

Event Report

An Introduction to the Community Empowerment (Scotland) Act

10am – 2pm, 2nd December, 2015

Victoria Quay, Edinburgh

By Roz Corbett, Secretary for the Grow Your Own Working Group

1. Aims

This event aimed to give participants:

- A better understanding of the details of the Community Empowerment Act, what it will mean for them and the groups they can support.
- A better understanding of what information is available for them.
- The opportunity to ask questions of the Bill team and 'experts' in relevant fields, and to feed into future guidance for implementation of the Act.

2. Organisers

This event was organised by the Grow Your Own Working Group (GYOWG), a collaboration of national and regional organisations with an interest in encouraging people to grow their own food in Scotland.

Presentations from:

Marco Biagi, Minister for Local Government and Community Empowerment
David Jamieson, inaugural chair for GYOWG
Hugo Whitakker, Cyrenians
Ian Turner, Scottish Government
Pat Abel, GYOWG chair

Roundtable speakers & facilitators:

Part 3: Participation requests

Ian Turner, Scottish Government (SG)
John Glover, Community Land Advisory Service (CLAS)
Emilie Wadsworth, Central Scotland Greenspace Network Trust (CSGN)

Part 4: Abandoned and neglected land

Dave Thomson, SG
Seamus Connolly, Stalled Spaces
Eve Keepax, Keep Scotland Beautiful (KSB)

Part 5: Asset transfer

Jean Waddie, SG
Linda Gillespie, Community Ownership Support Service (COSS)
Ea O'Neill, Greenspace Scotland

Part 9: Allotments and Food-growing strategies

Frank Strang, SG
Mark Thirgood, Scottish Allotments and Gardens Society (SAGS)
Judy Wilkinson, SAGS
Robin Maclean, SG

Stall holders

Architecture and Design Scotland (AD&S)
Community Land Advisory Service (CLAS)
Community Ownership Support Service (COSS)
Edible Estates

Edinburgh and the Lothians Greenspace Trust (ELGT)
Federation of City Farms and Community Gardens (FCFCG)
Keep Scotland Beautiful (KSB)
Planning Aid Scotland (PAS)
Scottish Allotments and Gardens Society (SAGS)
Scottish Orchards

3. Resources

Costs were covered by ticket sales, which came to a total of £925.
Costs included catering, stationary, expenses and coordination and came to a total of £685
This leaves a balance of £240.

The venue was provided for free by SG.
There is also an estimated in-kind contribution of time from GYOWG members of over 30 days, including preparation and delivery of the event. This is equivalent to £600-£1000.

4. Attendance

74 people attended. A large proportion of those attending were local authority officers, mostly from local authorities within the central belt of Scotland. Other public bodies were represented, including the A&DS, Forestry Commission Scotland, NHS Scotland and Scottish Natural Heritage. Housing Associations, third sector support organisations and community groups also attended.

See appendix A for full list of attendees.

5. Results

The following section includes notes from roundtable discussions and other questions. There were four roundtable discussions looking at different parts of the Act:

- Part 3: Participation requests
- Part 4: Abandoned and neglected land
- Part 5: Asset transfer
- Part 9: Allotments and Food-growing strategies

Each group presented an overview of that section of the Act from the Bill Team, and then there was an opportunity for the group to ask general questions. The group was then asked to come up with a range of opportunities, challenges and barriers in the delivery of the Act. Below is a summary of these conversations from each round table.

Common themes across all roundtable discussions

- Concerns about how to engage and empower communities that aren't usually involved, and a desire that the Act empowers more than those that are already to some degree empowered.
- Ensuring that communities have the capacity to make use of the Act.
- Ensuring that there is funding available to support communities to make use of the Act.
- The valuation process.
- Extension to other public bodies and Arm- Length Executive Organisations (ALEOs).

5.1. Part 3: Participation Requests

Q – What is the difference between Participation Requests and Asset Transfer?

