LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

AGENDA

12th Meeting, 2016 (Session 5)

Wednesday 23 November 2016

The Committee will meet at 9.45 am in the James Clerk Maxwell Room (CR4).

1. **Decision on taking business in private:** The Committee will decide whether to take item 6 in private.

2. **Payments to returning officers in Scotland:** The Committee will take evidence from—
   
   Jonathon Shafi, Campaigns Organiser, Electoral Reform Society Scotland;

   Navraj Singh Ghaleigh, Senior Lecturer in Climate Law, University of Edinburgh;

   Dr Toby James, Senior Lecturer in British and Comparative Politics, University of East Anglia.

3. **Subordinate legislation: Parts 2, 3 and 5 of the Community Empowerment (Scotland) Act 2015:** The Committee will take evidence from—

   Assistant Chief Constable Andy Cowie, Local Policing North, Police Scotland;

   Sandra Holmes, Community Assets Sector Lead, Highlands and Islands Enterprise;

   Iona Colvin, Director of Health and Social Care North Ayrshire, NHS Ayrshire and Arran;

   Bruce Kiloh, Head of Policy and Planning, Strathclyde Partnership for Transport;

   Richard Davison, Strategic Manager, Scottish Natural Heritage.
4. **Consideration of evidence (in private):** The Committee will consider the evidence heard at agenda item 2.

5. **Consideration of evidence (in private):** The Committee will consider the evidence heard at agenda item 3.

6. **Local Government Boundary Commission for Scotland's 5th Electoral Reviews:** The Committee will consider a draft report.

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Clerk to the Local Government and Communities Committee  
Room T3.60  
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Edinburgh  
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The papers for this meeting are as follows—

**Agenda item 2**

Note by the Clerk LGC/S5/16/12/1

PRIVATE PAPER LGC/S5/16/12/2 (P)

**Agenda item 3**

Note by the Clerk LGC/S5/16/12/3

PRIVATE PAPER LGC/S5/16/12/4 (P)

**Agenda item 6**

PRIVATE PAPER LGC/S5/16/12/5 (P)
Local Government and Communities Committee

12th Meeting 2016 (Session 5), Wednesday 23 November 2016

Payments to Returning Officers in Scotland

Introduction

1. The Committee has agreed to undertake a short inquiry to explore the purpose and appropriateness of providing payments or fees to Returning Officers (principally Local Authority Chief Executives) in Scotland in relation to Local Government, Scottish, UK and European elections and referenda.

Local Government and Communities Committee consideration

2. The Committee will take evidence from the following at its meeting on 23 November—
   - Willie Sullivan, Director, Electoral Reform Society Scotland;
   - Navraj Singh Ghaleigh, Senior Lecturer in Climate Law, University of Edinburgh;
   - Tony Dowling, Senior Officer, Public Services, GMB Scotland;
   - Dr Toby James, Senior Lecturer in British and Comparative Politics, University of East Anglia.

3. A written submission from Dr Toby James is attached at Annexe A. We have also received a written submission from Dr Alistair Clark, Senior Lecturer in Politics, Newcastle University which is attached at Annexe B.

4. Copies of all submissions received to date are published on the Committee’s webpage here:


Next steps

5. The Committee will hear from SOLACE, the Electoral Management Board, the Association of Electoral Administrators, the Electoral Commission and Glasgow City Council Chief Executive at its meeting on 30 November.

6. The Committee will reflect upon the evidence received before deciding on what steps to take next.
Written Submission from Dr Toby James

Introduction

1. The payments received by electoral Returning Officers are being examined by the Local Government and Communities Committee. The Committee has stated its desire to consider ‘how the system for the payments works in practice and consider their appropriateness’.¹ This follows concerns that have been raised in the media that they are unnecessarily receiving ‘extra payouts’ at a time of pressure in public sector spending.²

2. This written evidence is submitted to the Committee to provide some background to the payments, the advantages of retaining the existing system and the advantages of reform. It is drawn from the author’s research on electoral administration in the UK.

3. It concludes that the Returning Officer plays an essential role in the electoral process. They face an increasingly challenging job. They have therefore been able to reclaim a fee for their services to recognise that their role is independent of their other tasks. Some Retuning Officers use their fee to pay more junior staff, who work hours above and beyond their normal duties at election time, there should be caution in scrapping or making rapid reductions to it.

4. It is, however, right that the fee is regularly reviewed, especially in the context of resource constraints within electoral services and wider public sector austerity. There might be some opportunity to divert resources to other areas of elections.

5. There should, however, be a wider review of funding of elections in Scotland and the rest of the UK. Essential to this is the routine reporting of funding and spending to ensure transparency, increase public confidence and allow an analysis of areas requiring further investment or efficiency savings.

The Returning Officer Role and their Fee

6. For local elections in Scotland, Returning Officers are appointed by local authorities.³ They are also a senior local government official but are statutorily

³ Note that there are similar, but not identical arrangements for different types of electoral events. For the sake of brevity, only their role in local elections are discussed here. For example, for Scottish Parliamentary elections, see: http://www.electoralcommission.org.uk/__data/assets/pdf_file/0006/192624/SP-Part-A-Returning-Officer-role-and-responsibilities.pdf.
independent of government in operating in this role. The role of the Returning Officer is to ensure that the election is administered effectively. As the Electoral Commission’s guidance documents, they are personally responsible for the:

- ‘publication of the notice of election
- the nomination process
- publication of the notice of poll and situation of polling stations
- the provision of polling stations
- the appointment of Presiding Officers and Poll Clerks
- management of the postal voting process
- the verification and counting of votes
- the declaration of results
- complying with any directions issued by the Convener of the EMB

7. They are therefore usually expected to perform the for the following tasks:

- ‘command the required staff and resources to deliver a well-run election
- draw in the necessary support, skills and expertise from across your council
- oversee the planning, project management and risk management of the election and incorporate any lessons learnt from previous polls identify and oversee any actions necessary to mitigate any issues arising ensure that staff are appropriately trained to deliver the roles required of them
- support the staff administering the election and provide appropriate oversight of their work
- provide direction to staff, monitor progress and receive regular feedback on activities
- maintain an effective working relationship with the Convener of the EMB
- maintain an effective working relationship with the ERO
- maintain an effective working relationship with your police Single Point of Contact (SPOC)
- ensure that you account for your spending in line with council procedures

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8. My research has shown that the job has become more challenging in recent years. New challenges have included:

   a. **The volume and complexity of electoral law has increased.** There has been a considerable increase in the legal complexity of elections in Britain as a result of a rise in the frequency of elections and types of elections since 1997. Across the UK, in addition to Westminster, local government, parish council, and European parliamentary elections, there are now elections for the Greater London Council, Scottish government, Welsh government, mayor and police, and crime commissioner and more frequent referenda. Many of the contests are run under a different electoral system. This has added to the complexity of election administration and makes administrative errors and poor organizational performance more likely. As one official explained during my study:

   ‘Poll management is different . . . One year is very different from the next year. A few years ago . . . a combination of elections was the rarity. Now it’s completely tipped up on its head. and there are often different laws for different types of elections.’

   b. **More stakeholders.** Electoral officials often face increased problems coordinating the rising number of actors involved in the provision of electoral services. Some staff are often reliant on a small pool of private organizations such as printers, since councils do not have in-house facilities. The outsourcing of this work has not always been successfully completed by private contractors.

   c. **Rising public criticism.** There is evidence that election administration has been increasingly politicized, with local candidates and campaigners making accusations of fraud against other candidates, or malpractice against administrators.

   d. **The role of social media.** The development of the 24/7 news media and social media have placed additional pressures on electoral administrators by amplifying any mistakes. During the Scottish Independence Referendum, there were many claims being promoted on social media that the count was being rigged, usually without concrete evidence.

