

Contact: Richard Cartwright  
Tel: 01236 632628  
Fax: 01236 616206  
E-mail: CartwrightR @northlan.gov.uk  
Date: 27 September 2012  
Our Ref: IHBC/12/06/RC  
Your Ref:



· INSTITUTE · OF · HISTORIC ·  
BUILDING · CONSERVATION

*Making Heritage Work*

Richard Cartwright  
IHBC Consultations Secretary  
c/o Environmental Services  
North Lanarkshire Council  
Fleming House  
Cumbernauld G65 1JW  
<http://www.ihbc.org.uk/>

Community Empowerment Unit  
Scottish Government  
Area 3H South  
Victoria Quay  
Edinburgh EH6 6QQ

Dear Ms Thomson-McDermott

## **CONSULTATION on COMMUNITY EMPOWERMENT AND RENEWAL Bill**

The Institute of Historic Building Conservation is the professional body of the United Kingdom representing conservation specialists and historic environment practitioners in the public and private sectors. The Institute exists to establish the highest standards of conservation practice, to support the effective protection and enhancement of the historic environment, and to promote heritage-led regeneration and access to the historic environment for all.

The Scottish branch of the Institute of Historic Building Conservation (IHBC) welcomes the opportunity to respond to this consultation. We offer our support for the aims of the Bill as set out in para 2 of the Introduction to the Consultation, to make it easier for communities to take over unused and underused public sector assets and to introduce measures to help communities deal more effectively with vacant and unused property in their areas, although this support is subject to qualifications which we set out under Question 22 and refer to elsewhere.

Paragraph 9 invites comment on the policy aims of the Bill, ie to strengthen opportunities for communities to take independent action to achieve their own goals&asoirations and have a greater role in local public service delivery. Due to the remit of the IHBC as set out above, we are not commenting on this aspect of the Bill nor responding to the Consultation Questions in Part 1 on strengthening community participation.

If you wish for clarification or further discussion on any matter raised by us, please contact myself initially.

Yours sincerely,

Richard Cartwright  
Scottish Consultations Secretary, Institute of Historic Building Conservation

# Community Empowerment and Renewal Bill



## RESPONDENT INFORMATION FORM

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

### 1. Name/Organisation

Organisation Name

Institute of Historic Building Conservation

Title Mr

*Please tick as appropriate*

Surname

Cartwright

Forename

Richard

### 2. Postal Address

c/o Environmental Services

North Lanarkshire Council

Fleming House

Cumbernauld

Postcode **G67 1JW**

Phone **01236 632628**

Email

cartwightr@nothlan.gov.uk

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

Executive Agencies and NDPBs	<input type="checkbox"/>
Local authority	<input type="checkbox"/>
NHS	<input type="checkbox"/>
Other statutory organisation	<input type="checkbox"/>
Representative body for private sector organisations	<input type="checkbox"/>
Representative body for third sector/equality organisations	<input type="checkbox"/>
Representative body for community organisations	<input type="checkbox"/>
Representative body for professionals	YES <input type="checkbox"/>
Private sector organisation	<input type="checkbox"/>
Third sector/equality organisation	<input type="checkbox"/>
Community group	<input type="checkbox"/>
Academic	<input type="checkbox"/>
Individual	<input type="checkbox"/>
Other – please state...	<input type="checkbox"/>

