



Scottish Parliament Local Government and Communities Committee – Call for Evidence – Community Empowerment (Scotland) Act 2105 – SPT response

Date of meeting 9 December 2016

Date of report 15 November 2016

Report by Assistant Chief Executive (Operations)

1. Object of report

To recommend approval of SPT's response to the Scottish Parliament's Local Government and Communities Committee Call for Evidence regarding the Community Empowerment (Scotland) Act 2015 (CESA). SPT's response was submitted as draft subject to Partnership approval within the Committee's deadline of 15 November 2016.

2. Background

- 2.1 Further to earlier reports¹, Members will be aware that SPT has sought to be fully engaged in the development of CESA and has responded to the various stages of consultation undertaken in its preparation.
- 2.2 The CESA² was passed into legislation in July 2015 and the Scottish Government has recently undertaken consultation on its guidance and regulations. Near Final Guidance³ on CESA was published in November 2016
- 2.3 The Scottish Parliament's Local Government and Communities Committee is currently reviewing parts 2, 3 and 5 of CESA relating to Community Planning, Participation Requests and Asset Transfer respectively. The Committee has issued a Call for Evidence and invited SPT to attend its meeting on 23 November and to provide a written submission. The respective parts of CESA covered by the Evidence Session are summarised below:
 - *Part 2: Community Planning: Places Community Planning Partnerships (CPPs) on a statutory footing and imposes duties on them around the planning and delivery of local outcomes, and the involvement of community bodies at all stages of community planning. Tackling inequalities will be a specific focus, and CPPs will have to produce "locality plans" at a more local level for areas experiencing particular disadvantage.*
 - *Part 3: Participation Requests: Provides a mechanism for community bodies to put forward their ideas for how services could be changed to improve outcomes*

¹ See earlier report to Strategy and Programmes Committee - http://www.spt.co.uk/documents/sp240616_agenda7.pdf

² Available at <http://www.legislation.gov.uk/asp/2015/6/contents/enacted>

³ Available at <http://www.gov.scot/Resource/0050/00508518.pdf>

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for their community. This could include community bodies taking on delivery of services.

- *Part 5: Asset Transfer Requests: Provides community bodies with a right to request to purchase, lease, manage or use land and buildings belonging to local authorities, Scottish public bodies or Scottish Ministers. There will be a presumption of agreement to requests, unless there are reasonable grounds for refusal. Reducing inequalities will be a factor for public authorities to consider when making a decision. Relevant authorities will be required to create and maintain a register of land which they will make available to the public.*

3. Outline of proposals

3.1 SPT's written submission is attached at Appendix 1. The submission reflects the various responses SPT has made in the development of CESA, including:

- Community Planning elements of CESA - SPT considers insufficient emphasis has been placed on understanding the relationship between national and regional bodies and their local CPPs. In undertaking Locality Planning we would wish to see greater emphasis placed on the strategic and cross-boundary nature of the transport network.
- Participation Requests - there are likely to be significant resource implications to take into account. While these can be accommodated more easily by larger public bodies, including organisations with a local presence. and while there is scope for joint working, the focus of SPT activity is on operational and project delivery at a regional level.
- In addition to the above, SPT is concerned that given the wide variation in community capacity, there is a danger that some communities, often the most advantaged, may bring disproportionate influence in the way public services are designed and delivered, thus diverting resources from where they are needed most.
- Asset Transfer - SPT considers that Community Transfer Bodies should be required to demonstrate clear links to their community and that they have undertaken robust engagement and consultation with that community before they submit an Asset Transfer Request.

3.2 SPT's response to the most recent consultation on CESA by the Scottish Government resulted in changes to the wording of the Act around the issue of the Registers of Land. Following SPT's comments the Scottish Government made modifications to the wording of the associated regulations reflecting the scope of land holding for the Subway.

4. Conclusion

SPT's draft written submission reflects key points made in previous responses regarding CESA. SPT officers had the further opportunity of elaborating on these points at an evidence session with the Committee on 23 November 2016. Officers will continue to liaise with the Scottish Government in regard to the implementation of CESA and will keep the Partnership apprised of developments as necessary.

5. Partnership action

The Partnership is recommended to:

- Note this report; and
- Approve SPT's draft written submission attached at Appendix 1 to the Scottish Parliament's Local Government & Communities Committee's Call for Evidence on Parts 2, 3 and 5 of CESA.