9. Returning Officers are personally liable for the conduct of the poll. If they are guilty of any act or omission in breach of their official duty then they are liable on

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summary conviction to a fine not exceeding £5,000.\textsuperscript{7} The fee can also be withheld for ‘poor performance’ at the poll.\textsuperscript{8}

10. The job that the Returning Officer job is therefore complex, highly pressured and an essential part of the electoral process.

Support for Returning Officers

11. It is equally clear, having interviewed around 100 officials during the past few years, that the \textit{de facto} role that Returning Officers play varies considerably. Some Retuning Officers are very ‘hands on’. Others, decide to delegate almost all of the tasks to other staff (although formal responsibility cannot be delegated). This is understandable given that they also undertake demanding positions as part of their public service.

12. The available support for Returning Officers has also increased. The Electoral Commission was established in 2000 and provides detailed guidance documents for Returning Officers as well as performance standards to help structure their priorities and management performance. The Electoral Management Board for Scotland was established in 2011 to co-ordinate local elections in Scotland.\textsuperscript{9} Returning Officers in Scotland are therefore part of a resource-rich network that provides help and support.\textsuperscript{10} The evidence is that they find this very useful. During the EU Referendum, for example, electoral officials rated the guidance from the Electoral Commission very highly.\textsuperscript{11}

The arguments for maintaining the existing system

13. The arguments for maintaining the existing system are as follows:

a. **Due remuneration for personality liability.** Returning Officers are personality liable for the conduct of the poll and they act independently of their other roles which ensures impartiality at elections. This independence is of vital importance in the conduct of elections. By


\textsuperscript{8}Electoral Commission (2015) Guidance notes on the process for investigating services rendered by an (Acting) Returning Officer ((A)RO) which may have been inadequately performed and the making of any recommendation to the Secretary of State that an (A)RO’s fee should be withheld or reduced, http://www.electoralcommission.org.uk/_data/assets/pdf_file/0005/184757/Guidance-on-process-for-withholding-or-reducing-RO-fees.pdf, April 2015.


being independent of their local authority they less likely to be subject partisan influence from elected officials.

b. **Due remuneration for other staff.** Research on working in electoral services has found that they can be highly pressured environments where staff work a very high number of additional hours, especially around the time of an election.\(^{12}\) My forthcoming book reveals that half of electoral officials considered leaving their jobs within the year running up to February 2016.\(^{13}\) Some Returning Officers pay their staff for the additional work that they do at election-time from this fee. Removing this could directly affect junior officials and have negative knock-ons for morale and equity.

### The arguments for scrapping the personal fee

14. The case for scrapping, reducing or redistributing the fees paid to returning officers are as follows:

a. **Cost cutting.** During times of financial austerity for the public sector, and concerns commonly being held by the public about levels of executive pay, it seems right that the fees that are paid should be reviewed.

b. **Strengthening other electoral services.** There is evidence that elections are underfunded. In an evaluation of the EU Referendum, Alistair Clark and I asked Counting Officers across the UK whether they had sufficient funds to run the polling and compile the electoral register. 43% agreed that they did have sufficient funds for the poll and only 24% said that they had sufficient funds for their electoral registration work.\(^{14}\) The lack of funding can be attributed to a) cuts in local government budgets and b) increased costs in the business processes involved in running elections owing to the introduction of individual electoral registration\(^{15}\) and c) a rise in postal voting applications\(^{16}\). The Association of Electoral Administrators has argued that local authorities should be able to reclaim more costs from

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\(^{13}\) Toby S. James (forthcoming), *Comparative Electoral Management: Performance, Networks and Instruments* (Routledge: London and New York).


government through the Fees and Charges Order.\textsuperscript{17} There is therefore a case for redistributing some of the money from Returning Officer services to Returning Officer expenses.

c. **Disproportionate pay.** A forthcoming study, based on a survey from February 2016, documents the average annual pay across different roles in the profession across the UK.\textsuperscript{18} The median pay bands are illustrated in Table 1. The median values, however, mask that a very significant proportion of the sample (17.5\%) earn between £10,000-£19,999. In short, Returning Officers are (unsurprisingly) the better paid officials and a redistribution of funds may bring about more equitable pay.

<table>
<thead>
<tr>
<th>Job title</th>
<th>Median pay band</th>
</tr>
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<tbody>
<tr>
<td>Returning Officer</td>
<td>£50,000-£54,999</td>
</tr>
<tr>
<td>Democratic Services Officer</td>
<td>£40,000-£45,000</td>
</tr>
<tr>
<td>Electoral Services Manager</td>
<td>£35,000-£39,999</td>
</tr>
<tr>
<td>Assistant Electoral Services Manager</td>
<td>£30,000-£34,999</td>
</tr>
<tr>
<td>Electoral Registration Officer</td>
<td>£25,000-£29,999</td>
</tr>
<tr>
<td>Electoral Administrator</td>
<td>£20,000-£24,999</td>
</tr>
</tbody>
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d. **Negligible job market effects.** Reducing (or eliminating) pay for additional responsibilities might be expected to reduce motivation, job satisfaction and performance for most occupations and positions. However, it is not likely to be the case for Returning Officers, given that they remain personally liable for the poll and will also be motivated by a public service ethic. There is limited research on why senior electoral officials under take this role and the effects of pay. It is likely that, most of the time, is ‘part of the package’ and not necessarily because they want to work on elections. A new pan-European research project will


\textsuperscript{18} Toby S. James (forthcoming), Comparative Electoral Management: Performance, Networks and Instruments (Routledge: London and New York).
provide more information on the factors that motivate electoral officials in 2017, which will help inform this question.  

Conclusions and recommendations: more transparency

15. The Returning Officer plays an essential role in the electoral process. They have been able to reclaim a fee to recognise that their role is independent of their other tasks. This independence is vitally important. Since some Retuning Officers pay allow other staff using this fee, who work hours above and beyond their normal duties at election time, there should be caution in scrapping or making rapid reductions to it.

16. It is, however, right that the fee is regularly reviewed, especially in the context of resource constraints within electoral services and wider public sector austerity.

17. Data on the money spent on running elections is not routinely collected or made available. The Electoral Commission undertook a series of surveys on the costs of elections in Great Britain from 2009-11 and reports on some electoral events such as the AV referendum.

18. There should therefore be a wider review of funding of elections in Scotland and the rest of the UK. Essential to this is the complete routine reporting of funding and spending to ensure transparency, increase public confidence and allow an analysis of areas requiring further investment or efficiency savings. The Committee could instigate such a review and establish ways of making financial information more readily available.

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Written Submission from Dr Alistair Clark

1) In the aftermath of the 2016 Scottish parliament election, a range of media stories highlighted payments to local authority returning officers (ROs) of upwards of £1 million across Scotland’s 32 local authorities (e.g. Braiden, 2016). This was generally portrayed as being a bad thing at a time councils are squeezed for funds. There is variation in how this is utilised by returning officers, some sharing this with their colleagues, others making charitable contributions (BBC, 2016).