Asset Transfer is about land ownership not just use of land. Participation requests are about enabling a group to be involved in decisions about how land is used and maintained. Asset Transfers are also about exclusive use of the land whereas Participation requests are about many other things (eg use of minibuses). Asset Transfer requires a significant amount of capacity and resources for the applicant group, whereas participation requests don't necessarily – therefore they present a greater opportunity for a wider range of community groups.

Q – Will funders be taking this on board?

This is not yet clear, and it might require some testing. Some funders are now recognising that not all projects operate from a single site, and will work with 10 year management plans which include non-permanent sites.

Q – Aren't communities always consulted?

They're supposed to be, but this is broader and should come from the community themselves.

Q – How is this going to be disseminated to communities?

This is a very good question, and we don't know the answer yet! Consultation on secondary legislation is anticipated in Jan 2016, which will look at timescales and other issues.

Q – What will be the mechanism for valuing service improvement, and how will this affect best value for local authorities?

Opportunities

- Unlike other sections of the Act, Participation Request is new legislation.
- For participation requests 'community' is not defined by geography, but can also be a community of interest.

Challenges

- As the legislation is entirely new (in comparison to Asset Transfer, Allotments etc) it is unclear how many requests may come forward and hard to anticipate how these will play out.
- It is also unclear how private businesses or other bodies affiliated to authorities (Housing Associations) will be included or involved in this, though some wording in the Act refers to bodies "on behalf of the authority" which may include ALEOs.
- Concern that Local Authorities will try a one-size-fits-all approach, which may not be useful as different types of request will require different processes.
- Provision of support to charities is still a very grey area – 3rd party support is likely to be needed as it's difficult for Local Authorities to provide support themselves.
- Potentially lots of possibilities for abuse! Loudest voices putting in unreasonable requests.
- Clarity of roles within the local authority for dealing with participation requests.
- The definition of 'reasonableness'

Barriers

- There are some omissions from the authority list, eg Network Rail and the Ministry of Defence. This is contrary to communities in England and Wales who can contact these public bodies.
- Lack of confidence of third sector organisations.
- Funding that reflects how this will operate.

5.2. Part 4: Abandoned and Neglected Land:

Q - Could a Housing Association be the group to apply on behalf of a community group?

If they want to go through the Right to Buy provisions, then groups must be constituted. Taking ownership of property means groups must be legally competent in order to fulfil owners' responsibilities, e.g. proper disposal of the property if the group ends. Compulsory purchase necessarily has a formal process as it will be in opposition to the owner's wishes. A process of an attempt to purchase out with the legislation is always the preferred starting point even if it is unsuccessful as better results are usually gained through dialogue. Dialogue creates the possibility for a collaborative approach between the owner and a community, e.g. a housing developer and community might work together towards provision of a community garden.

Q – Is there a stronger weighting on the use of the land rather than who owns it?

For the right to buy element, it is not about comparing one use with another, but it is about whether that use is causing harm to the environmental well-being of the community and whether their plans are compatible with removing, or substantially removing the harm. For asset transfer requests, one of the key changes is that the relevant authority must now agree to the request unless there are reasonable grounds for refusing it, and they must state those grounds in full.

Q – Is there a streamlined way to find out who owns the land? How do you find out?

Some Local Authorities have ownership teams who can check land registers. The Scottish Govt. has a register of vacant and derelict land. This should be checked before approaching the local authority. Under the legislation, the name of the owner is essential in order for a purchase to happen. The name of the manager or group who run the land is insufficient. The QLTR, part of the crown office, deals with bona vacantia land (truly ownerless land) and ultimus haeres land (no-one to inherit it)

Q – How much do owner searches cost?

A single interrogation of the property registers costs £3 through the Registers Direct online service (which is focussed on business customers and not available to typical community interests), £20 for an email enquiry or £30 for an enquiry in person at Registers of Scotland's offices. However, particularly when the relevant title remains in the Register of Sasines, a single interrogation is often not enough to provide a definitive answer. Multiple searches may be needed and it may also be necessary to obtain (at further cost) copy deeds from National Records of Scotland. Thus the cost is open-ended, and can easily run into hundreds of pounds.

Q – What about leasing?

Part 4 is specifically about purchase, not leasing, but a lease might be obtained through the asset transfer provisions of the Act.

