Community Empowerment and Renewal Bill

RESPONDENT INFORMATION FORM

<u>Please Note</u> both pages of this form **must** be returned with your response to ensure that we handle your response appropriately.

1. Name/Organisation

Organisation Name

SURF Scotland's Independent Regeneration Network

Title   **Ms** ☐   **Mrs** ☐   **Miss** ☐   **Mr** ☒ **Dr** ☐   *Please tick as appropriate*

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3. Please indicate which category best describes your organisation (Tick one only).

Executive Agencies and NDPBs	☐
Local authority	☐
NHS	☐
Other statutory organisation	☐
Representative body for private sector organisations	☐
Representative body for third sector/equality organisations	☐
Representative body for community organisations	☐
Representative body for professionals	☐
Private sector organisation	☐
Third sector/equality organisation	☐
Community group	☐
Academic	☐
Individual	☐
Other – please state… Cross-sectoral forum	☒

4. Permissions - I am responding as…

Individual	/	Group/Organisation
☐	*Please tick as appropriate*	☒

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate ☐ Yes ☐ No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

(c) The name and address of your organisation *will be* made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your *response* to be made available?

Please tick as appropriate ☒ Yes ☐ No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate ☒ Yes   ☐ No

Please ensure you return this form along with your response.

Thank-you.

Community Empowerment and Renewal Bill

CONSULTATION QUESTIONS

Some initial SURF comments on context and opportunity.

SURF warmly welcomes the intention of the Scottish Government to bring forward legislation in support of 'Community Empowerment and Renewal'. Over the consultation period, SURF has used its varied cross sector networks, contacts and presentation opportunities to promote awareness and debate on the aspirations for greater community empowerment within wider regeneration policy and practice. The main elements of SURF's responses are based on the generally shared views of the SURF network that:

- Greater community empowerment is a desirable process in itself as part of collective efforts towards a 'flourishing' Scotland.

- Community empowerment in this context is not a zero sum game since its success can enhance the collective empowerment of Scotland economically as well as socially and culturally. However, any realistic impetus for greater community empowerment will require investment and some challenging debates on power and resources.

- Aspirations for greater community empowerment must be seen in the current context of unprecedented changes in financial systems as well as demographic and ecological challenges which are yet to be adequately addressed.

- Despite the dominant themes of current debate on the continuing economic recession, Scotland remains a rich nation in terms of resources, structures and ideas. The leadership challenge is about priorities, connections and commitment.

- The Scottish Government has the key leadership remit in identifying the roles, responsibilities and resources required to support greater community empowerment and renewal. In doing so it will be important to make effective links to existing and emerging policies on poverty, inequality, health, housing, employment, education, infrastructure, procurement and transport.

- It will also be important to frame any legislation within an honest assessment of the political and economic context within which communities are being encouraged to take on additional responsibilities under the generally desirable banner of greater empowerment.

Over its 20 year history in this field, SURF has explored and proposed a wide range of options and models for enhancing community empowerment as a key element of community regeneration. It did so in its 'Protect, Empower and Invest' manifesto for community regeneration in the run up to the May 2011 Scottish Parliament election and more recently in its 'Reality Resources and Resilience' collaborative programme of work with the Joseph Rowntree Foundation, as supported by the Scottish Government. SURF is keen to continue developing those collaborations with the Scottish Government and all partners concerned with helping to regenerate disadvantaged communities across Scotland.

Andy Milne – SURF Chief Executive

PART 1: STRENGTHENING COMMUNITY PARTICIPATION

Community Planning

Q1.   What would you consider to be effective community engagement in the Community Planning process? What would provide evidence of effective community engagement?

Community Planning is a valuable strategic service planning process, which compares well with alternative models (or the lack of them) elsewhere in the UK. It provides a structure within which the main tax funded agencies can better coordinate and target their activities and investments in support of more efficient and effective public services.

When Community Planning was introduced under the 2003 Local Government Act, successive 'Communities' and 'Social Inclusion' Ministers in the then Scottish Executive repeatedly referred to the purpose of Community Planning as 'putting the community at the heart of the decision making process'.

As Scotland's independent regeneration network, with over 250 member organisations from public, private, voluntary and community sectors across the country, SURF has developed substantial experience and research-based evidence over the last decade on Community Planning. This has demonstrated that, in practice, Community Planning offers limited scope for enhancing genuine community empowerment compared to what was originally envisaged in 2003.