2) Historically, Returning Officers’ roles have been statutorily independent of the post of Council Chief Executive (or equivalent) that most ROs hold. Elections are now more regular than in the past, with major electoral events in Scotland most years, in addition to recent occasional referendums. In practice, local authorities now have relatively small electoral services departments which have routinized the provision of elections, even if their capacity to do so varies to some degree according to factors like staffing, resources and so on.

3) The Scottish parliament’s role in overseeing electoral administration and rules has gradually increased, with it now being responsible for elections up to Scottish parliament level. The UK government still retain a crucial role in administering elections for the UK parliament and have historically been responsible for setting RO fees. The governance structure of election administration is diffuse, with stakeholders also including the Cabinet Office, Electoral Commission, Scottish Electoral Management Board, Association of Electoral Administrators and Society of Local Authority Chief Executives (SOLACE).

4) Returning officers’ statutory duty is to make arrangements for the elections conducted in their areas. These duties are currently additional to their normal local authority responsibilities, even if elections have become a relatively regular phenomenon.

5) It is necessary to consider the responsibilities that ROs have. The activities that they can claim broader electoral administration costs for include:

- Appointment of staff including polling station and count workers
- Costs of the nomination process
- Printing or purchasing ballot papers, postal vote stationery, polling cards, and any requisite notices;
- Expenses for buildings/premises used in running the election;
- Information & communications technology
- Transporting equipment
- Organising the verification and counting process
• Providing training for those employed at the election
• Providing security for ballot boxes and materials
• Supply of the electoral register in Scotland (Parliamentary Elections (Returning Officer Charges) Order 2015)

6) The demands of the local area determine how much can be claimed or paid. These are all crucial activities which require proper funding if elections are to run smoothly and people not be prevented by administrative reasons when they wish to exercise their democratic right to vote. Returning officers are personally liable for the provision of these services.

7) There is little systematic evidence publicly available on the amounts paid to ROs for different electoral events. The BBC reported amounts for six councils from the 2014 Independence referendum, 2015 general and 2016 Scottish elections and the 2016 EU referendum (BBC 2016). The two referendums were however extraordinary events outside the normal electoral cycle, and their inclusion naturally inflates the amounts paid to ROs.

8) Focusing on normal electoral events (i.e. the 2015 UK general election & 2016 Scottish parliament election), the largest amounts seemed to be paid during the 2016 Scottish elections, presumably as a result of the more complex constituency and regional list elements to the electoral system in use for Holyrood elections.

9) According to reports, the RO in Glasgow received £22,663 for the UK general election, but £33,238 for the 2016 Scottish parliament election. Aberdeen’s RO received £6,512 for the 2015 general election, and £13,081 for the Scottish parliament election. Highland council received £9,017 for the UK general election, £13,690 for the Holyrood contest (BBC, 2016).

10) The average to ROs in the six councils cited in the BBC report for the two normal electoral events, the UK general election and 2016 Scottish parliament election, was £17,194 per electoral event (BBC, 2016).

11) One restriction in implementing any reform is that the Scottish parliament would only be able to do so where it had jurisdiction. This would restrict reforms to Scottish local government and parliament elections. UK-level electoral events would continue to be funded under the old system, unless the parliament was able to gain UK government agreement that these should be reformed within Scotland.

12) Since the establishment of the Scottish Electoral Management Board, Scotland has typically performed well in electoral administration. One data-driven assessment, on the 2010 general election, indicated that Scottish unitary councils had performed above all other regions and council types in Britain (Clark, 2015).
13) Research on the funding of electoral administration is extremely rare. The few studies that exist indicate that electoral administration is squeezed between increasing demands on the limited resources it has, and the financial squeeze that is impacting upon local authorities. Increased demands include the need to employ reliable staff, demands from technology (e.g. electronic counting, postal vote signature verification software etc), and relentlessly short timescales, all under pressure from a demanding electorate and candidates, and increased auditing requirements from relevant public bodies and the media (Clark, 2014a; 2014b; 2014c; 2016; Montjoy, 2010).

14) Some examples demonstrate the point. In UK-wide research I conducted with Dr. Toby James on electoral administration in the 2016 Brexit Referendum for the UK Electoral Commission, we found that:

- 9% of respondents (counting officers) disagreed that there was an efficient system for distributing referendum funds to electoral administrators
- 19% disagreed that sufficient funds had been provided through the fees and charges process
- 47% disagreed that there was sufficient funding to support work required to compile the electoral register (Clark and James, 2016a).

While this work was based at the UK-level, it also contained Scottish responses. There is no a priori reason to think Scotland significantly different in this regard.

15) In a further study of polling station workers carried out by Clark and James (2016b) in four local authorities in the 2016 Scottish parliament election, costs of running elections were also highlighted by some respondents complaining about the rates of pay involved. As one put it: 'It surprises me that the rate of pay is minimum wage and that we are allowed to work such long hours with no proper breaks.' Even if many people work at elections repeatedly, many local authorities can, unsurprisingly, face difficulties in recruiting polling station and count workers.

16) Two studies have highlighted the positive relationship that exists between the quality of election management and the resources spent on them. Clark (2014; 2016) examined this in relation to the 2009 European elections and the 2010 general election in Britain (both including Scottish data). In short, the better funded the election administration was, the higher quality election administration in that local authority area was. In 2009, the impact of funding electoral registration was particularly important on its own (Clark, 2014). The corollary is that lower investment in election management is likely to lead to a decline over time in election quality.

17) Running equivalent analyses with just Scottish data for the 2010 general election show a fairly weak positive relationship between election quality and spending
on election administration, controlling for a number of other variables. Although the very small number of local authorities in the analysis (N=29) suggest that too much should not be read into this, this is nevertheless broadly consistent with the idea that election quality might be maintained by maintaining or increasing investment.\textsuperscript{21} Although the relationship is weaker than that found in the Britain-wide 2009-10 studies, it is nonetheless consistent with their findings. To the best of my knowledge, no equivalent publicly available data exist for subsequent elections. More research is clearly necessary into the costs and funding of elections in Scotland and the rest of the UK.

18) Data used in Clark (2016) show that Scottish local authorities spent, on average, £5.34 per elector and an average of around £670,000 on electoral services in 2010-11. This was above the average spent in regions across Britain (£4.38 per elector and £513,300), although Scottish councils spent less than London’s local authorities (£5.99 per elector and just over £1m).

Conclusion and Options

19) I have called elsewhere for a public debate about the funding and resourcing of electoral services across Britain (Clark, 2014a, 2016; Clark and James 2016a). This discussion of RO payments begins that conversation in Scotland.

20) Given the pressures on funding electoral administration and council services more generally, it is vital that reforms do not lead to a cut in funds going to fund the crucial electoral service, which is central to providing the right to vote to the Scottish electorate.

21) Any reform should seek to improve the provision of electoral services. Even if the rare Scottish data are not wholly conclusive, the evidence noted above nevertheless shows a link between funding electoral administration and improved electoral management. This is consistent with the little known internationally on this subject (IFES/UNDP, 2005; Montjoy, 2010).

22) The options before the Committee would seem to be:

- Retain the status quo;
- Simply cut the payments where the Scottish parliament is able to do so;
- Reform payments, redistributing payments to ROs to benefit electoral services more generally.

