FINANCE COMMITTEE CALL FOR EVIDENCE

COMMUNITY EMPOWERMENT (SCOTLAND) BILL; FINANCIAL MEMORANDUM

SUBMISSION FROM THE SCOTTISH ENVIRONMENT PROTECTION AGENCY

The Scottish Environment Protection Agency (SEPA) is a non-departmental public body, accountable through Scottish Ministers to the Scottish Parliament. We are Scotland's principal environmental regulator. We support and are aligned to the Scottish Government's overarching purpose to focus Government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. This is reflected in SEPA's new general purpose, defined in The Regulatory Reform (Scotland) Act. The purpose of the Act is to further improve the way regulation is developed and applied, creating more favourable business conditions in Scotland and delivering benefits for the environment. It is designed to protect our people and environment, help businesses to flourish and create jobs.

SEPA's role is wide-ranging, from environmental regulation and reporting on the state of the environment, to promoting sustainability and advising on environmental issues. As such our response reflects that national focus as we seek to embed protection and improvement of the environment into communities' priorities and activities, to contribute to sustainable economic growth and help improve the health and wellbeing of the people of Scotland. Our response to each of the questions posed by the Committee is set out below.

Consultation

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

1. We responded to the Scottish Government consultation on the Bill in January 2014, available here. In that response we highlighted some potential financial implications for SEPA. On community planning, we indicated that "*We would be concerned if our inclusion in the list of public bodies brought with it any expectation for SEPA to automatically engage with each and every CPP at the same level or in the same way. Our experience in working with partners to address difficult or persistent environmental problems suggests that having flexibility in the level and method of engagement is predominantly the key to success*." The Bill's naming of SEPA as a public body for community planning was unexpected, and we believe that this could potentially have significant staff resource cost implications, depending on the means and frequency of engagement.

In our recent evidence to Local Government and Regeneration Committee (LGRC), we reiterated our concerns about "*false expectations that SEPA will fully engage with all CPPs in Scotland. That would be highly resource intensive, and not cost neutral. We have previously audited our involvement in CPPs and we see it as important that SEPA can engage with CPPs at a level most appropriate to the key environmental challenges and opportunities of the local area, to the prioritisation afforded within that area, and in the most efficient and effective way for us as an Agency. This means* *having the flexibility to adopt different types of levels of engagement with different CPPs, deploying our limited resource where we can add the most value*." That new statutory duty will require staff resource - moreso if our scope for flexibility is removed.

On the issue of asset transfer, we highlighted in our January response that "*There may be additional costs to SEPA in terms of any potential pre-application or post-application consultations regarding likely impacts of asset transfer, such as protection of the environment or human health). However we would expect that any such duty for relevant authorities to consult relevant public bodies in a proportionate manner would add value to the process without being unduly onerous.*" We also envisaged that "*there may also be some costs incurred on SEPA as a consequence of the new duties depending on the governance arrangements for the process surrounding participation requests*."

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

2. On balance, no. We consider that cost to SEPA is unlikely to be cost neutral.

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

3. Yes.

Costs

4. 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.

On balance, no. We consider that cost to SEPA is unlikely to be cost neutral. This is the case on a number of levels. For instance, taking the running order of the Bill, we do not concur that the cost to public bodies of engaging in the setting of national outcomes by Ministers will be nil. There will inevitably be staffing costs associated with our engagement in this process. On community planning, we envisage that the Bill's provisions could impose significant additional costs on SEPA, especially if we do not have the flexibility to tailor our engagement with different Community Planning Partnerships (CPPs), and to deploy our limited resource where we can add the most value. Also, there are likely to be some costs incurred by SEPA in managing any participation requests by community bodies - although as the Financial Memorandum states, this is difficult to forecast.

Whist we envisage limited or no scope for asset transfer from SEPA, we have an interest in ensuring that right to buy and asset transfer can be delivered in ways consistent with our primary duty to protect and improve the environment. We suggested to LGRC that it may be useful to build in a proportionate consultation process between the relevant authority and other public bodies in reaching a decision on an asset transfer request, to help achieve shared outcomes. There would be inevitably be some staffing and administration costs associated with this.

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

5. We spotted some differences in the headings used in the Table 1 summary of costs, and the subsequent narrative. As a result, the interpretation of costs and savings could be misleading for readers. Table 1 should not be read in isolation. It uses three distinct headings whilst the narrative headings vary (e.g. some refer to "*Costs on the Scottish Administration and public bodies*" and others to "*Costs on the Scottish Administration*"). We have highlighted - in our response to question 4 above – where costs may be likely to arise.

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. We would like to have a clearer picture of what the potential financial costs to SEPA are likely to be. In our evidence to LGRC we highlighted that SEPA is not currently resourced to carry out any significant work in this area – particularly in relation to community planning. This means that we will need to deploy resources into these potentially new areas. If we are able to engage flexibly, deploying resources in different ways depending on the issues and the need, then we feel that this can be managed. However, if the expectation is a comprehensive package of engagement at all levels of community planning, then this will have significant resource implications, with knock on impacts for other areas of service delivery.

In our day to day regulatory and advisory roles, SEPA teams interact frequently with local authority partners (e.g. planners and environmental health officers) and other proposed core community planning partners such as SNH, Scottish Water and the Scottish Fire and Rescue Service. However, the Bill provisions call for a more formal, statutory duty for SEPA to work within the CPP structure, and this could incur significant additional costs to our organisation. We need to work out what that statutory engagement in community planning looks like, who from the organisation is likely to be involved, and how often, before we can fully establish likely costs.

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. On balance, yes.

<u>Wider Issues</u>

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. No comment.

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. Possibly, although it is difficult to speculate which of the Bill's enabling powers might be actioned in due course. It is therefore difficult to quantify those potential costs.