Community engagement is not the same as community empowerment; but it can be an initial step towards that goal. Community participation is generally regarded as the next step towards community empowerment. The community support and development investment that would have been necessary to provide representative, accountable and informed community participation in the formalities of Community Planning has not been made in recent decades. The removal of previously ring-fenced and targeted community regeneration budgets (such as the Community Regeneration Fund, Fairer Scotland Fund) and their transfer to Local Authorities via Community Planning Partnerships (CPPs) greatly accelerated that disinvestment. We are therefore left with the relatively modest aspiration of community engagement.

However, Community Planning Partnerships should at least be able to deliver this by providing communities and community organisations with relevant, accurate, timely and accessible information on services, budgets, priorities, decision making criteria, processes, timescales and opportunities for genuine engagement. Ready access to such information is an essential prerequisite for 'empowerment' in any setting.

Beyond what should be a relatively straightforward task of information provision, there are many examples of CPPs actively consulting with communities in order to draw on the highly valuable 'market' information that communities have by virtue of their unique local knowledge and lived day to day experience.

The willingness of community organisations and individuals to continue freely providing this key decision making resource will depend on their perception of its use. An obligation for CPPs to respond, as well as to engage, would therefore be a wise measure in maintaining a productive relationship with the communities they are designed to serve.

Residents in disadvantaged communities are well-used to the reality of working within a limited budget and making difficult decisions based on priorities within restricted resources. If CPPs are able to at least inform communities of the outcome of consultations they have undertaken, and the process and criteria employed, they will be more likely to be effective sustaining and developing future community engagement.

A consistent dialogue of consultative engagement, followed by meaningful responses (even when they are disappointing) will assist the construction of more cooperative relationships towards the generally shared higher aspirations for greater community empowerment and co production of services, as envisaged in the 2011 report for Scottish Government on the Future Delivery of Public Services by a Commission chaired by Dr Campbell Christie.

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

While there are notable examples of relative success in some local authority areas, SURF's current investigations on 'Reality, Resources and Resilience' in disadvantaged communities (supported by the Joseph Rowntree Foundation and the Scottish Government) confirm the earlier findings of Audit Scotland. These highlighted the low level of community representation and engagement in Community Planning.

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

1   A community right to, and the pro active provision of, information and consultation responses indicated in Q1 could form the basis of a more productive engagement process with potential for further growth in co operation and independent action.

2 The restoration of some dedicated investment in community representation and development processes would bring forward valuable 'front line' information and opportunities for cooperative activity.

3   The provision to voluntary community representatives of similar levels of support that all other partner agency officers have ready access to. This would include travel expenses, basic sustenance and practical consideration in terms of timing and location of meetings etc.

An overarching duty to engage

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

In the course of its widespread work in promoting awareness of the consultation process and the potential of the Community Empowerment & Renewal Bill, SURF contributed directly to the considerations of Community Development Alliance Scotland via its board as well as the dedicated conference on the Bill that CDAS

organised.

With respect to this question SURF is happy to endorse the CDAS response, as stated below. In doing so, we would add the observation that the Scottish Government's bold legislative initiative indicates awareness of the inadequacy of existing duties. As with many reforming legal frameworks, this is as much about ensuring authentic implementation and adequate sanction as it is about content.

CDAS response:
There are examples of good legislation in particular fields, but the same principles are not applied to all public services, and existing duties such as those under the Local Government Act are often not applied broadly enough.

In considering new duties on the public sector, and throughout the Bill, our consultees were clear that the following basic principles should apply:

Universality The Bill should establish clear and consistent rights and duties that apply across all public services that affect communities and which recognise the diversity of community life and organisations.

Accountability There should be criteria and mechanisms, involving communities, for assessing whether duties have been met and whether the promised levels of engagement and empowerment have been delivered and are effective.

Equality New duties and rights must be framed in such a way that there are obligations to address barriers to taking advantage of the duties and rights, and to enable communities to engage effectively.

Capacity In order to achieve equality of impact and participation, the Bill must address directly the importance of building the capacity of community organisations where required, and developing the capacity of communities to become organised.

