



# **Community Empowerment (Scotland) Bill**

## **Response to the Call for Written Evidence from the Scottish Parliament Local Government and Regeneration Committee**

**The UNISON Scotland Submission to the Scottish Parliament's Local  
Government and Regeneration Committee**

**September 2014**

## **Introduction**

UNISON is Scotland's largest public sector trade union. UNISON members deliver a wide range of services in the public, community and private sector. Members are also tax payers and service users and are ideally placed to provide evidence to inform the committee during its scrutiny of public sector reform. UNISON Scotland welcomes the opportunity to submit evidence to the local government and regeneration committee.

## **Evidence**

UNISON is generally supportive of involving community groups, including trade unions, in the design and delivery of services and extending the community right to buy particularly round neglected and abandoned land. We do though have a range of concerns about the impact of this Bill on communities, services and the workers who deliver them.

## **Staff**

UNISON is concerned that both the Scottish and UK governments see community empowerment as a way to deliver services more cheaply. Where outsourcing services has claimed to save money it has been through cutting jobs, wages and the terms and conditions of the staff who deliver those services.

Despite concerns raised by UNISON during the earlier consultations the workers, who currently deliver services on/in the land and building that community groups will have the right to ask to takeover, are not mentioned in the Bill. There is a big difference between a community taking over unused public buildings and land and putting them to public benefit than for example taking over the health centre, library or swimming pool. UNISON is also concerned that the staff who currently deliver services could be replaced by untrained volunteers. There needs to be much more clarity about how this will impact on services and the staff who work there.

- 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?

## **Privatisation**

The Bill does not contain enough protection against for privatisation of public services. The outcomes approach means that organisations could focus on specific outcomes and set up bodies to bid for services claiming they can achieve one of the government's outcomes.

Community bodies having taken over an asset may also then bring in a private partner. If the aim of empowering communities is to be achieved and privatisation avoided the Bill needs to contain measures to prevent this happening.

The experience of Leisure Trusts and Housing Associations shows that in order to achieve economies of scale organisations originally set up to be small and responsive to their local communities end up joining together for financial reasons recreating the large corporate

bodies they originally sought to escape. They can also be “captured” by their management again losing the benefits of co-production.

What happens if the community group cannot sustain the service? Can a private provider take over? What happens if a group in future want to sell assets to another body? Public bodies at a minimum need the right to buy back the assets at the original price.

### **Equalities**

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. As the Christie Commission highlighted there are communities of interest as well as communities of place. There needs to be recognition of the many different groups and individuals who want and need to access public services. There must be substantial protection service users, particularly those voices that are already less well heard in Scotland, from the well organised well off further controlling assets and influencing service delivery to suit their needs. The Equalities Impact Assessment of the Bill has not yet been published. This should be a fundamental part of the policy development process not an add-on once the main work has been done. It is impossible to see if this has been investigated and protections are in place without access to the assessment.

### **Resources**

The Financial Memorandum states that the Bill will not place substantial costs on public bodies and that most costs will be administrative. The Bill will be implemented at a time of severe financial pressure and job cuts in the public sector. Further detail is needed on how public bodies will find the resources to fund the implementation of this Bill.

The Bill proposes more rights for local authorities to reduce business rates but not to increase them. UNISON would prefer local authorities to be given full control of business rates.

### **Outcomes approach**

UNISON has been generally supportive of an outcomes based approach to public service delivery particularly as an alternative to the more accountancy based approach of the past. UNISON is concerned though that the current performance framework is not delivering on its promise. Scotland Performs was launched, with much fanfare in 2008. 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 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 stated that *“Scotland Performs is based on the Virginia Model, a strategic planning and communications tool used in the State of Virginia, USA.”*

UNISON believes that Scotland Performs has not lived up to this promise. 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 as well as 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.

If we are to embed the outcomes approach in legislation then the method of monitoring this approach needs a great deal of work.

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

UNISON is supportive of a role for communities and voluntary organisations, including trade unions, in influencing the planning and delivery of services. There is little evidence that people want to take over services and run them for themselves. For example in the Big Lottery Fund paper Growing Community Assets Evaluation (April 2013) referenced by the Minister in his response to the committee states that while people thought that community ownership was a good thing only 10% were actually interested in volunteering or making the decisions themselves.

There needs to be clear mechanisms to ensure that such a community body is representative of the community it claims to represent and how the wider community influence decisions, made if 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 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.

