



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Local Government and Communities Committee

**Wednesday 9 September 2020**

**Session 5**



The Scottish Parliament  
Pàrlamaid na h-Alba



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**Wednesday 9 September 2020**

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**LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE**

**21<sup>st</sup> Meeting 2020, Session 5**

**CONVENER**

\*James Dornan (Glasgow Cathcart) (SNP)

**DEPUTY CONVENER**

\*Sarah Boyack (Lothian) (Lab)

**COMMITTEE MEMBERS**

\*Keith Brown (Clackmannanshire and Dunblane) (SNP)

\*Gail Ross (Caithness, Sutherland and Ross) (SNP)

\*Alexander Stewart (Mid Scotland and Fife) (Con)

\*Annie Wells (Glasgow) (Con)

\*Andy Wightman (Lothian) (Green)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Mick Doyle (Scottish Community Development Centre)

Fiona Garven (Scottish Community Development Centre)

Linda Gillespie (Development Trusts Association Scotland)

Clementine Hill-O'Connor (University of Strathclyde)

Louisa Macdonell (Development Trusts Association Scotland)

Carolyn McMillan (Glasgow Caledonian University)

Professor Artur Steiner (Glasgow Caledonian University)

**CLERK TO THE COMMITTEE**

Peter McGrath

**LOCATION**

The David Livingstone Room (CR6)



## Scottish Parliament

### Local Government and Communities Committee

*Wednesday 9 September 2020*

*[The Convener opened the meeting at 10:00]*

### Interests

**The Convener (James Dornan):** Good morning. I welcome everyone to the 21st meeting in 2020 of the Local Government and Communities Committee. Today, some of us are attending in person in committee room 6 of the Parliament, and some of us are attending remotely by videoconference.

Before we begin, I remind everyone that social distancing measures are in place in this room and across the Parliament. Please take care to observe those measures at all times this morning, including during breaks and when the meeting ends. I remind members in the room not to touch microphones or consoles during the meeting, because they will be operated remotely by broadcasting staff. Please ensure that all mobile phones are in silent mode.

At item 1, I welcome Gail Ross to the committee. Gail is attending today's meeting by videoconference. I ask her to indicate whether she has any relevant interests to declare.

**Gail Ross (Caithness, Sutherland and Ross) (SNP):** Thank you, convener, I am pleased to be able to join you. I have no relevant interests to declare today.

## Decision on Taking Business in Private

10:01

**The Convener:** Today's main business is an evidence session on the Community Empowerment (Scotland) Act 2015 but first, at item 2, we have consideration of whether to take item 5 in private. Item 5 is consideration of that evidence. As some members are meeting remotely, rather than asking whether everyone agrees, I will instead ask whether anyone objects. If there is silence, I will assume that you are content.

I will take that silence as consent. It is agreed that item 5 will be taken in private.

## Community Empowerment (Scotland) Act 2015 (Parts 3 and 5) (Post-legislative Scrutiny)

10:02

**The Convener:** Item 3 is an evidence session on the Community Empowerment (Scotland) Act 2015.

Last year, the committee carried out a major digital listening exercise, in which we sought views about community wellbeing, what it means to people and how it can be grown and sustained. We had a fantastic response and the committee is grateful to all who contributed. A key theme to emerge was an appetite for people to feel more empowered in local decision making and more involved in the operation of local services and amenities. The committee has decided to build on that by looking at two key parts of the 2015 act: part 3, concerning participation requests; and part 5, concerning asset transfers. We want to assess how successful those have been in advancing community wellbeing in the five years since the act was passed. Today is our first evidence session.

The witnesses in our first panel were involved in a recent evaluation of those parts of the act. I welcome our witnesses who are attending remotely today. From Glasgow Caledonian University we have Professor Artur Steiner, professor in social entrepreneurship and community development, and Carolyn McMillan, researcher, and from the University of Strathclyde we have Clementine Hill-O'Connor, who is a social policy research associate. I am grateful to you for taking time to answer our questions. We will move straight to questions after I give out some technical information.

For the benefit of broadcasting, there is a pre-arranged order and I will call each member in turn to ask their questions for a block of up to nine minutes. Professor Steiner, perhaps you could take the lead in indicating who on the panel will answer each question, and more than one of you may answer if that is appropriate. Please could everyone give broadcasting staff a second to operate your microphones before you speak.

I will begin the questions. Could you give us some examples of the participation requests and actions? What impact have they had? For example, have they led to more empowered communities and have all types of community benefited, including more marginalised communities?

**Professor Artur Steiner (Glasgow Caledonian University):** I think that Clementine Hill-O'Connor is the best person to answer that

question. She conducted data collection and can give examples of specific interventions.

**Clementine Hill-O'Connor (University of Strathclyde):** One of the things to flag about specific examples of the participation requests is that it was agreed that interviews and case studies would all be anonymous. There are some examples that we can talk about specifically, but in other cases we offered anonymity to the participants.

There was a lot of information in the annual reports, but we had some limitations on the kind of data that is reflected there, and we can talk about that in a bit more detail later on

We found that it is too early to say how participation requests will impact empowerment, but we anticipate that community empowerment will be a longer-term consequence. We talked about some of the potential for community empowerment and some of the different understandings of what community empowerment means in public service authorities and in communities.

On the question of whether all communities have benefited, we analysed what kinds of groups were making participation requests. A lot of requests come from community councils, which raises some questions on the extent that they are fully representative of the diverse communities that we have in Scotland. That said, just because community councils are not diverse does not mean that they do not impact on marginalised communities. We saw participation requests from a range of different kinds of communities. However, because we did not have a full return of the annual reports, quite a lot of data is missing and we are limited to the broad generalisations and trends that we can identify at this stage.

**The Convener:** Do you sense that participation requests have led to better partnerships between communities and public service bodies?

**Professor Steiner:** Participation requests aim to create collaboration between public service authorities and community groups. In the past, collaboration was obviously possible and there were less formal means of achieving that. The legislation helpfully opens a new and more formal door to systematise attempts to collaborate.

As we know, community groups can have different relationships—sometimes good and sometimes not—with public service authorities. The legislation creates a formal duty for public service authorities to look at specific requests from a community body, no matter how formally it is established, which is an important component of the legislation. There is evidence that different community groups created good relationships as a result of the legislation. Especially when they were

successful, participation requests led to enhanced trust and better collaboration between community bodies and public service authorities. Some community groups decided to go ahead with other community projects, including asset transfer. There is evidence that the legislation works to the extent that, if participation requests are successful, there is an opportunity to rebuild or develop collaboration between the two parties.

**The Convener:** Following on from that, I note that you state:

“There is some evidence that participation requests are more likely to be successfully used by higher capacity groups, including those with significant professional experience and time to undertake the participation request process.”

Does that suggest that the act has widened inequalities between communities in some cases?

**Professor Steiner:** It would be misleading to say that the act widens inequalities. That statement came from a limited number of interviews and those observations were made by specific interviewees. I would emphasise that the fact that participation requests are initiated by a group of people who have the capacity, knowledge and skills and are often well educated does not mean that the outcome of the request does not have a positive impact on the wider community. Participation requests can relate to access to local parks, or different types of service such as childcare or care services. Although those can be initiated by people who have skills and are well educated, they can affect wider communities, not just the individuals who are involved in initiating the participation request process.

**The Convener:** I notice that there have been only 46 participation requests over the first two years. Is that because people need to have a certain amount of expertise in the first place to be able to put the participation requests in?

**Professor Steiner:** That is an interesting point to highlight. Is 46 a high number, or a low number? We have to remember that the legislation is new, and it takes time for community groups to find out about it.

In addition, some community groups do not really understand the notion of participation requests. Other parts of the Community Empowerment (Scotland) Act 2015, such as asset transfer, which we will discuss later, are more tangible. Community members can think about specific assets, or a piece of land, that they want to manage, and they can take ownership of managing specific assets. The concept of participation requests is more vague for many community members.

Over the course of the two years for which we collected data, the number of participation

requests definitely increased from one year to the next. The data set covered 2017-18 and 2018-19. Again, the data has some limitations, because not all public service authorities submitted annual reports, despite the duty on them to do so.

**Sarah Boyack (Lothian) (Lab):** Welcome to the witnesses. The evidence that you have presented to us has been very useful.

I want to follow up about experiences of the sections of the act that deal with asset transfer. I have a couple of questions about outcomes—how things may have changed because of the existence of the act—and, partly following up the convener's question, about the types of community that are likely to apply to use the act's provisions on asset transfer, and whether you want to highlight any trends.

**Professor Steiner:** I will start the answer, and then I will pass the question to Clementine Hill-O'Connor and Carolyn McMillan, so that they can add to what I say.

On the types of communities that apply for asset transfer, we looked at aspects associated with the Scottish index of multiple deprivation to identify the locations of asset transfer. There was a wide range of community groups—or, rather, the assets were based in different deciles of the Scottish index of multiple deprivation. Some of the groups came from communities that we would consider as deprived, ranked in the second decile of the Scottish index of multiple deprivation; and some were well skilled, coming from communities that ranked in the 10th decile. The evidence is that the community groups—or the assets, at least—are in different types of location.