#### 4. Permissions - I am responding as...

**Individual**  / **Group/Organisation**  **yes**  
*Please tick as appropriate*

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

*Please tick as appropriate*  Yes  No

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

*Please tick ONE of the following boxes*

Yes, make my response, name and address all available

*or*

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

*or*

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

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

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

*Please tick as appropriate*  Yes

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

*Please tick as appropriate*  Yes

**Please ensure you return this form along with your response.**

**Thank-you.**

# Community Empowerment and Renewal Bill

## CONSULTATION QUESTIONS



### **PART 1: STRENGTHENING COMMUNITY PARTICIPATION**

#### *Community Planning*

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

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

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

*An overarching duty to engage*

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

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

Yes  No

**Please give reasons for your response below.**

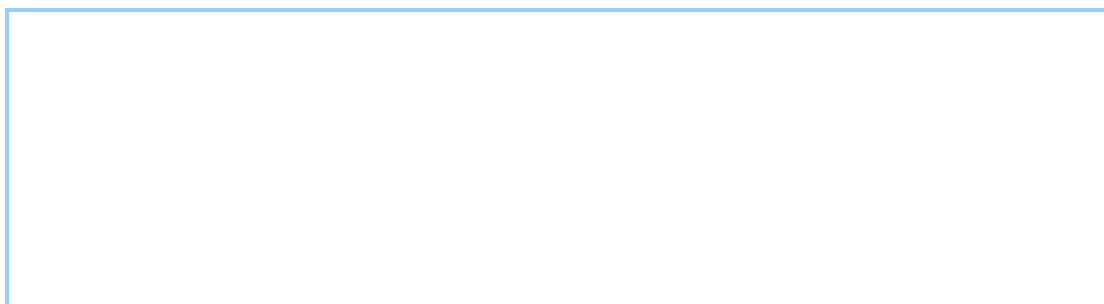
**If you said 'yes' to Question 5, please answer parts a. and b. –**

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

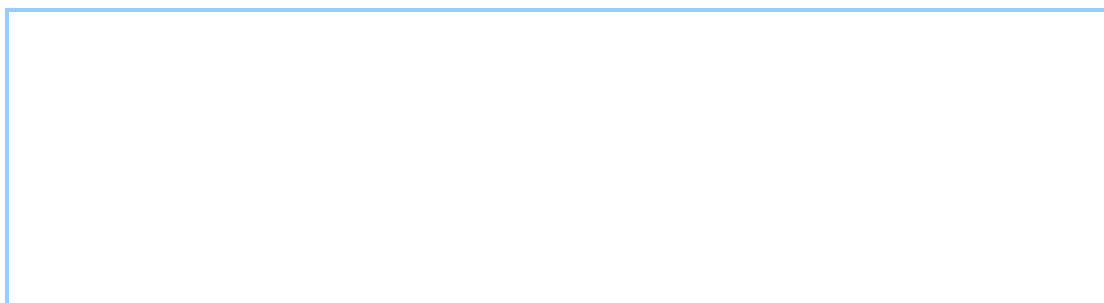
**b. How would such a duty work with existing structures for engagement?**

*Community Councils*

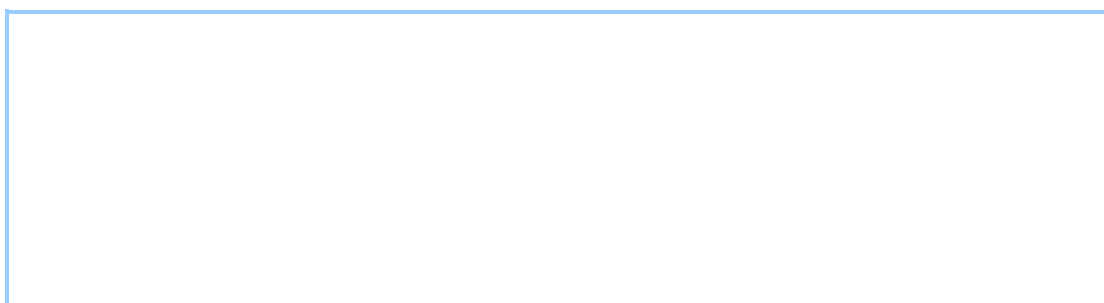
**Q6. What role, if any, can community councils play in helping to ensure communities are involved in the design and delivery of public services?**



