



## Pathways to Advance a Robust Third Sector

### Background paper 3: Scottish policy to support the third sector

This background paper summarises the ways in which the Scottish Government and other public sector policies support third sector activity. It also takes in a wider view of policy for community empowerment, focussing on those parts that relate to the roles created for civil society groups and actors. It has been suggested that Scotland has some of the most supportive policies for community empowerment of any country or region in Europe or more widely. That other regions such as Catalunya and Basque country also have similarly strong policies for community empowerment suggests a possible association with independence movements. In Canada, Quebec is also cited as an example of a region with a strong social solidarity economy. This background paper explores the evolution of Scottish policy and reviews the assertion of Scottish leadership.

Civil society led collaborative institutions and actions have a long history in Scotland. According to McMullin and others<sup>1</sup>, formal mutualism in cooperatives can be found in Scotland almost a century before the Rochdale pioneers in 1844. A more detailed analysis of how Scotland has created a conducive environment for social enterprise is given by Roy and others.<sup>2</sup> They attribute the growth of mutualism in Scotland to the values that emerged in the Scottish Enlightenment in the mid-18<sup>th</sup> century and the practical emergence of alternative models of industrial colonies typified by Robert Owen's mills and settlement at New Lanark. However, over the 19<sup>th</sup> century, the mutualist strand which was manifested in social action in Scotland and widely promoted by some revolutionary socialists was marginalised as Marxist doctrines assumed a dominant position in socialist challenges to industrial capitalism. Their ideologies tended to advocate state ownership rather than mutualism. This ideological change was insufficient to suppress the strong element of mutualism which had found expression, especially in the cooperative movement.

Common ownership of (or rights over) land has a long history in Scotland,<sup>3</sup> predating the arrival of feudalism and some of these so-called "commonities" survived until the early 20<sup>th</sup> century, even though parliamentary legislation enabling their dismantling was enacted as far back as the late 1700s. Municipal councils often acquired such land and proceeds from rent and sale are now incorporated in Common Good Funds. The Crofting Acts of the 1880s included mutualist components in the collaborative management of common grazings in the designated Crofting Counties. More recently, community-based land reform has emerged as a powerful force in remoter rural Scotland, and its franchise has more recently been extended to all areas, urban and rural.

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<sup>1</sup> McMullin, C., Roy, M.J. and Curtin, M., 2021. Institutional logics as a framework for understanding third sector development: an analysis of Quebec and Scotland. *Policy & Politics*, 49(4), pp.615-632.

<sup>2</sup> Roy, M.J., McHugh, N., Huckfield, L., Kay, A. and Donaldson, C., 2015. "The most supportive environment in the world"? Tracing the development of an institutional 'ecosystem' for social enterprise. *Voluntas: International Journal of Voluntary and Nonprofit Organizations*, 26(3), pp.777-800.

<sup>3</sup> Callander, R., 2003. The history of common land in Scotland. *Commonweal of Scotland Working Paper*, 1(1).

Some would argue that Scotland has more deeply embedded support for community-based action than other parts of the UK. Devolution gave further impetus to this<sup>4</sup>, although it has already been embraced to a degree in the neo-communitarianism of New Labour's Third Way approach, the ideas for which were largely borrowed from Etzioni's work on community in the US. The devolved Scottish Government continued this trend and passed the Land Reform Act in 2003 which formalised community buy outs and created further supportive institutions. This act was an ex post endorsement of a powerful social movement which had been advocating land reform since the early 1990s and which had already resulted in several community buy outs. Subsequent Scottish Governments have deepened the communitarian element of public policy in a further Land Reform Act, in Community Empowerment Acts and in the creation of a range of arm's length institutions supporting the third sector. These include sector-specific bodies such as Local Energy Scotland, Home Energy Scotland, Keep Scotland Beautiful, the Development Trusts Association for Scotland (DTAS) and Community Land Scotland and the Third Sector Interface (TSI) bodies which operate as conduits for Scottish funding and advice at council area level. The policy of devolving part of public sector budgets to third sector entities has also been pursued to a limited degree by councils. The area partnerships in all of the administrative subdivisions of Aberdeenshire were set up by the council which has been their principal funding source, although recent budgetary cuts mean they now need to look elsewhere for part of their funding. There are also emerging signs of funding being managed and distributed by the Third Sector Interface bodies such as the Communities Mental Health and Wellbeing Fund during the Covid pandemic. DTAS and other arm's length third sector bodies have also managed a number of funds for the Scottish Government.