We have found wide agreement that community capacity building will be integral to the effective delivery of the Bill's key components. We understand that there may be separate legislation that could place specific requirements on local authorities and their partners to review the need for Community Learning and Development services, including community capacity building services. But the provision of specific services is not the whole story. Public services should ensure that their overall dealings with communities are carried out in ways that build their capacity and thus empower them. We would therefore argue that the Community Empowerment and Renewal Bill should include a general presumption that public services should take into account the capacity of the communities with which they deal and how this might be strengthened.

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

Yes ☒ No ☐

Please give reasons for your response below.

Rising levels of economic and social inequality are increasingly dislocating policy makers and resource managers from those their decisions impact upon. This undermines the quality and applicability of those decisions, thereby damaging wider social and economic cohesion.

Community volunteers and the community organisations they represent regularly complain to SURF that the complexity and inconsistency of guidelines, duties and statutory mechanisms is another barrier to effective engagement.

Geographic community representatives have particular difficulty in this regard, as their interests range across the deeply varied bureaucratic terrain of health, transport, housing, education, etc. which have yet to be adequately harmonised under the last decade of Community Planning processes.

If you said 'yes' to Question 5, please answer parts a. and b. –

a. What factors should be considered when designing an overarching duty?

1 The benefits to the quality and effectiveness of public service design and delivery from adequately resourced community engagement.

2 The necessity of adequate and sustained investment in community engagement and development processes to help ensure that such duties on statutory bodies are rewarded with genuinely valuable informed and representative input.

3 The research from the University of Glasgow's Annette Hastings and others evidencing the favourable discrimination in public service attitudes and resources towards middle class constituents and areas, particularly in the fields of health, education and land planning.

4 The consequent need for the rhetoric of 'cultural change' in public service delivery organisations to be acted upon by matching legislation with changed systems and senior officer/staff training. This will be an essential prerequisite of progress towards co production and the attendant 'preventative spend' benefits identified in the 2011 Christie Commission report and elsewhere.

5 The 2010 Equality Act and related human rights legislation.

b. How would such a duty work with existing structures for engagement?

It would assist the efforts of those concerned with moving beyond what can sometimes be tokenistic and unresponsive engagement. A requirement to engage and respond effectively does not imply a requirement to agree or implement, but it could reduce the level of community cynicism and disaffection fostered by some instances of insincere processes, the results of which tend to be presented in terms of community apathy.

Community Councils

Q6.   What role, if any, can community councils play in helping to ensure communities are involved in the design and delivery of public services?

Community Councils represent a potentially useful layer of civic engagement within Scotland's large and representationally distant local authority structures. However, if they are to be representative, rather than merely administratively convenient, they need to be much more adequately resourced. The continuation of initial 'democratic upgrading' investment could be contingent on the demonstration of competitive election for places.

Presently, Community Councils tend to sustain in wealthier areas where they are more likely see their role as protecting the status quo. The statutory status of Community Councils should not be used to reduce the standing of the sort of non statutory active representative and service delivery organisations that are more likely to emerge in more disadvantaged communities. Many of these play the key role of the 'community anchor organisations' which the Scottish Government and other partners have rightly recognised the value and potential of.

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

There may be exceptions, but in their current form and geography Community Councils appear to have little capacity or remit for public service delivery, particularly in the areas where additional delivery support is really required. The community anchor organisations referred to above usually already play this role and provide a practical basis for managed expansion of their service remit.

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

SURF endorses the views expressed via CDAS in response to this question, i.e.

There are mixed views on the role of Community Councils. Many see it as very important and believe that they could be more effective if they were to be provided with the proper support and resources. Others are sceptical. But there seems to be general agreement that there are currently major weaknesses, though experience varies greatly around Scotland. Among the issues raised in discussion:

- Very few people are interested in joining, attending or voting for Community Councillors, so they have difficulty in getting and keeping active members
- They have limited funds and not allowed to generate major funding
- Elected members used to attend but no longer do so on a regular basis (Community Council boundaries are now less likely to be contiguous with wards)
- The activities and achievements of Community Councils are not monitored or recognised – either at council level or nationally.

Whilst most agree that Community Councils should be enabled, legally and in resources, to become more independent of local authorities, there are different views on whether their unique statutory status as representative bodies should be strengthened. Some think they could have a more significant role – more like Parish Councils in England – if certain conditions were met. They would need to be adequately funded, democratically elected and accountable, and have premises, staffing and the basic equipment needed to perform their role.