23) Should reform be deemed necessary, two additional areas may require reflection. Firstly, removing the personal liability on ROs, which has been directly

\textsuperscript{21} The result was a positive unstandardised regression coefficient of .100. A small number of units for assessment such as this means that it is hard to establish statistical significance i.e. the likelihood that this is due to more than just a chance relationship.
linked to these payments, thereby making the delivery of elections a part of routine council business and any difficulties in provision part of normal public service delivery.

24) Secondly, reformed payments to ROs might instead be diverted to particular issues that the Scottish parliament, or individual local authorities in relation to their local needs, may find necessary to promote in relation to the provision of elections. There could be a number of options. Money may be put towards recruiting more polling station or count workers, where locally necessary. Electoral registration may be another idea, or promoting turnout among disadvantaged groups. The Local Government and Communities Committee has recently considered turnout for local elections in a separate evidence session, for example.

25) A public information campaign into the electoral systems used in voting in Scotland may also usefully be funded. Research among polling station workers in Scotland in 2016 for example found that there was considerable confusion amongst voters about the two ballot papers used in the additional member electoral system used for Holyrood (Clark and James, 2016b), with around a third of polling station workers reporting more than just a handful of experiences where voters were confused. Additional pilot research into the potential effectiveness of any of these ideas may be necessary should they be deemed useful.

References


UK Statutory Instruments, Parliamentary Elections (Returning Officer Charges) Order 2015, 
Introduction

1. The Community Empowerment (Scotland) Act 2015 received Royal Assent on 24 July 2015. The Scottish Government explains that the Act will help empower community bodies through the ownership or control of land or buildings and by strengthening their voices on decisions about public services.

2. Nine Scottish Statutory Instruments (SSIs) relating to Part 2 (Community Planning) and Part 5 (Asset Transfer Requests) were laid before the Parliament on 10 November 2016.

3. The SSIs can be found at the following links:
   - The Asset Transfer Request (Procedure) (Scotland) Regulations 2016 (SSI 2016/357);
   - The Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016 (SSI 2016/358);
   - The Asset Transfer Request (Appeals) (Scotland) Regulations 2016 (SSI 2016/359);
   - The Asset Transfer Request (Appeal Where No Contract Concluded) (Scotland) Regulations 2016 (SSI 2016/360);
   - The Asset Transfer Request (Designation of Community Transfer Bodies) (Scotland) Order 2016 (SSI 2016/361);
   - The Community Empowerment (Registers of Land) (Scotland) Regulations 2016 (SSI 2016/362);
   - The Community Planning (Locality Planning) (Scotland) Regulations 2016 (SSI 2016/364);
   - The Asset Transfer Request (Designation of Relevant Authority) (Scotland) Order 2017 (SSI 2016/draft);
   - The Community Empowerment (Scotland) Act 2015 (Commencement No. 4 and Transitory Provision) Order 2016 (SSI 2016/363) (c.32).

4. Further SSIs relating to Part 3 (Participation Requests) are expected to be laid later in the year. The Scottish Government’s consultation sets outs its proposals for regulations in relation to participation requests, along with a copy the proposed draft order and can be accessed here:

Local Government and Communities Committee consideration

5. As these instruments are related, the Committee agreed to consider them as a package. At its meeting on 16 November 2016, the Committee took evidence from Development Trusts Association Scotland, Highland Third Sector Interface, the Scottish Council for Voluntary Organisations and Glenboig Neighbourhood House and GNH. Following the meeting, Development Trusts Association Scotland submitted supplementary written evidence and that submission is attached at Annex A.

6. At its meeting on 23 November 2016, the Committee will hear from Police Scotland, Highlands and Islands Enterprise, NHS Ayrshire and Arran, Strathclyde Partnership for Transport and Scottish Natural Heritage. The written submissions received for this meeting are attached at Annex B.

Next steps

7. The Committee will consider the SSIs formally at its meeting on 30 November 2016.
Supplementary Written Submission from Development Trusts Scotland

Community Empowerment Act – Asset Transfer Provision

DTAS would like to thank the Committee for the opportunity to give evidence as part of the process of scrutinising the statutory instruments relating to measures within the Community Empowerment Act.

I would stress that DTAS, and our 245 members, are very supportive of the Scottish Government’s community empowerment ambitions, and very supportive of parts of the CEA (including the right to asset transfer and the right to participation).

We regard community ownership of assets as a means to an end, rather than an end in itself. Communities throughout Scotland have clearly demonstrated that this activity can be a key element of community-led regeneration (or community-led development) and contributes greatly to communities becoming more enterprising and less grant dependent.

We believe, as was said by the Committee Convener, that like all effective legislation, the devil is in the detail, so getting the statutory guidance right is crucial!

DTAS also supports the Committee proposal to review the Guidance at an appropriate point in the future.

Right to Asset Transfer

The Committee indicated a desire to ensure that the guidance was sufficiently robust. We have had limited time to look at the statutory guidance, but would offer the following observations:

1. The guidance notes look reasonable, but the extent to which they will be effective will come down to the attitudes of individual local authorities and other public bodies. DTAS has been working on this agenda for a number of years (including significant engagement with local authorities) and our sense is that the attitude of local authorities to asset transfer covers quite a wide spectrum (from those councils which are quite supportive or take a reasonable view, to the other end of the spectrum, where we see no evidence of the local authority engaging with this agenda). So we would question whether this guidance is sufficiently robust to influence or address the more recalcitrant local authorities and public bodies.

DTAS would also suggest that this guidance will work less well in our cities, where there are stronger property markets and inflated property values.
2. As the guidance currently stands, there is a real danger that despite laudible intentions, it may actually result in a great deal of wasted community energy and, potentially, wasted public money.

The validation date (the point at which the public body freezes the asset) does not kick in until after the community has submitted its asset transfer request. To get to this point, the community:

- May have to do work on its governance arrangements
- May have to carry out an options appraisal exercise and / or feasibility work
- Will have to get the asset valued, and a building conditions survey carried out, if required.
- Produce a business plan

All this takes both time and money, and just getting all the necessary ducks in a row will present a challenge for many communities. However, by the time the community body has pulled all this information together, the asset may well have been sold to someone else, rendering all their best efforts superfluous.

In addition, some of this work will have to be funded, which raises the question of which funder is likely to commit up to £20k development costs for an asset which may well not be available at the end of the process?

3. DTAS believes it is unfortunate that the Act includes leasing (as well as community ownership) as part of asset transfer. Communities have always leased assets from local authorities and other public bodies – but they will now have to go through a much more elaborate process to get a simple lease. In this sense the Act could potentially disempower communities by making this process harder than it currently is. DTAS would therefore suggest that there should be separate, more proportionate arrangements within the guidance for dealing with community requests for a lease.

4. Several years ago Glasgow City Council transferred over 2,500 properties to City Property which is a Limited Liability Partnership (with Rydens?) Unlike other arms-length companies, the properties transferred to City property are exempt from the CEA. This raises the question of what is to stop other local authorities, and particularly city and large town authorities doing the same, and effectively undermining the policy intentions of the Scottish Government?

DTAS hopes that these views and suggestions are helpful.

Ian Cooke
Director
Written Submission from Police Scotland

Police Scotland welcomes the opportunity to contribute views and progress on this important piece of legislation which will be integral to the continued delivery of improved safety and wellbeing of communities, the statutory purpose of policing.

