



## Community Empowerment (Scotland) Act 2015 Consultations on Guidance and Draft Regulations – SPT Response

**Committee** Strategy and Programmes

**Date of meeting** 24 June 2016

**Date of report** 31 May 2016

### Report by Assistant Chief Executive (Operations)

#### 1. Object of report

To recommend the approval of the key principles<sup>1</sup> of SPT's response to current Scottish Government consultations on the Community Empowerment (Scotland) Act 2015, namely:

- Draft Guidance and Regulation<sup>2</sup>– response due 13 June 2016;
- Participation Requests<sup>3</sup>– response due 15 June 2016; and
- Asset transfer<sup>4</sup> – response due 20 June.

#### 2. Background

As members will be aware from earlier reports<sup>5</sup>, the Community Empowerment (Scotland) Act 2015 (CESA) came into force in July 2015, and since then the Scottish Government has been developing the orders and guidance for the Act, in relation to the three areas noted above. The Scottish Government are now consulting on these. SPT, as a Regional Transport Partnership, will be subject to any new duties under CESA.

#### 3. Outline of proposals

3.1 Noted below are the main proposals from each of the three CESA consultations, along with the key principles of SPT's response.

##### 3.2 *Draft Guidance – Main Proposals*

CESA expands the number of public sector bodies<sup>6</sup> subject to its duties to include Health and Social Care Integration Joint Boards, Regional Colleges and a number of national agencies including SEPA and Scottish Natural Heritage, in addition to

<sup>1</sup> Paper copies of the full responses will be available for members to view at the Committee.

<sup>2</sup> <https://consult.scotland.gov.uk/community-empowerment-unit/community-planning-guidance>

<sup>3</sup> <https://consult.scotland.gov.uk/community-empowerment-unit/participation-request-regulations>

<sup>4</sup> <https://consult.scotland.gov.uk/community-empowerment-unit/asset-transfer-procedures>

<sup>5</sup> See <http://www.spt.co.uk/documents/latest/sp290115agenda7.pdf> for more details.

<sup>6</sup> In addition to those noted in earlier legislation: Local Government (Scotland) Act 2003.

Regional Transport Partnerships. The Guidance sets out the responsibilities of lead agencies - local authority, Health Board, Police Scotland, Fire & Rescue Scotland and Scottish Enterprise - to facilitate community planning and to take reasonable steps to ensure the Community Planning Partnership (CPP) conducts its functions effectively and efficiently.

CPPs should be strategic in regards to decision-making (senior representatives of CPP partners with high levels of authority), leadership and oversight (for example, elected members). Communities – of interest, and of place - should be central to the effectiveness of the CPP and partners should actively seek the participation of community bodies as equal partners, for example, in relation to participatory budgeting.

Not all public sector activity should be co-ordinated through community planning, but the focus should be on harnessing the collective efforts of partners to add value when tackling inequalities and improving outcomes, eliminating gaps and duplications in service cover. Each CPP must prepare a Local Outcome Improvement Plan (LOIP), firmly based on evidence with clear and measurable priorities for action.

A key focus of CPPs should be Locality Planning, which involves close partnership working between bodies, often to tackle deep seated problems associated with inequality such as poor health outcomes using targeted resources.

### 3.3 *Draft Guidance – Main Proposals: Key principles of SPT's response:*

While SPT supports the overall aims of the Act, we have a number of concerns about the specific provisions within the Guidance. In particular SPT is concerned that the guidance does not place sufficient understanding on the regional nature of bodies such as SPT. While transport is central to tackling issues around inequality, the cross boundary nature of public transport makes locality planning, for example, as envisaged by the Act, a challenging approach. Furthermore, it will be vital that consideration is given to the impact on the resources of organisations such as SPT (e.g. in relation to officer time and availability) of CESA, as it is essential that best use is made of these in relation to core activities.

### 3.4 *Participation Requests – Main Proposals*

Participation requests provide a mechanism for local community groups to influence or participate in the design and delivery of services. They are formalised requests from community groups, who believe they can help towards achieving a particular local outcome, can issue a request to a public service authority, seeking to take part in that authority's process to improve that outcome. In particular they are aimed at groups who, for one reason or another, often do not have an opportunity to voice their concerns about the delivery of services. This might include a discussion on ways of doing things, it could be to offer volunteer support a service or it could even be a proposal to take over the delivery of a service themselves.

Public service providers must respond to participation requests and must agree to them unless there are reasonable grounds for refusing them. Authorities must also promote the use of participation requests and provide appropriate support to community groups when pursuing such requests. Public service authorities must consider the request against a number of factors including economic development; regeneration; public health; social wellbeing; environmental wellbeing; and whether agreeing to a request would be likely to reduce inequality of outcomes and lead to an increase in participation.

Part of the process includes development of an Outcome Improvement Process which will set out how the community participation body is expected to participate and the parameters of the process including any other partners who may be involved. Once agreed details of the Plan should be made public and there should be regular reports on such requests and their outcomes published by public service authorities.