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

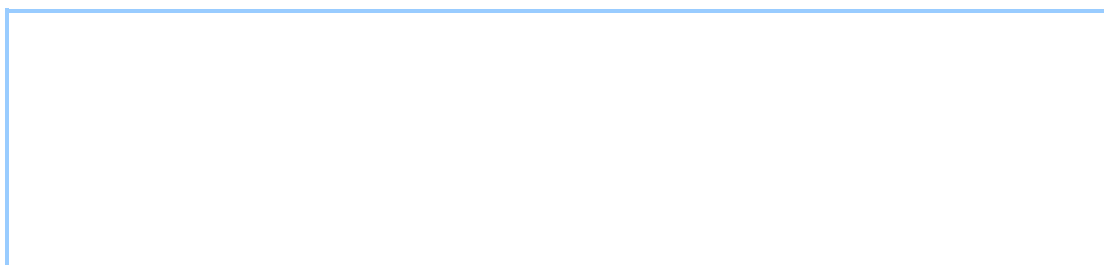


**Q8. What changes, if any, to existing community council legislation can be made to help enable community councils maximise their positive role in communities**



*Third Sector*

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



*National Standards*

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

Yes  No

**Please give reasons for your response**

*Community engagement plans*

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

Yes  No

**Please give reasons for your response**

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

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

*Auditing*

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

*Named Officer*

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

Yes  No

**Please give reasons for your response**

*Tenants' right to manage*

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

Yes  No

**Please give reasons for your response**



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

Yes  No

**Please give reasons for your response**

*Community service delivery*

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

Yes  No

**Please give reasons for your response**

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

Yes  No

**Please give reasons for your response**

*Community directed spending – participatory budgeting*

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

Yes  No

**Please give reasons for your response**

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

Yes  No

**Please give reasons for your response**

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

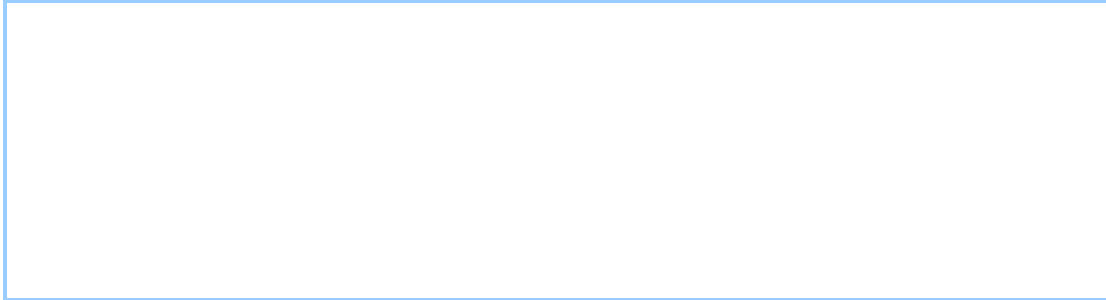
**a. What areas of spending should a community be responsible for?**

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

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

*Definitions for Part 1*

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



## **PART 2: UNLOCKING ENTERPRISING COMMUNITY DEVELOPMENT**

### *Community right to buy*

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

Yes

#### **Please give reasons for your response**

IHBC supports this right in principle, as in some circumstances this could help to unlock certain problem vacant and derelict buildings and secure their refurbishment, re-use and long term future.

However, we have no detailed comments on points a, b, and c below on the mechanisms for such a right to buy.

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

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

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

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

### *Community asset transfer*

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

IHBC supports such transfer in principle where it can be demonstrated that this would help to unlock a problem vacant or derelict building and secure its refurbishment, re-use and long term future.

Please also answer parts a. to d. below:

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

1. There should be a demonstration of expertise and a requirement for a group to be a properly constituted charitable organisation;
2. There must be a demonstration of sufficient long term capacity/ longevity for the group to deliver any necessary refurbishment of the building (the key requirements for refurbishment should perhaps be detailed by the Local Authority).

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

In the case of historic or heritage assets, all relevant background information should be passed on, including a Conservation Management Plan where applicable.

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

None or as few as possible

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

See comments under 22a above.  
Also there must be an established fall back position set out to cover the possibility of the project failing to be completed (with defined triggers)- this would probably be that the building/ asset revert to the Local Authority.

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

Yes

**Please give reasons for your response**

Yes, again this would be helpful to help bring forward unlocking stalled or problem vacant or derelict buildings which may be an eyesore and may otherwise deteriorate further.