Q – Is there a time frame for action on a site?

There is no time frame associated with bringing land into use once it is in community ownership, although their plans should indicate what this is. Once an application is underway there are specific timings for different parts of the right to buy process.

Opportunities

- The Act is an incentive to aid dialogue and discussion and develop positive partnerships
- Bring land into productive use
- Improving biodiversity – some areas of 'neglected' land are wildlife havens and this could be an opportunity to promote and improve biodiversity through community ownership
- Improving amenity in local areas

Barriers

- Securing funding, especially for costs such as land register fees, planning fees, etc. and if purchase is to be at market value
- Inequalities – areas where people need more support to lead on purchase
- Lack of knowledge (of rights and the act) and inaccurate perceptions of various parties (contamination, difficulty of process)
- groups not being constituted
- timescales from idea to access being long
- planning applications

Challenges

- Communities being in a position to use the act effectively
- Constituting community groups – archaic system that is hard to engage some groups with
- Communities taking on risks associated with ownership
- Identification of land ownership
- Establishing the land is fit/safe for community growing
- Communities knowing about the opportunities and being clear about their responsibilities and duties
- Succession and long-term interests of groups
- Subjectivity of provisions – clarification – definition
- Getting secondary legislation clear

5.3. Part 5: Asset Transfer

Asset transfer is the core of the CEA. It is about use of land - not just ownership - which is important to community growing. Please see the following website for more information:

<http://www.gov.scot/Topics/People/engage/AssetTransfer>

Q – What guidance will there be in relation to asset valuation with respect to community benefit?

There is no guidance at the moment. The Scottish Government is setting up a short-term working group to consider the issues around valuation and assessment of non-financial benefits and produce guidance for relevant authorities and community bodies. Guidance will draw upon learning from earlier cases, and from academic research, and will look at intangible benefits v market value. There will not be an assumption that the lease / sale will be at the lowest possible value – this is a local decision.

Q – Is the intent of the community empowerment act and public service finance manual one and the same or are they in tension with one another?

The Scottish Public Finance Manual (SPFM) states clearly that: “Public bodies should consider the disposal of assets at less than Market Value to achieve wider public benefits consistent with the principles of Best Value. This includes considering the acquisition of assets by community bodies, where appropriate.” It is likely that the SPFM will be further amended to make specific reference to the requirements of the Community Empowerment Act when it comes into force.

Q – When determining the price of older buildings, should the costs of building repairs be off set in the price?

Yes, this has been the practice in the past.

Q – Are assets restricted to just land and buildings, or does it include facilities, eg. Library stocks, computers, intellectual property?

Asset transfer requests apply only to land and buildings owned or leased by the listed relevant authorities.

Q – Who are the relevant authorities?

These include “Scottish Ministers”, which means Transport Scotland, Historic Scotland, Scottish Natural Heritage, Scottish Environment Protection Agency, National Park Authorities, Scottish Enterprise, Highlands and Islands Enterprise. It does not include universities, but does include FE colleges.

Q – What about arms-length LA bodies like cultural trusts?

There is currently an inquiry into this as there is scope to include them in the Act.

Q – Are large environment NGOs included in the Community Transfer Body definition?

Some national NGOs may meet the definition of a community transfer body, it will depend on their constitution and how they might define the community they represent.

Q – How are competing community interests to be dealt with?

This would be a case of assessing the benefits of different proposals. Local authorities should develop asset transfer policy that is transparent, setting out criteria/scoring and an appeals process.

Q – What if there is conflict between a community of interest and a geographic community?

This depends on the views of local people, so the geographic community is more likely to be successful.

Q – How will public access rights be dealt with?

Part of the lease / transfer would include a measure for this as equality is an issue to be taken into account.

Q – What does a bid look like? Will there be any support or resources available to community groups?

There will probably be an expression of interest (stage 1) and business plan (stage 2), and support to build up the capacity of community groups during this process.

Q – How are Common Good responsibilities to be managed?