### 3.5 *Participation Requests – Main Proposals: Key principles of SPT’s response:*

SPT’s response will, in principle, support the aims of participation, but will express significant concerns about the potential resource implications of this process on organisations such as SPT, and highlight that there are many current opportunities for community groups to be involved in development of proposals, for example, through contact with their local elected member, MSP or MP, or via community councils.

### 3.6 *Asset transfer – Main Proposals*

The CESA introduced a right for community bodies to make requests to local authorities, Scottish Ministers and a wide range of public bodies, including SPT, for any land or buildings they feel they could make better use of. This could be by purchase, lease or management and could involve a discounted price or grant or other support, or simply an agreement to transfer an asset the public authority did not plan to sell. Public authorities are required to assess requests transparently against a specified list of criteria and to agree the request unless there are reasonable grounds for refusal.

Section 94 of the Act requires each relevant authority to publish a register of land which it owns or leases “to the best of its knowledge or belief”. This will help community bodies to know what might be available through asset transfer and who owns any property they might be interested in.

The draft regulations set out the basis for such requests and the process to be undertaken. It also advises that Scottish Ministers can make regulations to list types of land that need not be included in the register under section 94(4). The following types of land relevant to SPT are proposed to be included by the regulations:

**Public roads:** These are owned and managed by local authorities (local roads) and Scottish Ministers through Transport Scotland (trunk roads). The Scottish Government think it unlikely that a community body would want to take over a public road and in any case it is usually clear who it belongs to. Therefore they propose not to include public roads as being subject to asset transfer requests.

**Underground railways:** SPT operates the Subway. The draft regulations advise that it would not be possible for a community body to take over the operational parts of the Subway, and it is well known who owns it, so they propose that the tunnels and stations not be included in the register and therefore would not be subject to asset transfer requests. However, SPT will need to list all other property that it owns or leases.

**Bus stations:** Bus stations may be operated by local authorities or Regional Transport Partnerships, as is the case with Hamilton, East Kilbride, Greenock and Buchanan Bus Stations. The Scottish Government proposes that they need not be included in registers of land and would therefore not be subject to asset transfer requests.

Section 95 of the Act requires relevant public authorities to publish an annual report setting out the numbers of asset transfer requests received and their outcomes, including how many have been allowed or dismissed and whether there were any

reviews or appeals and what the outcome of these was. The report must also describe what the public authority has done to promote the use of asset transfer and support community bodies to make requests.

In framing the current draft regulations, the Scottish Government contacted SPT to discuss SPT's ownership of land and buildings and to seek advice in particular on our ownership of Subway land and buildings. SPT sent a formal note advising on the extent of our ownership and what constitutes operational land.

### *3.7 Asset Transfer Requests – Main Proposals: Key principles of SPT's response:*

SPT's response will re-state the nature of SPT's land and buildings and how these are critical to the operation of the Subway, bus stations and the wider transport network. SPT will seek to have definition of its ownership and operations made more explicit, since while we believe the text in the draft regulations broadly covers our interests, this should be made explicit. In particular, we would wish to see reference to SPT's Subway depot at Broomloan, to land ownership around our Subway stations that is in SPT's ownership, including the Subway park and ride car parks at Shields Road, Bridge Street and Kelvinbridge.

SPT would also wish to see a more explicit reference in the regulations to the Bus Stations under our ownership or lease as described above to avoid any confusion about what should and should not be included in the register of assets.

In addition SPT also has a small number of other land holdings which we may wish to see be omitted from the register of assets, for park-and-rides or for potential future expansion of the transport network of Strathclyde. SPT is also concerned that there may be land currently under the ownership of other public authorities which may be necessary or important for the either access to or the operational efficiency of parts of the transport network, including those parts under SPT's ownership or management.

In its response, SPT will seek to identify, where practicable, land which falls into this category, and if not already omitted from a register of land, seek to do so. SPT will liaise with other public sector authorities in carrying this out.

## **4. Conclusions**

The Scottish Government is undertaking consultation on the Community Empowerment (Scotland) Act 2015. The consultation covers a number of areas including Guidance, Participation Requests, and Asset Transfers.

As can be seen from the key principles of SPT's responses noted above in section 3, SPT, while supportive in general of the overall provisions of the Act, has significant concerns regarding the potential ramifications of the Act and its associated guidance and will seek to ensure that the Scottish Government take on board our views as guidance on the Act is progressed.

## **5. Committee action**

The Committee is recommended to:

- Note the contents of this report; and
- Approve the key principles of SPT's responses as outlined in section 3.

## 6. Consequences

Policy consequences	<i>SPT's response is in line with the RTS.</i>
Legal consequences	<i>None directly.</i>
Financial consequences	<i>None directly.</i>
Personnel consequences	<i>None directly.</i>
Equalities consequences	<i>SPT's response is in line with its Equality Outcomes.</i>
Risk consequences	<i>None directly.</i>

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