Again, it is difficult to say who stands behind those asset transfers. They can be capable people, but the fact that the assets are located in more deprived areas is a positive thing. For example, there have been a number of asset transfer requests from men's sheds, and we know from research evidence that, very often, men's sheds support the activities of all retired men, and sometimes of ex-prisoners, unemployed men and those with mental health issues. As such, those asset transfers have an impact on community wellbeing and possibly on those who are disadvantaged in our communities.

Can you remind me of the first part of the question, please?

10:15

**Sarah Boyack:** It was about the outcomes from the new asset transfer powers that were granted under the act. Historically, there were opportunities in rural communities but, for me, the big shift has been to urban communities and I

want to get a sense of the outcomes there. What has happened?

**Professor Steiner:** What we can see from our study and from evidence that we have collected is that a lot of asset transfers under the act take place in urban locations. Community members indicated that a lot of assets are based in cities, and therefore there are more opportunities for community groups in cities to request asset transfer. There was less asset transfer under the act in remote and rural locations. Although there is a lot of land, the question is how community members can utilise that land or limited assets in rural locations. That was definitely one of the things that the act brought to communities.

**Clementine Hill-O'Connor:** On the question of the types of communities, there is clearly an interest in the extent to which the act can have an impact on inequalities, and that was one of the questions that we were commissioned to look into in more detail. However, I think that lots of people were not necessarily making the strategic link to addressing inequalities through asset transfer requests. There was a sense that they were a means to an end—that the asset transfer itself would not necessarily have a huge impact and that what was important was what happened after the asset was transferred and what services would be delivered.

Again, because it is so early on, and because an asset transfer request can take a long time, we are not at a stage where we can look into that in the level of detail that we would like. One of the recommendations in both of the reports was that longer-term investment in looking at what is happening in communities is key. It is so early in the process that, although we can talk about the potential, we cannot necessarily talk about what is actually happening.

**Carolyn McMillan (Glasgow Caledonian University):** I wanted to add to what Artur Steiner said about the mapping on to the SIMD deciles. It is related to what we have already been saying about participation requests. Although we saw that there was a spread across the deciles in terms of the assets that had been transferred, when we spoke to relevant authorities and a key stakeholder, they said that, generally, communities that were applying for asset transfers had significant professional expertise and were often in the form of a well-established community organisation or development trust.

The ATR process requires resources. We had some communities talking about resources such as time—they had time to complete the process. They had people in the community with professional experience in finance, architecture, accounting and law, and in establishing and managing community groups. Those people were

able to provide support and advice to the community transfer body free of charge.

There were other communities that just did not have that capacity, so they had to go out and seek support services to help them to complete the process, which obviously comes at a cost. As Clemmie Hill-O'Connor said, in our recommendations we spoke about ensuring that those services are mapped in order to level the playing field. It is not just about the availability of those services but about support in terms of funding and about effectively signposting CTBs to those support services and funding.

**Sarah Boyack:** That is really useful. Can I explore that bit about how you level the playing field? Given the evidence about skill sets in communities, what are your top recommendations to enable disadvantaged communities to participate in the process? Is it about funding, advice and expertise or a start-up approach?

**Professor Steiner:** We highlighted in our work for the committee that capacity building is an important component of the act and that it should somehow be enhanced and implemented. We can see evidence that well-skilled and educated communities apply for the process, but we would definitely like to invite other less-skilled community groups.

Again, the whole issue about capacity building and how to implement it is a much bigger, fundamental challenge that goes beyond the 2015 act. How can we build capacity and encourage those communities that are disadvantaged, less skilled and less capable, to use legislation that was created to support their activities?

Mechanisms and tools already exist: organisations such as the Community Ownership Support Service and the Scottish Community Development Centre support community groups and can obviously provide that support in one form or another.

**Carolyn McMillan:** We started with a mapping exercise to identify the barriers to participation of marginalised groups or disadvantaged communities before making our recommendations. The exercise involved a review of support services, which are valuable throughout the asset transfer request process because it is a long process that requires resources. Some respondents—even ones from communities which had high capacity—said that there was a point at which the momentum ran out in the community.

We need to ensure that those support services—in the areas of funding, capacities and skills, such as helping people manoeuvre the process, developing business cases, working at planning, architecture or finance—are not only mapped but effectively signposted to community



groups and particularly to disadvantaged communities.

In relation to the availability of those services, some of the relevant authorities that we spoke to said that when people who were involved in, or looking to be involved in, asset transfer were engaged in communications, more disadvantaged groups were more likely to already be talking to the relevant authorities—those groups did not act so autonomously. I hope that they had already been signposted to those services, but I do not know whether that is the case.

**Annie Wells (Glasgow) (Con):** To follow on from Sarah Boyack's line of questioning, the organisations or community groups that apply for asset transfer are obviously sometimes refused. What is the main reason for refusing an asset transfer and how do communities progress their projects after a refusal?

**Professor Steiner:** Every application has to be assessed on a case-by-case basis. We have to see added value for transferring assets—whether it is a building or land, there has to be added value for the community. There must also be a kind of sustainability plan. Every rejection has to be justified by the relevant authority and the reasons for supporting a specific asset transfer have to be provided to the community groups. The situation can vary from case to case, but I would like to emphasise the fact that the 2015 act brought the ability to appeal the outcome of the application. That is definitely something new and it is different from how asset transfers were handled in the past. If, at the end of the process, an asset transfer is rejected, a community group can appeal, and the application goes to the Scottish Government for additional review. Obviously, that gives additional powers to community groups to ensure that the decision was right.

We must remember that transferring assets involves a massive responsibility. We do not want derelict assets out there in three, four or five years. One thing that has to be made clear in all the applications is that community groups are able to run those assets in a way that will benefit the community. Therefore, we must understand that not every asset transfer application will be positively reviewed.

**Clementine Hill-O'Connor:** The rate of refusal is relatively low. We did not receive as much data as we would have liked, but we can say that there were three refusals in 2017-18 and six refusals in 2018-19. It was difficult to find the reasons behind the refusals, so we could explore that in more detail in the future. We asked people in one community body whose application had been refused about their experience, but they were incredibly busy pursuing other avenues that might enable them to carry on their work in other ways,

so they were too busy to be involved in our research.

**Annie Wells:** Some community transfer bodies experience difficulties with relevant authorities, describing them as “hostile” or “obstructive”. What can be done to change that?

**Professor Steiner:** That relates to a change in culture or approach to enabling local democracy.

Evidence from our research indicates that some community groups have experienced a bumpy road with regard to accessing information and working with relevant authorities. They have criticised the lack of engagement in that regard. Sometimes, even under the 2015 act, community groups have found the process to be very long. Some also said that there was no specific contact person who could deal with requests under the 2015 act.

The timeline of the whole process was completely skewed, and community groups often complained about waiting a very long time to hear back from relevant authorities, and in particular local authorities, about specific assets.

10:30

In that way, momentum is lost. Community groups get frustrated. There is not good collaboration. That is not how we build trust or develop good relationships. Instead, it develops a hostile environment, because straight away community groups feel that they are not being listened to and their requests are being ignored. The whole point of the 2015 act is—[Inaudible.]—quickly.

One of the recommendations deriving from our reports is that relevant authorities and public service authorities should identify a person who is responsible for dealing with asset transfer or participation requests. Having a specific contact person who knows the legislation and knows the realities of implementing specific asset transfer or participation requests is very important.

**Annie Wells:** Thank you.

**Keith Brown (Clackmannanshire and Dunblane) (SNP):** Thank you for the reports. It seems that one theme that runs through them is the perhaps less than enthusiastic embrace of this legislation by local and public authorities. To what extent do people believe that that is due to the fact that, from 2015 until now, we have been in the midst of austerity, so there have been major budget constraints? If it is the case that the legislation has put an onus on local authorities both to enable and to encourage these approaches, can the first few years' experience have been unusually affected by the austerity environment in which it has taken place?

**Professor Steiner:** I would like to direct that question to Carolyn McMillan.

**Carolyn McMillan:** That could be the case. A lot of the interviewees talked about working under budget constraints and what that meant for their ability to take the time to sit down and meet with communities. They might have identified that a community had a great idea, which would generate lots of positive outcomes for the community, but taking the time to sit down with that community when they had a long list of responsibilities within their authority was a challenge. That was so for relevant authorities and public service authorities—that is, in both parts of the act that we looked at.

Artur Steiner spoke about identifying a key point of contact to ensure not only that someone is very aware of the legislation and that they place value on participation and community engagement, but that they are there to drive a change in culture within the authorities. That is one of our lead recommendations for relevant authorities and public service authorities in the reports.

**Keith Brown:** There seems to be an in-built prejudice that this will always involve local authorities, but it must be true of the other authorities that can receive requests.

As an example of asset transfers in my area—Clackmannanshire—the report has for some reason given Dollar, which is where I am now, but it does not mention Alva, Tillicoultry or Menstrie, which have also had community transfers; I do not know why those have not been included.

