

**FINANCE COMMITTEE CALL FOR EVIDENCE
COMMUNITY EMPOWERMENT (SCOTLAND) BILL;
FINANCIAL MEMORANDUM SUBMISSION FROM
NHS Lothian**

Consultation

Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

1. NHS Lothian did submit a response to the consultation on 28 February 2014.

<http://www.scotland.gov.uk/Publications/2014/02/2073/downloads>

That response included the following remarks which relate to finance;

Community Right to Request to Participate in Processes to Improve Outcomes of Service Delivery

“Q13 What costs and savings do you think would come about as a result of these draft provisions?”

“This process could potentially encourage the further development of the partnership approaches already being taken to service improvement and could provide a source of expertise, experience and knowledge from people who live in the communities involved.

However, community bodies may not possess the relevant skills, experience or knowledge to allow them to be meaningfully or effectively involved. Public service authorities would therefore need to consider how they could provide support for capacity building. This could add pressure to public service authorities from an already under-resourced position.

As previously stated, this process could also allow ‘louder’ voices from larger well organised groups to be heard to the exclusion of ‘quieter’ voices of smaller groups. Anecdotally, there is already evidence, as community groups take over the responsibility for community assets, that local authorities regard it as a cost saving exercise. In the case of, for example, areas of land for growing, or for new play parks, voluntary community groups will not have the funds nor the capacity to maintain these areas once a lease has been drawn up. This issue could be extended to other areas of participation, as community bodies might seek to be actively involved in service improvement or even taking on the responsibility for service delivery from a public service authority.

There does not seem to be consideration in the bill that addresses the inevitable financial and capacity implications of participation for community bodies in the improvement process.”

4.1 Improve and extend Community Right to Buy

Q21 Do you think that the criteria to be met by a community body in section 38(1) of the Act are appropriate?

“It is not clear whether a “Community Body” under the wider definition (SCIO) will be able to hold and maintain public liability and property owners insurance. This and title restrictions and obligations should transfer to the controlling party (ie the new community owner) rather than the residual interest (Scottish Ministers delegated to the Health Board). It is also not clear where the funding for on-going investments or management regimes will come from.”

Q33 Are there any other ways that a “community” could be defined?

“Inequalities in Scotland

There is very little reference made to tackling inequalities. We can only see one reference within the body of the Bill.

Since it is the aim of the bill to empower communities there needs to be specific regard made to what support infrastructures are in place to empower our less equipped communities, if not, the bill will further increase the inequalities gap between communities, some whom are well equipped and able to articulate their needs while some will struggle to be heard/access this empowerment opportunity.

Without appropriate support and investment in community empowerment the key components of the Bill will not be fairly accessible to communities (both geographic or communities of interest).”

If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?

2. With regard to Participation Requests, our response concluded: “There does not seem to be consideration in the bill that addresses the inevitable financial and capacity implications of participation for community bodies in the improvement process.”

With regard to addressing inequalities, we again made the point about there needing to be adequate support and investment to make the Bill accessible to all.

The Financial Memorandum (at Page 53) identifies the costs on other bodies for participation requests as NIL. For the Scottish Administration and local authorities it is identified as “demand driven” and difficult to forecast.

We think it is inevitable that public services bodies would have to give some support to community bodies for participation requests and other parts of the Bill, and consequently the costs are arguably understated.

Did you have sufficient time to contribute to the consultation exercise?

3. Yes

Costs

If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

4. Please see comments under “Wider Issues”.

Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

5. The Bill does place additional duties and financial risks on public sector bodies. The estimates give limited information. It is very difficult to make any realistic assessment due to much of the Bill being demand led.

The nature of the financial risks will need to be closely monitored on a case by case basis, e.g. an asset transfer may give rise to a short-term financial hit but offer longer-term non-financial benefits, which in turn may give financial benefits.

If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

6. NHS Boards are already under significant financial pressure, therefore any new additional costs simply add to that pressure. By necessity NHS Boards continually seek to innovate and re-design services so as to manage cost pressures.

It is hoped that the measures in this Bill will stimulate innovative solutions and will support the Board in addressing its long-term goals.

Does the FM accurately reflect the margins of uncertainty associated with the Bill’s estimated costs and with the timescales over which they would be expected to arise?

7. No comment.

Wider Issues

Do you believe that the FM reasonably captures any costs associated with the Bill? If not, which other costs might be incurred and by whom?

8. The Bill requires the new integration joint boards, which are created under the Public Bodies (Joint Working) Scotland Act 2014, to participate in community planning and carry out the duties of a community planning partner. There will be costs associated with this which will have to be borne by the constituent bodies.

There may be potential costs to public service bodies as a result of land not necessarily being disposed of at true market value. Public bodies may bear a cost if they are not properly financially compensated for any asset transfers under Part 5 of the Bill. The Bill does not appear to require public bodies to be compensated for asset transfers.

NHS Boards are still required to conduct transactions in line with the procedures set out in the Property Transactions Handbook, which states that

Best Value should be achieved. NHS Boards would still need to put together a strong case demonstrating how value has been obtained and gain Scottish Government approval.

Community groups who express an interest in the property will often have to source funds in order to purchase it. This could involve the need to go through a grant application process.

The longer and more complex the disposal process becomes, the greater the cost to the public sector body. Non-domestic rates will be incurred, security costs will have to be paid and the potential for deterioration and vandalism increases.

The increased complexity and more onerous process may necessitate additional staff resources and a greater demand for consultancy services.

The Bill may facilitate more applications for the right to buy land. This in turn may lead to additional costs associated with:-

- a) Valuation of assets
- b) Legal fees associated with sale of assets/appeals.
- c) There is a financial risk as it is not clear what the level of compensation due would be and will be dealt with on a case by case basis. As such it is possible for a loss to be incurred by the public sector body.

The ability of the councils to grant rates reductions or exemptions will result in a shortfall of income and may have an impact on the rates paid by others.

Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

9. No comment.