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

Yes

**Please give reasons for your response**

Yes, in principle. See comments under Qn 22 above.

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

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

See comments under Qn 22 above

*Common good*

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

Yes  No

**Please give reasons for your response**

Not our core remit or area of expertise, so no comment

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

Yes  No

**Please give reasons for your response**

As Qn 25

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

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

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

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

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

*Asset management*

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

Yes

**Please give reasons for your response**

As part of the aims of the current consultation, it is clearly important for local community organisations to readily become aware of the assets owned by local authorities.

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

**a. What information should the asset register contain?**

Full details about the building including its condition and a maintenance record and plan.

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

Yes

**Please give reasons for your response**

Again, to support the aims of this consultation, the details of the local authority's management regime and future plans must be available to local groups who may have an interest in seeking to take on certain buildings, and also in checking that other local authority assets are being well managed.

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

**a. What information should the asset management plan contain?**

It would be sensible to survey existing Local Authority asset management plans and then to produce best practice guidance.

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

Yes

**Please give reasons for your response**

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

All information should be easily available online.

*Allotments*

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

No comment

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

No comment

*Definitions for Part 2*

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

No comment

### **PART 3: RENEWING OUR COMMUNITIES**

*Leases and temporary uses*

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

Probably, Yes

**Please give reasons for your response**

The right should be to *apply* to use or manage the asset, it should not be a right.

This must be subject to:

- a demonstration of the need for the proposed use;
- the demonstrated capability of the group to manage the asset's use properly;
- see also the qualifying comments made under Qn 22.

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

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

See above under Qn 34



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

See above under Qn 34.  
For any heritage asset, there should also be a requirement to sign up to any Conservation Management Plan which has been prepared.

**c. What types of asset should be included?**

*Encouraging temporary use agreements*

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

Yes

**Please give reasons for your response**

If it has been demonstrated that otherwise, the temporary use may not be allowed by an owner in order to not jeopardise his future planning options.

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

Yes

**Please give reasons for your response**

As Qn 35 above

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

*Dangerous and defective buildings*

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

This is a useful question but not one for the IHBC to offer input on; Local Authorities in particular Building Standards Officers could most usefully

contribute here.

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

Yes  No

**Please give reasons for your response**

Proposal is unclear. Presumably community groups could request this now without any new measures?

*Compulsory purchase*

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

Yes

**Please give reasons for your response**

IHBC supports this right in principle, as in some circumstances this could help to unlock certain problem vacant and derelict buildings and secure their refurbishment, re-use and long term future.

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

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

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

Yes

**Please give reasons for your response**

See previous comments particularly under Qn 22.  
There should be a demonstration of expertise and a requirement for a group to be a properly constituted charitable organisation;  
There must be a demonstration of sufficient long term capacity/ longevity for the group to deliver any necessary refurbishment of the building (the key requirements for which should perhaps be detailed by the Local Authority).

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

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

There would need to be an established fall back position to cover the possibility of the project failing to be completed (with defined triggers)- this would probably be that the building/ asset revert to the Local Authority.

*Power to enforce sale or lease of empty property*

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

Yes

**Please give reasons for your response**

This sounds a useful proposal to help unlock long term eyesores or deteriorating buildings, as well as wasted assets.

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

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

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

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

Yes  No

**Please give reasons for your response**

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

Yes

**Please give reasons for your response**

As for Qn 42 above

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

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

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

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

Yes  No

**Please give reasons for your response**

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

No

**Please give reasons for your response**

Not necessarily. The key factors for the LA to consider would be what is the best use for the proper planning and future wellbeing of the area; and the best way to ensure the building's refurbishment and long term future.

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

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

*Definitions for Part 3*

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

## **ASSESSING IMPACT**

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

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

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

The Institute of Historic Building Conservation believes (subject to our detailed comments above) believes that the proposals in this consultation would have a very positive impact on the environment, as they would result in many vacant (or underused) and derelict or deteriorating buildings and assets being refurbished or improved, and brought back into beneficial, positive uses for the community.

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

**Thank-you for responding to this consultation.**

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