Has it been your experience that the asset transfer requests have come about, by and large, because certain assets were to be disposed of by the local authority in any event, and that produced a reaction from a local community that then established a group, which then found out that it could seek to have the asset transferred? Can you say what the balance is between that kind of scenario and people genuinely thinking that there is an asset that they could run better and saying that they would like to have community ownership of it?

**Professor Steiner:** Community groups can request any kind of asset transfer at any time if they think that the asset can be run by a community group better than it is currently being run by, for example, the local authority. Relevant authorities emphasise the fact that sometimes asset transfer under the legislation is perceived as a cheap way of owning buildings and land. Some groups receive a specific building for a £1 payment. That is not always the case, and relevant authorities can assess and value the property, although it does not necessarily have to go that way. It is important to emphasise that,

often, community groups think that asset transfer is a cheap way of acquiring assets.

At the same time, relevant authorities can have a number of assets that are underused or derelict and community groups can apply for those assets. In those circumstances, the asset transfer process is much more straightforward and it is easier to process. In other cases, the community group has to specify how the asset will be run better than it is currently being run.

**Keith Brown:** Thank you for that. I appreciate that it is quite early to say, but my question was about the extent to which the evidence that you have seen shows that the asset transfers that have taken place were distress asset transfers. For example, let us say that a council has produced a budget and it needs to get rid of a particular hall or facility, and then the community responds by saying that it wants the facility to stay and asking whether it can take it over and run it. What proportion of asset transfers are in that category as opposed to those that have an aspirational element and genuine community initiative rather than coming from someone on the council or another body? Does the evidence that you have taken so far allow you to indicate that proportion?

Both types of transfer are fruitful for community empowerment, but the latter seems to be more within the spirit of the act because it is about enabling communities and raising their aspirations. Professor Steiner, do you have any idea of the balance between the two categories?

**Professor Steiner:** We do not have that data so I do not think that we can comment on the balance between those kinds of redundant assets. In our report, we included a case in which the community group actually wanted the asset. The building needed renovation, and so on, and the community group did a great job of renovating it. You could say that it was an underused asset that needed investment so the local authority probably wanted to get rid of it. At the same time, the community group wanted to run it and did a great job of renovating it and turning it into a facility that benefited community members.

Clementine Hill-O'Connor was involved in speaking to lots of different community groups so she might have some additional comments.

**Clementine Hill-O'Connor:** From the people whom we spoke to, it was probably more the latter, in the sense that they clearly wanted an asset in order to deliver a particular service. In the case study that we use, the community saw the asset as a really good solid foundation on which to build its work. It was not, as Keith Brown said, a reaction to something being closed; the

community had been looking for an asset for a while.

One of the big limitations is around reporting. The act requires that all relevant authorities report the numbers of what has been accepted and what has been refused and so on. There is no requirement for a huge amount of detail. In some cases, we were able to go on websites and find more detail about the rationale behind those decisions in order to make an assessment, but there is no consistency, which is a really big problem in keeping track of some of the important issues. One of our main recommendations is about ensuring that there is consistent reporting, which might mean adding other reporting categories to capture some of the information that is clearly of interest in assessing and evaluating the impact of the act.

**Andy Wightman (Lothian) (Green):** You make recommendations in both your reports about the need to promote opportunities for communities, but in your research you spoke only to people who had engaged with parts 3 and 5 of the act—or am I wrong? Did you speak to people who do not know about the act, or who might have been expected to know about it?

**Professor Steiner:** I can give a quick and straightforward answer. The contract asked us to look at communities that had made use of asset transfer and participation requests. We did not go out and explore with communities whether they were aware of the legislation.

**Andy Wightman:** Okay, so the evaluation that you carried out was about how effective the legislation has been for those who have used it, rather than about the effect of the legislation on improving outcomes for communities across Scotland.

**Professor Steiner:** Yes. There were four key questions associated with the contract. We wanted to look at the outcomes of the legislation. We were asked to look at specific communities that used the legislation and the outcome, aspects associated with community empowerment and whether engagement with the act had led to community empowerment, and whether the different processes that were set out in the legislation were being implemented as expected. However, we were not asked to look at all communities and verify their knowledge of community empowerment.

**Andy Wightman:** That would appear to be an important piece of work that we still need to do.

I am wondering about appeals in relation to part 3 of the act. An appeals process is one of your recommendations. However, section 30 of the act allows ministers to make provision by regulation for appeals. I hope that that recommendation is

taken up. Do you have any insight into why ministers have not introduced such regulations?

**Professor Steiner:** No, we do not have any information on that. That would be something to discuss with ministers. Part 5 of the act on asset transfer has an appeals process but part 3 on participation requests does not have that element. If an application is rejected for some reason, the community group is capable of finding out why it was rejected but that is basically the end point for the community—the community group cannot appeal the decision made by the public service authority.

One of our recommendations is for the Government to explore whether an appeals process is needed and how that would work—who would look at appeals and who would make a final decision and so on. Given that the legislation is on community empowerment, it should truly empower communities, and a rational way forward would be to introduce an appeal process, particularly in cases in which collaboration between public service authorities and community groups is not healthy or is antagonistic. In those cases, community groups want the right to appeal the process and be heard by someone outside the public service authority.

**Andy Wightman:** Parliament intended that there should be an appeals process, which is why it put in the regulation-making power. We will have to explore that with ministers.

I move on to asset transfers. The data that you have collected show that there are a small number of refusals. Are you satisfied that the explanations that were given for those refusals are all valid, consistent and in compliance with the spirit of the act?

10:45

**Professor Steiner:** As Clementine Hill-O'Connor indicated, we have limited access to the data on how and why those applications were rejected. However, we found out from the community empowerment team at the Scottish Government that the existing appeals processes were reviewed at the time of conducting the study, and appeal decisions were supported by the Scottish Government. That could possibly be explored with the community empowerment team. It seems that—as Clementine indicated—the numbers were relatively low, and the appeals process confirmed the decision that was taken by the relevant authority.

**Andy Wightman:** Section 31 of the act requires public service authorities to report on participation requests in quite a detailed way. Clementine Hill-O'Connor said earlier that there was a lack of consistency. It seems to me that the act specifies

all the information that should be produced. Is the issue more to do with public authorities not complying with the act?

**Professor Steiner:** Unfortunately, the answer is yes. All relevant authorities and public service authorities have a statutory duty to publish an annual record of participation requests and asset transfers. We know from the evidence over the past few years that the numbers that do so are relatively low. The number of publicly available annual reports went down from 60-odd in the first year of the legislation to 40-odd. Less than half of the public service authorities and relevant authorities that are supposed to publish annual reports did so. That is the first area of non-compliance with the legislation.

Secondly, although the legislation refers to what should be included in the report, the format in which the information is provided has been highly diverse. Some reports were as short as one page, while others were as long as 20 pages. Some of them included numeric data in the form of tables, while other reports were more descriptive, with a lot of sentences. Sometimes it was not clear whether an asset transfer was undertaken under the act or outwith it. Analysis of those reports is highly challenging, because the format of the information can be very different in each one.

I will pass the question on to Clementine Hill-O'Connor—I know how frustrating it was for her to look at those different records.

**Clementine Hill-O'Connor:** Yes. That goes back to a question that I answered earlier. The minimum requirement is that an authority publishes the numbers—how many applications were received and refused—and information on promotional activity. Some authorities did not return any information, while other authorities went above and beyond and gave us a lot of information.

From the questions that we have had today, if we think about what it is that we want to know about the act, it might be worth considering what extra information—in addition to getting the bare minimum of information—might be required in order to carry out a meaningful assessment of what is happening around these two parts of the legislation.

**Andy Wightman:** That is helpful. I was concerned with section 31, which is about the outcome improvement process, as well as the annual report.

Have I got time for one final question, convener?

**The Convener:** Very briefly.

**Andy Wightman:** Your report found that

“some community transfer bodies experienced difficulties with relevant authorities, describing authorities as hostile or obstructive.”

Was it your perception that such cases were in the minority, perhaps as much due to ignorance, or was there evidence that those experiences were systematic and might be undermining the legislation?

**Professor Steiner:** Carolyn, would you like to take that question?

**Carolyn McMillan:** Community transfer bodies reported that they viewed the relevant authority as hostile, and that things were challenging at times. We do not have the full reporting from all community transfer bodies across Scotland, so that is based on a sample.

To go back to culture change, one of the things that someone from a relevant authority said, which came up a few times, was that they identified asset transfer requests as a useful tool to change the power dynamics between agencies and the communities. There was evidence that they were taking steps to challenge internal beliefs and cultures that may not necessarily value participation and engagement with communities. They were using the legislation not only to say, “This is what the legislation is for; we have to do it”, but to explain how asset transfer can help authorities achieve intended outcomes. It is about more than policy—there has to be wider institutional change, which takes time everywhere.

The view that relevant authorities were hostile was not consistent across the sample. As I said, we do not have reporting from across the whole of Scotland, but that view was reported. However, it was also reported that people are trying to make a change. A key contact person in an authority could help to achieve and drive that culture change.