The asset transfer provisions do not make any changes to the rules on Common Good. A local authority would need to consider the Common Good status of the property in deciding whether or not to agree to the asset transfer request. If they decided the property should be sold to the community body, and it was inalienable Common Good, they would then have to seek the consent of the court to dispose of it. Alternatively they could propose other arrangements to the community body that would not affect the Common Good status, such as a lease or management agreement.

Barriers

- Communities that need this most don't have the resources or capacity to take assets through to lease or ownership
- The mind-set in some local authorities and public bodies is not shifting quickly enough
- ALEOs need to be included
- The cost of land, legal fees and other project development costs for community groups

Challenges

- To build interest, understanding of rights and responsibilities, skills, and social capital in communities – otherwise we risk empowering the already empowered
- Assessing the value of the benefit, particularly how to balance a capital receipt with longer term revenue benefits.
- How local authorities in urban areas can balance out the capital receipt available for a site against the social value a community group is providing and that they are able to pay.
- How will competing interests be resolved between two different communities (eg a community group of locality and a community group of interest)
- How to preserve the public right of way to a piece of land if a community put an Asset Transfer request into this.

Opportunities

- Buildings at risk get positive re-use
- Further community ownership of woodlands under the National Forest Land Scheme.
- Management of land and greenspaces in a more sustainable, creative and inclusive way.
- A new way of public bodies, communities and intermediaries to work together, and further to this, consortium bids involving a partnerships of different organisations with different skills and capacity.
- Could help meet the demand for allotments
- Greater security for community groups through ownership
- Using different methods to value assets

5.4. Part 9: Allotments

Challenges

- Identifying land
- Sites needed in geographical locations. Animosity from plot-holders and local community towards plot-holders travelling from outside the area. Ideally people should have an opportunity to cultivate a plot within their neighbourhood. However in the interim encouragement of plot-holders meeting and sharing experience should reduce conflict
- NIMBYism – local objection to proposed sites. This could be dealt with by bringing together people who want plots and those affected by sites to discuss concerns and different designs for site - huts (or perhaps no huts), mixed use (play areas, siting areas if required) , inclusion local groups (schools, health groups, Doctors referrals etc.)
- Bringing forward more sites creates an increased demand for plots.
- Pressures from different groups for land - In Food Growing Strategy identify all land suitable for growing.
- Waiting list management and Data collection, especially when a local authority does not have a dedicated officer to deal with allotments there may be uncertainty as to where responsibility lies. It may be possible to bring together different departments to decide responsibilities.
- Definition of 'reasonable steps' - these will be clearly spelled out in Guidance before Part 9 of the Act is implemented.
- Building community capacity particularly for devolved management - bring together community development workers, and plot-holders; community development worker to develop training and communication between community gardens and allotments, particularly relevant for deprived areas; set up visits and conversations between plot-holders on local site in the authority area. Horticultural skills development many new plot-holders have no experience of growing: - training from local authority (see section 124), mentoring from other plot-holders.

Barriers

- Area of land available for sites, especially in urban areas can be small so full plots may not be possible. Do what you can - offer smaller plots and seek to satisfy those wishing a larger area as close to their dwelling as possible. Need all possible land to be cultivated.

Opportunities

- Local authorities can work with communities to identify land, eg: Edinburgh Council produced a questionnaire for all those on the waiting list, Respondents suggested possible land for new sites and this will be considered as well as the land identified earlier.
- Recognise that the number of plots on a given site may vary with time. Plot-holder may require different sizes of plots at different times in their lives - Design sites so there are a variety of plot sizes enabling plot-holders to up and down size. In particular that plots may be halved or joined together as required
- Independent sites (private or owned by the association) are not included under the Act but they contribute to the allotment provision in an area and new independent sites would reduce the number on the authority waiting list. - try to work with independent sites, recognising mutual benefits.
- Devolved management, where there is capacity and interest from allotment holders, and a clearly set out constitution.
- Dissemination of good practice: Explore whether there is a role for Community Food Champions to disseminate good practices and support new plot- holders.