Developing Long Term Police Strategy

The timing of this call for evidence is opportune, given the work that we are currently undertaking in collaboration with the Scottish Police Authority to develop a 10 year Strategy for Policing in Scotland under the auspices of the Policing 2026 programme. This Strategy will enable us to shape and adapt to change over the coming decade while maintaining the consent and trust of communities across Scotland. This will have an emphasis on addressing the changing needs and expectations of communities over the next decade and beyond. Essential to achieving this, will be an ability to identify and protect the most vulnerable across our continually evolving and increasingly diverse communities. Our service will need to be more agile, intelligence-led and flexible, with staff who are highly skilled and knowledgeable, focussed on reducing inequalities.

Information Presented

The Committee is interested in hearing views on the importance of the implementation of the Community Empowerment Act, the impacts on policing and the opportunities and challenges it will bring.

Consultation responses were provided to Government in July, based on feedback from Divisional Commanders, Analysis & Performance Unit as well as the Estates team. This exercise has been re-visited for currency of information and progress by the service will be covered within each section of the Community Empowerment Act as follows:

Part 2: Community Planning
Part 3: Participation Requests
Part 5: Asset transfer

Part 2: Community Planning

Strategic Approach of Police Scotland

Police Scotland welcomes the intent of the Community Empowerment Act, bringing people and partners together to achieve shared outcomes for communities in
partnership, outcomes we fully recognise cannot be achieved through traditional policing tactics of enforcement alone. We are an established and committed member of all 32 Community Planning Partnerships, although acknowledge the partnerships themselves, are in varying states of maturity across the country. This mirrors our organisational development as a single force.

Under the leadership of the Chief Constable, Mr Philip Gormley, the focus of our service is clear, showing direct alignment to Community Planning particularly within 1 of his 4 Pillars of Policing:

**Localism and Serving Diverse Communities**

“Understanding and effectively responding to the needs of all our communities lies at the heart of Police Scotland. Effective engagement, local planning and partnership working enables local officers to understand community needs and expectations then draw on national and specialist resources to enhance this local response.

**In addition Police Scotland is committed to remaining a responsible employer with a workforce that reflects the diversity of the communities we serve.”**

This approach is further endorsed by the Strategic Priorities for Policing, shared by Scottish Government on 30th September 2016, following extensive public consultation. The following 3 priorities show clear alignment to our approach to local planning.

**Localism** – Ensure that the needs of local communities are understood and reflected in the planning and delivery of policing at a local and national level.

**Inclusion** – Ensure our police service is accessible and responsive to the needs of all people in Scotland.

**Collaborative Working** – Ensure that our police service works productively with partners at local, national and international levels to deliver better outcomes for people in Scotland.

**Police Scotland Approach to Opportunities within Community Planning**

Within a planning landscape which has become very cluttered across all agencies, trying to align community planning cycles with police planning cycles was virtually impossible, leading to high resource demand around planning meetings and consultation.

We have seized the opportunity presented by the introduction of the Local Outcome Improvement Plans (LOIPs) in October 2017 to take a more flexible approach to the creation of our Local Police Plans (LPPs) for 2017, allowing divisions to introduce
them in either April or October 2017, alignment with LOIPs being the main driver of change.

Within guidance to divisions for LPPs, we have aimed to bring the spirit of Community Empowerment to life, demonstrating the appropriate mix of national, corporate and local activity to support community needs, as well as a clear alignment to how these delivers on Local Outcome Improvement Priorities. This will be enhanced by strategic aims being underpinned by a broader understanding of the range of tactics we will employ with a real focus on collaboration and prevention. We are encouraging divisions to consider their tone and language within the documents to feel more inclusive of the wider public.

Discussions in terms of the identification of “localities” are progressing, with many already identified or in place. The development of accompanying plans across Scotland appear to be in their infancy. The recent circulations of near final guidance on 26th October 2016 and the passing of the legislation at Parliament on 10th November 2016, giving final clarity on the meaning of “localities” is assisting progress.

**Localities**

2. For the purposes of section 9(2) of the Community Empowerment (Scotland) Act 2015 a locality must be—

   (a) an electoral ward within the meaning given by section 1 of the Local Governance (Scotland) Act 2004; or

   (b) an area within the area of the local authority with a population which does not exceed 30,000

Commanders are currently reviewing their approach to local planning with a view to ensuring our commitment is as streamlined and meaningful a process as possible for the communities we serve.

Current landscape illustrated below:
Challenges to Police Scotland from Community Planning:

i. In terms of challenge and impact on policing – we have identified a potential challenge in terms of capacity to support increased demand for analytical support. It is a given that demand from Community Justice workstreams as well as locality planning for problem profiles etc will rise. Given the early stage of discussions, we are not in a position to assess how impactful this might be.
With only 1 in 5 calls to police currently relating to crime, much demand for service relates on some level, to vulnerability. It is crucial for policing and the wider partnerships, that we have a much better analytical product and understanding around the nature and demand of vulnerability. This will enable partners to identify the most effective and appropriate service(s) to respond to people and communities, in turn bringing a wider sea of change towards prevention and long term reduction in reactive demand to crisis.

Professor Betsy Stanko (OBE), talking recently on policing and “thinking about performance” made the following observation:

“outcome focussed police performance framework harnesses a dynamic and interactive analytically informed and evidence based way of working to a “whole of government” partnership for safety and security problem-solving across Scotland.”

She followed this up with a plea to Police Scotland not make the same mistake as our English and Welsh counterparts in stripping out analytical support, as this was key to delivering shared outcomes.

ii. The Community Empowerment commits partners to:

“contributing such funds, staff and other resources as the CPP considers appropriate to improve local outcomes in the LOIP and secure participation of community bodies throughout community planning.”

With 92% of police funding currently tied up in staffing, commanders will not have the opportunity or financial autonomy to commit to funding requests to the same level as their counterparts.

There is also a commitment to support the governance of CPPs through:

- facilitating community planning,
- taking all reasonable steps to ensure the CPP conducts its functions effectively and efficiently.

This is where our service provides considerable organisational commitment and value to CPPs, leading and attending many public protection and community safety forums. Wider partnership commitment to community wellbeing is encapsulated by the approach in N Division where police chair the “Wellbeing Group,” demonstrating influence beyond our traditional remit, a welcome approach.
Part 3: Participation Requests (date of implementation to be confirmed)

Police Scotland already engages, collaborates and works with a number of partnerships and community bodies across the country and we would be keen that this collaboration does not develop into an overly bureaucratic process.

The intention appears to enhance this and provide additional opportunities to Community Bodies to participate more formally in the process through application. Whilst this is a welcome opportunity, the challenge exists that this becomes an administrative burden which benefits neither the Community body nor the organisation the request is made of.

During the earlier consultation, our view was given around this being administered centrally by CPPs with consideration of Scottish Government working with partnerships to develop effective processes. Discussion around this do not appear at the moment to have a consistent view, with feedback from some areas indicating CPPs are looking for organisations to manage their own requests in silo. This carries a risk for all, of inconsistency of approach, rationale and missed opportunities of wider problem solving.

Progression can be seen in this area within North Ayrshire who have prepared for the impact of the Community Empowerment Act. Partners including police as well as members of the community belong to a Locality Planning Group. These forums have hosted “participatory budget events” where funding bids from Community Groups were assessed with community views at the heart of funding decisions. This group see this forum as the means in the future to assess formal participation bids.

Co-ordination of this process for Police Scotland will be progressed by the Local Policing Support and Development Team.