**The Convener:** I will bring in Gail Ross in her first evidence session.

**Gail Ross:** I have a couple of questions about groups, trusts and community councils, and the reasons why they might not go ahead with an application. I realise that I might well go into areas that are outwith your research, but opinions are important, too. Do you think that there might be an opinion among the general public, which feeds into community and volunteer groups, that they should not be going in and providing or taking over services that a relevant authority has a statutory duty to provide? Conversely, might there be a feeling of failure in the relevant authority if it allows a community group to take over a service?

**Professor Steiner:** As you said, that is something that is beyond our piece of work; however, I can comment on certain aspects. We saw a selection of asset transfer requests for different purposes. The requests often related to

sport or recreation facilities, or were for the management of community parks, woodlands and gardens and their use for community activities. Sometimes, the requests related to multipurpose community hubs, men's sheds, or, interestingly, public toilets. We could see that there was a diversity of requests, and most of them were for services that public service authorities or relevant authorities would not necessarily provide these days. The idea was to add value to what was already there. As such, the implication is that community groups do not replace existing services that are provided by public service authorities and relevant authorities. That is not the desire—the desire is to improve what is already there and add to existing services.

**Gail Ross:** I will add to what Andy Wightman asked about. Our papers mention informal approaches. I am sure that lots of informal approaches, for whatever reason, do not go to a full application. Should those be included in the reporting process? How would that work? What would that look like?

**Professor Steiner:** As you probably saw from our efforts, one of the things that we looked at was Myers' theory of change. We then developed different participation routes. One of those routes was that a lot of community groups approached public service authorities under the legislation for participation requests in part 3 of the act. The pre-application process and collaboration led to certain agreements and dialogue between the public service authority and the community groups.

In a way, it is great that the act has enabled dialogue. It is also a positive outcome that community groups do not have to complete a number of applications or go through a formal process to have that dialogue. The legislation enables that collaboration, and sometimes the participation request, dialogue and collaboration went ahead without proceeding through the formal route.

Should we include that in our report? Obviously, we stopped the process if we knew that something had happened outside the act: we did not look at the outcomes of those aspects. At the same time, we know that that process was initiated because of the act and part 3 participation requests. So, perhaps we should also look at aspects and long-term outcomes of those community activities that were initiated through participation requests but then took a different route.

**Gail Ross:** You mentioned in your opening answers that quite a few groups went on to do other projects—they might have made a PR and then gone on to do an asset transfer. Do you think that we could do mentoring for other groups, perhaps by showing them a good example. Is anything like that happening already?

**Professor Steiner:** In our sample, there were community groups that used both parts 3 and 5 of the legislation—that is, they used participation requests and asset transfers. That shows that there is an appetite from community groups to do more, especially if one thing goes successfully. That relates to capacity building. If you go through one process, that is definitely helpful when going through the process of using the legislation again; it gives an appetite for success.

In both reports we included examples of community groups that used the legislation successfully. It would be beneficial for capacity building to link up different community groups. The groups that were successful in pursuing asset transfer or participation requests under the legislation could speak to other community groups. That would create an overspill effect. It is one thing to speak to professional bodies that can provide training in capacity building; it is another to have real-life experience. There will probably be a moaning session about what went wrong, but that is part of the learning process for other community groups.

**Clementine Hill-O'Connor:** I want to speak briefly about the idea of failure that you mentioned. It is partly linked to the question of numbers and of whether the number of PRs is low or high, or is a good or bad thing. There was a lack of clarity in the public service authorities about whether a PR meant that they were doing something good or whether it represented failure. There were two examples of authorities saying in their publicly available annual reports that they were seeking to minimise participation requests because those represented a failure of some of their other mechanisms.

It states clearly in the act that PRs are not supposed to replace existing good practice. Some public authorities said that they were really confident in their other practices, and so if those were not working a PR would be seen as a bad thing. In one case, that created an environment that did not feel very open and participative for some community groups. Therefore, clarity of policy intent and a bit more discussion about what a PR represents is important.

11:00

**Gail Ross:** That is really important. Do you have any examples in which it worked the other way round—for example, when a service authority that wanted to cut a service approached a community group to see whether it had the capacity to take it on?

**Clementine Hill-O'Connor:** I do not know of any such example. Because of limited reporting

and the level of detail in our sample, an example of that kind did not come up.

**Alexander Stewart (Mid Scotland and Fife) (Con):** When the Community Empowerment (Scotland) Act 2015 came into force, there was an excitement among communities about how they would empower themselves to take part and take some control. We have heard from various witnesses and other politicians about the knowledge base, skill, concept and capacity that was extended to ensure that that became the case.

However, we have also heard today that there seems to be frustration and anxiety. Communities were given the opportunity to develop a case to take over a facility or to manage something in their community, but that has not always resulted in the best outcome and there has been failure in many communities, especially some rural ones, compared with what their expectations were.

The act gave community groups the opportunity to go forward, but in reality it also gave the chance for that not to come to fruition. Does the panel believe that the act achieved its aims and got what was expected from the process?

**Professor Steiner:** The first thing to do is emphasise the fact that the act opened the door. The idea was to systematise the process and make it fairer, so that it is the same for all community groups, no matter the local authority or whether they get the go-head from different local authorities in applying for different assets. That is probably the idea behind the legislation. Unfortunately, we can see from our sample and evidence that there is still a little bit of an ad hoc approach to how processes are carried out in different authorities.

There is a bit of frustration and anger among community groups that apply for asset transfer, about the lengthy process and lack of commitment. Some community groups mention that their knowledge about asset transfer under the legislation was better than that of the person who was dealing with the asset transfer in the relevant authority. Therefore, although the legislation opens the door for community groups and tries to systematise applications and the process, there is obviously a bit of variation in the experiences of community groups.

Carolyn, do you want to add anything to that?

**Carolyn McMillan:** Yes. The underlying ethos—[Inaudible.]—in how it is structured that requests have to be accepted unless there are reasonable grounds to refuse, notwithstanding the lack of an appeals process in participation requests. However, in doing so it seems to me that the legislation is trying to enable a shift in power

between authorities and communities to make decision making a bit more equitable.

There is a difference between policy and practice. It must come down to authorities supporting and seeing value in participation in community engagement and ensuring that it is central to their activities. That will take time. As we have said throughout, there would have to be evaluation and on-going monitoring to say whether it has been effective and to understand its long-term impact.

**Alexander Stewart:** Monitoring and evaluation is important. The sample that you have taken has given us an insight into the complexities of the whole process. As I have said before, some community groups run out of steam because of the length of time that it takes for them to see any real progress. That might have spoiled their attitude towards the act and what the Government was trying to do by introducing the legislation. Is there room for manoeuvre, or renegotiation of some of the terms of the act to ensure that there is that capacity? Capacity is working well in some locations but certainly not in others.

**Professor Steiner:** There is always room for improvement. A few weeks ago, a colleague on the community council asked me a question about the Community Empowerment (Scotland) Act 2015. I do not want to reveal the person's identity or the specific case but, basically the community tried to make an asset transfer under the act in a specific local authority and the process stalled because they did not hear anything back from the authority. That has been an on-going problem. Despite the legislation, the community feels that nothing has progressed as it should. In that case, the legislation sets out the process, but if the process is not followed by the relevant authority, that is not very helpful. The legislation might be good, but community groups should also have a right to make a complaint to the Scottish Government or a different body to say that their application under the legislation has not been processed or that they have not heard back from the relevant authority within the specified period of time and ask what they should do. Without that tool, the community group cannot do anything.

**Clementine Hill-O'Connor:** I agree. It goes back to what Carolyn McMillan said about the difference between policy and practice. I am not sure that the intricate detail of the act needs to be changed, but some of the understanding within public service authorities and relevant authorities needs to improve. We learned that community groups sometimes feel as though they know more than the people in the authorities that they are dealing with because the community is living, breathing and sleeping the issue whereas the person in the authority might have a million other

things to keep track of and do. That is why we recommended that there should be a key point of contact within the authority.

In the asset transfer request case study that we highlighted, the relevant authority had reflected on its practice and said that there were still details to be ironed out and that it now had a better understanding of how to manage expectations and be transparent about what the process would be and how long it would take. It is not necessarily about the letter of the law but is about how the law is interpreted and used within the local authorities and public service authorities.

**Alexander Stewart:** Following on from that, is there a role for more scrutiny and governance to ensure that the recommendations that you have just discussed become a reality and that there is better understanding, more knowledge and more weight behind those people who hold the positions in the authorities and groups to support the community? As you have identified, the community is often quite enthusiastic about where it can go and what it can achieve, but that enthusiasm is dashed because it is not given the proper support and there has not been the necessary governance and scrutiny. Maybe the Scottish Government needs to look at that issue.

**Professor Steiner:** I absolutely agree with that. The legislation was implemented to achieve certain policy goals and it should be followed, but unfortunately that is not always the case. Frequently, and not just in relation to the policy that we are discussing, we see a mismatch between national policy and how it is implemented on the ground.

