



54 Manor Place, Edinburgh, EH3 7EH  
T. 0131 226 1497  
info@nourishscotland.org.uk

21 August 2014

**SUBMISSION TO THE LOCAL GOVERNMENT AND REGENERATION COMMITTEE**  
**COMMUNITY EMPOWERMENT (SCOTLAND) BILL**

**Background**

1. Nourish Scotland is a not-for-profit organisation campaigning for a fairer food system in Scotland. Nourish facilitates this change through engaging with organisations, community initiatives, politicians and officials. We work to influence policies from local to EU level and provide a platform for networking and sharing best practice. We make sure that food is brought to the fore in public debates of various kinds, making the link between a localised food system and its positive outcomes for economic development, community cohesion, job creation, skills development, public health, environmental stewardship and justice.
2. Nourish is pleased to be able to comment on the Community Empowerment (Scotland) Bill. The Bill is wide-ranging in its scope and Nourish only comments here on the sections in which we feel we have interest or expertise.

**National Outcomes, Community Planning and Participation Requests**

*National Outcomes*

3. Nourish is generally supportive of the Bill and notes that the Bill has already undergone extensive consultation with stakeholder groups. Nourish endorses the principles of subsidiarity, community empowerment and improving outcomes which underpin the Bill.
4. Nourish generally supports embedding the process for determining Scotland's national outcomes in legislation, along with the requirements to review and report on these outcomes. However, delivering on these outcomes, and promoting a vibrant and joined up public, private and third sector will require more effective community planning and community involvement mechanisms to be developed and resources to be invested in ensuring community participation in decision-making.

*Community Planning*

5. Nourish welcomes the introduction of the new community planning provisions in the Bill. Current practice is patchy and uneven across the country and these new provisions should bring some consistency. We welcome the wider range of bodies that will contribute to the process and believe it is important that the CPP is not just seen as an extension of the local authority. While the local authority will always play a lead role, the CPP should be a wider platform. We are also pleased to see the provisions resources to be aligned with agreed CPP priorities, along with new

[www.nourishscotland.org](http://www.nourishscotland.org)

reporting mechanisms which require partners to set out how they contributed to the CPP outcomes. This should ensure that more than just lip service is paid to joint priorities.

6. We also support the new provisions requiring the CPP to make all reasonable efforts to secure the participation of community bodies in the process and to take reasonable steps to enable bodies to participate. It should be recognised that some community bodies, and some areas where community participation has not been strong, will require capacity building efforts for this legislation to be successful and for genuine partnerships, not based on top-down models, to be developed. We recommend that the Accounts Commission and Auditor General be specifically asked to look at the level of community engagement, and the steps taken to ensure this engagement, as part of the audit process for CPP bodies.
7. It goes without saying that we would also support the production of guidance supporting the CPP process that gives proper consideration to crosscutting areas such as food. Food can cross multiple work-streams, from planning (land use and retail provision) to health (food poverty and diet-related ill-health issues) to environment (waste, biodiversity loss, energy use and emissions) and economy (business creation). It is important that the CPP process is used to adequately address these issues in a joined up way.

#### *Participation Requests*

8. Nourish generally supports the provisions regarding participation requests. However, we note that, unlike the CPP process, there is no requirement on the public authority to take reasonable steps to facilitate the involvement of community bodies or to assist community bodies to fully participate. This may undermine the effectiveness of this provision if communities are not supported during this process.

### **Community Right to Buy, Asset Transfers and the Common Good**

#### *Community Right to Buy*

9. Nourish generally welcomes the extension of the right to buy to urban areas, along with the suggested improvements to the definition of community, the extension of the types of legal entities that can use the provisions and the provision for third-parties to carry out ballot procedures. Nourish also recommends that consideration be given to extending the power to purchase land to co-operatives as well as SCIOs.
10. While not disagreeing with the symbolic target of having a million acres in public ownership, we believe it is important not to be sidetracked into pursuing high-acreage targets for the sake of the numbers. Sometimes small urban sites may be of importance to a high number of people and have a considerable impact on the surrounding community, even though they may not contribute much to the acreage target. There is also a need to ensure that funding is available, both for communities seeking to buy land and for advisory bodies to support this process. We would welcome confirmation that such funding will be secured and that resources will be put into supporting communities engaged in land acquisition, either through the expansion of existing services or the creation of new bodies.
11. Nourish also agrees with the creation of an absolute right to buy neglected or abandoned land, where it can be shown to be in the public interest. However, this is a significant power, and we question whether it is appropriate to leave the definition of abandoned or neglected land to subordinate legislation, as is currently proposed.

