

## Community Empowerment (Scotland) Bill

Consultation response from Voluntary Action Scotland

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Voluntary Action Scotland (VAS) is the umbrella body for Scotland's network of 32 Third Sector Interfaces (TSIs). We work with TSIs (unitary agencies and partnerships of Councils for Voluntary Services, Volunteer Centres and Social Enterprise Networks) around three key themes; advocating on their behalf, supporting practice development and co-ordinating with them to help deliver stronger and more resilient communities. An important aspect of the role of VAS is to better inform the Scottish Parliament, Scottish Government and the statutory sector of the challenges and opportunities TSIs, the local third sector and local communities face. We aim to work with stakeholders to ensure that TSIs can play their role in supporting communities and delivering a consistent and valued impact across Scotland.

VAS welcomes the opportunity to contribute to the consultation on the Community Empowerment (Scotland) Bill. We see a lot of potential within this Bill and believe that if amended appropriately it can have a beneficial effect on the communities our members work with on a day to day basis. At the core of our response is the theme of co-production and co-design, this thread runs throughout our response and is central to empowering communities. We believe that the third sector and TSIs in particular have an important role to play in the successful implementation of this Bill.

### Consultation on the Community Empowerment (Scotland) Bill

#### 3.1 Community Right to Request Rights in Relation to Property

Q1 Do you agree with the definition of community body at section 1?

Yes  No

Do you have any changes to suggest?

The definition given is too limited and perhaps needs to be broadened to include the likes of SCIOs which are mentioned elsewhere in the Bill. There are also concerns over where social enterprises would fit under this definition of a community body.

At 1 (6) amend to include governing documents not just articles of association.

Q2 Do you agree with the list of public bodies to be covered in this Part at Schedule 1 (Annex C page 21)?

Yes  No

What other bodies should be added, or removed?

Whilst we support the list of public bodies given we would ask that consideration is given to

the inclusion of housing associations and arms length organisations (often referred to as ALEOs) whereby they are utilising public monies to carry out a function akin to that of a public body (but not necessarily delivering a contracted service on behalf of a public body).

Consideration should be given to where common good land, not owned by the local authority but managed by trustees, fits into this and whether at a local level provisions should be made to treat these as public bodies.

- Q3 What do you think would be reasonable timescales for dealing with requests, making an offer and concluding a contract, in relation to sections 5(6), 6(2)(c) and 6(6)?

Whilst VAS does not advocate for any particular timescale we would ask that the protection of stakeholder interests must be the focus when determining a timescale. In doing so consideration must be given to the amount of time it takes to get funding and undertake community capacity building.

- Q4 Do you agree that community bodies should have a right of appeal to Ministers as set out in section 8?

Yes  No

Are there other appeal or review procedures that you feel would be more appropriate?

We agree that community bodies should have the right to appeal to Ministers however have concerns that where an asset transfer request is refused by a local authority that this is exempted from the review process. We believe there should be an appeal process available regardless of which relevant authority refused the initial application.

- Q5 What form of appeal or review processes, internal or external, would be appropriate in relation to decisions made by local authorities and by Scottish Ministers?

We believe that an independent tribunal body, perhaps involving the ombudsman and local and national representation, along the lines of the CLD standards council tripartite panels may provide the necessary independence and scrutiny to review cases appropriately. In doing so they must consider whether the relevant authority has followed due process and check against the principles of the Bill.

Further to this we would seek clarification on whether provision will be made to allow a 3<sup>rd</sup> party to challenge the decision. This would be in cases where the complainant considers the decision to lack transparency, accountability or any other defined procedural criteria.

Q6 Do you have any other comments about the wording of the draft provisions?

The provisions at present do not provide the necessary clarity both in terms of purpose and wording. We would be keen to see co-production and co-design implicit throughout the Bill and see better links between this section and the asset transfer section. We also find the separate definitions of community body used in the Bill to be unhelpful and potentially confusing.

In order to support community bodies in making the most of the opportunities within this Bill it is important that support and information is readily available and fully accessible to all members of the communities involved. We would like to see some reference to the Principles of Inclusive Communication in the Bill as well as in any accompanying guidance.

Q7 What costs and savings do you think would come about as a result of these draft provisions? Please be as specific as you can.

