

# Community Benefits and Shared Ownership for Low Carbon Energy Infrastructure Working Paper

## Response from East Lammermuir Community Council

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Organisation: East Lammermuir Community Council (ELCC)

We want this response to be treated as public

We heard about this consultation via local and national networks we are part of.

### Background

ELCC has been involved in administering community benefits from onshore wind developments for 15 years.

We face an unprecedented exponential increase in proposed green energy developments in our small rural area. We hold a strong conviction that community benefits need firstly to mitigate the impact of such development on those affected by proposals and subsequent construction.

We believe that the Just Transition can enhance place, where there is an explicit intention to support and grow the community's ability to own and guide work to enhance the places where they live live, alongside necessary technology and infrastructure.

Thank you for giving us the chance to comment on the present working paper.

In preparing this response we have engaged with community members. This built on engagement conducted in preparing our response to the recent Scottish Government Consultation on the Good Practice Principles for community benefits from onshore renewables. Through this inclusive approach we have engaged with the relevant groups and individuals and seek to reflect their views here: we are seeking here to represent the wider view of the East Lammermuir communities.

## **Our Proposals for you to implement**

1. Support a national sharpening up of the purpose of community benefits and shared ownership – emphasising the potential for building community with support from national grid, transmission owners, renewables developers and other partners as a key underpinning of the Clean Energy Superpower Mission. Seek good practice examples. Use Citizen Assembly models. Grow ambition for a better and better impact from community benefits. We need a carrot as well as a stick to make this work. Building community should underpin the decisions about what to include in legislation and guidance.

In support of that ambition to build community;

2. Mandate the value of community benefits for in scope technologies.
3. Mandate genuine shared ownership offers for all new developments – accept that some of these will not be taken up.
4. Do not mandate a community benefits process, and don't throw away money on another administration arrangement which nobody needs.
5. Do not mandate a shared ownership process.
6. Ensure communities retain power to define fund priorities, governance and impact measurement.
7. Develop a community-led Community Benefit “quality mark”, not a regulatory regime, to drive up standards, transparency and continued evolution of good practice.
8. Introduce a condition in planning conditions or electricity generation licences requiring developers and local communities to jointly establish and report publicly on community benefit arrangements, in line with current or emerging Good Practice Principles for that technology.
9. Recognise Scotland's existing good practice and seek to create conditions which support the continued evolution of successful, co-produced, collaborative models, more of which are already in development. State this ambition clearly on behalf of UK Government. A voluntary approach can work everywhere – don't smother that possibility with an over-bureaucratic mandated process.

Questions:

Community benefits:

*Proposal 1. Do you agree with the principle that developers must provide community benefit funds? Please explain why/why not.*

*Yes, we agree with this proposal*

*All developments impact on the place where they are built. Adding a small percentage to the cost of owning and running a development to provide a fund to help build the local community and help them to improve their place is a justifiable public good.*

*We have witnessed significant improvements in practice after the introduction of good practice guidelines in Scotland. However, some developers have not followed the guidance and so we believe that mandation would add further weight to the requirement.*

*Community benefits: Scope 2. Considering the policy parameters for the scope proposed above, what types of low carbon energy infrastructure should be included within the scope of the policy? Please provide your reasoning.*

*Any technology that has direct or potential effect on impacted communities (during any/all of the construction and operational phases, upgrades and decommissioning) should be included in the scope. If a developer is extracting value from a community or place, there is a clear moral imperative to give something back. Developments owned by a community should be treated as a special case where community benefits in kind may be evident – such as a heat network which deliberately keeps heat prices as low as possible.*

*3. What would be the impacts on specific low carbon energy infrastructure technologies of bringing them into the scope of this potential scheme?*

*Developers and their representative bodies should be required to answer this question in full. Presumably all developers add any known financial community benefit requirement as an expense when preparing their financial investment case. Open and honest conversations about investment and return need to be held between government and developers and funding institutions.*

*4. Do you agree that there needs to be provision for amending the scope of the policy in future to ensure that it can be adapted to fit future technological changes, and remains in line with the criteria set out above? Please provide your reasoning.*

*Yes of course. This is extremely important, as technologies and communities will evolve over time - policy must be able to adapt to remain relevant and fair.*

*5. Do you agree with the approach outlined for the provision of community benefits for co-located infrastructure? Please provide your reasoning.*

*Like most of the working paper, the proposed approach is written from the perspective of government and developers. Instead, the starting point should be “what will work best for the affected community/ies, and build their capacity?”*