We would certainly agree that there is a democratic deficit in Scotland, compared to most developed countries. As a longer term project, we would recommend that the Scottish Government should explore the extension of public body status to appropriate representative community groups, especially to facilitate asset transfer.

However, current plans for community empowerment need to reflect the wide range of types of community groups and structures that exist and are possible. Some communities do not wish for a Community Council to be established in their area: other bodies are seen to do a better job. Communities of interest and identity may be better represented through other channels. Retaining bodies with a general open-ended representative role will remain important, especially if other community groups become increasingly involved in service delivery and co-production. No particular structures should be uniquely privileged in the rights and duties to be conferred under the Bill. Legislation should allow for strengthening Community Councils where appropriate, but also recognise the role of community anchor organisations, and other community groups.

The 'schemes of establishment' for Community Councils should be allowed to be made much more flexible, for example sometimes enabling other community anchor organisations to fulfil existing Community Council roles. We would prefer the scheme to become an integral part of the overall community engagement plan for each area. This could then clarify the different representative and participatory roles that various bodies play, offer funding and support, and require adherence to standards, including the need to address inequalities and discrimination.

Third Sector

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

What is referred to as the third sector is a substantial and presently largely underused resource for the successful organisation and delivery of Community Planning.

Like the private sector, and some aspects of the public, sector it is also diverse and inter-competitive. It is encouraged to be so by the increasing orthodoxy of largely cost based competitive tendering processes.

The third sector has considerable capacity for supporting community empowerment but there can be divergences with geographic and thematic

community organisations and interests; particularly as a result of quasi-commercial pressures under Community Planning service delivery contracts.

However, voluntary sector organisations can be very effective in supporting the engagement of communities of interest in Community Planning consultations, especially by facilitating the involvement of groups with special needs.

National Standards

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

Yes ☐ No ☒

Please give reasons for your response

The standards are a reasonable set of guidelines. The problem is the lack of widespread pro-active willingness to apply them in a positive and creative manner rather than a minimalist bureaucratic function.

This reluctance appears to stem from a concern by hard pressed middle management officials that the active pursuit of open dialogue and community responses are likely to result in conflicts with pre-determined positions by more senior officers who are operating to fixed priorities, timescales and budgets.

Placing a duty on top of the existing standards without investing in achieving a shift in culture and negative preconceptions of the value of community input is more likely to result in an unproductive increase in more tentative approaches by the important middle management links as they aim to avoid breaching the terms of a legal duty.

Community engagement plans

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

Yes ☒ No ☐

Please give reasons for your response

Yes, the process and the internal and external messages from that process could be helpful in shifting attitudes and perceptions. This should include the duty to respond as well as to engage, as previously stated.

If you said 'yes' to Question 11, please answer part a. –

a. What information would be included in a community engagement plan?

SURF contributed to and endorses the CDAS response on this point i.e.

- A strategic approach which takes the National Standards into account
- Proposed structures and methods for participation, and a commitment by

partner agencies to deliver these.
- Clear and specific commitments, and mechanisms, involving communities, that ensure accountability for these commitments
- Recognition of the diversity of communities and their organisations, and a variety of routes into engagement.
- Differences in approach between work in neighbourhoods and with communities of interest or identity.
- Clarification of the different representative and participatory roles that various bodies play, and requirements for adherence to standards, including the need to address inequalities and discrimination.
- Scope for creative rather than formal methods of engagement.
- Links between specific engagement activities and the development of on-going dialogues
- A focus on releasing social assets (rather than just physical assets) which could include auditing and mapping assets, guidance and support
- A strategy for mobilising the contribution of all partners to building community capacity where required
- A recognition of the need to build capacity at different levels, including bringing people together in the first place as well strengthening the ability of existing organisations to participate
- Recognition of the existence of stronger and weaker communities, and a commitment to target support to the latter
- Opportunities for workforce development and building capacity for engaging effectively with communities among public sector staff
- Recognition that this work is not resource-free and does in the short term demand significant resources
- Implementation underpinned by evidence based research and evaluation activity.

Auditing

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

Yes, but we need to be clearer about terminology and the implied intentions.