There should perhaps be more support to enable people to understand the act, not just in community groups but in the relevant authorities. People should know that it is not something that local authorities should fight against but something that they should support. They should know about it because it can create better services and help with their work.

Better understanding is needed between the two parties—the community and the relevant authorities. Sometimes, that might need to be enforced a little bit, but a better way is probably just to provide the relevant authorities with additional support, capacity and information on the legislation.

**The Convener:** Gail Ross has a short supplementary question.

**Gail Ross:** It will be short, convener. Alexander Stewart touched on the governance issue. When community groups had difficulties in even getting a reply from the relevant authority—this obviously applies only to local authorities—was there any

elected member input to help them with their applications?

**Professor Steiner:** The example that I was referring to was beyond the scope of the study. It came to me a couple of months ago, and it relates to my personal interest in community development, the 2015 act and so on. I collaborate with different community councils and community groups, and that is why I received that request. It was more of an informal request.

It is difficult to answer your question in detail, but I could find out about that. I do not know whether Clementine Hill-O'Connor wants to add a comment.

**Clementine Hill-O'Connor:** There were a couple of cases in which elected members were involved tangentially. I visited some councils that were putting in participation requests and sat in on some of the meetings, and elected members were also represented there.

In the case of one of the refused participation requests, an alternative route had been suggested by an MSP who was responsible for the area—I think that they were the local MSP and had a professional interest as part of their portfolio. There are examples where that happens, but I am not sure that it is necessarily routine across the board.

**The Convener:** Thank you. That completes our questions and concludes our evidence session with our first panel. I thank you all for taking part.

I will suspend the meeting briefly for a panel changeover.

11:14

*Meeting suspended.*

11:19

*On resuming—*

**The Convener:** Welcome back. I am pleased to welcome our second panel of witnesses, who are attending the meeting remotely. Louisa Macdonell is the chief executive of the Development Trusts Association Scotland and Linda Gillespie is the programme manager for the association's Community Ownership Support Service. Mick Doyle is head of programme at the Scottish Community Development Centre and Fiona Garven is the centre's director.

I thank our witnesses for taking the time to answer the committee's questions. As they might have heard already, members will be asking their questions in a pre-arranged order, with any supplementaries being taken at the end. It would help the broadcasting staff if members could

indicate to which members of the panel their questions are addressed, in order, and if everyone could allow a second for their microphone to be operated before they speak.

I say to our panellists that if they think that another panellist has already given a good thorough answer to a question, it is perfectly okay for them simply to say, "I agree", and we will then move on to the next question; they do not all have to answer every question.

I will ask the first question. What progress do you believe has been made towards community empowerment since 2015? Who would like to kick off the discussion?

As no one has indicated that they would, it will be a short session. That is what I like to hear. *[Laughter.]* Perhaps Linda Gillespie could answer first.

**Linda Gillespie (Development Trusts Association Scotland):** *[Inaudible.]*—part 5 of the Community Empowerment (Scotland) Act 2015, which is on asset transfer, has been a positive addition. By creating that framework for the transfer of assets—*[Inaudible.]*—confidence in their view of what is possible. It has also opened out the rest of the public sector to communities, from the point of view of the assets that they might have an interest in. From that point of view, it has been a very good step.

**The Convener:** Would anyone like to add to that?

No one has indicated that they would, so I will move on to ask our panellists whether they think that ownership of an asset is necessarily the best way to help communities to become more empowered. Let us hear from Louisa Macdonell first.

No one is responding. Are people hearing me okay?

**Louisa Macdonell (Development Trusts Association Scotland):** Can you hear me?

**The Convener:** Yes.

**Louisa Macdonell:** The ownership of an asset is a means to an end. The more than 300 members that we have throughout Scotland are community anchors. Most of them own assets that were formerly in the public sector. Such ownership is not the only route to community empowerment, but it definitely helps. The process by which a community acquires an asset can help to build its capacity—especially its confidence to take on additional projects and to look around to see what else is in its locality that might contribute to its regeneration.

The community ownership process has definitely helped. It is a beginning. As Linda

Gillespie has stated, and as someone on the previous panel said, the door is now open. However, that process has been going on for quite a long time. It has not come about just as a result of the 2015 act, but the act has increased the frequency of applications and people's awareness that they can regenerate and improve their communities by using assets.

**The Convener:** Would Mick Doyle or Fiona Garven like to comment on that?

**Mick Doyle (Scottish Community Development Centre):** It very much depends on what communities want to do. The act aims to increase the amount of control that is available to communities to enable them to do the things that they want to do.

Often, ownership is the right way forward. However, sometimes what communities want to do requires not ownership but increased access to or use of an asset—be it a building, a vehicle or whatever. The leasing and use options were added to the act's provisions as it was going through Parliament. We feel that it would be helpful to restate that those options exist and to aim to ensure that all options are properly understood by communities. The capacity-building work that the organisations on the panel do, along with other investment in the process, enables that to happen so that folk know that they are taking the best route and the route that they need to take if they are to achieve their aspirations and create the best outcomes for the people they are delivering for.

**Fiona Garven (Scottish Community Development Centre):** I turn back to the convener's question on whether empowerment has progressed. We see the passing of the Community Empowerment (Scotland) Act 2015 as having been a positive and important step forward, because it put communities' rights to participate fully on a legislative footing. However, it is early days for us to be able to assess the impact of participation requests. Those were a new measure, whereas those on asset transfer predated the act.

We also think that it is difficult to evaluate or review participation requests without also looking at part 2 of the 2015 act on the duties of the community planning partners to foster participation and widen community engagement around locality planning and local outcome improvement plans. We therefore think that a review of participation requests cannot be done in isolation but must also take account of how well the duties in part 2 are supporting participation and involving people from marginalised communities and those who experience inequality of outcomes.



**The Convener:** Further to that, can you see any evidence on whether, so far, it has helped to involve those marginalised communities?

**Fiona Garven:** Do you mean the participation requests part of the act or part 2?

**The Convener:** Yes. We are dealing with parts 3 and 5, but my question also relates to part 2.

**Fiona Garven:** I will defer to Mick Doyle on the detail of part 3. However, overall, participation requests tend to come from groups that are more organised; the vast percentage come from community councils. A lot fewer come from population groups. We are talking mainly about locality-based groups. There is no clear evidence yet on whether marginalised and disadvantaged groups have used participation requests to any great extent.

**The Convener:** We will move on to Sarah Boyack.

**Sarah Boyack:** I welcome the panel members. We had an interesting session with the first panel, in which we talked about the findings of experience on the ground since the 2015 act was implemented. I note that the SCDC did some promotional work in 2017 to encourage people to engage with the 2015 act's provisions and to support them in doing so. What have you found over the three years since then? We have heard suggestions about having a named officer who would be the first point of contact and skilling up people in public authorities, as well as providing support for community groups. Have the panel members any insights from their experience on what needs to change?

**Fiona Garven:** Yes. We have offered support over the past couple of years, but it is important to appreciate the extent of that support, which has been around participation requests in particular. We have been able to offer some support only in the past two years, which equates to a part-time post. It therefore does not allow us to engage with groups across the board or at a local level that are looking to submit participation requests. The support is limited to our being able to disseminate information across the board, but it is dependent on communities being able to pick that up at a local level and the information being communicated to them by skilled practitioners on the ground.

I know that this came up in the earlier evidence session, but we think that there is a gap in the provision of skilled community development support to help people to navigate through participation requests and even to inform them that they exist and can be used as a mechanism for community empowerment. Our learning is limited in that respect, except that we know that a

gap exists with regard to access to community development support.

We agree with the recommendation of the evaluators at Glasgow Caledonian University about having a named contact—not just someone who knows about the practicalities—who is culturally orientated towards the principles of community empowerment and can work on that in their own public sector body. Having such a person will be important in ensuring that the 2015 act has the impact that it set out to have.

**Mick Doyle:** Building on Fiona Garven's comments, it is quite disturbing how often we go out to do promotional work and find that a number of groups in key roles in local areas do not know much about the 2015 act or its potential. We find that, once we raise awareness of the legislation, there is a high level of desire to engage with its principles. However, that situation raises questions about how successful public agencies have been at getting the message out. That chimes with the Glasgow Caledonian University experience that there are people in public authorities who would like to do more but do not feel that they have the resources. Austerity is a factor there.

There are sometimes cultural issues, but there are many progressive staff who are keen to have a proper participatory environment. We have raised the issues around part 2 because participation requests are more likely to have an adversarial dimension if other elements of the participatory landscape are not working properly. That is why it is helpful to think about them a bit more systemically.

I do not know whether that helps. There is massive potential and desire in the act, but its different bits need to work together in order to create the right outcomes for communities that want to do things in a different way and contribute to service reform.

11:30

**Sarah Boyack:** That was a really helpful answer. I will follow it up by asking what needs to change. We have the legislation. I am not hearing a massive critique of the legislation; the issue is with implementation. Do we achieve the culture change through political leadership, guidance or dedicated funding? What do we need in order for the act to be delivered in practice? Perhaps Mick Doyle can follow up on his previous answer.