Part 5: Asset Transfer: Implementation January 2017

Strategic Approach of Police Scotland to Assets

This Estate Strategy is designed to enable Police Scotland to enhance service delivery by transforming our estate into one that is modern, flexible and fit for future policing across Scotland.

The delivery of local policing services across Scotland lies at the heart of the estate strategy, emphasising visibility, accessibility and collaboration. It seeks to embed modern working practices and technology to help shape future service provision, whilst maximising opportunity for partnership working, from a modern and efficient asset base.
The demand for policing services in Scotland is unique, with extremes of urban and rural communities, and diverse expectations, under a single national organisation. The existing estate has evolved over the course of the last century, forming historical structures in response to local needs at that time.

Police Scotland recognises the integral importance of its buildings to the delivery of a high quality policing service. Visibility and accessibility are a cornerstone of service delivery, but increasingly this could be delivered in other ways than by police officers operating from a traditional police station. This strategy will support these key principles of service delivery, underlining the importance of equality of access and delivering a police service that is embedded in, and integrated with, local communities.

It is therefore essential that Police Scotland's property portfolio supports and enables police resources to be used in a manner which maintains and enhances public confidence and supports efficient and effective service delivery.

Strategic parameters for our estate:

Demand-led – visible policing which is responsive to community needs, delivers better outcomes for places, and ensures equity of service and access.

Collaborative – both internally and externally, works with partners to share resources and takes a joined up approach to deliver shared objectives and strengthen the policing presence.

Modernising – provides professional and flexible workspace that makes best use of ICT capability and supports agile working, allowing a reduction in floor space, maximises efficiency and reduces the carbon footprint.

FOOTPRINT STRATEGY

The future strategy and proposals seek to optimise the balance between retaining, improving and replacing both operational and non-operational premises. This will mean implementing a strategy over time that will:

Retain and more effectively occupy accommodation and sites where properties are well located, in good condition and support strategy.

Redevelop or refurbish properties to improve those that are located in strategic locations, with potential to accommodate future requirements, including ICT need, which are currently in poor condition.

Replace property not in the right location, or properties in poor condition that cannot provide for future needs. Service provision will be enhanced through investment in better located accommodation, which could mean:
Acquiring new accommodation, either new leasehold property or a new freehold build, or acquisition,

Enhanced collaboration and co-location with partners in shared facilities.

**Regenerate** in collaboration with partner agencies, COSLA and SOLACE, seek opportunities to support local development in areas of deprivation where this may be appropriate (e.g. Ongoing local regeneration initiatives).

**Recycle** the estate in the spirit of Community Empowerment; working with communities, voluntary and third sector organisations to enable property to be used by relevant groups; or transfer ownership to support local improvements, initiatives and social enterprises.

**Police Scotland Opportunities for Assets under Community Empowerment**

Asset transfer is a real opportunity to ensure a local community body has premises to operate which could benefit the local community where there is the demand for such a service.

Police premises may be disposed of via capital receipt or asset transfer to a constituted community body. If sold via public/private buyer, the benefits are that a capital receipt in the region of market value would hope to be obtained as well as savings in revenue costs. If transferred under the Act, a lower capital receipt may be received, but there would **still be benefit** from a saving in revenue costs. The added benefit of asset transfer is that a former police property could be used to the advantage of the community eg youth group, heritage group etc adding value locally to community spirit, inclusion and public services. The service is aware that relevant authorities are required under Section 96 of the Act to have regard to guidance compiled by Scottish Ministers carrying out their functions relating to Asset Transfer, with regulation and guidance having been published in November 2016.

Scottish Government officials have provided advice to the Police Service of Scotland/ Scottish Police Authority which, in essence sets out that, if, after market testing, the decision is made to dispose at less than market value for the delivery of wider public benefit, then it is for the Accountable Office to be satisfied that it delivers Best Value with approval from the Finance Business Partner and Scottish Ministers. This ensures the transparency and propriety requirements of the Scottish Public Finance Manual (SPFM).

**Challenges to Police Scotland from Asset Transfer**

Risks would need to be assessed regarding any prospective constituted body to ensure no reputational damage to the Force therefore vetting would be required. Legal clauses will also be required to ensure that a community group cannot obtain premises under the Act and then sell later at a substantial profit.
If there are interested buyers and interested asset transfer groups, then both would need to be assessed with regard to which proposals are deemed best for the Force and the community as a whole, including the duty to provide Best Value.

Administrative functions will be a challenge with regards to who manages the process. Once the process is set up, then any requests could initially be managed locally by territorial divisions who have the knowledge through Community Planning Partnerships regarding community needs. They would then be progressed with input from Estates and Legal Services before presentation to the SPA for final decision. Work is ongoing to ensure the organisation is ready to receive these requests by the estates team.

There are restrictions on the timescales involved from receipt of application to making a decision and the right resources would need to be in place to deal with these requests.

Co-ordination of this process will be progressed by the Police Scotland Estates Team.

Police Scotland is grateful for the opportunity to contribute to this important debate.

Assistant Chief Constable Andy G. Cowie
Local Policing (North)
Written Submission from Highlands and Islands Enterprise

Introduction

Highlands and Islands Enterprise (HIE) is the Scottish Government's economic and community development agency for a diverse region which covers more than half of Scotland and is home to around 470,000 people.

HIE's role is to develop sustainable economic growth across the region. To achieve this it creates infrastructure for future investment, assists large and small businesses with growth aspirations and has a unique role strengthening communities, particularly in fragile areas. HIE also invests in transformational projects across the region to make the Highlands and Islands a more competitive and attractive place to live, work, study and invest.

HIE has actively participated in the consultation process leading up to the passing of the Community Empowerment (Scotland) Act 2015, including the provision of written and oral evidence, attendance at various stakeholder events and representation on a working group regarding Part 5.

Part 2: Community Planning

As a statutory partner under the earlier community planning legislation (Part 2 of the Local Government in Scotland Act 2003) HIE has been an active participant in each of the seven Community Planning Partnerships that fall within our geographic area of responsibility. Under these provisions we will have new statutory duties to facilitate community planning and, working with other community planning partners, to ensure the effectiveness of each partnership we are members of.

We welcome the statutory purpose focused on improving outcomes to reduce inequalities. We agree that this is best achieved through productive working relationship at a senior level between key partners, and working together, and with communities, to understand the challenges and agree the most appropriate response. This will ensure that public resources are used to best effect in pursuit of the National Outcomes as articulated in the National Performance Framework.

Local Outcomes Improvement Plan and Locality Plans

Given the breadth of economic conditions that exist across Scotland’s 32 local authority areas, providing the flexibility for partnerships to develop their own local priorities is welcomed.

We anticipate that many of the challenges identified in local outcomes improvement plans (LOIPs) and locality plans will be long term and hitherto intractable. Developing and implementing successful solutions will require long-term thinking and while it will be important to set out milestones to indicate progress, tangible impacts may take considerably longer to materialise. Notwithstanding this, the setting of outcomes within the community planning process will be essential to its long-term effectiveness.
Through supporting the participation of communities and communities of interest, including business-representative organisations, plans will be more representative of local needs. Whilst the importance of community participation is recognised and supported, we consider it important that partnerships continue to balance the articulated needs of communities with their wider responsibilities and the potential long-term impacts of strategic investment choices.