Beyond what should be a conventional and (relatively) simple process of engaging with communities; the much more significant and ambitions aims of community empowerment and co-production should be automatically considered in auditing best value in Community Planning since they offer significant additional resources for achieving agreed aims.

Community empowerment is, after all, the stated intention of the bill. Engagement is a minor step towards that process and one which any reasonable public or private body should undertake as a routine method of understanding and responding to 'market' demands.

Named Officer

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

Yes ☐ No ☒

Please give reasons for your response

While this looks initially like a sensible proposal, in the present reality, the generally introspective nature of institutional culture referred to above means that single points of access are just as likely to become blockages.

Community participation and empowerment is a cross cutting theme that should promoted from the leadership of the organisation and operated across all departmental functions. The CPP itself already should supply an ultimate single point of contact when the system fails elsewhere. It is interesting to note that contact details for community planning managers used to be publicly available via the CoSLA website, but no longer.

Communities of particular interest and activity need to develop cooperative relationships with relevant officials, rather than one who has no practical operational role. This varied but coherent set of contacts approach also reduces the damage in the inevitable instances of temporary absence or removal of single contact individuals.

Tenants' right to manage

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

Yes ☒ No ☐

Please give reasons for your response

The low level of existing tenant management activity already indicates this. It is not only greater awareness that is needed, but active support and resources for interested and willing groups of tenant volunteers.

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

Yes ☒ No ☐

Please give reasons for your response

Housing providers should be obliged to at least inform their tenants and residents of the possibilities and resources in terms of considering and forming their own housing management group.

Community service delivery

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

Yes ☒ No ☐

Please give reasons for your response

The pre existing arrangements for the management and allocation of the £9bn

> public procurement budget represent a huge missed opportunity for supporting community empowerment via local social enterprises and conventional businesses. This point has been made by SURF and others in the current consultations on a Sustainable Procurement bill.
>
> Additionally, SURF has repeatedly expressed the concerns of its members with regard to the impact of the substantial scaling up and corralling of capital regeneration related spend via the five 1m population territory HubCos. These are majority owned by preferred and exclusive private sector developer partners and have been instigated and supported via the Scottish Futures Trust on behalf of the Scottish Government which retains a minority share.
>
> The scale of the £9B public procurement budget and the HUB initiative as a direct investment channel for large scale private sector companies, casts the Scottish Government's 2012-13 £6m 'People and Communities Fund' for promoting community led regeneration into perspective.

Q17. Should communities have the right to challenge service provision where they feel the service is not being run efficiently and that it does not meet their needs?

Yes ☒ No ☐

Please give reasons for your response

> Communities and individuals already have this right. What is lacking is the support and resources to enable them to take it up in a timely, more informed, constructive and accountable way.

Community directed spending – participatory budgeting

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

Yes ☒ No ☐

Please give reasons for your response

> There have been plenty of pilots and related reports evidencing the benefits of community budgeting. The process and the outcomes often have significant value in community development and efficient use of resources. SURF can provide relevant examples form initiatives by Dundee and Fife Councils among others.

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

Yes ☐ No ☐

Please give reasons for your response

> Yes, for the same reasons as Q18 above.

If you said 'yes' to Question 19, please answer parts a., b. and c. –

a. What areas of spending should a community be responsible for?

> Top sliced percentages of all mainstream local authority budgets to support local

activity and demands based on participative priority and budget allocation processes. Again, there are useful practical examples to draw on.

b. Who, or what body, within a community should be responsible for making decisions on how the budget is spent?

As a result of the under-investment in community development in recent decades, there is no readily accessible wide spread network of genuinely representative community organisations. However, a general consensus has emerged recently over the definition and potential of 'Community Anchor' organisations.

c. How can we ensure that decisions on how the budget is spent are made in a fair way and consider the views of everyone within the community?

We can't, but if we believe in the positive developmental process of community empowerment, we can put sufficient trust in community anchor organisations in the medium term to initiate and stimulate the process while more broad based community development investment is identified and delivered.

Definitions for Part 1

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

The questions in this section have been dominated by community engagement processes within existing formal Community Planning arrangements. There have been occasional references to community involvement and participation.

These are all processes that can support the development of the more ambitious aim of community empowerment. The realisation of community empowerment would involve the capacity to shape, manage and own services, in addition to the decision making processes and various forms of assets as determined necessary by the community itself.

