

Submission Name: SEPA

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Your Ref: -

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Clerk to the Local Government and Regeneration Committee  
Committee Office, Room T3.40  
The Scottish Parliament  
Edinburgh EH99 1SP

04 September 2014

By email: [communityempowermentbill@scottish.parliament.uk](mailto:communityempowermentbill@scottish.parliament.uk)

Dear David

### **Community Empowerment (Scotland) Bill**

Thank you for providing the Scottish Environment Protection Agency (SEPA) with the opportunity to give written evidence on the Bill; our submission is attached. While we are very supportive of the Bill in many aspects, it will potentially have significant implications for SEPA in terms of resources and delivering our priorities. Our key points can be summarised as follows:

- 1) the environment should be just as important, and is as legitimate as human health, in terms of policy setting for the Bill
- 2) SEPA is not resourced to carry out any significant work in this area without seriously prejudicing existing priorities
- 3) as a national agency, it is extremely difficult to identify, and then to meet, the demands of localised interests; and where we can, there could be a major issue with consistency in delivering policy objectives, so a careful balance is required.

As a public body committed to openness and transparency, SEPA feels it is appropriate that this response be placed on the public record. If you require further clarification on any aspect of this correspondence, please contact Paula Charleson, Head of Environmental Strategy, SEPA Corporate Office at the address shown.

Yours sincerely

**James C Curran**  
Chief Executive

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**SEPA response to the Local Government and Regeneration Committee call for evidence on the Community Empowerment (Scotland) Bill**

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 of sustainable economic growth. 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.

The Committee may also be interested to refer to SEPA's response to the Scottish Government consultation on the Bill in January 2014, available [here](#).

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

- 1.1 As is the case with most primary legislation, the operational detail will be set out in regulations and guidance which follow. The Bill provisions alone are unlikely to transform the day to day experiences of the most vulnerable individuals and communities in society. All public services – including SEPA – need to drive reform at increased scale and pace and create conditions that encourage and support strong and resilient communities right across Scotland.
- 1.2 Realising the Bill's full potential will be significantly dependent on individuals and communities having both the capacity and will to drive reform. Those less mobilised and more vulnerable individuals and communities will require significant support to do so. It is perhaps those very parts of Scotland, where the 'skill and will' are less mobilised, that the greatest potential for driving change potentially exists.
- 1.3 The primary role for government and the public sector in this agenda is a supportive one which enables community empowerment but does not direct or control it. Yet, there needs to be strong leadership and culture change at all levels to build individual and community capacity, and ensure a more level playing field for participation and engagement. Culture change, leadership and real, fruitful partnerships with Scotland's citizens and communities will be the ultimate game changers when it comes to addressing multi-faceted and multi-generational environmental, social and economic problems or "wicked" problems. It will require careful thought to ensure all parties maximise the benefit from the limited resource we each have to achieve the aspirations of the Bill.
- 1.4 SEPA's involvement in community planning has often become a significant resource demand with limited return, especially where social and economic outcomes have been prioritised over environmental outcomes. If the environment were to feature more explicitly in the six agreed national priorities<sup>1</sup> for Single Outcome Agreements (SOAs) it would help strengthen our mandate. Environmental protection and improvement delivers many multiple benefits for communities. The environment has a very important role in supporting early intervention and preventative approaches in reducing outcome inequalities.

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<sup>1</sup> economic recovery and growth; employment; early years; safer and stronger communities, and reducing offending; health inequalities and physical activity; and outcomes for older people

- 1.5 Tackling problems with urban air quality is a good example. Air quality is likely to be poorer in some of the more deprived areas of our towns and cities. Reducing the number of people exposed to poor air quality in these areas by greening our cities, promoting active travel, and reducing black carbon and other air pollutants that contribute to climate change can achieve lasting benefits that go far beyond improving air quality - to help tackle health and social inequalities and may even stimulate investment for sustainable growth.
- 2. What will be the benefits and disadvantages for public sector organisations as a consequence of the provisions in the Bill?**
- 2.1 SEPA sees the Bill as an additional mechanism to help deliver our new statutory purpose, under the Regulatory Reform (Scotland) Act 2014. SEPA's work delivers important benefits not just for the environment but also for communities and the economy. A healthy environment is essential for a healthy population and also for a healthy economy.
- 2.2 Wellbeing, sustainable economic development and a good quality, well-functioning environment should collectively be at the heart of empowered communities. And yet the Bill misses the opportunity to put the environment on a level footing with health and social care and sustainable economic growth objectives. SEPA's vision is for a future where the people of Scotland have taken increasing responsibility for their own environment and wellbeing, and a joined-up approach to health and well-being is achieved through active dialogue, whereby individuals and communities engage and are involved in decisions that affect them. Environmental services can, and do, complement health, social care and blue light services in the delivery of strong, healthy and resilient communities. The six agreed national priorities for CPPs could do more to embed the environment as a golden thread throughout.
- 2.3 A protocol or common statement between government and its agencies, local authorities, CPPs, and the third sector could help drive pace and culture change around community planning and empowerment to support wider public service reform. We could perhaps take a lead from [Delivering Planning Reform](#) (2008). This was extremely valuable because it demonstrated a concerted and determined joint effort to deliver fundamental change in the way that planning stakeholders work.
- 2.4 The opportunity for SEPA and other public sector organisations to formally engage with Ministers in identifying National Outcomes for Scotland to build on the "*Scotland Performs*" framework is a further benefit of the Bill. The people of Scotland – including the public, private and third sectors – should rightly have a more proactive role in shaping them. SEPA is keen to continue its dialogue with the government in identifying future qualitative and quantitative wellbeing and environmental indicators.
- 2.5 The Bill presents some very real challenges to us as a national Agency. Many aspects of SEPA's business do not naturally lend themselves to self-determination. Likewise, Bill provisions which enable community bodies to make a request to improve the outcomes of a service could be limited in the context of SEPA's regulatory role, but equally other opportunities may arise, for example in relation to River Basin Management Planning and Flood Risk Management, where SEPA already engages with communities. We are keen to engage with the government in drafting regulations and guidance on participation requests.