In order for this piece of legislation to be a success it is important to minimise the cost to community bodies, therefore any unreasonable associated costs should be met by public bodies.

In order to support community bodies in making the most of the opportunities within this Bill it is important that support and information is readily available. Third Sector Interfaces may provide an effective locus to provide this support and encourage local communities to get involved and take advantage of this process. If resourced appropriately the TSIs could play a significant role in supporting the creation of properly constituted community bodies for the purposes of community ownership/asset transfer of property.

When discussing costs and savings we must consider the long term impact of this legislation. Taking a whole place approach, if effective in empowering communities this Bill should contribute towards cost savings in a multitude of areas in terms of preventative spend. This is very much in line with the Christie Commission recommendations.

### 3.2 Community Right to Request to Participate in Processes to Improve Outcomes of Service Delivery

Q8 Do you agree with the definition of community body at section 11?

Yes  No

Do you have any changes to suggest?

There was concern raised by our members around section 11 (2), in particular section 11 (2)(d). It was noted that 'a description of the public benefit' is not common to all constitutions, thus could lead to a need for significant alterations to a huge number of already functioning community bodies (as defined). There were also questions raised around how the public benefit would be defined and who defines it.

Q9 Do you agree with the list of public bodies to be covered in this Part at Schedule 2 (Annex C page 21)?

Yes  No

What other bodies should be added, or removed?

We would refer to the VAS response to Q2 of this consultation and reiterate these concerns for Q9

Q10 Do you agree with the description at section 13 of what a participation request by a community body to a public service authority should cover?

Yes  No

Is there anything you would add or remove?

There was concern amongst members that the 'bar is set too high' for having a participation request acknowledged and accepted. This could make it difficult for more general community organisations to participate.

The system cannot be overly bureaucratic and should encourage participation where possible, consideration should be given to how co-production and co-design can be achieved throughout this Bill. Form must not undercut function in this regard.

Significant emphasis on the policy memorandum in translating the legislation into manageable language to ensure it is as accessible as possible. Again there should be reference to the Principles of Inclusive Communication within the policy memorandum. There needs to be an emphasis on involving seldom heard groups and ensuring they have the same opportunities to participate.

Q11 Do you agree with the criteria at section 15 that a public service authority should use when deciding whether to agree or refuse a participation request?

Yes  No

Are there any other criteria that should be considered?

We would reiterate the need for a whole systems approach with an emphasis on the Christie Commission recommendations. We would urge flexibility and a presumption towards agreeing to participation requests, overly strict criteria will discourage groups involvement.

We would also seek the inclusion of social impact/social cohesion/social value in the criteria.

Q12 Do you have any other comments about the wording of the draft provisions?

We refer to the answer given for Q6 and reiterate these points here.

We hope these draft provisions can help to move behaviour to a more participatory landscape as a matter of course, with the provisions providing a legislative backstop. This can be a driver to the co-produced outcomes and post-Christie Commission environment we believe should be the norm.

- Q13 What costs and savings do you think would come about as a result of these draft provisions? Please be as specific as you can.

We refer to the answer given to Q17 and reiterate these points here.

We would also add that community development support is essential to create a culture where communities feel confident enough to ask to be heard, thus enabling all communities to take part in the process on an equal basis.

### 3.3 Increasing Transparency about Common Good

- Q14 Do you think the draft provisions will meet our goal to increase transparency about the existence, use and disposal of common good assets and to increase community involvement in decisions taken about their identification, use and disposal?

Yes  No

What other measures would help to achieve that?

Transparency is to be welcomed and VAS would suggest that 24(3) is replaced with the same requirements as 22(8)

VAS supports advertising and communications of issues relating to the common good register to be undertaken in line with the current system for planning applications. This would advertise changes to common good property to the wider community, again increasing transparency and accountability. We don't believe 22(5)(b) goes far enough in trying to reach all that may have an interest.

VAS believes that consideration should be given to how community bodies can challenge what is actually on the common good register. This would help to ensure local authorities don't omit certain pieces of land.

### 3.4 Defective and Dangerous Buildings – Recovery of Expenses

- Q15 Do you agree that the cost recovery powers in relation to dangerous and defective buildings should be improved as set out in the draft Bill?