In this encouraging legislative initiative, it will be important that the Community Empowerment and Renewal Bill consultation process is clear that community empowerment is the ultimate aim and that the existing confusion of terminology amongst relevant officials and elected representatives is not further compounded.

PART 2: UNLOCKING ENTERPRISING COMMUNITY DEVELOPMENT

Community right to buy

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

Yes ☒ No ☐

Please give reasons for your response

There is no sufficient reason why one part of Scotland should be treated differently form another in this regard. However, the promotion of such a right in the distinct social and political urban context is likely to engender a robust, and hopefully constructive, debate on the relationship between (mostly) local authorities and the communities they serve.

If you said 'yes' to Question 21, please answer parts a., b. and c.:

a. Should an urban community right to buy work in the same way as the existing community right to buy (as set out in Part II of the Land Reform (Scotland) Act 2003)?

Yes.

b. How should an 'urban community' be defined?

By the groups proposing to make a bid for ownership or management, providing they meet reasonable criteria of representativeness and demonstrations of public support within that defined community. This is clearly potentially problematic but ultimately more practical and meaningful than abstract electoral boundaries.

c. How would an urban and rural community right to buy work alongside each other?

As stated in Q21 above.

Community asset transfer

Q22. The public sector owns assets on behalf of the people of Scotland. Under what circumstances would you consider it appropriate to transfer unused or underused public sector assets to individual communities?

Where they can be independently assessed as genuine assets, rather than liabilities on the Local Authority or Health Board balance sheet and where it can be demonstrated the community has a reasonable prospect of adding sufficient value to manage and maintain the asset in the current economic climate.

Please also answer parts a. to d. below:

a. What information should a community body be required to provide during the asset transfer process?

Demonstration of specific, and otherwise unrealisable, community benefits backed by a realistic business plan including due diligence indicators and satisfactory governance arrangements for how they will ensure accessible and inclusive community engagement in planning, delivery and development.

b. What information should a public sector authority be required to provide during the asset transfer process?

All relevant financial, legal, planning and asset condition information on the property. Information relevant to the prospects for the successful delivery of any proposed services. Any legal constraints or context that would affect the prospects for the community organisation to manage and develop the asset over time.

c. What, if any, conditions should be placed on a public sector authority when an asset is transferred from the public sector to a community?

Development support, where explicitly requested by the group and in cooperation with relevant officers who have responsibility for related resources and activities.

d. What, if any, conditions should be placed on a community group when an asset is transferred from a public sector body to a community?

Conditions of transfer aimed at ensuring security in the continuity of use for community benefit, and restrict onward transfer. A reasonable level of periodic reporting on community benefits with respect to inclusiveness and participation contained in the agreement.

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

Yes ☒ No ☐

Please give reasons for your response

Yes, but in many cases enhanced levels of community involvement and management may be more appropriate initial steps than outright ownership and the responsibilities and processes that involves.

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

Yes ☐ No ☐

Please give reasons for your response

They should have the right to bid for it in the terms referred to above.

If you said 'yes' to Question 24, please answer part a:

a. **What, if any, conditions should be met before a community is allowed to buy an asset in these circumstances?**

See above

Common good

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

Yes ☐ No ☐

Please give reasons for your response

It would appear so. It is only through the diligent work of land ownership experts and campaigners like Andy Wightman that such an important aspect of pre existing community ownership has come to the fore.

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

Yes ☐ No ☐

Please give reasons for your response

Yes, they are the most appropriate custodians but only where they demonstrate a reasonable level of transparency, appreciation of the historical context of their 'ownership' and an ability to balance the conservation of public good amenities within wider regeneration development strategies and practice.

If you said 'yes' to Question 26, please answer parts a. and b.:

a. **What should a local authority's duties towards common good assets be and should these assets continue to be accounted for separately from the rest of the local authority's estate?**

The common good asset should be listed separately within the rest of the Local Authority's estate. In terms of relevant duties, see above.

b. **Should communities have a right to decide, or be consulted upon, how common good assets are used or how the income from common good assets is spent?**

Yes

If you said 'no' to Question 25, please answer part c.:

c. **Who should be responsible for common good assets and how should they be managed?**

Asset management

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

Yes ⊠ No ☐

Please give reasons for your response

If you said 'yes' to Question 27, please answer part a.:

    a. What information should the asset register contain?

