24 October 2014

Dear Kenneth,

Thank you for your letter of 14 October, in which the Finance Committee asks how the Financial Memorandum for the Community Empowerment (Scotland) Bill meets the requirements of Standing Orders Rule 9.3.2. I understand that the key areas of interest are the cost estimates for participation requests (Part 3 of the Bill), asset transfer requests (Part 5) and allotments (Part 7), since these are the areas in which public sector bodies will need to respond to external demand.

I believe the Financial Memorandum does meet the requirements of Standing Orders Rule 9.3.2 in providing the best estimates of administrative, compliance and other costs, best estimates of timescales and of margins of uncertainty. It has also been conducted in line with Scottish Government guidance.

In conforming to Standing Orders rule 9.3.2 the Scottish Government has undertaken considerable work to establish the likely costs and savings that will result from the Community Empowerment Bill including administrative, compliance and other costs, best estimates of timescales and of margins of uncertainty.

This work is set out below:

- The consultation on the draft Bill, which took place from November 2013 to January 2014, asked respondents “What costs and savings do you think would come about as a result of these draft provisions”, in relation to both participation requests and asset transfer.

- 164 respondents answered this question on asset transfer, and 121 on participation requests. Responses highlighted areas in which costs and savings might be anticipated, but did not provide specific figures.

Victoria Quay, Edinburgh  EH6 6QQ
Cidhe Bhictòria, Dùn Èideann, EH6 6QQ
www.scotland.gov.uk
In addition respondents, recognising the purpose of the Bill, also focused on the importance of the non-monetary benefits the Bill could bring and the potential for savings as a result of those benefits. The comments were provided by a mix of public sector and community/third sector organisations.

A separate exercise was undertaken to seek information from local authorities on the costs of providing allotments and complying with the requirements of the Bill, such as producing a Food Growing Strategy.

Following the consultation, officials continued to engage with stakeholders and sought more detailed financial information from a number of organisations and, through COSLA, from local authorities.

The information obtained is provided in the FM for example;

- Paragraph 22 of the FM provides examples of costs of community engagement events, which may be taken as a proxy for the cost of responding to a participation request.
- Paragraphs 81 to 82 provide some examples of assets transferred under the National Forest Land Scheme, which involves a process similar to asset transfer requests.
- Paragraph 72 of the FM provides information on the 38 asset transfers the Community Ownership Support Service has been involved over 3 years. This could indicate that numbers will be relatively low, but there may be many other transfers which do not involve COSS or community right to buy, and are not therefore recorded.

Paragraphs 96 to 100 of the FM summarise the figures provided in relation to the allotment provisions.

In addition, this engagement with stakeholders has continued and resulted in the further information provided in my letter of 3 October on the possible unit costs of responding to participation requests and asset transfer requests, and the costs to a community body of making an asset transfer request.

Thus the FM and the additional information supplied contains the full range of financial information that can be made available with certainty in relation to this Bill.

I recognise the Committee's frustration that the FM cannot estimate the level of demand for asset transfer or participation requests, and consequently does not provide ranges for the total potential costs of these provisions. This I can assure you is to avoid giving a flawed figure, which by the nature of the legislation carries variables that would make a specific figure or range far too questionable.

Throughout this process the Financial Memorandum, and the Bill team in giving evidence, have highlighted the issues of both specificity and estimation inherent in a Bill such as the Community Empowerment Bill. This Bill brings together several variables which are all dependent on community wishes. In both participation requests and asset transfer, there are variables in terms of the number of requests, their complexity, and their distribution over time.

Victoria Quay, Edinburgh EH6 6QO
Cidhe Bhictòiria, Dùn Èideann, EH6 6QO
www.scotland.gov.uk
For example, the process needed to respond effectively to a participation request could range from a single meeting to an extensive public engagement exercise. Although some costs can be estimated for this type of activity, there is no existing community-led mechanism comparable to participation requests on which to base estimates of demand. It may take some time for communities to realise the full potential of this mechanism, but its use may also decline as public sector bodies increase the use of participatory processes in their everyday business.

Depending how communities choose to use the provisions, and what their ambitions may be, asset transfer requests could vary from arranging a simple lease for a community hall to a complex sale of extensive premises. Costs may cluster at one end of the scale or the other and any estimate or range would be inherently flawed. In terms of timing, there may be a pent-up demand for community ownership of assets which will emerge at first, but equally use of the provisions may increase gradually as communities realise their potential.

The costs associated with the allotments provisions will depend on the amount of provision already in place compared with any unmet demand, as well as the local cost and availability of land. The figures provided by local authorities provide some examples but do not allow robust national estimates to be constructed.

As the Committee noted, figures provided can be seen as targets or limits, and that would be particularly inappropriate where the purpose of the Bill is to enable communities to take up opportunities in whatever way and to whatever extent they choose.

As a result of the issues set out above the information provided is clearly the best estimate that can be provided of the administrative, compliance and other costs to which the provisions of the Bill would give rise, the best estimate of the timescales over which such costs would arise and has given a very clear indication of the margins of uncertainty in such estimates.

DEREK MACKAY