*Owners/developers of co-located infrastructure should be required to demonstrate alignment and ideally pooling of community benefits so that affected communities can take a strategic approach to use of all funds, received through one route, and reported on once annually in line with the governance requirements of the funders. We are actively exploring this model in East Lothian at present.*

*The principle of mandation to provide benefits for all developments can underpin this approach. A one-size-fits-all process clearly won’t – and would undermine the opportunity to maximise impact from co-located developments’ community benefits.*

#### *Community benefits: Thresholds*

*6. Do you agree with the proposed mandatory community benefits threshold of 5MW for power generating and storage assets? Please provide your reasoning.*

*Seems reasonable. Small renewables developments are essential to achieving net zero and adding a weight of mandatory community benefits might slow their progress.*

*7. Should the threshold vary by technology in order to accommodate nascent technology (such as floating offshore wind)? Please provide your reasoning.*

*No response*

*8. How should shared ownership arrangements interact with any mandated community benefit fund contributions?*

*They should be completely independent as they have different profiles of risk attached to them. Community benefit monies are an annual sum which comes with certainty of payment and enables community groups to plan against a flow of money that is known. Shared ownership arrangements could take many different forms and it would be unduly complicated to create an interdependency. Keeping them independent allows communities to engage with each on its own merits.*

*Communities may choose to use their community benefits to fund a share in ownership – that is their choice, it should not be a requirement in any sense.*

*9. Are there any project types that should be exempt from a potential mandatory community benefits scheme?*

*Wholly or majority community-owned projects may be able to demonstrate that a (mandatory) financial community benefit would be an artificial distraction from their entire purpose to benefit their local community.*

*Community benefits: Level of benefit*

*10. For those developers already offering community benefits on a voluntary basis, how are these funded? No response – ultimately everything is funded by consumer bill payments, or taxes . . .*

*11. Recognising the need for flexibility, are there any impacts or considerations of funding community-led projects that should be taken into account?*

*Well established themes will be best understood through (for example) Scottish Community Development Centre. Community -led projects do not thrive when frequent changes to levels of funding available, criteria for accessing funds, reporting requirements are unilaterally imposed by funders.*

*12. Do you foresee any challenges for developers to fund mandatory community benefits? Does this differ between technologies?*

*See Q 3; Presumably all developers simply add any known financial community benefit requirement as an expense when preparing their financial investment case. Open and honest conversations about investment and return need to be held between government and developers and funding institutions.*

*13. How can significantly larger community funds be best managed (requirements to use regional funds, introduction of a cap on funding, limit on cap duration)?*

*The principle that communities should lead is not only about small funds. Larger funds might justify stronger governance requiring a demonstrable breadth of community engagement (like the Tier 2 SCIO model in Scotland, for example). But the underlying truth is that communities know best what will be good for their place. A notional “fund manager” role should be about facilitating this, not just “engaging” with a community.*

*Regional funds will be appropriate for large sums of funding. It will be possible to work out a guideline based on head of population and socioeconomic measures and environmental status (vis a vis climate change and biodiversity).*

*Any fund targeting more than 150,000 people will be impossible to make genuinely community-led; no community is that large.*

*National funds cannot fit the aspiration for “Local communities (to) be central in determining how funds are used”.*

*14. Do you have a preference for either of the proposed methods for calculating the level of contribution payable in respect of energy generating stations (i.e. by reference to either installed capacity or generation output)? Are there any further considerations relating to either option which require exploration?*

*No preference.*

*We favour the use of multi-year awards to support strategic approaches to community development, and the ability to do this should be considered as methods of calculation are considered.*

*15. Do you agree with the principles of seeking to enable combining funds and utilising regional funds?*

*Like most of the working paper, the proposed approach is written from the perspective of government and developers. Instead, the starting point should be “what will work best for the affected community/ies, and build their capacity?”*

*Co-located infrastructure should be required to demonstrate alignment and ideally pooling of community benefits so that affected communities can take a strategic approach to use of all funds, received through one route, and reported on once annually in line with the governance requirements of the funders.*

*A suitable definition of co-location would be infrastructure built within one community council area, or neighbouring community council areas.*

*The principle of mandation to provide benefits for all developments can underpin this approach. A one-size-fits-all process clearly won’t – and would undermine the opportunity to maximise impact from co-located developments’ community benefits.*

#### *Questions 16 – 17*

*No response*

*Question 18 Are there any other aspects on funding that should be considered?*

*Repowering should be explicitly included in your considerations.*

### *Community benefits: Use of funds*

*Question 19. Do you agree or disagree that we should not produce prescriptive guidance on what the fund can be used for?*