Yes  No

- Q16 Do you agree that the same improvements should apply to sections 25, 26 and 27 of the Building (Scotland) Act 2003?

Yes  No

## Chapter 4 - Detailed Policy Proposals

### 4.1 Improve and extend Community Right to Buy

Q17 The Scottish Government proposes to extend right to buy to communities in all parts of Scotland, where the Scottish Government is satisfied that it is in the public interest. Do you agree with this proposal?

Yes  No

Are there any additional measures that would help our proposals for a streamlined community right to buy to apply across Scotland?

VAS strongly supports the inclusion of this section in the final Bill when introduced to Parliament.

Q18 Do you think that Ministers should have the power to extend “registrable” land” to cover land that is currently not included as “registrable land”?

Yes  No

What other land should also be considered as being “registrable”?

Considerations need to be made to how to incorporate urban land and the potential opportunities/problems therein.

Q19 Do you think that there should be a compulsory power for communities to buy neglected or abandoned land in certain circumstances?

Yes  No

What should these circumstances be?

In an urban setting particularly, neglected or abandoned land can have a severely negative impact on a community. It can prove to be a barrier to economic development in a locality as it discourages investment in surrounding areas. This can lead to a multitude of issues for the affected communities including ones of esteem.

Where it can be demonstrated that neglected or abandoned land is having a negative impact on the community, as determined by a local authority or Scottish ministers, compulsory purchase should be an option. This would also encourage owners/potential owners not to purchase land speculatively or in order to block a rivals proposed development.

Q20 How do you think this should work in practice? How do you think that the terms “neglected” and “abandoned” should be defined?

Q21 Do you think that the criteria to be met by a community body in section 38(1) of the Act are appropriate?

Yes  No

Do you think that there should be additional criteria? Please set out what changes or additions should be made to the criteria.

Q22 Do you think that the information that is included in the Register of Community Interests in Land is appropriate?

Yes  No

If not, what should that information include?

Q23 How could the application form to register a community interest in land be altered to make it easier to complete (eg, should there be a word limit on the answers to particular questions)?

A word limit may be useful to provide focus an clarity

Should the questions be more specifically directed to the requirements of sections 36(2) and 38(1) of the Act?

Yes  No

Do you have any other suggestions?

Q24 Do you agree that communities should be able to apply to register an interest in land in cases where land unexpectedly comes on the market and they have not considered using the community right to buy?

Yes  No

If so, what changes should be made to section 39 to ensure that such communities can apply to register a community interest in land?

Q25 Do you agree that the process to re-register a community interest should be a re-confirmation of a community interest in land?

Yes  No

Q26 Do you think that the community body should be asked to show that its application is (1) still relevant, (2) has the support of its “community”, and that (3) granting it is in the public interest?

Yes  No

Q27 What do you think should be the length of the statutory period for completing the right to buy, taking into account both the interests of the landowner and the community body? Please explain the reasons for your proposal.

Considering previous responses stating the current 7 months is too short, the statutory period should be extended to 12 months. This presumes that the Minister makes their decision at the same time as present, allowing additional time following the Ministers decision to complete the purchase. This removes the need for negotiation of timescales between landowner and community body, removing a potential burden from both.

Q28 Do you think that some of the tasks within the right to buy (such as valuation, ballot etc) should be rearranged and the timescales for their completion changed in order to make the best use of the time available within the right to buy? Please set out what changes you think should be made and why.

Q29 Do you agree that Scottish Ministers should organise the undertaking of a community body’s ballot and pay its costs.?

Yes  No

If you disagree, please provide your reasons.

VAS agrees with this proposal as it removes a potential burden, both financially and intellectually, from community bodies and provides independence and transparency to the process. However, it may increase bureaucracy and timescales so needs to be managed effectively.

Q30 Should Scottish Ministers notify the ballot result to the landowner?

Yes  No

Please explain your reasons.

Again, this would help improve transparency and accountability

- Q31 Do you think Ministers should develop a pro-forma for community bodies to set out their plans for the sustainable development of land and community?

Yes  No

Please give reasons for your view.

Improves accessibility for community bodies and 'levels the playing field'. Makes it easier for both community bodies and the Scottish Government in terms of the decision making process.