- 2.6 We anticipate that new duties which stem from SEPA being named as a community planning partner will be a real challenge. It is quite difficult to see how we could exercise these new duties cost-neutrally.
- 2.7 There could be 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. We have similar concerns about resourcing new duties relating to participation requests and the associated processes and procedures this could require.
- 2.8 Even where SEPA is not participating directly or closely with a CPP at a local level, we will have a duty to take the local outcome improvement plan (LOIP) into account while carrying out our own functions at a local level. Again, this will probably not be cost-neutral. Guidance on the ways in which public authorities are to take account of LOIPs, and LOIPs relationship to SOAs, would be helpful.
- 2.9 There could be some real challenges around the practicalities of dovetailing SEPA's own priorities with those identified in the LOIP. SEPA's priorities set out in our Corporate Plan and Annual Operating Plan tend to be strategic and usually non-locally specific. The environment is intrinsically inter-connected and we work hard to focus our resources in a truly strategic way in order to deliver maximum improvement through achieving multiple benefits. Priorities in the LOIPs are more likely to be locally specific and targeted. There will be challenges aligning local and national outcomes from the bottom-up, and reconciling conflicts where they arise. It should be recognised, for example, that SEPA additionally sets national standards in its approach to licensing and in its delivery of European directives such as the Water Framework Directive.
- 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?**
- 3.1 It is unlikely that communities across Scotland have the capabilities to take advantage of the Bill provisions in equal measure. Appropriate support mechanisms need to be put in place to create a more level playing field. These should include individual and community capacity building as well as financial support packages for communities experiencing multiple deprivations.
- 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?**
- 4.1 There will be limited or no scope for asset transfer from SEPA, so the value of including SEPA in Schedule 3 as a 'relevant authority' for such requests is probably negligible.
- 4.2 We do though 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. Both aspects of the Bill should consider Scotland's natural environment as a stock of potential resources and assets able to produce value and on-going services to Scotland's economy, underpinning the health and wellbeing of communities. We would like to see an ecosystems approach included in the matters which the authority must take into consideration in reaching its decision on whether to agree or refuse an asset transfer request.

- 4.3 Land is eligible for right to buy provisions if, in the opinion of Ministers, it is wholly or mainly abandoned or neglected. It would be helpful to have greater transparency, in regulations or guidance, as to what constitutes wholly or mainly abandoned or neglected land.
- 4.4 There could be cases where abandoned or neglected land is partly or wholly contaminated and may not be suited to a use the community would like to see. Appropriate mechanisms will be needed to ensure that communities have access to expert advice and support in this regard.
- 4.5 Conversely, land which may be wholly or mainly abandoned or neglected could also have a *high* value in terms of the ecosystem services it offers - such as supporting biodiversity and flood risk management. Having a robust evidence base will be important to inform decision making. Both the land valuation and process of determining requests for transfer of such land should take account of ecosystem value in a systematic way.
- 4.6 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.

**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?**

- 5.1 The Policy memorandum provides a 'light touch' assessment of the sustainable development impacts of the Bill. The Bill has the potential to make a positive contribution to sustainable development and there may be an opportunity for government to provide regulations and/or guidance to help all parties maximise these opportunities.
- 5.2 A pro-sustainability culture could help community planning partners better integrate and align their sustainable development outcomes. The [UK National Ecosystems Services conceptual framework](#) may provide a useful toolkit for community planning partners. It helps decision-makers understand the wider value of our ecosystems and the services they offer, summarising the cycle that links human societies and their wellbeing with the environment.
- 5.3 There may be challenges for communities around ensuring that right to buy land and asset transfers are used sustainably, are suitably managed, and are maintained in perpetuity.
- 5.4 In reaching decisions on asset transfer and participation requests, authorities are required to take into consideration specific matters, including 'social wellbeing' or 'environmental wellbeing'. These are ambiguous terms. We would prefer to see

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'social wellbeing replaced with 'wellbeing' and 'environmental wellbeing' replaced by 'environmental protection and improvement'.

END

SEPA

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