*You should not produce prescriptive guidance, unless it says “communities should decide what their community benefits fund(s) are used for”.*

*There are examples of this kind of agreement working successfully in Scotland, for example that provided by Berwickshire Housing Association for its turbines in East Lammermuir.*

### *Community benefits: Administration*

*Question 20. (1) Do you agree with the suggested roles and responsibilities defined for the developer, fund administrator, administrative body, community representatives and community, and with the proposed governance structure?*

*Absolutely not. The proposals would be a huge waste of money when a voluntary approach can work better than a mandated process ever could. This is strongly evidenced already in Scotland.*

*If you do decide to mandate a process, please consider appointing a separate fund administrator and administrative body for Scotland to allow what is flourishing here to continue. OFGEM cannot play this role effectively in Scotland without a duty to establish a local presence and support local approaches.*

### *Question 21*

*We do not support the suggested roles and responsibilities defined for the developer, fund administrator, administrative body, community representatives and community, or the proposed governance structure - see response to Q20*

### *Question 22*

*We do not support the suggested roles and responsibilities defined for the developer, fund administrator, administrative body, community representatives and community, or the proposed governance structure - see response to Q20*

### Question 23

*We do not support the suggested roles and responsibilities defined for the developer, fund administrator, administrative body, community representatives and community, or the proposed governance structure - see response to Q20*

### Question 24 What would be an appropriate cap on spending from the fund for administrative functions?

*We are already concerned that – for example – OFGEM awards transmission owners money to administer community benefits funds. ALL of the community benefit-related funding should be under the control of the community. If administrative support is required, the community should decide how much they wish to spend on this, and arrange the appropriate support – quite possibly purchased from a well-established fund administrator.*

*We are aware of several funds where an administrative fee of 10% is paid. Anything above that is locally deemed to be a poor bargain.*

*A suggested cap of 30% merely demonstrates a laughably over-complex and wasteful administrative arrangement. If current Scottish figures are accurate, that would equate to 30% of £55M annually. Imagine what communities could achieve with that money if it wasn't spent on making sure someone else decided whether communities were getting proper support and funding!*

### Community benefits: Enforcement

*Question 25. Do you agree with the suggested approach to enforcement of this potential scheme? To what extent do you think the enforcement mechanism outlined above is appropriate and proportionate for this potential scheme? What other details could be considered?*

*We do not agree with the suggested approach.*

*The arrangements we currently have in our area are that there are legally enforceable contracts between the developer and the relevant representative community body, which will give communities the right to enforce payment and also provides for proper monitoring and reporting as well as regular reviews. This appears proportionate across the small and larger scale community benefits arrangements we have worked with.*

*Why would we want or need more than this?*



### Question 26

*We do not agree with the suggested approach – No further response. See Q25*

### Question 27

*We do not agree with the suggested approach – No further response. See Q25*

### Question 28

*We do not agree with the suggested approach – No further response. See Q25*

### Community benefits: Defining communities, capacity and engagement

*Question 29. Do you think a case-by-case approach to defining the community is appropriate? Are there any other bodies or groups not listed above that should be part of the engagement process for determining eligibility?*

*Defining the community should be done on a case-by-case basis as each community is different. The notion that a long list of outside bodies need to approve this decision again illustrates that this working paper is not community-centric.*

*Local communities can work with developers to determine who should benefit from community benefits funds. This would tend to focus better on natural communities rather than the current political boundaries. Over time, a more mature approach will emerge – likely seeing communities working together. This will be appropriate and reflects our answer to Question 4 – policy needs to expect change over time.*

*Question 30. Do you agree that capacity building will be required in communities? What do you believe this should look like and who do you believe is best equipped to carry this out? Please provide reasons for your answers.*

*There is a wealth of experience about this question across the UK. In Scotland, [SCDC](#) would be a good place to start finding out about it. The suggestion that a single UK-wide approach will work seems unlikely to gain much support except from people who haven't been involved to date.*

*One of the important observations is that capacity-building, like communities themselves, is cyclical. It does not begin and end. It needs refreshed, it needs attention and intention, it needs to some degree to be bespoke to each community. At the same time, done well, it can be self-reinforcing and spread from local communities to others they interact with.*

*31. Do you agree that capacity building and engagement should be funded by the community benefit fund administration budget? What do you believe should be done in cases where the administrative cost of capacity building and engagement initiatives are too costly for smaller-scale projects?*

