

Local Government and Regeneration Committee

Submission Name: NHS Tayside

Submission Number: 45



NHS Tayside response to the Local Government and Regeneration Committee's Call for written evidence on the Community Empowerment (Scotland) Bill

1. To what extent do you consider the Bill will empower communities, please give reasons for your answer?

The Bill will certainly encourage and give communities a formal footing to have a right to be involved in the improving outcomes processes and greater rights to buy/lease /manage land and properties.

The lessons learned and successes of community involvement / public participation pre community empowerment Bill will be important factors in its implementation and support for communities. It will be important to ensure that there is evaluation of the impact of the sections of the Act which in turn will determine the extent to which the Bill will have empowered communities.

2. What will be the benefits and disadvantages for public sector organisations as a consequence of the provisions in the Bill?

Part 3 – Participation requests –

i) Strengthening the engagement of communities

The introduction of 'A community body being able to make a request to a public service authority to permit the body to participate in an outcome improvement process', is welcomed as a way of strengthening the engagement of communities.

ii) Definition of outcome

The definition of outcome or what constitutes an outcome may be challenging.

iii) The involvement of all key stakeholders

It is important that this is not seen as the only way to engage stakeholders in improving services. The public service authority should continue to also have the right to invite others to be involved in an 'outcome improvement process' if it

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considers that there is a need to gather the views of people not included in the community body. For example if the outcome would also impact on the provision of a service to a particular patient / condition related group. It is important that regulations capture details relating to the involvement of all key stakeholders and not just those who are part of the community participation body.

iv) Patient Rights Act (Scotland) 2011

It is welcomed that the provisions of the bill do not say that a 'body' has to be a community participation body in order to be involved in improving outcomes / services. In practice a group would not have to be a 'community participation body' to be involved in improving services. This will allow for 'informal' groups, such as patient participation groups linked to GP practices or patients of a particular clinical condition to be involved and make suggestions for improvement and to outcomes. It would also mean that individuals can contribute. Indeed the Patient Rights Act (Scotland) 2011 makes provision for individuals to have a right to be informed, and involved in decisions, about health care and services. The Bill makes no reference to this Act. It will be important that the Rights contained therein continue to be observed.

v) Clinical considerations

It is crucial that regulations and future guidelines bring clarity around aspects relating to 'clinical' considerations. Section 19 requires a public service authority to agree to or refuse any participation request it receives and sets out how the authority must make that decision. It describes factors that should be considered relating to public health, social or environmental wellbeing and other benefits or matters the authority considers relevant. Clinical reasons could fall under 'a matter the authority considers relevant', however these could be substantial and surely justify particular reference to them in this section.

Parts 4 and 5 Community Right to Buy and Asset Transfer Requests

The benefits to communities to exercise their rights to buy and request asset transfers have many potential positive outcomes. However, at a time when we are and will continue to be challenged financially, for most NHS Boards, the need to vacate property 'not fit for purpose' and secure optimal returns from the sale of such assets via the open market has been an absolute necessity. The right to buy should therefore be at the full market value of the land or buildings and through the open market.

3. Do you consider communities across Scotland have the capabilities to take advantage of the provisions in the Bill? If not, what requires to be done to the Bill, or to assist communities, to ensure this happens?

Yes, communities will have the capabilities to take advantage of the provisions of the bill. But not necessarily all communities may recognise this. There are

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existing structures to help communities building capacity however additional support / education / training should be made available with community involvement to help people to develop the skills required around this. Public service authorities will have a role in this but a key player would be the voluntary sector.

4. Are you content with the specific provisions in the Bill, if not what changes would you like to see, to which part of the Bill and why?

Part 2 – Community Planning -

We have some concerns about the following two clauses in the Bill:

9 Community planning partners: duties

3) Each community planning partner must, in relation to a community planning partnership, contribute such funds, staff and other resources as the community planning partnership considers appropriate—

(a) with a view to improving, or contributing to an improvement in, the achievement of each local outcome referred to in section 5(2)(a), and

(b) for the purpose of securing the participation of the community bodies mentioned in section 4(5)(a) in community planning.

12 Establishment of corporate bodies

(1) Following an application by a local authority and at least one other community planning partner for the area of the authority, the Scottish Ministers may by regulations establish a body corporate with such constitution and functions about community planning (including in particular its conduct and co-ordination) as may be specified in the regulations.

With regard to 9.1, we have no difficulty with the concept of CPP members challenging each other's expenditure, but to give the CPP powers actually to stipulate the sum to be spent by each partner is a step too far.

Likewise with 12.1, it seems to us questionable to give the power to the Council – and why specifically the Council? -with only one other partner to make an application to Ministers to establish a body corporate.

Part 3 – Participation requests -

As described in 2, Section 19 requires a public service authority to agree to or refuse any participation request it receives and sets out how the authority must make that decision. It describes factors that should be considered relating to public health, social or environmental wellbeing and other benefits or matters the authority considers relevant. Clinical reasons could fall under 'a matter the authority considers relevant, however these could be substantial and fall under particular standards relating to provision of care. It is suggested that specific

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reference is made to clinical reasons for accepting or refusing the participation request in this section.

5. What are your views on the assessment of equal rights, impacts on island communities and sustainable development as set out in the Policy memorandum?

The core principles of a human rights approach have been captured and due attention to, and consideration of, equalities legislation and duties have been demonstrated.