

The Scottish Government's recent programme for government included proposals for land reform. The impact these proposals might have on the sustainable management of land by communities and social enterprises, and the potential for developing a similar land reform agenda in the rest of the UK

Abstract

The Scottish Government's proposals on land reform focus around a Land Reform Bill to build on the progress made through the Community Empowerment (Scotland) Bill. They introduce a number of plans which enhance the sustainability of the community right to buy, through increased opportunities for self-determination of communities and a dedicated funding stream. In addition they consider practical questions such as requirements to be registered as a legal entity. The concepts and actions of land reform in Scotland have the potential to be developed across the UK as they correspond to the current localism agenda. However, small steps may be required to ensure that lessons learnt during the development of reform in Scotland are appropriately considered and barriers to effective participation by communities and social enterprises are overcome.

Introduction

Through 2014 the Scottish government has been developing its proposals for land reform and community engagement in political processes in Scotland (key changes in Box 1). Its primary aim is to ensure that land is used in the public interest and to the benefit of the people of Scotland. Following the introduction of the Community Empowerment (Scotland) Bill (June 2014), which enables significant progress on supporting the sustainable management of land by local communities, the current consultation on land reform in Scotland was launched in December 2014.

The current consultation includes: a draft land rights and responsibilities policy statement and proposals for inclusion in a Land Reform Bill. The policy statement provides an overarching vision for the strengthening of the relationship between the people and land of Scotland. It provides clear direction for the increased involvement of local communities and social enterprises in the acquisition and management of land in Scotland.

The Land Reform Bill contains a number of proposals to implement this vision and extend the rights established in the Community Empowerment (Scotland) Bill.

Box 1

Changes introduced by the Community Empowerment (Scotland) Bill

- Extension of the right to buy to urban communities and applicability of right to apply to buy neglected or abandoned land
- Allowing communities to define their 'community'
- Extension of Land Reform fund to 2020
- Strategy to achieve 1 million acres in community ownership by 2020

Key proposals for inclusion in a Land Reform Bill (as numbered in the consultation document)

2. Limiting the legal entities that can own land
4. Sustainable development test for land governance

Impacts on the sustainable management of land by local communities and social enterprises

Sustainability is four-fold: it requires initiatives to equally consider environmental, economic, social and political outcomes. The proposals from the Scottish Government lightly covers all of these areas in an attempt to ensure their short and long term support and continuation.

- Extension of the right to buy to urban communities and applicability to right to apply to buy neglected or abandoned land

These proposals extend the amount of land available for communities to buy. They recognise that urban land is just as important for local communities, particularly open space. Areas already used regularly by local communities and those with significant potential for use will be protected from development or restored. This would enhance environmentally sustainability.

- Definition of Community and need for registration as a legal entity

It has been established that the ability of communities to define themselves is an important component for the effective management of land, a form of common pool resource¹. The ability to define each individual community can support sustainability through better acknowledgement of the use value of land. This increased understanding can only lead to better decision making regarding its management.

However, this proposal suggests a more ad hoc nature to the development of 'community' which is counter to the requirement to be a registered legal entity for land owners. This may put off communities from applying to buy land and increase the timescale involved.

- Extension of funding and strategy for 1 million acres of community owned land

These proposals provide greater economic and political certainty for communities and social enterprises thinking of buying land. They may help support communities wishing to buy land and manage it sustainably. Through the sustainable development test for applicants to the fund, key elements will be considered. It would be expected that, through reporting requirements, it will be seen that many of those obtaining funds have significantly increased use of open space, which has been shown to have an important impact on health and wellbeing; improved biodiversity; increased house prices (particularly the case in urban areas) and community engagement in local management.

However, care must be taken through these strategies to ensure the current private landowners' wishes are also heard to avoid increased conflict with those who buy or lease land.

Could they be developed into a similar agenda in the rest of the UK?

In 2014, Scotland has made significant steps ahead of the rest of the UK developing legislation and strategies for the sustainable management of land by communities.

However, the key concepts of increased community engagement and action at the local level is well within the remit of the current UK Government's localism agenda. The UK's Localism Act introduced in 2011, focuses on the devolution of power to local authorities. It advocates for increased consultation with communities and introduces the right to bid to take over community assets. Whilst, this does not explicitly state land, this can be implied, particularly when greenspaces are threatened with development.

¹ By Elinor Ostrom

This legislation lays some of the groundwork that may be required to introduce such measures across the UK. However, it is clear that there are significant barriers that will hinder the effective development and implementation of similar legislation at a wider scale.

In Wales, smaller programmes have aimed to support community based regeneration of deprived areas². These came across a number of barriers to the involvement of local communities through partnerships, in particular the need for the community to be trained in order to have the knowledge and skills to actively participate – enthusiasm was present, but not enough for engagement and impact. Community groups found a lack of funding particularly frustrating as it reduced their own power to get things done. Instead they had to use ‘middle men’ or service providers which lengthened the process. These partnerships also lacked full respect for community skills and abilities by business groups not always acknowledging the full potential of community engagement.

In order to successfully expand, the programme needs to prove how communities can build the necessary skills and therefore the power to influence budgets and service delivery. The most effective use of funding may be to support community groups undertake the necessary changes themselves.

The proposal to sell off significant swathes of land owned by the Forestry Commission in 2011 considered allowing community groups and social enterprises the opportunity to buy or lease these areas. However, these measures were not enough and were dropped in the face of significant opposition.

Furthermore the 2013 Government Forestry and Woodlands Policy Statement, whilst advocating localism, does little to advance community engagement and empowerment.

There is some potential to spread these policies across the UK, however, as is being done in Scotland, smaller steps may be necessary to overcome a number of the barriers, with significant input from an early stage from those communities which would be affected by the proposal.

In conclusion, Scotland has made a number of significant steps in 2014 to empower and engage local communities and social enterprises in land reform, in particular in the right to buy land, and through the provision of funding opportunities for which to do so. If, political obstacles, including the registration of land, and social issues, to ensure that current landowners are not demonised in a potential ‘land grab’, can be overcome, the mobilisation of communities in both rural and urban areas of Scotland must surely provide a new way to ensure the protection of open space.

The next UK general election provides a substantial opportunity for proposals like this that have already been developed in one part of the UK, to be adopted more widely. Through lobbying prior to and following May the 5th that we can ensure that the positive developments in Scotland during 2014 can be brought forward in legislation across the rest of the UK, whichever party or combination of parties is successful at the ballot box.

² Adamson and Bromiley (2008) Community Empowerment in Practice, Joseph Rowantree Foundation, York Publishing Services Ltd