



Community Empowerment (Scotland) Bill

The UNISON Scotland Submission on Community Empowerment (Scotland Bill)

January 2014

Introduction

UNISON is Scotland's largest public sector trade union representing over 160,000 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 (Scotland) Bill.

Response

UNISON raised a range of concerns in our submission to the 2012 consultation on what was then called the Community Empowerment and Renewal Bill. The latest consultation has not diminished those concerns. In particular, we are concerned that there is no mention of the workers for whom these "assets" are their workplaces far less what protections would be in place regarding their terms and conditions and future employment. There is no information on how the request to take over an asset will interact with procurement and competition regulations. Requests under Westminster Localism Bill trigger tendering and there is nothing in the consultation indicating that this will be different in Scotland.

Public services as we know them evolved due to the failure of the community, 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 and services like roads, schools, water supply and sewerage needed coordinated action and investment. Not only is it more efficient if everyone pays towards services, but everyone suffers when others do not do the right thing. 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.

The reason why our services came to be provided through the public sector is that people increasingly wanted not just a service but a say in what the services are. They did not want provision decided by what a group of volunteers thought they deserved. 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. Voluntary/community service delivery has already failed. Public sector growth in the 20th century was also about tackling inequality through providing fair and equal access to services. The OECD confirms that public services have a significant impact in reducing inequality:

"Social spending in the UK relies more on public services (such as education, health etc.) than on cash transfers: spending on services amounts to over 15.4% of GDP while spending on cash transfers is some 10% [Figure 8.1]. These services reduce inequality more than almost anywhere else, and this impact has increased over the 2000s. ¹"

It is essential that this Bill enhances rather than undermines this essential role.

¹ OECD (2011), Divided We Stand: Why Inequality Keeps Rising
www.oecd.org/els/social/inequality

Local government is run by elected councillors who have to answer to citizens directly both at elections and in person at regular surgeries. Local government is community involvement: 1222 councillors who are directly accountable to communities. 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. 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 outsourcing services.

The Christie Commission called for much more bottom-up reform of public services, something which UNISON has consistently campaigned for. The findings indicate that people want a real say on their services but there was little evidence sent to the commission (or elsewhere) of support for them to actually run those services themselves. The Bill therefore must make it clear that it is not opening up services for takeover.

UNISON is supportive of a role for communities and voluntary organisations including trade unions in influencing the planning and delivery of services. It still is not clear about how we ensure that such a community body is representative of the community it claims to represent and how the wider community influence decisions, made once an asset comes under the control of that body. 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. There needs to be an onus on community groups to consult with the wider community and to publish meeting dates and minutes to ensure that citizens out with the group do not lose out when an asset moves out of local authority control.

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 as they are the least likely to participate in policy making processes.

The two key issues which will determine the success of the Bill 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. They need to ensure that the voices of marginalised groups and not just the most articulate and well resourced groups are heard. There needs to be substantial protection for the wider community, particularly those voices that are already less well heard in Scotland from the well organised well off and articulated further controlling asset of influencing services delivery to suit their needs. *"Sharp Elbows": Do the Middle-*

*Classes have Advantages in Public Service Provision and if so how?*² shows that this is already the case and there is a real risk that in its current form this Bill will make this worse. We need much more clarity on how and what funding will be provided to support the implementation of the Bill.

UNISON also raised concerns about openness and access to information about assets and services once they are out with local authority control. These concerns have not been addressed in this second consultation. 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 organisation including community groups that deliver a service or take control of a public asset must be subject to the Freedom of Information 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. Community empowerment risks privatisation of services whether the provider is a community body, a charity or a private company. Where outsourcing services has saved money it has been through cutting jobs, wages and the terms and conditions of the staff who deliver those services. UNISON believes that much more clarity is needed round asset transfer. The draft Bill is not clear about what happens to those who work in any asset for which a transfer request can be made. Nor is it clear about whether the community body could sell or transfer the asset at a later date.

There is a big difference between a community taking over unused public buildings and land and putting them to public benefit and for example taking over the library or swimming pool. If the Bill is only about empty and unused assets then this needs to be clear, if it about those which are currently being used to deliver a service then there needs to be much more clarity about how this will impact on the current service and the staff who work there. In order to fully comment UNISON requires much more information on the staffing issues:

- Who will the new employer be?
- Will this require new legislation?
- How/will staff transfer to a new employer?
- Will staff still be employed on local authority terms and conditions?
- How will these be negotiated going forward?
- Will staff still be able for example to apply for internal vacancies with the local authority?

The definition of community bodies, from the Local Government in Scotland Act 2003, does not offer enough protection from privatisation:

*“community bodies”, in relation to a local authority, are bodies or other groupings, whether or not formally constituted, established for purposes which consist of or include that of promoting or improving the interests of any communities (howsoever described) resident or otherwise present in the area of the local authority;”*³

² Hastings, A., and Matthews, P. (2011) "Sharp Elbows": Do the Middle-Classes have Advantages in Public Service Provision and if so how? Project Report. University Of Glasgow, Glasgow, UK.
<http://eprints.gla.ac.uk/57021/>

³ Local Government in Scotland Act 2003.