The prioritisation of areas for **locality planning** will help tackle inequalities and will enable more participatory approaches to community planning. It will also require informed use of available data, combined with local intelligence provided by various partners and stakeholders. The proposed maximum population level for locality plans at 30,000 is greater than the population of each of the three island authority areas. It is unlikely that a locality plan in the Highlands and Islands would extend to more than 20,000 people and pockets of deprivation in populations of less than 1000 will not be uncommon.

Due consideration will need to be given to the number of locality plans that can be sustained per local authority area. There is potential for numerous locality plans to be requested at individual community level, which will be challenging to support, and may take resource away from more strategic interventions at a regional level.

**Resources**

Community planning partners are to ‘provide such funds, staff and other resources as the community planning partnership decides is appropriate to deliver on its commitments’. We consider it important that the input provided should be proportionate to the partner’s role and responsibilities, and that collaboration should be targeted at areas where collective efforts can add most value.

**Part 3: Participation Requests**

HIE fully supports the principle of continuous improvement and engaging with stakeholders to shape the services which affect them. We have endorsed the recently revised National Standards for Community Engagement and, as stated in our Service Charter, we welcome comments and suggestions to improve our services and standards.

We have an online business panel to regularly engage with businesses, social enterprises and community organisations across our region – anyone can sign up to have their say. The panel surveys provide us with up to date information relevant to our priorities and enable participants to inform us of the challenges and opportunities they face. The information provided helps us to shape our support services and ensure that our resource is targeted in the areas that will make the greatest difference in supporting the development and growth of the region’s businesses and communities.
Participation requests will raise awareness amongst communities of interest and place of the ability to influence and shape our services and to have confidence that their input will receive due consideration. These provisions have potential to be very empowering for communities and are welcomed by HIE.

**Part 5: Asset Transfer Requests**

Provision of property and infrastructure in the presence of market failure is one of HIE’s key economic development tools. We develop and maintain a diverse property portfolio, and then seek to lease or sell these property assets to third parties. Our objective is to stimulate and generate economic growth rather than to be a long-term landlord. The income generated from our property activities is reinvested into other projects to deliver our organisational priorities.

In April 2016, we launched our ‘**Asset Transfer Interim Policy**’ to accommodate community interests in HIE property assets. We chose to amend our normal disposals policy in order to better align with this forthcoming legislation.

When considering the lease or sale of an asset we advertise the opportunity through our property agents. Where a community body has formally noted an interest in an asset we have advertised we will assess all bids received on a **best value** basis. In such cases all parties interested in leasing or acquiring the asset will be invited to submit information to strengthen their offer, such as additional non-financial benefits. For sales or leases where no community interest has been notified, bids will be assessed on a best consideration basis (usually, but not always, best price).

Now that Scottish Government has recently published draft guidance for community bodies and public authorities on these provisions we have started developing our Asset Transfer Request policy. This will enable communities to make an Asset Transfer Request regarding any or our assets, whether or not we are seeking to sell or lease. We have also taken steps towards developing our asset register.

**Proactive vs reactive**

It is our experience that a community interest in acquiring an asset is often a response to that asset being offered for sale on the open market or otherwise.

Relevant authorities are not prohibited from disposing of land to any person other than the community transfer body during the relevant period where the authority has advertised or exposed the asset for sale or lease [section 84(12)]. We welcome this approach, which is consistent with the Community Right to Buy provisions of the Land Reform (Scotland) Act 2003, as it will serve to provide stability in the property market when public assets are offered for sale or lease.

**Price to be paid**

The Part 5 provisions do not determine the price to be paid for the sale or lease. The draft guidance however makes it clear that public authorities can dispose of assets at less than market value where wider public benefits can be gained from the
transaction. This guidance is welcome though we recognise that assessing non-financial benefits is complex and judgement based.

Whilst significant discounts may be appropriate for a public authority asset that is surplus to requirements and a potential drain on resources, this is not true of all public assets. HIE’s asset portfolio is very much one of productive assets, and whilst we have already adopted a policy of best value transfers (i.e. an ability to sell at below market value in certain circumstances) we consider that it will be important to manage expectations regarding the potential for ‘discounts’.
Written Submission from Strathclyde Partnership for Transport

Note: This Submission is subject to approval by SPT’s Partnership board at its meeting on 9 December 2016

SPT would like to thank the Committee for the opportunity to provide evidence to them in relation to Parts 2 (Community Planning), 3 (Participation Requests) and 5 (Asset Transfer) of the Community Empowerment (Scotland) Act (CESA).

About Strathclyde Partnership for Transport (SPT)
SPT is the Regional Transport Partnership for the west of Scotland, established by the Transport (Scotland) Act 2005. SPT is a partnership of 12 councils and has a range of planning, operational and project delivery responsibilities. For planning, SPT prepares the statutory Regional Transport Strategy, which guides transport development and investment in our area. Operationally, SPT runs the Subway and various bus stations across the region, including Scotland’s biggest, Buchanan Bus Station. SPT also manages and provides support for socially necessary and demand responsive bus services. Regarding project delivery, SPT’s key current initiatives include Subway Modernisation, a circa £290m programme of improvements, Fastlink, a high quality bus system between Glasgow city centre and the Queen Elizabeth University Hospital; and Smartcard, already delivered on the Subway, and intended for roll out across other modes over coming years. More information on SPT is available at www.spt.co.uk.

SPT is a statutory Community Planning Partner and is a member of CPPs across our twelve local authority areas. In addition to contributing to the achievement of local and national outcomes, SPT prepares annual Transport Outcome Reports for each of our Community Planning Boards which demonstrate the alignment between our services and project delivery and local outcomes in CPPs respective Single Outcome Agreements and Local Outcome Improvement Plans.

Key points
In our response to the various stages of consultation on Community Empowerment, SPT has emphasised a number of key points, summarised below:

- In terms of the wider Community Planning elements of CESA, SPT considers insufficient emphasis has been placed on understanding the relationship between national and regional bodies and their local CPPs. In undertaking Locality Planning we would wish to see greater emphasis placed on the strategic and cross local authority boundary nature of the transport network.

- In relation to Participation Requests, there are likely to be significant resource implications to take into account. While these can be accommodated more easily by larger public bodies, including, for example, organisations with a local presence in an area, and while there is scope for joint working, the focus of SPT activity is naturally and necessarily on strategic, regional, service / project delivery.

- SPT is concerned that given the wide variation in community capacity, there is a danger that some communities, often the most advantaged, will bring
disproportionate influence in the way public services are designed and delivered via Participation Requests.

- In relation to Asset Transfer, SPT considers that Community Transfer Bodies should be required to demonstrate their clear links to the relevant community and that they have undertaken robust engagement and consultation with that community before they submit an Asset Transfer Request.

SPT’s key points of response to the most recent consultation on the Guidance, Participation Requests and Asset Transfer are reiterated below.

### Part 2: Community Planning

SPT is supportive of the process of Community Empowerment and our investment in and work with local communities regarding improving transport is undertaken on a daily basis, whether this takes the form of working with Community Transport providers, engagement with local community groups or consulting on our plans for improved bus services. This demonstrates SPT’s commitment to ensuring that services are designed with and for local communities. Indeed, in their evidence to the Committee, we are guided that Glenboig Community Neighbourhood acknowledged the close working relationship with SPT in helping deliver its local community transport service.