There are several spatial scales of operation of third sector bodies. Some are national, such as the major charitable foundations and the parent bodies such as DTAS and SCVO. Some operate at council level such as the Third Sector Interface (TSI) bodies and below them at community level are a myriad of local groups representing the wide field of activities described in Background Paper 1. Some of these third sector bodies are related to sport and recreation at local, regional or national level in a very focussed way. Others, like development trusts, can act as anchor organisations for place-based community development across a very broad range of activities.

The role of the third sector is framed by the way in which public services are delivered by the state at Scottish and local government level. This policy shapes the scope for the third sector to be a possible provider of public services. The Christie Commission reported on the future delivery of public services in 2011 noting in its that "the public service system is often fragmented, complex and opaque, hampering the joint working between organisations which we consider to be essential. As a whole, the system can be 'top down' and unresponsive to the needs of individuals and communities. It lacks accountability and is often characterised by a short-termism that makes it difficult to prioritise preventative approaches." The Commission's report makes numerous references to the potential deepening of the role for the third sector in public service delivery. Ten years on from Christie, a major conference reported that "there is significant potential in focussing action and empowering decision making at the local level, which requires public agencies at the 'centre' (whether that be Scottish Government or other public bodies) to relinquish power."<sup>5</sup>

In her inaugural speech setting out her Programme for Government, First Minister Nicola Sturgeon asserted that "we need to find new ways of harnessing that democratic energy – not just in the great constitutional questions of our time, but also in the day to day decisions made by and for our

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<sup>4</sup> Fyfe, N., Timbrell, H. and Smith, F.M., 2006. The third sector in a devolved Scotland: From policy to evidence. *Critical Social Policy*, 26(3), pp.630-641.

<sup>5</sup> [The Christie Commission 10 years on: Reflections on progress and areas for action - Policy Scotland \(gla.ac.uk\)](https://www.gla.ac.uk/policy-scotland)

communities... But fostering a sense of participation is about more than consulting – it's also about handing decision-making powers back to communities. I want to ensure that more of the money we spend is directed by communities themselves - by the individuals and organisations who know best how to harness the energy of local people.” This builds on the observations made by the Christie Commission and challenges councils to engage more effectively with communities and this, in essence, requires much closer engagement with the third sector and civil society. This desire for greater engagement by the Scottish Government has taken place at a time when councils have experienced long periods of austerity, which have led to service cuts and, perhaps because of limited resources, a reluctance to engage with emerging pressures for more participatory governance.

Across significant areas of Scottish policy from community land ownership to self-directed care to community planning there is a so-called “golden thread” of community empowerment legislation which to different degrees in different sectors has enabled the growth of the third sector's capacity, ownership and delivery of services. Some of these radical policies of community empowerment have bumped into formidable obstacles and many commentators describe the patchy uptake of provisions, poor delivery of enhanced opportunities and considerable resistance from established council providers.

The transaction costs (the costs of effective community engagement) are rather high and at a time of straitened finances, the degree of relocalisation of decision making has been rather modest. The recent firming up of place plans may give stronger powers to local communities but, in spite of a call for more relocalisation of service delivery, more community engagement and more partnership activity, progress remains slow and hindered by silos of service delivery within councils and an unwillingness to open up service delivery to the third sector, even when its credentials to do so are rather strong. This new partnership model of co-production between local government and community groups in service delivery is emerging both unevenly and rather slowly.

A major part of Scottish policy in the last decade has been the implementation of a Third Sector Interface in each council area (Aberdeenshire Voluntary Action for Aberdeenshire). In 2008, a review of third sector support organisations led to a recommendation to support the formation of Third Sector Interfaces, replacing and or incorporating 120 or so previously existing bodies. They were given four core functions:

- Volunteering development (support for volunteers and organisations who support volunteers).
- Social enterprise development (to promote and develop social enterprise locally).
- Supporting and developing a strong Third Sector (support for Third Sector organisations on setting up a charity, training and development, and funding advice). and
- Building the relationship with community planning (acting as the conduit and connecting the Third Sector with the implementation of the Single Outcome Agreements and Community Planning Process).