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?*<sup>1</sup> shows that this is already the case and there is a real risk that in its current form this Bill will make this worse.

Giving Communities assets in itself will not bring change: JRF<sup>2</sup> highlight the following as key success factors

"Allowing time for staged growth and development was a key success factor, along with access to support technical aid, brokerage and community development. The diversity within communities and the nature of local community organisations were also important factors; assets needed to be embedded in a strategic approach to local community development that recognised organisations' interdependence with other public, private and third sector agencies."

The Big Lottery Fund report states: "Another issue that has grown in importance as community ownership has developed is ensuring that projects are driven by, and fit within, a wider community vision rather than in isolation. Projects that are driven by a small group's desire to develop, or rescue a building, for example (and then try and find another use for it) are less likely to succeed in the long term. With the potential for more building assets transfers to take place in the future, care needs to be taken by both communities and funders to ensure that these are led by local demand and complement other developments. Local authorities are therefore particularly important stakeholders and partners"

It is clear that public bodies will still need to be involved if the wider aspirations of the Bill to transform Scotland are to be achieved. While the financial memorandum suggest that costs will be minimal local authority budgets are under severe pressure. Many community bodies will, as research indicates, need support from local authorities in particular to support their bid and the ongoing viability of the project.

UNISON also has concerns about openness and access to information about assets and services once they are outwith local authority control. These concerns have not been addressed. 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.

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<sup>1</sup> 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/>

<sup>2</sup> JRF report Community Organisations controlling assets: a better understanding June 2011

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

The extension of the right to buy and the power to buy derelict and abandoned land even when the owner is unwilling to sell could support communities to make use of land in their areas. This could improve both the “look” of an area and where these spaces are used for anti social behaviour reduce the impact of that behaviour on communities. This also saves money for public bodies like the police who no longer have to deal with this behaviour.

There are though disadvantages for public bodies from such transfers. Firstly they will lose an asset. Many will have earmarked assets for future use or to be sold in order to raise funds for other projects. This will also impact of long-term planning as bodies will not know what requests will be made. Even though public bodies can refuse to transfer an asset the time taken to deal with a request may impact on the timing and costs of projects

There is also the risk to service delivery and maintaining standards if services become fragmented. There is also a risk of higher costs as some of the savings made by economies scale will be lost.

**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?**

It would be easier to comment on this aspect of the Bill if the Equalities Impact Assessment had been published. UNISON is concerned that better educated and connected members of communities will be far more able to make use of the provisions of the bill. This could lead to increasing inequalities rather than achieving its stated outcomes. Giving Communities assets in itself will not bring change: JRF<sup>3</sup> highlight the following among key success factors

“well established community organisations may be able to thrive and grow in this new environment if the right conditions are in place. In disadvantaged areas there may be a lack of capacity and more limited opportunities to generate revenue from community assets. There is a real risk that some communities will be left behind in the asset transfer agenda, representing a missed opportunity that may exacerbate existing inequalities among communities”

**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 Bill needs to be much clearer about protections for those workers who currently deliver services on/in the land and building that community groups will have the right to ask to takeover.

Public bodies should have the right to buy back assets at the original price if a community group decides to sell.

Any groups which deliver public services should also be subject to the same Freedom of Information and Equalities duties as public bodies.

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<sup>3</sup> Community Organisations controlling assets: a better understanding June 2011

**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?**

UNISON is concerned that the Equalities Impact Assessment of the Bill has not yet been published. This makes it very difficult to comment on this question. 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. There need to be measure within the Bill to ensure that women, people with protected characteristics are able to take part in and have a say in the future of public services and that where groups do take over services they are not excluded from those services.

**Conclusion**

UNISON as Scotland's largest public sector trade union has long been a supporter of empowering communities to have a real say in the delivery and design of public services. UNISON is concerned that the Bill does not contain protection for public sector workers or for less powerful and marginalised citizens. We therefore welcome the opportunity to submit evidence to the committee.

**For Further Information, please contact:**

Dave Watson [d.watson@unison.co.uk](mailto:d.watson@unison.co.uk)

Kay Sillars: [k.sillars@unison.co.uk](mailto:k.sillars@unison.co.uk)

Mike Kirby, Scottish Secretary  
UNISON Scotland,  
UNISON House,  
14, West Campbell Street,  
Glasgow  
G2 6RX

0141 342 2819