6. Consequences

Policy consequences	<i>SPT's response is in line with the RTS outcome of Access for All.</i>
Legal consequences	<i>None at present.</i>
Financial consequences	<i>None at present.</i>
Personnel consequences	<i>None at present.</i>
Equalities consequences	<i>None at present.</i>
Risk consequences	<i>None at present.</i>

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 (Operations)

Name **Gordon MacIennan**
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This Submission is subject to approval by SPT's Partnership board at its meeting on 9 December

SPT would like to thank the Committee for the opportunity to provide evidence to them in relation to Parts 2 (Community Planning), 3 (Participation Requests) and 5 (Asset Transfer) of the Community Empowerment (Scotland) Act (CESA).

About Strathclyde Partnership for Transport (SPT)

SPT is the Regional Transport Partnership for the west of Scotland, established by the Transport (Scotland) Act 2005. SPT is a partnership of 12 councils and has a range of planning, operational and project delivery responsibilities. For planning, SPT prepares the statutory Regional Transport Strategy, which guides transport development and investment in our area. Operationally, SPT runs the Subway and various bus stations across the region, including Scotland's biggest, Buchanan Bus Station. SPT also manages and provides support for socially necessary and demand responsive bus services. Regarding project delivery, SPT's key current initiatives include Subway Modernisation, a circa £290m programme of improvements, Fastlink, a high quality bus system between Glasgow city centre and the Queen Elizabeth University Hospital; and Smartcard, already delivered on the Subway, and intended for roll out across other modes over coming years. More information on SPT is available at www.spt.co.uk.

SPT is a statutory Community Planning Partner and is a member of CPPs across our twelve local authority areas. In addition to contributing to the achievement of local and national outcomes, SPT prepares annual Transport Outcome Reports for each of our Community Planning Boards which demonstrate the alignment between our services and project delivery and local outcomes in CPPs respective Single Outcome Agreements and Local Outcome Improvement Plans.

Key points

In our response to the various stages of consultation on Community Empowerment, SPT has emphasised a number of key points, summarised below:

- In terms of the wider Community Planning elements of CESA, SPT considers insufficient emphasis has been placed on understanding the relationship between national and regional bodies and their local CPPs. In undertaking Locality Planning we would wish to see greater emphasis placed on the strategic and cross local authority boundary nature of the transport network.
- In relation to Participation Requests, there are likely to be significant resource implications to take into account. While these can be accommodated more easily by larger public bodies, including, for example, organisations with a local presence in an area, and while there is scope for joint working, the focus of SPT activity is naturally and necessarily on strategic, regional, service / project delivery.
- SPT is concerned that given the wide variation in community capacity, there is a danger that some communities, often the most advantaged, will bring disproportionate influence in the way public services are designed and delivered via Participation Requests.

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- In relation to Asset Transfer, SPT considers that Community Transfer Bodies should be required to demonstrate their clear links to the relevant community and that they have undertaken robust engagement and consultation with that community before they submit an Asset Transfer Request.

SPT's key points of response to the most recent consultation on the Guidance, Participation Requests and Asset Transfer are reiterated below.

Part 2: Community Planning

SPT is supportive of the process of Community Empowerment and our investment in and work with local communities regarding improving transport is undertaken on a daily basis, whether this takes the form of working with Community Transport providers, engagement with local community groups or consulting on our plans for improved bus services. This demonstrates SPT's commitment to ensuring that services are designed with and for local communities. Indeed, in their evidence to the Committee, we are guided that Glenboig Community Neighbourhood acknowledged the close working relationship with SPT in helping deliver its local community transport service.

However, we would wish to see greater emphasis placed on the need for partners to understand the specific remits and statutory responsibilities of regional and national bodies. SPT is concerned that CESA Guidance does not place greater emphasis on the regional and strategic nature of bodies such as SPT. The cross boundary, regional nature of public transport makes locality planning challenging and there is a danger that community expectations will be raised to a level that cannot readily be met without considerably greater resources being made available. SPT's focus, while it has a strong local component, is also necessarily on the wider west of Scotland regional transport network including ensuring effective travel to work, health and education services.