Recommended Actions from the roundtable discussion on allotments:

- Set up an email list and discussion Forum for all those at this meeting.
- 2. Get the key players round the table to discuss further. This should be done nationally and then for individual local authorities.
- 3. Circulate information so those officers responsible for allotments can write briefing papers for their managers and elected members (remember there will be a fear factor re money, land)
- 4. Provide exemplars of good practice in management of allotments for officers and association members (including leases). These examples should not be prescriptive but offer diversity of approaches that can be tailored to the needs of individual areas
- 5. Communicate, consult, talk with all players. Create forums to bring together all those involved with allotments at local authority levels.

6. Reactions

A survey was circulated to participants following the event. 23 people have responded, and the survey is still open at: <https://www.surveymonkey.co.uk/r/7BRGLPN>

Has this event helped you to understand the details of the Act?

All respondents said that the event had increased their understanding of the Act, though two respondents stated:

"There is still a lot to be clarified"

"We all await the release of final guidance on the matter"

What was the most useful part of the event?

"Workshop and discussion with other local authority officers"

"Info from the Minister provided a useful context and the workshop sessions provided a good opportunity to discuss issues and develop shared understanding. The Presentation on indicative timescales was very useful"

"Being able to ask questions of experts"

What was the least useful part of the event?

"The feedback from the workshop sessions could have been shortened"... "it was quite hard to follow the detail".

"The Cyrenians case study was very interesting but I didn't quite see how it related to the Act since they don't seem to be intending to use any of the powers in the near future"

"Having the stands split across two areas"

Is there anything that you would add or change?

"It would have been beneficial to have been able to attend more than one workshop"

"Perhaps if held in smaller groups this may have provided a clearer understanding of the Act"

"Make it a full day with the option to go round two workshops"

"Run similar session on other parts of the Act"

"Possibly hold separate events on the various independent parts of the Act rather than trying to over all in one day at the same event. Then the relevant people could attend and concentrate on their own particularly relevant subject matter".

"More on finance – not a lot said about how this will work with procurement etc."

"More background on the Act and the purpose of the Act at the beginning"

Would you be interested in attending future events on the following topics?

Topic	No. of responses
Allotments	12
Food Growing Strategies	8
Participation requests	5
Asset Transfer	5
Community Right to Buy	4

Any further comments?

"Need a more proactive approach from the GYOWG"

"Further events would be very useful"

"Good networking with other practitioners exchanging and sharing information"

"The workshops could have been more structured, rather than an open floor discussion – smaller groups and more focus"

7. Learning points & Future Development

This event was beneficial for participants to consider the implications of the Act in relation to the Grow Your Own Agenda. There are several parts of the Act that have the potential to increase community involvement and empowerment in this area.

There is a clear appetite from participants for future events of a similar kind, with more focus on specific areas of the Act. It would be beneficial to host these either:

- during the consultation period on guidance notes and secondary legislation, in order to gain feedback on these.
- following finalisation of guidance notes and secondary legislation, in order to disseminate information to relevant parties.

The GYOWG is keen to work with the Bill team to develop these.

Events with community sector?

Other resources etc?

Ways of communicating with participants and other LA officers and other public bodies – especially those outwith the central belt for which travel to such events is difficult.