**Mick Doyle:** I can make a few points; I am sure that my colleagues would like to chip in.

Promoting the purpose of the act is definitely one thing that we need to do. I echo what was said by the first panel about participation requests—more active consideration of an appeals

mechanism would be helpful. That is not because we want everyone to get bogged down in the detail of appeals, but a conversation about that would help to create a discipline among all the folk who are involved on the public agency side to be more focused on how the requests work and—just as important—how participation works. Similarly, a point was made in the previous session about the need to gather evidence on what happens to unsuccessful requests. If they are referred to other processes, we need to know whether those processes work.

Maybe there needs to be some discussion about possible access to legal remedies. At the end of the day, it is a law, so there needs to be that potential. Again, that is not because we want to get bogged down in the courts but because, if folk can see that as a possible outcome, it encourages everyone to engage in a more focused way. We have raised the issue of the case in South Ayrshire, where participation has been a focus of a judicial review and a recent Court of Session judgment, which might mean that the way that we deal with participation requests will have to be taken a lot more seriously. Fiona Garven also mentioned capacity building.

**Linda Gillespie:** I will build on the point that was made in response to the question about raising awareness. Part 5 of the act, on asset transfer requests, benefited from COSS being operational ahead of the legislation. Therefore, there is a much higher level of awareness of asset transfer and the potential for that. Our experience of communities is that they are reacting to threat and opportunity: the threat of losing assets and buildings being closed and—for some, particularly established organisations—the opportunity that an asset brings. There is a high level of awareness; the COSS website had 55,000 downloads last year. We have not had anything like that number of people through the door. People are clearly looking at the issue and considering it.

With regard to how things can improve, the idea of a single point of contact, which was raised by SCDC, is extremely important. It is also important that the post is at a senior enough level, so that it is not seen just as an administrative post. If communities come into a relevant authority and are directed to estates, they will have a different type of conversation; generally, it will be about price, the value of the asset and conditions that will be attached to that. If there is a multidisciplinary team within a relevant authority, it will be a different experience. Although local authorities, overwhelmingly, are the recipients of the most asset transfer requests, in the context of national health service assets, if a community just speaks to estates—[*Inaudible.*]*—*NHS, it closes down that opportunity for a continuation of some form of health service-type activity. The

community needs to be directed within the NHS; organisations such as the NHS are extraordinarily difficult to navigate.

There is an issue to do with the status of a single point of contact, as well as the need for there to be one.

**Fiona Garven:** Where we see the potential success of the act is where it is built into wider community empowerment mechanisms. We have seen notable cases in areas where the whole local authority is focused on a community empowerment strategy. We have been brought in to support that kind of work in some areas. We have seen whole authorities take an empowerment approach. It is not just about the act itself; it is about other forms of participation. That might be through participatory budgeting or through local, community-led action planning.

The other key to the success of implementation is to tie it in with some of the other developing policy and legislative mechanisms, such as the use of local place plans in the new planning legislation, or discussions about the review of local governance by involving communities and giving them an influence on the decisions that affect them.

Rather than seeing this as an exercise in implementing the act in and of itself, it is important to link it into wider agendas and to use the policy mechanisms in concert with one another.

**Louisa Macdonell:** It is a two-way street. It is about raising awareness in communities of what they are capable of. Linda Gillespie made the point that asset transfer predates the act, so communities might have a head start on awareness in that area.

The COSS team is working with local authorities on myth busting and education to improve the understanding of the process within local authorities. It is helping them to understand the reason for the process and how it can be achieved. Work is being done with local authorities and other public bodies. The COSS team has staffing equivalent to five full-time people. We are using new technology. We have developed more online tools so that one person can deliver support to many.

There is an education process to go through with both sides to normalise asset transfer. It is new for public bodies. Some of them are proactive and are behind that, but it is not so high on the agenda for others. That does not necessarily mean that there is a systemic issue.

I go back to something that the convener said at the beginning about asset transfer and marginalised communities, which ties in with the conclusion in the report about building community

capacity and cohesion. The fact that a community is challenged does not mean that there is a lack of capacity for that community to deliver.

Some of the biggest and most successful development trusts are in very challenged areas. It should not be assumed that wealthier communities can deliver and that marginalised ones cannot; it is more complex than that. The development trusts in Easterhouse and Beith are among our biggest and most successful development trusts, and they are in challenged areas. What matters is the capacity—or rather, the confidence—of a community to take on a project.

The number of projects is increasing as the act progresses. I am involved in policy conversations with different groups and organisations about how to increase communities' confidence so that community activity can increase. How we do that is part of this process. There is much for communities and public bodies to learn about how we can make progress.

**The Convener:** I remind the witnesses to raise their hands if they want to speak, and to remember that we do not need an answer from everybody for every question. We have a lot to get through.

**Annie Wells:** Good morning, panel. Will you give us some examples of best practice in the public service approach to participation requests and asset transfers? On the flipside, can you give us any examples of bad practice?

**Linda Gillespie:** In relation to asset transfers, an example of best practice is the approach taken by East Ayrshire Council, which brought together its vibrant communities team—a multidisciplinary team to support communities that are looking at assets. Moray Council has also been very active in that way.

Across a range of public bodies, having only one point of contact can be challenging for communities that are trying to get a pre-formal asset transfer request discussed. The multiservice approach in the relevant authorities is a positive thing.

**Mick Doyle:** One of the problems is that we do not see the worst practice, because the participation requests are refused and we do not necessarily know much about them. I echo the views that were expressed about that in the previous evidence session and the suggestion from the folk at Glasgow Caledonian University that it would be good to gather data on that and perhaps make it part of the returns to the Government.

On good practice, we have seen examples of communities being involved in positive conversations about the use of land, sometimes

on the back of PRs going in after initial planning consent has been requested. There is an on-going case like that to do with a big piece of land at Portobello in Edinburgh, where the community has been much more involved in the conversation.

There was a wee simple example up in Aberdeen, where a group had been trying to get access to a community flat for three or four years. That should have been possible under other processes, but the group was unable to achieve it. The group used a PR to get the right folk at the table and it quickly got an agreement about the use of a community flat.

Fiona Garven alluded to the good example of West Dunbartonshire Council, which brought the community into the development of its processes for how PRs should work as part of a bigger debate around the community empowerment strategy and action plan that it has produced. That has all been delayed because of Covid, but it has put a lot of effort into trying to engage people in thinking about how they can make PRs work for them.

West Lothian Council and Argyll and Bute Council have also put a lot of effort into engaging people in joint discussions between the local authority and community groups so that folk have a common understanding of what they are trying to do. We are supporting some work in both of those areas to develop better outcome improvement processes, which are key to PRs. It is not just the participation request but what happens in the dialogue that is helpful.

**Annie Wells:** Do panel members believe that the 2015 act has narrowed or widened the outcomes gap between communities that were already empowered and those that were less empowered?

**Mick Doyle:** It is hard to say definitively, but it is probably fair to say that a community with a lot of folk who are retired professionals will have the major resources of their skills and their time, and it will therefore be likely to fare better in such a process than a community in an inner-city locality where folk who are trying to deal with difficult lives and are often time poor are also expected to deal with a difficult community commitment. Those difficulties are the backdrop to all of this.

With the right support, we can probably between us—through Government intervention, public agency support and capacity building support—overcome the barriers that people face in understanding and using the legislative opportunities, and bridge some of those gaps. Nonetheless, it is certainly harder for some folk than it is for others, not least because of the language that we sometimes have to use.

11:45

**Fiona Garven:** In support of what Mick Doyle said, I note that it is difficult to say whether the act has, in and of itself, narrowed or widened the gap.

Over the past decade, we have seen a significant decline in the kind of supports for communities—such as skilled community development support—that were there previously. That has to be part of the equation.

We also need to take into account the fragility of the funding environment for community organisations, some of which are struggling to survive. Communities that have already organised and that may, as they grow in strength, go on to submit a participation request are increasingly vulnerable.

Both of those issues need to be seen as part of the equation, alongside the act.

**Keith Brown:** I thank the panel for their evidence so far. On that last point, it would be interesting to know whether any of you can speak to what you think might be differences between how local authorities and other public bodies have embraced the act. You have mentioned things such as having a named person and a cultural orientation towards trying to promote the act. Is there a difference between local authorities and bodies that are not local authorities?

**Linda Gillespie:** Local authorities have experience of transferring assets to communities, which they have done since 2010, and they are well aware of the social, economic and environmental benefits that a community proposal can bring. We have found that local authorities are well ahead on that.

In local authorities, there can be a preference to lease assets to communities rather than transferring them. That point is valid in the public sector, particularly where organisations have not had direct contact with community bodies. There can be a very pragmatic implementation—and there is actually a very pragmatic implementation of the act, in that people are complying with it.

There can be challenges around communities navigating within the public body and trying to get into a discussion. An awful lot of it is focused simply on price, and any discount that is to be applied can be an extremely challenging concept for the wider public sector. Local authorities, however, are much more aware of that within the mix.