*Again this question does not start from an intention to build communities first and foremost. Of course the funds should partially be used in explicit community-building activities, and all activities the funds support should demonstrably build community. There may not need to be a separate administration budget in some areas – see our answers to questions 20 – 28.*

*Question 32. Do you agree community engagement should be led by the fund administrator? Do you believe our proposals have any unfair impacts on those with protected characteristics? If yes, which groups do you expect would be specifically impacted? Please provide supporting evidence.*

*We do not believe there is any added value in creating a fund administrator. A fund administrator as you describe it does not appear to be a body that could effectively engage a community. Elected bodies like parish councils or community councils may be a better starting point.*

*The question on protected characteristics is too narrow. Do communities directly impacted by construction deserve “protection”? Do they only deserve protection if they happen to include significant numbers of people who meet the Equality Act definitions, such as disability or ethnic minorities? Do only some members of communities impacted by construction deserve protection?*

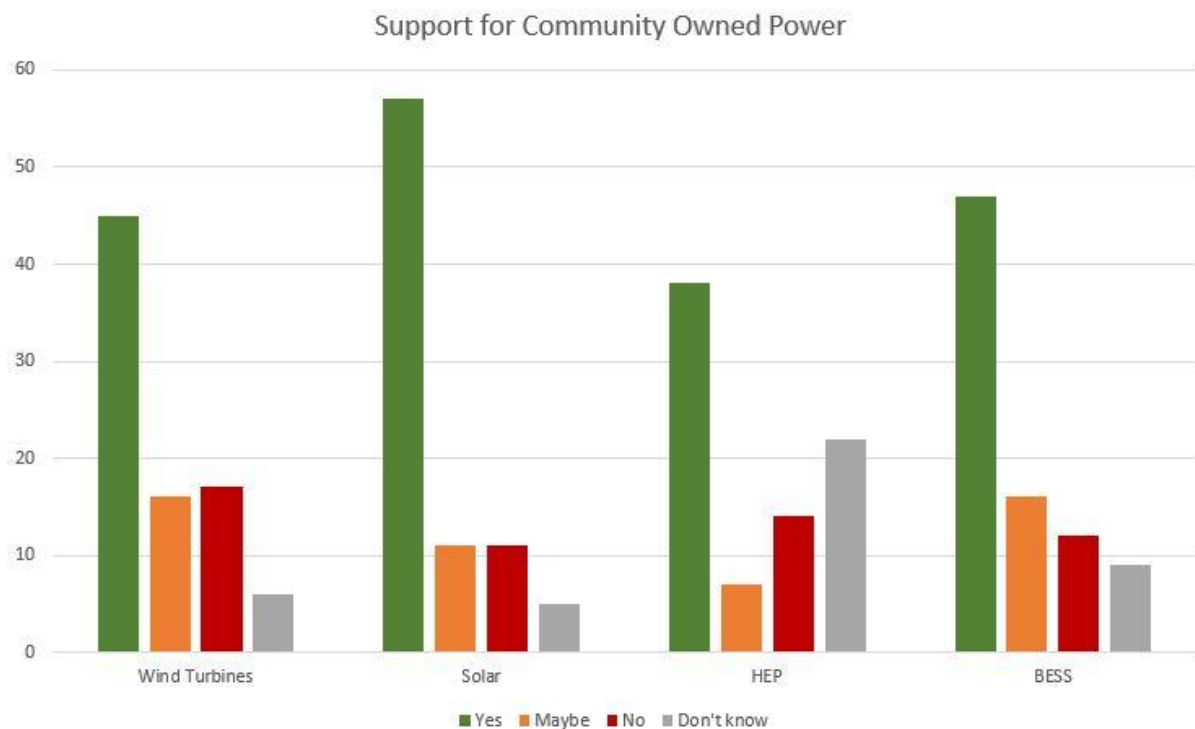
*There is a clear risk that the more complex and bureaucratic the approach, the more it will disadvantage already deprived communities and favour those with higher levels of social capital. In addition to Equality Act considerations, this will play into the legal requirement in Scotland to address social inequality through the Fairer Scotland legislation. If such protection does not exist in England and Wales, can a single UK-wide scheme ever work effectively?*

*Shared ownership: Current landscape*

*Question 36. What are the barriers to shared ownership in Great Britain?*

Poor information, low levels of ambition, and misunderstanding of the basic concepts – on the part of communities, transmission owners and developers, as well as the local authority officers and civil servants working on energy.