- Q32 Do you agree that community bodies should be able to define their "community" in a more flexible way by the use of either postcodes, settlement areas, localities of settlements, and electoral wards, or a mixture of these, as appropriate?

Yes, we would encourage flexibility to ensure maximum reach of legislation. We are well aware of the difficulties in defining a community and therefore support the Scottish Government in investigating this further.

- Q33 Are there any other ways that a "community" could be defined?

As with question 32 we would be happy to support the Scottish Government to investigate further

- Q34 Do you agree that other legal entities in addition to the company limited by guarantee should be able to apply to use the community right to buy provisions?

Yes  No

- Q35 Do you agree that SCIOs should be able to apply under the provisions?

Yes  No

- Q36 What other legal entities should be able to apply under the community right to buy provisions – and why?

Q37 Do you agree that Ministers should only have to “approve” the changes to Articles of Association for community bodies that are actively seeking to use or are using the community right to buy?

Yes  No

Q38 Do you think that the length of a registered interest in land should remain as five years or be changed? If it should be changed, how long should it be – and what are your reasons for making that change?

Q39 Do you agree that the valuation procedure should include counter representations by the landowner and community body?

Yes  No

If you disagree, please give your reasons for your decision.

Q40 Do you think that there should be a provision to deter landowners from taking the land off the market after they have triggered the right to buy?

Yes  No

Please explain your reasons.

Q41 Do you think that there should there be greater flexibility in a community body’s level of support for a right to buy in the ballot result than is currently permitted?

Yes  No

Q42 Do you think that the ballot result should focus on a sufficient amount of support to justify the community support to proceed with the right to buy the land?

Yes  No

If yes, please explain how secured community support should be measured

We believe that a figure of 50% turnout is too high, however also understand that in order for a community right to buy to have legitimacy there needs to be some lower boundary to ensure that an unsupported community right to buy occurs purely through apathy.

We would support the suggestion in 114 that level of ‘no’ votes also be considered.

Q43 Do you agree that community bodies should be able to submit evidence to Ministers in support of their ballot result where they believe that their ballot has been affected by

circumstances outwith their control?

Yes  No

- Q44 Do you think that Scottish Ministers should be able to ask community bodies for additional information relating to their right to buy “application” which Ministers would then take into account in considering their right to buy “application”?

Yes  No

Please explain your reasons.

By asking for additional information at this stage can prevent uncertainties at a later stage, thus ensuring a smoother movement through the application process. We do, however, consider 7 days to be too short a time to turn round information considering other commitments of members of the community bodies and would ask this be extended to 10 working days.

- Q45 Do you think that Ministers should be able to accept an application to register a community interest in land which is subject to an option agreement (on part or all of the land)?

Yes  No

- Q46 If there is an option agreement in place, do you think that the landowner should be able to transfer the land as an exempt transfer while there is a registered interest over that land?

Yes  No

Please explain your answer.

If the option agreement was in place then it can be an exempt transfer but only in accordance with the terms of the option agreement – which terms should be recorded with the Register of Community Interest in Land, though perhaps it could be a confidential document available only to the Keeper. By allowing the registration of interest in such circumstances, if that option agreement lapses within the period of registration, the community’s right to buy would then take precedence. This would avoid the possibility of landowners arranging serial option agreements on the same property to obstruct communities from registering an interest.

- Q47 Do you think that the prohibition on the landowner from taking steps to market or transfer the land to another party should apply from the day after the day on which Ministers issue the prohibition letter rather than the day when the owner/heritable creditor receives the notice?

Yes  No

Please explain your answer.

Creates greater accountability and provides safeguards against the landowner placing the land on the open market at this stage.

- Q48 Do you agree that public holidays should be excluded from the statutory timescales to

register a community interest in land and the right to buy?

Yes  No

Q49 Do you agree that where a landowner makes an “exempt” transfer, this should be notified to Scottish Ministers?

Yes  No

If you disagree, please provide reasons for your decision.

Q50 Do you agree that community bodies and landowners should notify Scottish Ministers of any changes to their contact details (including any registered office)?

Yes  No

Q51 Do you think that Ministers should monitor the impact of the community right to buy?

Yes  No

How do you think that monitoring should be undertaken and what information should Ministers seek?