**Fiona Garven:** Our interface and experience are primarily with local authorities. It is difficult to know what resources exist in some of the other public sector bodies that are primed and experienced to deal with participation requests, should they arise.

We see some potential in relation to new public health priorities—for example, around participation requests in a health context. However, the capacity and the will would need to be there within those public bodies to allocate into those posts people who could promote and support participation requests, should they come in.

**Keith Brown:** The focus of this evidence session and the previous one has been local authorities, yet the act has a much wider scope than that. There seems to be a lot of scope that is not being tapped into, whether it relates to water authorities, environmental authorities or the NHS. Are you aware of any non-local authority public bodies that are good examples of embracing the act, selling its virtues and making use of it, or are there none?

**Mick Doyle:** I have a couple of examples. Community Planning Aberdeen has a portal arrangement whereby participation requests can be submitted to the partnership and directed to the appropriate agency. The theory is that, if the issue relates to health and social care, there might be a lead agency that deals with the request but, as the legislation suggests, it can bring in other partners from the public agency side. I am not aware of how that is working in practice, but it is in place.

Similarly, Dundee City Council promotes in its online materials the fact that the act applies to different organisations.

In the early days of the act, we got a lot of requests from the Cairngorms and Loch Lomond national parks areas, which were looking at how it might play out for them. I am not sure whether this is going into participation requests, but there was certainly interest in that.

**Linda Gillespie:** [*Inaudible.*—we are seeing requests coming in from communities. Forest Enterprise Scotland has a very structured approach to responding to asset transfer requests. The nature of Police Scotland's assets means that quite a lot of men's sheds are interested in some of the former police estate. A bit of an increase is also coming through for the smaller assets of various NHS boards.

Estates that the rest of the public sector hold may not necessarily be attractive to community groups, or of the right scale. For example, people might just want to have a say in what happens to a hospital site rather than to take responsibility for it, or they might want only a small part of it.

**Andy Wightman:** As Linda Gillespie said, asset transfers happened previously, but the act has put them on a statutory footing. In broad terms, has that been of benefit, both in increasing the numbers of requests and transfers and in making it clear what the process should be?

**Linda Gillespie:** In broad terms, yes. It has given communities a sense that they have rights. Fundamentally, it is like anything else: if a public authority recognises the value that a community body creates by taking an asset on, we will not necessarily need the provisions in the act. [*Inaudible.*]*—*to engage with the asset transfer and provide legislative cover.

We are seeing increased interest in the wider public estate, which would not have happened without part 5 of the act. Local authorities have had the scope to do this since 2010. The interest in the wider public estate is potentially quite transformative, but it is still local authorities that communities are reacting to for asset transfers.

**Andy Wightman:** There is an issue with regard to the cost of acquisition, and there have been some concerns that community bodies are having to pay tens, hundreds or millions of pounds for public assets when, arguably, they are still being held in the public interest and there should be a mechanism that enables their transfer at a more reasonable cost. Do particular issues arise due to the fact that the Treasury red book demands market value, or are compromises being reached?

**Linda Gillespie:** It is a very contentious area. Having the Scottish land fund coming into urban communities has been a game changer in providing support for asset acquisition. It has created an expectation that market value is virtually achievable in the transfer of assets, as the land fund will fund up to 95 per cent.

There can be a problem with how the public sector values its assets and their use in community ownership. There is a bit of an issue around price and the funding of evaluations, and there can be unproductive discussions about what are relatively small amounts of money.

**Andy Wightman:** My next question is for Mick Doyle and Fiona Garven. Regarding participation requests, you discuss the fact that there needs to be independent oversight and an appeals mechanism. As I said to the previous panel, there is provision for ministers to introduce regulations for appeals under section 31 of the act, although they have never done so. Do you have any insight into why they have not done that?

**Mick Doyle:** No—we would not know why that is the case. I do not know whether an external appeal system is needed or whether a second level of internal recourse might be a starting point, but I am not aware of why such regulations have not been introduced.

**Andy Wightman:** That is helpful—thank you.

The Government has made it clear in its statutory guidance that participation requests are for processes that are additional to the routine

means by which communities can engage with public authorities. Communities have much greater capacity to engage with local authorities, as they are democratic bodies that are elected by those communities, as opposed to public authorities, whose boards are usually appointed by ministers and are not directly accountable to communities. Some important improvements can be made to how public bodies work with communities.

In broad terms, if local democracy is working, should there be a need for participation requests? In particular, do they represent a function of the hollowing out of local democracy that we have seen? Before 1996, we had district councils, which were closer to people. Before 1975, we had 196 town councils, which were much closer to people.

**Fiona Garven:** Broadly, your point is true. If local democracy was working, would there be a need for something like participation requests? We view them as positive because, even though there are other mechanisms through which communities can engage, such as community planning processes, locality planning and so on, participation requests allow and support communities to initiate the dialogue, as opposed to their being invited into a process.

Where decision making has been devolved to a much more local level, it could be that such requests would not require to be made, as communities would be more in control of decisions that affect them at whatever level.

We think that the issue is part of a wider debate. At the risk of repeating myself, I emphasise that the vocation of the 2015 act needs to sit alongside other empowerment measures. That is partly about democracy, where decisions take place and at how local a level.

**Andy Wightman:** Is there sufficient systemic learning from the outcomes that participation requests have achieved? For example, if a community body makes a request to engage on a matter of improving service delivery, the outcome may be positive for that community, but is there any evidence that people are systemically learning from such examples, not just in the public authority concerned, but in all public authorities?

12:00

**Mick Doyle:** I do not think that there is a lot of evidence of that. It would be useful to have such evidence, but the question is how we would go about gathering it, given that things are at an early stage.

Your point about outcome improvement processes is important. In order to have that on-going systemic impact, a participation request that

improves an outcome improvement process also needs to embed that process into the broader participation work. It is not a positive result for groups if they have to keep going back to the PR process to get back round the table on relevant things.

That idea of learning is critical, because that is how culture is nudged and changed and how progressive officers and communities are empowered. That is how we can get on-going shift in ideas that can create proper service reform and ensure that the other legislative intent of the act is delivered on.

We are looking at the learning element. We will be running some learning events this year, which were displaced from last year's support programme, as well as another set of learning events with a heavy emphasis on outcome improvement. Andy Wightman is absolutely right about the importance of that.

**Gail Ross:** I want to ask about on-going learning. At the start, we spoke about capacity building. I was glad to hear that somebody mentioned confidence building as well, because a lot of the community groups have never done anything like that before, so support systems have to be in place to help them to go forward.

I mentioned this in my questions to the previous panel. To what extent is there a mentorship programme that allows good practice to go from group to group? A lot of the community development trusts in my area meet each other regularly to pass on good practice and points of contact. Where are we with that sharing of practice? How can the capacity and confidence building move forward now?

**Louisa Macdonell:** We do a lot of that. The development trusts do quite a lot of peer-to-peer support and networking. Ironically, because of Covid and the use of Zoom becoming much more frequent and everyday, we have been doing increasing numbers of member discussions of particular issues, and we will build on that. In addition, the Scottish Community Alliance administers a small fund that meets the costs for groups to go to meet each other and discuss issues. There is activity out there that supports that.

It is always challenging for people to find the time. If people ask for peer-to-peer support, everyone is busy, especially at the moment. It does happen, but it could happen more—that would be useful. However, there is a lot of activity in the area.

That is from my perspective. It is a wider issue, and it is very much about confidence building, not just skills. It is about groups being able to take collective decisions. Linda Gillespie will be able to

give the committee more examples of how COSS works with early stage groups that are just beginning the processes of thinking about asset transfer.

**Linda Gillespie:** The point about learning journeys is well made. There is scope to develop that further and to use the experience in the network and in communities to support other communities, possibly in a more practical way. Peer mentoring and support can be developed.

From a COSS point of view, obviously the process is quicker when an established group is looking to take on an asset, because established groups tend to operate strategically, and they might have staff. For early stage groups, peer support and experience is critical, because they need to be sure that they know what they are taking on. We work closely with groups that are forming to take on assets, and we use our network of development trusts and former COSS clients, which might not be development trusts, to take groups out to see them.

**Fiona Garven:** Learning is important. We go out to people who are engaged in support, who want to make participation requests and who have experience of bringing groups together to get collective learning, which can then be fed back out to the sector. We also support groups to use the learning exchange that is run by the Scottish Community Alliance.

There are probably more opportunities for learning among membership organisations. Participation requests can come from a wide range of diverse and disparate community organisations. It is more difficult to support those diverse groups at the national level through engagement in a coherent learning programme. The difference in access to opportunities between groups that are part of a membership organisation and those that are not is an issue.

**Gail Ross:** Individuals might see an opportunity but might not know where to go or whether to approach their community council. A lot of communities do not have a development trust, although the ones in my area are hugely proactive and beneficial to communities. How do we widen the message to people who are harder to reach? How do we say to them that they can be empowered to be part of their community and to make a difference, even if they are not already in an established group?