At the very least, a working definition ought to be available to the Committee during stage 2 deliberations in order for effective scrutiny to take place.

#### *Asset Transfers*

12. We are pleased to see the powers to transfer assets to the community and particularly welcome the fact that these powers will include the ability to transfer the use, management or occupation of land or buildings as well as just the ownership. For many communities, usage may be as important as ownership. However, we are concerned that these powers do not appear to apply to any hybrid or reserved bodies, such as the Crown Estate, the Forestry Commission, Ministry of Defence or Network Rail, all of whom are significant land-owners. We urge the Committee to seek clarification on the position of these bodies and the progress of any negotiations between the Scottish Government and the UK Government in relation to the landholdings of these bodies in Scotland.

#### *Common Good*

13. While understanding the difficulties in defining common good land, we remain concerned that many local authorities cannot or have not identified the extent of their common good holdings. We support the creation of the proposed register and the requirement to consult before disposing of or changing the use of such assets.

#### **Allotments and Food Growing**

14. Nourish welcomes the decision to completely re-write rather than simply amend the existing allotments legislation. This is clearly the best solution in terms of readability and simplicity. We are happy with the content of the revised allotment provisions, as we believe they reflect the results of previous consultation exercises. However, the decision to simply “add-on” elements about community growing into this Part of the Bill has resulted in an uneasy and inconsistent mix of allotments and community growing provisions. Community gardens and allotments are not the same thing and have very different rights and responsibilities attached to them in law. Sufficient land needs to be available to meet the needs of both forms of growing and there must be an appropriate mix of the two to meet respective local demand. Nourish believes that these provisions should be restructured to give due attention to each element of the food growing picture.
15. At the moment this Part of the Bill is a strange mix of detail, timescales and reporting requirements. For example, the local authority is under an obligation to maintain waiting lists for allotments and to provide allotments. They must also issue a yearly report on allotments, waiting lists and the measures they have taken to provide allotments. However, the local authority is also under an obligation to prepare a food growing strategy within two years of the Bill coming into force. The strategy should also identify areas that might be used to provide allotment sites or other areas of land that may be used for community growing. This must be reviewed every 5 years but there is no requirement to report on it.
16. It seems perverse that a local authority has to report every year on allotments, which are just one part of an overall strategy for growing, but have no requirement to report on community growing provision. Surely it would be more sensible to require a local authority to report annually on its overall provision for growing in the area, both in relation to the provision of allotments (both council and privately owned) and in relation to community growing? The current provisions seem to risk community growing being lost amongst the (necessary) specifics as they relate to the re-written allotment provisions.

17. Nourish is very much in favour of local authorities being scrutinised on the steps they are taking to meet the increasing demand for land to grow on. We support the introduction of a requirement for local authorities to produce a food growing strategy as this may provide a useful impetus for councils to consider food production issues and increase the likelihood of better provision of growing facilities.
18. However, planning policy must also begin to consider the requirements of food production and distribution and unless this is changed the proposal for developing local authority led food-growing strategies may not have much of an impact. The food-growing strategy must be dovetailed with the land-use, planning and development framework if it is going to have any real effect. This will require changes to be made to the current framework, which only mentions food production in a tangential sense. We would also welcome a situation whereby new developments have to address the provision of land for growing and community use as part of the process for obtaining planning consent.
19. Given that other areas of the proposed legislation confer a power to buy neglected or abandoned land, we see no reason why the less controversial proposal of allowing “meanwhile“ growing spaces on such land should not also be supported. We support any measures that will encourage both public bodies and private landlords to develop this “meanwhile” provision. This may require a tweaking of the planning regime to clarify that meanwhile growing activities do not require planning consent and/or that they will not impact on current planning consents which may be pursued at a later date.

## **Conclusion**

20. Nourish welcomes the publication of the Community Empowerment (Scotland) Bill and notes that the Bill has been preceded by an extensive consultation process. We support the broad thrust of the proposals in the Bill but believe that thought needs to be given to how these proposals will be developed and resourced in practice. We also believe that the Part of the Bill concerning allotments and food growing would benefit from restructuring and clarification of the respective roles and rights associated with community gardening and allotments.