their positive role in communities

UNISON does not believe that there is a need for further legislation. Community councillors would benefit more from support to improve their own skills in community engagement and to support them in consulting with the community they represent. They are currently under-resourced.

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

There is a great deal of difference between a group of activists in a community and the many large third sector organisations who currently deliver outsourced services. Third sector organisations can also find themselves in the conflicted position of providing advocacy for disadvantaged groups while delivering services directly to those groups. Unlike public sector organisations delivering services they are neither directly accountable via elections nor are they subject to Freedom of Information legislation. The third sector is not a neutral participant or arbiter of this process. Many organisations have a large financial interest in taking over the delivery of public service.

Some third sector organisations do though have staff with a range of skills in community engagement particularly with marginalised and often illiterate groups. They could have a key role in offering improved means of engagement and training staff in a range of public bodies and community organisations in participatory engagement methods.

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

No

Please give reasons for your response

The Scottish Government should set best practice guidelines but as directly elected and accountable public bodies, local authorities should be free to set their priorities.

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

Yes

Please give reasons for your response

UNISON believes that in order for citizens to be able to challenge decisions and to hold public bodies accountable they need to have access to information. Citizens should be involved in the development of the plan and then have full access to that plan in order to ensure that their voices are heard and to hold all the bodies charged with delivery accountable for that delivery.

Q12. Should community participation be made a more significant part of the audit of best value and Community Planning?

It is democracy that makes public bodies accountable. UNISON does not believe that the auditing tools used in these scrutiny regimes are appropriate for measuring community engagement.

Q13. Should public sector authority have a named accountable officer, responsible for community participation and acting as a primary point of contact for communities?

No

Please give reasons for your response

Community participation must be central do all that public bodies do. UNISON does not see how the naming of one individual no matter how senior in an organisation will help to mainstream community participation.

Q14. Can the Scottish Government do more to promote the use of the existing tenant management rights in sections 55 and 56 of the Housing (Scotland) 2001 Act?

Yes No

Please give reasons for your response

Q15. Should the current provisions be amended to make it easier for tenants and community groups to manage housing services in their area?

Yes No

Please give reasons for your response

Q16. Can current processes be improved to give community groups better access to public service delivery contracts?

Please give reasons for your response

UNISON is concerned that both the Scottish and UK governments see community empowerment as a way to deliver services more cheaply through cutting public sector jobs. Community empowerment risks becoming a cover for privatisation of services whether the provider is a charity or a private company the democratic oversight is gone once a service or assets handed over. As with the Localism Bill in the rest of the UK communities (however they are defined) asking to take over a service or asset triggers the procurement process. This means that the service is put out to tender and a range of private and voluntary sector bodies can then bid. The process then follows all relevant legislation which means that the service or assets could easily be privatised. It is our experience that markets for public services lead to a concentration of providers largely from the private sector moving services further not closer to communities. (Localism Threat or opportunity TUC and National Coalition for Independent Action https://www.tuc.org.uk/tucfiles/354/Localism_Guide_2012.pdf)

Information and communications about services are really important to people but only a small minority want to be involved in local decision making and running services themselves.

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?

Please give reasons for your response

Citizens should always have the right to have a say in the running of their services that is why UNISON believes that services should be run democratically. The difficulty with a community right to challenge is the definition of community. Our communities are diverse and people have different priorities. That is why there are elections to decide the priorities. If services are outsourced to either the private sector or large third sector service providers that accountability will be lost. The public sector has a duty to promote equality not just avoiding discrimination. That will also be lost if services are outsourced.

Q18. Should communities have a greater role in deciding how budgets are spent in their areas?

Yes

Please give reasons for your response

UNISON believes that people should always have a say in how public money is spent. That is why local government developed. That is not to say that one vote every five years is enough. Public bodies should involve service users and potential users in the decision making process. This must be in a way that ensures that all voices are heard. Total place budgeting and engaging with community councils for example offer a route to greater influence for citizens than outsourcing the services themselves. A greater role for community councils in budgeting may also help encourage better participation in community councils.

Q19. Should communities be able to request the right to manage certain areas of spending within their local area?

Yes

Please give reasons for your response

Communities should have a right of request rather than an absolute right to manage. Communities are not homogenous and as the directly elected body for the whole of the area local authorities will have to balance the needs and rights of others in communities. Therefore councils must be able to decide whether the request should be met or not.

Definitions for Part 1

Q20. Please use this space to give us your thoughts on any definitions that may be used for the ideas in Part 1. Please also give us examples of any definitions that you feel have worked well in practice

Community right to buy

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

Yes

Please give reasons for your response

UNISON sees no reason why urban and rural communities should have a different set of rights. A right to buy should depend on who the current owners of the asset are. If land is privately held, falling into disrepair and blighting a community then we would fully support a change of ownership. If assets are publically owned then the community already own it. If a group within a community wish to buy a public asset then it is essential that all users or potential users of services or assets will have a say in the right to buy and how their rights as current owners of a public asset will change if it moves out-with the public sector. A public body therefore must retain the right to decide on whether the disposal of the assets fits into their long term community plan.

Community asset transfer

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?

UNISON believes that public sector assets are owned by the community. We would therefore be generally opposed to the transfer of ownership of any community assets.