**Fiona Garven:** That goes back to the availability of local support. Those who work in and alongside communities at local level are able to distribute information to people, join people up, signpost people to other learning opportunities and so on. There is take-up of the learning events that we put on across the different parts of our

programme work when people are able to signpost communities to support that they might otherwise not know exists.

**Mick Doyle:** Working through trusted intermediary organisations is important in dealing with groups that have protected characteristics, such as disabilities, including deafness, or with people with language challenges because they come from other countries. It is about being systematic. How do we get to the communities that might need to access the legislation? How do we address the barriers that they experience in understanding what the legislation is for and in being able to use it?

If we recognise that it is about confidence, skills and knowledge, we need to recognise that it is also about understanding the starting points, as we said earlier. There might be communities in which people have loads of innate abilities but less knowledge, because of the impact of multiple deprivation or whatever. We need to plan and provide support in a way that compensates for that, so that folk get equitable access to the support that is needed to make use of the 2015 act, and can share that support and develop a bit of solidarity among themselves.

**Gail Ross:** I have a final question. The pandemic has brought communities together in a way that we have never seen before, through community resilience partnerships and various other groups that have been formed. How do we ensure that we do not get volunteer fatigue, with the same people doing the same things in different groups? That happens quite a lot. How do we ensure that we harness the energy of the new people who have come forward with a renewed interest in their communities?

**Louisa Macdonell:** That is challenging. Originally, the increase in the number of volunteers was partly because people who were on furlough wanted to be active. However, even after people have come off furlough and returned to work, more of them have said, “I think this is great. I didn’t know you were here. I want to carry on being involved.” There has been a great increase in the number of volunteers.

There has also been a big coming together of community groups, particularly around how the Scottish Government’s supporting communities fund has been administered. I talked to one of our development trust members yesterday. He said that we all used to be players in a team, but we all wanted the ball, and we all wanted to score. However, what we needed was a coach, because we work as a team on the field when we have a coach. That concept within a place is powerful. Does leadership development in communities, and the people who are responsible for that leadership

matter, as long as someone does that? That is an on-going question.

From a “getting stuff done” perspective, we want volunteers to continue to come forward. It is wonderful when people want to be on board. Communities want to do more; they have responded amazingly during the pandemic. They have shown what they can deliver, and that has worked. Awareness of the capacity of communities to deliver services and what is needed locally, and recognition of the depth of local knowledge are important.

Maintaining the momentum is a challenge, but I think that that will happen. That is really exciting, because it pushes on the empowerment of communities to participate or buy asset transfers as a means to an end, which is to deliver improvements to the places that they live in. It is a really exciting time, but it will be a challenge, as I said. Many areas, members and other policy groups are having this discussion, too.

**Fiona Garven:** The response by communities to Covid has been notable. In an agile and fast way, they have been able to step into spaces that other public services could not reach so quickly. Communities have had a great impact, so it is an exciting time.

However, there needs to be some caution, because the proposition of becoming involved in your community in response to an immediate crisis is different from being engaged in long-term community life and action. We find that a lot of community organisations and activists burn out easily, because they spend an awful lot of time trying really hard to make things happen. The system could be simpler for them.

There is something about systemically understanding the contribution and impact that communities can make. They can step into spaces and perhaps reduce the impact on public services. Although that might get recognised, it is often not followed up with a consistent approach to funding the sector or the consideration of shifting funds towards communities so that they can do things better and more cheaply. As I have said, there is something about recognising the contribution of community groups as part of the whole system and providing genuine support and information to help them to continue to do what they are doing better and more easily.

**Alexander Stewart:** I want to look at the apparent disconnect in some areas—the example of Perth and Kinross has been given—between the expressions of interest in asset transfer and the actual requests that are submitted. What is putting communities off? Why is there a disconnect?

**Linda Gillespie:** That is an interesting question. Perth and Kinross Council has been extremely active in the past 18 months in developing its internal processes across teams. I am not sure that we have picked up that asset transfers are not going through, because we have a number of on-going cases in Perth and Kinross that have had quite a lot of support from the public body. I cannot comment much more beyond that on Perth and Kinross.

It is completely legitimate for a community group to explore an asset transfer and decide to step away from it. Groups may well do that, depending on the funding and the opportunities to generate income. Groups will certainly have to take a strategic approach to deciding which assets they regard as assets and which they view as liabilities.

12:15

We have talked about place plans, local improvement plans and so on. That type of activity will be key for communities in looking at what their assets are. It does not really matter which public sector body owns those assets—communities need to look at what the assets are, what their needs are, and which assets best meet those needs. Obviously, that brings a range of challenges, depending on which public body is the owner.

The fact that communities are reacting to the threat of losing a service does not necessarily mean that they will feel able to deliver that service, much as they may want their community centre to remain open or their public toilets to be functioning, or any other such assets that may be threatened with closure to remain in place.

That was not necessarily particularly clear.

**Alexander Stewart:** That is okay—thank you.

What role do you see for the community planning partnerships? In response to a previous question, Mick Doyle touched on the capacity of those organisations. They bring together a number of agencies, which then have an opportunity to interact in a council or community setting, and they also give them the chance to impart their role to the community at large. Do you believe that the CPPs have a role to play in the whole process? If so, how might that be bolstered going forward?

**Mick Doyle:** As I understand it, the legislation that we are discussing was partly an outcome of the review of community planning that was carried out a number of years ago. That was certainly an element of the genesis of the 2015 act, partly because it was recognised that there was a bit of an issue with the relationship between CPPs and communities. Part 2 of the act certainly tries to

deal with that—hence our recommendation in that regard.

There is some evidence from some of the places in which we have worked that the local authority, as the lead community planning partner, has had difficulty in getting sufficient support from other community planning partners to do stuff in general. Equally, in one or two other areas, community planning partners would take the view that the local authority, in its leadership role, has not been collegiate enough in bringing the partners together.

Any support that CPPs can get to work more effectively as a group and to engage with communities, thereby possibly negating the need for a participation request and/or making life easier in respect of asset transfers, would be a good thing, and that could be explored. The details of exactly how to do that would need further discussion.

**Alexander Stewart:** But you believe that there is a need to try to engage more among some of the agencies to ensure that the transition takes place smoothly. As you identify, the council may well be the lead body. If there is not the dedicated resource, capacity and funding to make that happen, once again—as I said to the earlier panel—we will be setting ourselves up to fail, because we will not manage to achieve the goals, aspirations and ambitions that communities want to fulfil.

**Louisa Macdonell:** I agree that that is important. I am trying to think that through. If we look at communities as a sector, and we want them to expand—if we want to encourage them to do more—that is great, but in any other commercial sector we would be putting in support to underpin that aim in order to make it happen.

If we reframe the conversation to ask how we help the community sector, we would indeed look at expanded financial support, as well as support around confidence, skills and opportunities. That support would be strengthened if there was a much more holistic way of looking at things. Often, there can be a turf war—people can say, “This is my bit, and that is your bit”—and things are not joined up. That is not necessarily deliberate—it is just the way that things have been.

Is there an opportunity at this point to look at resetting the system of how communities are involved, and how local authorities involve communities, in those conversations? The town centre action plan expert review group is currently discussing that and hearing evidence from witnesses as well as receiving written evidence. The issue keeps coming up.

If we are asking communities to do more, we have to broaden the underpinning support for



them so that they have the ability and confidence to take these things forward.

**The Convener:** That completes our questioning and concludes the evidence session. I thank everyone who has taken part in the meeting for helping to identify some key issues for the rest of our inquiry. The committee will take further evidence on the 2015 act at its meeting next week.

## Subordinate Legislation

### Town and Country Planning (Emergency Period and Extended Period) (Coronavirus) (Scotland) Regulations 2020 (SSI 2020/254)

12:21

**The Convener:** I refer members to paper 3. Item 4 is consideration of an instrument has been laid under the negative procedure, which means that its provisions will come into force unless the Parliament agrees to a motion to annul it. No motion to annul has been lodged. The Delegated Powers and Law Reform Committee considered the instrument on 1 September 2020 and determined that it did not need to draw the Parliament's attention to the instrument on any grounds within its remit—[*Interruption.*]

I suspend the meeting.

12:22

*Meeting suspended.*

12:23

*On resuming—*

**The Convener:** I will start again.

I refer members to paper 3. The instrument has been laid under the negative procedure, which means that its provisions will come into force unless the Parliament agrees to a motion to annul it. No motion to annul has been lodged. The Delegated Powers and Law Reform Committee considered the instrument on 1 September 2020 and determined that it did not need to draw the Parliament's attention to the instrument on any grounds within its remit.

Do members have any comments on the instrument?

**Sarah Boyack:** The regulations are an important piece of legislation to enable people who have planning consents to restart development as things move on with the pandemic, so I will certainly not be opposing the instrument today.

**The Convener:** Thank you. Do other members have any further comments?

As there are no further comments, I ask the committee to agree that it does not wish to make any further recommendations in relation to the instrument. Are we agreed?

**Members** *indicated agreement.*

**The Convener:** That concludes the public part of the meeting.

12:25

*Meeting continued in private until 12:42.*



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