APPENDIX A: List of participants

First Name	Last Name	Job Title	Current Employer
Emma	Halliday	Project Manager	A&DS
George	Davidson	Grounds Maintenance Officer	Aberdeen City Council
Patricia	Wilson	Project Support Officer	Aberdeen City Council
Karin	Chipulina	community development worker	Carr Gomm
Kathy	Knox	Senior Land Services Officer	Clackmannanshire Council
Mags	Hall	Trustee	Common Good Food
John	Glover	Community Land Advisor	Community Land Advice Scotland
Nicky	Donald	Advisor	Community Ownership Support Services
Heather	Clinton	Legal Advisor	COSS
Emilie	Wadsworth	Biodiversity and Heritage Officer	CSGNT
Hugo	Whittaker	Community Gardens Manager	Cyrenians
Kate	Treharne	Community Allotment Officer	Dundee City Council
Peter	Sandwell	Principle Environment Development Officer	Dundee City Council
Donnie	McManus	Parks and Cemeteries Manager	East Renfrewshire Council
Mark	Brand	Environment Department	East Renfrewshire Council
Andrew	Corey		East Renfrewshire Council
Greig	Robertson	Director	Edible Estates
Ross	Woodside	Project Programme Manager	Edinburgh and Lothians Greenspace Trust
David	Jamieson	Head of Parks and Greenspaces	Edinburgh City Council
Bob	McAllister	Contracts Manager	Edinburgh Council
Ian	Woolard	Allotments Officer	Edinburgh Council
Sarah	Murphy	Business Manager	Edinburgh Council
Rob	Ford	Community Gardening Development Officer	ELGT
Ian	Edwards	Environment coordinator	Falkirk Council
Ally	Hurcikova	Scotland Development Worker	FCFCG
Roz	Corbett	Scotland Development Manager	FCFCG Scotland
Clare	Hill	Parks Development Officer	Fife Council
Iain	Anderson	Community Food Development Worker	Fife Council
Peter	Duncan	Allotment Officer	Fife Council
Hassan	Waheed	Volunteer	Food Sharing
James	Ogilvie	Head of Social & Planning Policy	Forestry Commission Scotland
Malcolm	Wield	Social Forestry Manager	Forestry Commission Scotland
Alexander	Paterson	Natural Environment Technician	Glasgow City Council
Alex	Schlicke	Chair	Greener Leith
Ea	O'Neill	Programme Manager	GreenSpace Scotland
Kevin	Aiken	estate ranger	Harmeny School
Pauline	Megson	Project Development Manager	Historic Environment Scotland
Josie	Isles	Programme Officer (DRILL)	Inclusion Scotland
Eve	Keepax	Food & the Environment DO	Keep Scotland Beautiful
Juliette	Camburn	Community Projects Officer	Keep Scotland Beautiful
Gillian	Jennings	Health Improvement Officer	NHS Ayrshire and Arran
Caitlin	Hamlett	Sustainability Manager	NHS Scotland
Jennifer	Lees		North Lanarkshire Council

Vicky	Abernethy	Assistant Business Manager Greenspace Development	North Lanarkshire Council
Pat	Abel		Nourish / Transition Edinburgh South
Marie-Anne	Piaget		Nourish
Victoria	McCormick	Community Development Officer	Partick Housing Association
Anne	Krippner	Volunteer	PAS
Blythe	Smith	Volunteer	PAS
Robert	King	Volunteer	PAS
William	Otchere-Darko		PAS
Diane	Cassidy	Senior Community Capacity Builder	Perth & Kinross Council
Liz	Stewart	Development Manager	Royal Horticultural Society
Judy	Wilkinson	Member	SAGS
Jenny	Mollison		Scottish Allotments and Gardens Society
Mark	Thirgood		Scottish Allotments and Gardens Society
Dave	Thomson	Head of Community Land	Scottish Gov
Frank	Strang	Food, Drink and Rural Communities Community Planning and Empowerment Team	Scottish Gov
Ian	Turner		Scottish Gov
Jean	Waddie	Community Empowerment	Scottish Gov
Robin	McLean	Food and Drink Policy Officer	Scottish Government
Jason	Rust	Legal Adviser	Scottish Land & Estates
Alan	Cameron	Communities Officer	Scottish Natural Heritage
Richard	Davison	Strategic Manager	Scottish Natural Heritage
Matt	Webster	Food for Life Scotland Project Officer Acting Open Space and Technical Support Team Leader	Soil Association Scotland
David	Lowdon		South Ayrshire Council
Mira	Bogicevic	Open Space and Technical Officer	South Ayrshire Council
Jo	Gillies	Senior Landscape Officer	South Lanarkshire Council
Pauline	Fletcher	Community Initiatives Manager	Southside Housing Association
Donna	Mills	Projects Officer	Stirling Council
Pauline	Roberts	Community Publicity and Development Officer	Stirling Council
Becky	Plunkett	Community Green Space Office	West Lothian Council
Angus	Mackay	Legal Associate	
John	Hancox		