One of the problems of these four areas of functional responsibility is that in its early years Community Planning has been more about joined up delivery of public service than connecting the service ecosystem to the wider public, including third sector groups. Community planning remains unfinished business and civil society engagement remains very modest.

A review in 2016<sup>6</sup> suggested that while there were some perceived benefits of the new model, it did not operate consistently across Scotland, with TSIs in different council areas functioning in radically

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<sup>6</sup> Social Research (2016) Evaluation of Scotland's Third Sector Interface Network Model and Voluntary Action Scotland

different ways. The government response to the review that was often distinctly critical of TSIs (inter alia, in relation to perceptions of their value, levels of awareness by third sector actors, efficiency in responding to requests for support) suggested that: “we want TSIs to be recognised in their local communities and nationally as key agents of change who can play a vital role in the process of democratic renewal, strengthening local decision making and governance, supporting communities to act on their priorities and supporting and generating new ideas for positive change to flourish.” However, there is very limited evidence that those concerned with place based development connect on a regular basis with their TSI.

The Community Empowerment Act of 2015 represents a key platform for enhancing the opportunities of the third sector to engage alone or in partnership with councils in the delivery of goods and services to promote wellbeing and to acquire assets. *Inter alia*, it extends community planning, extends the community right to buy, enables asset transfers in urban and rural areas, extends the right of third sector groups to consult regarding service delivery opportunities and imposes obligations on councils to support the development of allotments and local food systems.

With regard to the TSI’s duty to promote third sector body formation, from the 1990s it was recognised that there was a need to update the legal form of charities and although some old charities remain, the majority of third sector organisations are now Scottish Charitable Incorporated Organisations (SCIOs), which have legal status but do not need registering in companies house. They are regulated by the Office of the Scottish Charity Regulator. The detailed guidelines were laid down in the Charities and Trustee Investment (Scotland) Act 2005.

The Scottish Government wants the third sector to perform multiple functions from democratic renewal to environmental management to more finely nuanced place-based policy to a consultative role on council service delivery. It is also asking the third sector to become more entrepreneurial both in its ability to generate a greater share of income through public sector contracts and other forms of revenue generation. At times, there have been opportunities for financial entrepreneurship such as when Feed In Tariffs offered considerable opportunities to community energy groups, but such windows of opportunity can (and do) rapidly disappear with policy changes. Other Scottish policies that look invitingly communitarian, such as the Community Asset Transfer policies can also be interpreted as the offloading of financial liabilities rather than the genuine nurturing of community-based local development. Nonetheless, community land ownership and increasingly urban community asset transfers are giving community groups capital assets and providing a platform for opportunities for third sector led developments.

#### Summary:

The Scottish Government has a set of policies to support community empowerment which are as highly developed as any other region of Europe, although in Quebec the scale of the third sector is almost certainly larger and the policy environment at least equally supportive. It is a moot point as to whether the more communitarian approach in Scottish Government Policy and the considerable financial support to third sector groups reflects a stronger historic legacy of third sector action or a pragmatic distancing of the Scottish Governments since devolution from UK policy with its stronger neoliberal leanings, or indeed a bit of both. The communitarian engagement of the third sector is much more strongly evidenced in national level policy rather than at a municipal level, where siloed council departments and stultifying bureaucracies have sometimes struggled to deliver the new public policies and have often found it hard to effectively engage with third sector bodies in partnerships to deliver public and other goods and services. Both in response to the Scotland level policy imperatives and as place-based policies assume a greater significance, so the role of the third sector might be

anticipated to increase, but its engagement in service delivery and enhancing Scottish Government outcomes is likely to be much influenced by coalitions and partnerships at council and subregional scale and the capacity and skills of TSIs to support developments. It also depends on the helping hand of third sector groups that have taken on the delivery of sectoral grant and advisory systems. Peopled as they often are with an activist rather than a public servant character, these organisations have been important catalysts to third sector activity at community level.

However, the third sector cannot unproblematically fill the expanding service niches in fields such as social care, community economic development and environmental management without the existence of well-funded specialist national level arm's length agencies and without learning new skills and becoming more socially entrepreneurial.