SPT is a member of all twelve community planning partnerships in the west of Scotland, each with its specific thematic or outcome based working groups, its local outcomes and priorities and, with the passing of the CESA, their own Locality Planning areas and Local Outcome Improvement Plans. While the number of priorities identified by CPPs has reduced recently, each CPP has at least three priority outcomes to pursue and while there is a degree of overlap when all twelve CPP areas are considered together there is nevertheless quite a range of outcomes to focus on and demonstrate commitment to.

In addition, many community planning partners have a local presence in terms of Police Officers, Fire and Rescue Staff, Third Sector Staff, local council workers and others who can interface with communities on a direct and day to day basis. This is not the case for SPT and while we attend a range of local community meetings to discuss transport and wider social policy issues, it is obvious, without significant resource, that we could not replicate the level of locally focussed community engagement of other partners without additional resources being made available.

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SPT's role will continue to focus on maximising the integration of the transport network across the west of Scotland which benefits all communities and will continue to demonstrate local responsiveness to public transport needs through on-going support for supported bus services, MyBus demand responsive bus services, support for community transport, support for active travel and improving transport access to healthcare among others. This must, however, also take a strategic and integrated approach to investment that does not always fit with specific local aspirations, of which there are very many, and all of which cannot realistically be met within current resources.

This understanding of the need to sustain a wider strategic approach to transport planning and the limitations of current resources and funding at a regional level is important to ensure that the focus on local issues does not generate expectations which cannot be met or which, if met, would result in a diminished service elsewhere. For these reasons we would welcome a stronger statement within the guidance that emphasises the need to understand regional, and also national responsibilities.

Part 3: Participation Requests

The most important issue for the success of CESA will be the capacity of community groups to make effective use of the legislation. SPT's concern is that given the wide variation in community capacity (activities, resources and support to enable effective action and leadership in the development of communities), there is a danger that some communities, often those in the most advantaged areas, are able to bring disproportionate influence in the way public services are designed and delivered, whilst other areas which are disadvantaged, for example, through poverty and have limited community capacity, will suffer by comparison.

Whilst efforts at improving outcomes are welcome and SPT is committed to achieving agreed local and national outcomes, there is inevitably a balance to be struck between meeting local aspirations whilst prioritising need. SPT would like to see wording within the legislation that explicitly reflects this necessary balance and we would suggest that a test be included in any participation request that sets out wider community benefits rather than benefits that are exclusively beneficial to a specific local area or group.

SPT can see a strengthened role for Community Councils in influencing public service design and delivery. However, much work needs to be done to improve capacity building before this can be taken forward meaningfully. Improving local public realm, community facilities or volunteering are natural candidates where Community Councils can and do have an active role in delivery. This role should not be expanded where it would fragment or undermine delivery of the strategic elements of public services, such as ensuring effective public transport arrangements across council boundaries. This is all the more important given the increasing rationalisation and centralisation of public services such as healthcare on fewer larger locations. This brings significant challenges for the delivery of public transport services and can set public expectations which are currently not realisable within current public resources.

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Effective public engagement helps to deliver appropriate, value for money services. However, the current proposals have the potential to result in a wasteful use of public resource by deflecting officer time from where it is most needed. There is scope within the proposals for what could be construed as vexatious or impractical participation requests. These requests may come from groups who, while they may fall within the definition of community participation bodies, do not have clear and demonstrable links to the community they claim to represent, nor be in a position to provide evidence that they have consulted and engaged with that community prior to making the request. SPT would suggest that where the public body in receipt of a request is of the view that any Participation Requests are wasteful or vexatious, the public body should have redress to Scottish Ministers to compel community bodies to desist from making such requests. In terms of the specifics of participation requests, SPT would wish to see greater detail being made available about community bodies and their constitutions when requests are submitted. Requests should also demonstrate how community bodies have engaged with the wider community in formulating requests. A clear statement that there are no conflicts of interest associated with the requests and those making it should also be included.

Part 5: Asset Transfer

Similarly, Community Transfer Bodies should be required to demonstrate clear links to their community and that they have undertaken meaningful engagement and consultation with that community before they send submit Asset Transfer Requests.

They should also be required to produce a robust business case for their request and be able to demonstrate that their proposals are environmentally and financially sustainable and do not impact negatively on or duplicate existing delivery of public services.

Finally, SPT would like to take this opportunity to acknowledge the advice and support offered by the Scottish Government's Community Empowerment Unit in responding to our initial comments and making appropriate modifications to the wording the Registers of Land elements of CESA as it related to the Subway in Glasgow.