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

Yes ⊠ No ☐

Please give reasons for your response

If you said 'yes' to Question 28, please answer part a.:

    a. What information should the asset management plan contain?

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

Yes ☐ No ☐

Please give reasons for your response

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

Allotments

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

From a range of its interactions and considerations in recent years, SURF is increasingly aware of the multi faceted value of allotments and more general growing gardening support activity. We are aware that colleagues at the Scottish Allotments and Gardens Society and other related bodies have made strong cases on the grounds of health, participation, sustainably and

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

Definitions for Part 2

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

PART 3: RENEWING OUR COMMUNITIES

Leases and temporary uses

Q34. Should communities have a right to use or manage unused and underused public sector assets?

Yes ☒ No ☐

Please give reasons for your response

As argued above, this should be an option within a staged incremental process that may build capacity and aspirations towards outright ownership.

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

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

Generally consistent with responses to question 22

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

As above

c. What types of asset should be included?

Community based services and processes as well as physical assets.

Encouraging temporary use agreements

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

Yes ☐ No ☐

Please give reasons for your response

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

Yes ☐ No ☐

Please give reasons for your response

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

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Dangerous and defective buildings

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

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

Yes ☐ No ☐

Please give reasons for your response

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Compulsory purchase

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

Yes x☐ No ☐

Please give reasons for your response

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If you said 'yes' to Question 40, please answer part a.:

> **a. What issues (in addition to the existing legal requirements) would have to be considered when developing such a right?**

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

Yes ☐ No ☐

Please give reasons for your response

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

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

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Power to enforce sale or lease of empty property

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

Yes ☐ No ☐

Please give reasons for your response

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If you said 'yes' to Question 42, please answer parts a., b. and c.:

a. In what circumstances should a local authority be able to enforce a sale and what minimum criteria would need to be met?

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b. In what circumstances should a local authority be able to apply for the right to lease an empty home?

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c. Should a local authority be required to apply to the courts for an order to sell or lease a home?

Yes ☐ No ☐

Please give reasons for your response

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

Yes ☐ No ☐

Please give reasons for your response

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If you said 'yes' to Question 43, please answer parts a., b. and c.:

a. In what circumstances should a local authority be able to enforce the sale of a long-term empty and unused non-domestic property and what minimum criteria would need to be met?

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b. In what circumstances could a local authority be able to apply for the right to lease and manage a long-term empty non-domestic property?

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

Yes ☐ No ☐

Please give reasons for your response

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

Yes ☐ No ☐

Please give reasons for your response

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If you said 'yes' to Question 44, please answer part a.:

a. In what circumstances should a community have the right to buy or lease the property before others?

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Definitions for Part 3

Q45. Please use this space to give us your thoughts on any definitions that may be used for the ideas in Part 3. Please also give us examples of any definitions that you feel have worked well in practice

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ASSESSING IMPACT

Q46. Please tell us about any potential impacts, either positive or negative, you feel any of the ideas in this consultation may have on particular group or groups of people?

SURF endorses the view expressed by CDAS that:
A national and local commitment to resource long-term community development support for disadvantaged or less organised communities could help to avert any danger of new rights and duties, both to engagement and asset transfer, leading to an increased diversion of resources towards more affluent and capable areas.

Q47. Please also tell us what potential there may be within these ideas to advance equality of opportunity between different groups and to foster good relations between different groups?

The context of the Bill should be set within the existing and increasing economic inequalities that degenerate communities.

Any new rights and duties proposed under the Bill should take account of that context as well as being compatible with the obligations of public bodies to involve under the Equality Act 2010.

Q48. Please tell us about any potential impacts, either positive or negative, you feel any of the ideas in this consultation may have on the environment?

Q49. Please tell us about any potential economic or regulatory impacts, either positive or negative, you feel any of the proposals in this consultation may have?

Any enhancement of community empowerment, as generally understood and described in the consultation above, can be expected to contribute to the widely desired benefits of 'preventative spend'. However, the necessary investment of time, skills and resources will not be seen to succeed if they continue to be counter acted by short term 'savings' and overwhelmed by the much more impactful economic policies which have created the spectacular levels of inequality that Scotland and the UK has developed in recent decades.

Thank-you for responding to this consultation.

Please ensure you return the respondent information form along with your response.