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

Yes

Please give reasons for your response

Groups should have the right to ask. Communities are not homogenous and as the directly elected body for the whole of the area councils will have to balance the needs and rights of others in communities. Assets may only be underused or unused in the short term. They may well be part of a body's long-term strategy. Therefore public bodies must be able to decide whether the request should be met or not.

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

No

Please give reasons for your response

It is essential that public bodies as the holders of community assets are able to decide on the disposal of assets. In fact giving the right to buy after a period of use may lead to assets being unused for longer as a public body is less likely to give community groups the right to use assets in the short term if they may lose that asset in the long term.

Common good

Q25. Do the current rules surrounding common good assets act as a barrier to their effective use by either local authorities or communities?

Please give reasons for your response

The current rules sadly have not prevented common good assets falling under the control of leisure and culture trusts. UNISON believes that the rules should be strengthened to prevent privatisation of these assets.

Q26. Should common good assets continue to be looked after by local authorities?

Yes

UNISON believes that directly elected public bodies are best placed to look after common good assets. Local authorities should continue to look after common good assets.

Asset management

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

Yes

Please give reasons for your response

Access to information is key to holding public bodies to account. It is essential therefore that asset registers are available to the public. In addition to this local authorities should have strategies to make more effective use of assets and increase the range of assets held or used by the authority for the public good.

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

Yes

Access to information is key to holding public bodies to account. It is essential therefore that asset registers are available to the public. In addition to this local authorities should have strategies to make more effective use of assets and increase the range of assets held or used by the authority for the public good.

Q29. Should each public sector authority have an officer to co-ordinate engagement and strategy on community asset transfer and management?

Yes No

Please give reasons for your response

Q30. Would you recommend any other way of enabling a community to access information on public sector assets?

Allotments

Q31. What, if any, changes should be made to existing legislation on allotments?

Q32. Are there any other measures that could be included in legislation to support communities taking forward grow-your-own projects?

Definitions for Part 2

Q33. Please use this space to give us your thoughts on any definitions that may be used for the ideas in Part 2.
Please also give us examples of any definitions that you feel have worked well in practice

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?

No

Please give reasons for your response

Community groups should have the right to request to use or manage unused or under-used assets. The public sector body has to balance the needs of the whole community and therefore has to weigh up any requests with the needs of the wider community and their plans for the asset and general community plan. They therefore must have a right to refuse use or control of assets.

If you said yes to Question 34, please answer parts a., b. and c.:

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

It should be up to the elected members to set the parameters for these types of decisions

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

Citizens should have the same rights no matter who owns or runs a public service therefore all bodies delivering public services should be subject to the same duties including Equality Duties and Freedom of Information as if the asset/service remained in the public sector.

c. What types of asset should be included?

Encouraging temporary use agreements

Q35. Should a temporary community use of land be made a class of permitted development?

Yes No

Please give reasons for your response

Q36. Should measures be introduced to ensure temporary community uses are not taken into account in decisions on future planning proposals?

Yes No

Please give reasons for your response

Q37. Are there any other changes that could be made to make it easier for landlords and communities to enter into meanwhile or temporary use agreements?

Dangerous and defective buildings

Q38. What changes should be made to local authorities' powers to recover costs for work they have carried out in relation to dangerous and defective buildings under the Building (Scotland) Act 2003?

Q39. Should a process be put in place to allow communities to request a local authority exercise their existing powers in relation to dangerous and defective buildings under the Building (Scotland) Act 2003?

Yes No

Please give reasons for your response

Compulsory purchase

Q40. Should communities have a right to request a local authority use a compulsory purchase order on their behalf?

Yes No

Please give reasons for your response

Q41. Should communities have a right to request they take over property that has been compulsory purchased by the local authority?

Yes

Please give reasons for your response

Community groups should have the right to make such a request but the local authority has to balance the needs of the whole community and should therefore be able to decide whether or not to grant the request.

If you said 'yes' to question 41, please answer part a.:

a. What conditions, if any, should apply to such a transfer?

Power to enforce sale or lease of empty property

Q42. Should local authorities be given additional powers to sell or lease long-term empty homes where it is in the public interest to do so?

Yes

Please give reasons for your response

UNISON believes that this could be a useful tool for local authorities both in terms of improving the housing supply and generally ensuring that they can implement plans for general redevelopment. This should include any unused property not just homes.

Yes No

Please give reasons for your response

Q43. Should local authorities be given powers to sell or lease long-term empty and unused non-domestic property where it is in the public interest to do so?

Yes

Please give reasons for your response

UNISON believes that this could be a useful tool for local authorities both in terms of improving the housing supply and generally ensuring that they can implement plans for general redevelopment. This should include any unused property not just homes.

a. Should a local authority be required to apply to the courts for an order to sell or lease a long-term empty non-domestic property?

Yes

Please give reasons for your response

Q44. If a local authority enforces a sale of an empty property, should the local community have a 'first right' to buy or lease the property?

No

Please give reasons for your response

The local authority as the directly accountable body for the area should have the power to deal with such a property in a way that fits in with their plans for the area.

For further information, please contact:

Mike J Kirby, Scottish Secretary
UNISON Scotland,
UNISON House,
14, West Campbell Street,
Glasgow
G2 6RX
Tel: 0845 3550845
Fax: 0141-331 1203
Email: m.kirby@unison.co.uk
Kay Sillars: k.sillars@unison.co.uk