However, this does not appear to have diminished interest locally – our [Local Place Plan](#) survey demonstrated an overwhelming majority of local people would want to see community-owned renewables (see excerpt below)



*Question 37. Do certain communities face barriers to shared ownership more so than others? If so, how and/or why?*

*In our limited experience almost all of South East Scotland is not really considering this yet. There are a handful of examples of attempts to do it which were hampered by a lack of structural/national support.*

*Questions 38 – 45 on Shared Ownership.*

*Simply enforcing developers to make an offer of shared ownership on every project will shift the dial. That action alone will not be sufficient to drive immediate change – but it may underpin a raft of positive shifts because it signals a genuine intention from*

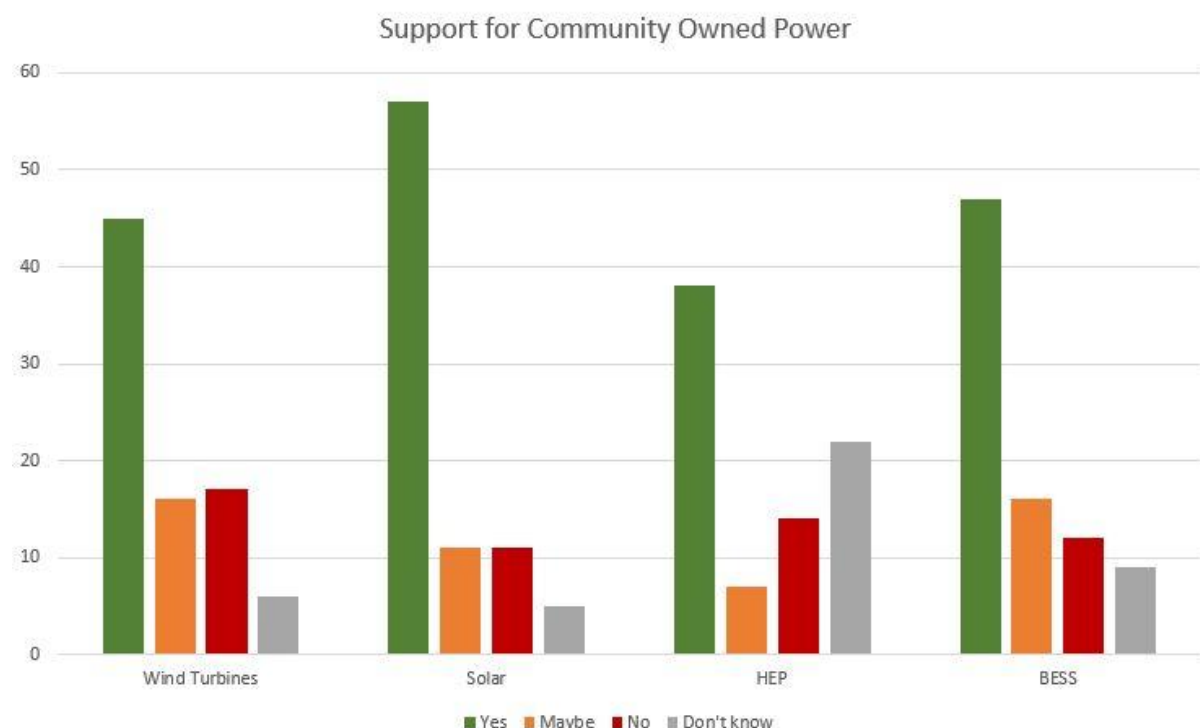
Government. It would need followed up by all partners in the system. We are willing to play our part.

50. Are there any groups you expect would be uniquely impacted by these proposals, such as small and micro businesses or people from protected characteristics? If yes, which groups do you expect would be uniquely impacted? Please provide supporting evidence.

People who live in places where construction takes place will be impacted by that work, and its after-effects. These are definable communities. They need to be expressly mentioned in any new legislation or guidance.

For example, we have agreed an ambition locally for all properties within one kilometre of a construction site or access road (including haul roads and public roads where they are used) to be brought up to EPC Band C, with appropriate micro-renewables. This work will primarily be funded with community benefits.

In time, we may be able to expand this ambition – our [Local Place Plan](#) survey demonstrated an overwhelming majority of local people would want to see community-owned renewables (see excerpt below)



So as we have argued throughout this response to the working paper, the notion of building community can lead to a positive use of community benefits funds and on to potentially positive community ownership of generating technology.

*People with protected characteristics living near to construction sites and their legacy may of course be additionally impacted – for example those with reduced mobility may suffer additional challenges to getting about their local area; people with experience of mental-ill health may suffer exacerbations of those conditions – others will experience mental ill-health because of the works, possibly for the first time. You need to ask those groups directly.*