Ministers should carry out individual case studies in areas that have undertaken community right to buy and asses in a quantitative and qualitative manner to understand their impact. This information could prove useful for other community bodies considering undertaking community right to buy.

However, this should not be a statutory requirement for each transfer but carried out on an ad hoc basis.

Should the monitoring process be a statutory requirement, including provisions for reporting?

Yes  No

#### 4.2 Strengthening Community Planning

Q52 What are your views on our proposals for requiring a CPP to be established in each local authority area, and for amending the core statutory underpinning for community planning to place stronger emphasis on delivering better outcomes??

The strengthening of the position of CPPs could be valuable in ensuring that CPPs are regarded as a locus for strategic community focussed planning and decision making. However ‘delivering better outcomes’ alone is insufficient to addressing the outcomes communities would wish to see. An outcome focus is important but better outcomes

could still be on the terms of statutory partners rather than the terms of the wider community. In order to bend expenditure and decisions toward those outcomes a question may still arise over un-changed governance arrangements in statutory bodies. Without clear authority and accountability a CPP could still be hampered in changing the focus of expenditure and decisions.

VAS would also suggest that an independent chair for the CPP would prove valuable and that the core statutory underpinning for CPPs if amended as suggested should also be amended to require that the CPP itself works in a way that is demonstratively participatory and empowering. Statutory guidance itself could also then establish expectations on demonstrating how co-produced and co-designed approaches have been effected without prescribing the specifics of these. VAS appreciates that the proposed duties may be an alternative means to such a focus however.

- Q53 What are your views on the core duties for CPPs set out above, and in particular the proposal that CPPs must develop and ensure delivery of a shared plan for outcomes (i.e., something similar to a Single Outcome Agreement) in the CPP area?

A shared plan for outcomes would be highly valuable. This must however demonstrate how strategic community driven outcomes are being met and identify how the community has been engaged in establishing those outcomes and how the CPP will be accountable for outcomes and progress. In particular as well as the very welcome duty on community engagement we would also suggest that two of the duties are strengthened as follows;

“Agree common and shared outcomes for the CPP areas with demonstrable community participation”, and

“Ensure community involvement in the scrutiny of the delivery of agreed priorities and the effectiveness of community planning in the area” (instead of “report to communities and other stakeholders on the delivery of agreed priorities and the effectiveness of CP in the area”).

VAS would also suggest that the national standards for community engagement and community development are given a statutory basis such that statutory guidance can convey expectations to develop strong participatory and deliberative processes, for example a citizen’s jury to provide part of the scrutiny process for CPPs.

- Q54 Do the proposed duties of the CPP support effective community engagement and the involvement of the third and business sectors?

Yes  No

What other changes may be required to make this more effective?

At Q53 we’ve addressed how the duties beyond the specific community engagement duty can be strengthened to support effective community involvement.

The commitment to “consult and engage with the third sector and the business

community on the outcomes to be achieved and how they can be best delivered” is also welcome. However the third sector is already a community planning partner with the Third Sector Interface at the community planning board table and then facilitating third sector involvement at other stages / forums. The challenge in those situations is parity of esteem for a sector that has considerable assets to bring to local challenges. So VAS would suggest that framing this in terms of involvement and parity of esteem would be more effective. The duty could read better as “The CPP should regard the third sector as a full community planning partner”. We would add that as well as barriers of parity of esteem, unlocking the assets of the third sector is hampered by capacity to be involved and relatively limited financial support to ensure involvement could be transformative.

Just as important as the duty itself will be how community planning partners utilise co-production and co-design throughout the service design and delivery process. Doing so will ensure that the assets of the third sector and wider community can be maximised in the interest of community outcomes. VAS suggests that statutory guidance conveys the requirement that such a way of working is reflected throughout service design and delivery.

Q55 How can we ensure that all relevant partners play a full role in community planning and the delivery of improved outcomes in each CPP area? Do the proposed core duties achieve that?

Yes  No

What else might be required?

VAS believes that the core duties on CPP partners will help. However, we are concerned that without an amendment to governance arrangements there may not be the intended impact. If the employees of a public body ultimately still report up to senior management boards of their organisation with the hurdles of finance and legal teams along the way then it is hard to see how decisions might change. We appreciate this is a substantial area and points to the need for a whole systems approach which embodies more shared governance that is more directly accountable to the community as we have described elsewhere. If this is unachievable in this bill then we would welcome the opportunity to contribute to that wider re-shaping agenda in the future.