There is a big difference between a group of community activists and the large third sector organisations who increasingly deliver outsourced public services. Many private companies could also claim to “include promoting or including the interests of communities” alongside their drive for profits in order to gain the right to take over assets or to request the right to participate in the process to “Improve Outcomes of Services Delivery”. The proposed rights need guarantees that ensure that it is groups of ordinary people who benefits from change of ownership of assets and that the voice of ordinary users is not drowned out by those working in professional “community bodies”.

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. APSE⁴ 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.

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:

⁴ Insourcing: A guide to bringing local authority services back in-house
<http://www.apse.org.uk/publications/order-form/iinsourcing.pdf>

- 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”.⁵ 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.

Right to Buy

UNISON fully supports the proposal to extend community right to buy. This seems a reasonable way to deal with privately owned derelict or unused spaces and land banking by developers. The right to buy has been very successful in improving lives in rural Scotland and it is only right that other communities are given the same rights. UNISON would like to see a role for local authorities in supporting the development of genuine community groups to be able to make use of this legislation particularly in deprived areas. We agree that Scottish Ministers should organise and fund a community body’s ballot and pay its costs as well as take on the role of notifying the ballot result to the landowner. This will ensure that finance is not a barrier to communities taking this forward.

Scotland performs

Scotland Performs was launched with much fanfare in 2008. The news release from the Scottish Government promised

“Visitors to the Scotland Performs website will be presented with highly visual and easy to understand pages. They will have quick access to information about the quality of life in Scotland, and where things are getting better and where things are getting worse. The finance secretary John Swinney said:

“Scotland Performs is about responsibility and accountability.”

“By making this information easy to access, and by showing exactly whether we as a country are doing well or need to do more, everyone in Scotland will have the ability to judge for themselves how Scotland is performing.

“This website is about how all of Scotland is performing. For many of the progress measures responsibility for success is shared between the Scottish Government and

⁵ http://www.ipsos-mori.com/DownloadPublication/1345_sri_what_do_people_want_need_and_expect_from_public_services_1103_10.pdf page 25.

partners in local government, with our universities, the business community and in many cases with individual Scots. Decisions we all take will determine whether we are becoming the more successful nation we all seek.”

The release also states that *“Scotland Performs is based on the Virginia Model, a strategic planning and communications tool used in the State of Virginia, USA.”*

UNISON supported this approach to scrutiny of public services particularly as it offered the opportunity to move away from an approach that focused of accountancy/audit based methods which are unsuitable for evaluating public services.

UNISON believes that Scotland Performs⁶ has not lived up to this promise, we are therefore not sure of the value of “embedding the outcomes approach in legislation” until we have improved the basic effectiveness of this approach. The site itself does not have easy to understand pages, does not provide “quick access to information” nor is there evidence of it being a strategic planning tool. Scotland Performs has surface similarities to Virginia Performs but is nowhere near as extensive in terms of data or analysis. The Virginia site offers both easy to read graphics for a range of geographical and subject areas for those looking for snapshots. It contains explanations/discussions of issues and extensive data for those seeking wider information or wishing to do their own analysis. Scotland Performs is not the “go to” place for data on Scotland or the delivery of its services nor has it become a source of debate or discussion. Sites like Virginia Performs and Baltimore’s city website (<https://data.baltimorecity.gov/>) give access to data that require freedom of information requests in Scotland, including the amounts of individual procurement contracts. Scotland Performs may be modelled on Virginia Performs but it has only a surface resemblance to that performance framework

UNISON is not aware of Scotland Performs updates or indicators being used in question/debates in the parliament. The outcomes and indicators do not seem to have become part of the in the discussion in parliamentary committees or the wider body of Scottish debate. UNISON has not found it useful in our policy development or analysis process. So far it has not become part of Scotland policy debates.

Local Democracy

UNISON’s submission to the Commission on Strengthening Local Democracy⁷ gives more detail on what we believe are the best ways to support local democracy. Key to making these changes will be:

- Bringing services back in house to ensure democratic control where ever the services are placed in a structure.
- Elected councillors/MSPs/MPs need to become more diverse too many are still male and white. Much more needs to be done to ensure that a wider range of people are able to take up these positions

⁶ http://www.unison-scotland.org.uk/response/ScotlandPerforms_evidencetoSPFinanceCtteeonNationalPerformanceFramework_Aug_2013.pdf

⁷ http://www.unison-scotland.org.uk/response/CoSLA_LocalDemocracy_submission_Dec%202013.pdf

- Local government needs to have more power over its finances. This includes a local tax base, regaining control over business rates and exploring new forms of borrowing like Tax Increment Finance and borrowing from pension's funds for capital spend.
- Spending decisions need to be made more locally and over a broader range of budgets. It cannot just be about local government budgets, people should have a say over all spending in their communities

Conclusion

UNISON is Scotland's largest public sector trade union representing over 160,000 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 believes that including users and staff in the process of reform is the key to improving public service delivery. We therefore welcomed the principle of community empowerment. There is though a risk that without the proper protections for staff and the wider community the Bill could create more problems than it solves. We therefore welcome the opportunity to contribute to the development of this Bill.

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