One particular suggestion that may assist however is that at point 158. In particular ‘considering’ the agreed outcomes each CPP is seeking to achieve should be far stronger and focussed around how they can demonstrate how they are progressed or met.

In terms of ensuring the third sector can play a role we would re-iterate the call for limited financial backing to maximise the wider potential contribution of the third sector. In statutory guidance to back up the duty “to commit resources to the delivery of that plan” the Scottish government could require greater demonstration of how cross-sectoral preventative and co-produced approaches are being pursued.

Q56 What are the respective roles of local elected politicians, non-executive board members and officers in community planning and should this be clarified through the legislation?

Clarification of these roles would be valuable. Though VAS is unable to clarify these specifically we could see a benefit in local elected politicians scrutinising the CPP in terms of how they have involved the community and driven outcomes accordingly. We would suggest that greater clarity of all roles in community planning would be beneficial.

- Q57 Should the duty on individual bodies apply to a defined list of public bodies – if so, which ones? Or should we seek to take a more expansive approach which covers the public sector more generally?

The duties on public bodies stated are helpful but much of what we have suggested around community involvement should apply across public service in Scotland and again a whole systems approach which looks at how our public services work, structurally and culturally, with communities would be beneficial. We are concerned in particular that health and social care integration appears to be developing separate from much of the intent and requirements under this legislation when in fact a shared focus on community driven outcomes requires all partners to play a role.

Specifically we would further add that Scottish Government may need to consider 'function' rather than 'form'. We are concerned that for example ALEOs – despite performing 'public-like' functions – may not be subject to the same expectations as statutory partners in this bill. We appreciate the challenge in achieving this in this bill and would urge the Scottish Government to review the situation with regards arms-length bodies in particular.

- Q58 Local authorities are currently responsible for initiating, facilitating and maintaining community planning. How might the legislation best capture the community leadership role of Councils without the CPP being perceived as an extension of the local authority?

It may be necessary to require CPP boards to be separately constituted but with a local democratic role through local elected representatives. Elsewhere we have also suggested that there would be value in independent chairing of CPPs. This separation would seek to achieve the division between 'decision' and 'provision' which currently leads to the perception that changes in public services and expenditure are hampered by those making the decisions also being those funded to provide the solutions.

Elsewhere the proposals around joint responsibility for community planning and shared outcomes and resources go some way to ensuring that community planning isn't seen as an extension of the local authority.

- Q59 How can the external scrutiny regime and the roles of organisations such as the Accounts Commission and Auditor General support the proposed changes? Does this require changes to their powers or functions?

A valuable role for audit would be determining how community need has been established and how demonstratively decisions toward that defined community need have been made.

However, the most valuable scrutiny would come from the community itself and we suggest that deliberative processes such as citizens' juries could play a valuable role in providing scrutiny from the community for whom services are being planned.

Q60 What other legislative changes are needed to strengthen community planning?

VAS believes that a wider systemic change is required which acts to empower far greater community involvement. This requires a strengthening of democracy towards involvement beyond the electoral cycle. VAS has sympathy with the proposals of Carnegie UK Trust that national outcomes and local outcomes should be much more driven by local participatory processes and even within this bill it is possible to drive into the system more participatory approaches such as in the development of the local outcomes plan or scrutiny of how they've been fulfilled.

#### 4.3 Allotments

Q61 Do you agree with the proposed definition of an allotment site and allotment plot?  
Yes  No

How else would you suggest they be defined?

VAS would like to see the addition of "at a fair rent" to the definition point C.

Q62 In order to include all existing allotments in the new legislation they must fit within the size range. What is the minimum and maximum size of one allotment plot in your area/site?

Q63 Do you agree with the proposed duty to provide allotments?  
Yes  No

Are there any changes you would make?

VAS would ask that greater consideration is given to localities and geography of local authority areas. The proposed duty would be insufficient in providing equal opportunities to local authority areas with a greater area, particularly rural areas.

Do you agree with the level of the trigger point, ie that a local authority must make provision for allotments once the waiting list reaches 15 people?

Yes  No

Q64 Do you prefer the target Option A, B or C and why? Are there any other target options you wish to be considered here? Do you agree with the level of the targets?

Option B. The proposal in option A of presenting a 3 year waiting time may prove off putting and discourage individuals from proceeding due to extensive waiting time. This could lead to local authorities claiming there is a lack of interest or demand for allotment provision.

Q65 Do you agree with the proposed list of local authority duties and powers? Yes  No

Would you make any changes to the list?

Further explanation is needed as to which 'limited circumstances' would permit development on allotment sites.

Q66 Do you think the areas regarding termination of allotment tenancies listed should be set out in legislation or determined by the local authority at a local level?

Legislation

Determined by local authority

Q67 Are there any other areas you feel should apply to private allotments?

We support SAMH in their call for sufficiently robust legislation to so that local authorities take responsibility for this issue. This offers a certain amount of protection to allotment holders and would limit the local authorities powers to defer to local allotment committees where pre-existing tensions or sentiments may weigh upon the decision.

Q68 Do you agree that surplus produce may be sold? Yes  No

If you disagree, what are your reasons?

We would encourage excess produce to be shared with other plot holders or donated to local charities.

Q69 Do you agree with the proposed list of subjects to be governed by Regulations? Yes  No

Would you make any changes to the lists?

## **Chapter 5 – Wider Policy Proposals**

### **5.1 Scotland Performs – embedding the outcomes approach in legislation.**

- Q70 We invite your views on the proposal to include in the Bill a provision that places a duty on Ministers to develop, consult on and publish a set of outcomes that describe their long term, strategic objectives for Scotland, and include a complementary duty to report regularly and publicly progress towards these outcomes.

VAS welcomes this proposal and believes if done in an open and transparent manner in terms of reporting, as is suggested, this could prove beneficial. The key would be on how consultation takes place and therefore how the outcomes are set. As we have proposed elsewhere we would like to see far greater participatory and deliberative processes such as those suggested by the Carnegie UK Trust in relation to how national and local outcomes are set. As VAS has argued throughout this response we believe, in line with the Christie Commission findings, that a whole system approach should be adopted in the setting and achieving of these outcomes, rather than a purely top down exercise.

### **5.2 Subsidiarity and local decision-making**

- Q71 Given the actions that the Government and others already take to enable and support local democracy, together with the additional measures proposed in this consultation, are there any other actions we could take to reflect local democracy principles that would benefit communities?

As we've suggested in the community planning section we believe a whole systems approach is now necessary to drive far greater community empowerment into the system. This has to embody real power for local communities through mechanisms like citizens juries, participatory budgeting and mini-publics. Whilst we understand that the Scottish government doesn't want to prescribe how such approaches are pursued locally we believe that routes to ensuring the whole democratic system is more participatory could be developed such that that way of working becomes the norm rather than ad hoc. Many of the current challenges in terms of pressure on public services and continued massive gaps in income and opportunity point to the need for greater community driven approaches. VAS would welcome the opportunity to work with the Scottish Government to ensure the third sector can help shape how we can create a more empowering and participatory system as a whole that maximises the assets of the third sector and local communities.

## **Consultation on the Community Empowerment (Scotland) Bill**

## Chapter 6: Assessing Impact

### Equality

- Q72 Please tell us about any potential impacts, either positive or negative, you feel any of the proposals for the Bill may have on particular groups of people, with reference to the “protected characteristics” under the Equality Act 2010.

- Q73 What differences might there be in the impact of the Bill on communities with different levels of advantage or deprivation? How can we make sure that all communities can access the benefits of these proposals?

Taking over community assets and participating in public service delivery requires self-confidence and certain skills – it is possible therefore that more affluent areas/groups of individuals may be more ready to benefit than community groups in less affluent areas – it is important to ensure that training and support are made available, e.g. Third Sector Interfaces; community learning & development; national support agencies.

It is important that guidance is made clear and unambiguous, and that the processes are made transparent and straightforward.

### Business and Regulation

- Q74 Please tell us about any potential costs or savings that may occur as a result of the proposals for the Bill, and any increase or reduction in the burden of regulation for any sector. Please be as specific as possible.

### Environmental

- Q75 Please tell us about any potential impacts, either positive or negative, you feel any of the proposals for the Bill may have on the environment.