However, we would wish to see greater emphasis placed on the need for partners to understand the specific remits and statutory responsibilities of regional and national bodies. SPT is concerned that CESA Guidance does not place greater emphasis on the regional and strategic nature of bodies such as SPT. The cross boundary, regional nature of public transport makes locality planning challenging and there is a danger that community expectations will be raised to a level that cannot readily be met without considerably greater resources being made available. SPT’s focus, while it has a strong local component, is also necessarily on the wider west of Scotland regional transport network including ensuring effective travel to work, health and education services.

SPT is a member of all twelve community planning partnerships in the west of Scotland, each with its specific thematic or outcome based working groups, its local outcomes and priorities and, with the passing of the CESA, their own Locality Planning areas and Local Outcome Improvement Plans. While the number of priorities identified by CPPs has reduced recently, each CPP has at least three priority outcomes to pursue and while there is a degree of overlap when all twelve CPP areas are considered together there is nevertheless quite a range of outcomes to focus on and demonstrate commitment to.

In addition, many community planning partners have a local presence in terms of Police Officers, Fire and Rescue Staff, Third Sector Staff, local council workers and others who can interface with communities on a direct and day to day basis. This is
not the case for SPT and while we attend a range of local community meetings to discuss transport and wider social policy issues, it is obvious, without significant resource, that we could not replicate the level of locally focussed community engagement of other partners without additional resources being made available.

SPT’s role will continue to focus on maximising the integration of the transport network across the west of Scotland which benefits all communities and will continue to demonstrate local responsiveness to public transport needs through on-going support for supported bus services, MyBus demand responsive bus services, support for community transport, support for active travel and improving transport access to healthcare among others. This must, however, also take a strategic and integrated approach to investment that does not always fit with specific local aspirations, of which there are very many, and all of which cannot realistically be met within current resources.

This understanding of the need to sustain a wider strategic approach to transport planning and the limitations of current resources and funding at a regional level is important to ensure that the focus on local issues does not generate expectations which cannot be met or which, if met, would result in a diminished service elsewhere. For these reasons we would welcome a stronger statement within the guidance that emphasises the need to understand regional, and also national responsibilities.

Part 3: Participation Requests

The most important issue for the success of CESA will be the capacity of community groups to make effective use of the legislation. SPT’s concern is that given the wide variation in community capacity (activities, resources and support to enable effective action and leadership in the development of communities), there is a danger that some communities, often those in the most advantaged areas, are able to bring disproportionate influence in the way public services are designed and delivered, whilst other areas which are disadvantaged, for example, through poverty and have limited community capacity, will suffer by comparison.

Whilst efforts at improving outcomes are welcome and SPT is committed to achieving agreed local and national outcomes, there is inevitably a balance to be struck between meeting local aspirations whilst prioritising need. SPT would like to see wording within the legislation that explicitly reflects this necessary balance and we would suggest that a test be included in any participation request that sets out wider community benefits rather than benefits that are exclusively beneficial to a specific local area or group.

SPT can see a strengthened role for Community Councils in influencing public service design and delivery. However, much work needs to be done to improve capacity building before this can be taken forward meaningfully. Improving local public realm, community facilities or volunteering are natural candidates where
Community Councils can and do have an active role in delivery. This role should not be expanded where it would fragment or undermine delivery of the strategic elements of public services, such as ensuring effective public transport arrangements across council boundaries. This is all the more important given the increasing rationalisation and centralisation of public services such as healthcare on fewer larger locations. This brings significant challenges for the delivery of public transport services and can set public expectations which are currently not realisable within current public resources.

Effective public engagement helps to deliver appropriate, value for money services. However, the current proposals have the potential to result in a wasteful use of public resource by deflecting officer time from where it is most needed. There is scope within the proposals for what could be construed as vexatious or impractical participation requests. These requests may come from groups who, while they may fall within the definition of community participation bodies, do not have clear and demonstrable links to the community they claim to represent, nor be in a position to provide evidence that they have consulted and engaged with that community prior to making the request. SPT would suggest that where the public body in receipt of a request is of the view that any Participation Requests are wasteful or vexatious, the public body should have redress to Scottish Ministers to compel community bodies to desist from making such requests. In terms of the specifics of participation requests, SPT would wish to see greater detail being made available about community bodies and their constitutions when requests are submitted. Requests should also demonstrate how community bodies have engaged with the wider community in formulating requests. A clear statement that there are no conflicts of interest associated with the requests and those making it should also be included.

Part 5: Asset Transfer
Similarly, Community Transfer Bodies should be required to demonstrate clear links to their community and that they have undertaken meaningful engagement and consultation with that community before they send submit Asset Transfer Requests. They should also be required to produce a robust business case for their request and be able to demonstrate that their proposals are environmentally and financially sustainable and do not impact negatively on or duplicate existing delivery of public services.

Finally, SPT would like to take this opportunity to acknowledge the advice and support offered by the Scottish Government’s Community Empowerment Unit in responding to our initial comments and making appropriate modifications to the wording the Registers of Land elements of CESA as it related to the Subway in Glasgow.
Written Submission from Scottish Natural Heritage

Introduction

This written evidence focusses on the work Scottish Natural Heritage (SNH) has been carrying out in preparation for implementing its responsibilities under the Community Empowerment (Scotland) Act 2015.

SNH's Statutory Purpose

SNH is a non-departmental public body (NDPB) funded by the Scottish Government through Grant-in-Aid. We are the Scottish Government’s advisers on issues relating to nature and landscape. Our statutory purpose is to:

- secure the conservation and enhancement of nature and landscapes;
- foster understanding and facilitate their enjoyment of them; and,
- advise on their sustainable use and management.

Scotland’s nature and landscapes are recognised internationally, and this natural capital plays an important role in supporting economic growth, improving people’s health and wellbeing, adapting to climate change and strengthening communities. Our founding legislation (the Natural Heritage (Scotland) Act 1991) is wide in scope which means we operate across a range of activities, use different approaches and work with partners both nationally and locally.

The community empowerment agenda

The Community Empowerment (Scotland) Act 2015 is one part of an increasingly strong policy and legislative agenda aimed at helping communities to own and look after land and other assets, and to participate more in decisions that affect them. A top priority in the 2016-17 Programme for Government is about “putting people in charge”.

Community engagement is also advanced through Part 4 of the Land Reform (Scotland) Act 2016, which requires the engagement of communities in decisions relating to land. The Land Use Strategy for Scotland 2016-21 also stresses the importance of engaging communities and of building new partnerships at a more regional level.

The Scottish Government is also expected to bring forward proposals for a new Islands Bill and a Decentralisation Bill during this Parliament. A core purpose of the Decentralisation Bill is likely to be around shifting resources and decision-making closer to communities. This new legislation will give further shape to community empowerment and public participation in the future.
SNH’s approach to community empowerment

SNH has long held the view that engaging with communities is an important, even essential, part of our work. This has ranged from working with communities on the planning and management of our National Nature Reserves, to providing funding support to community groups.

Much of our work is guided by the “ecosystem approach”, which involves taking account of how nature works and of the benefits that nature provides to people, and involving people in decision-making. We believe that this approach is strengthened when communities are empowered to look after nature and landscapes, and are involved in the decisions that affect them.

The aim of SNH is to be proactive rather than reactive in responding to the community empowerment agenda, including the new legislation. We are also looking at ways of building more community engagement into our day-to-day work rather than treating this as something different that stands alone.

SNH has been supporting the implementation of the Community Empowerment (Scotland) Act 2015 in a number of ways, including:

- Responding to the Scottish Government consultations on the draft Regulations in April 2016.
- Contributing to the drafting of the guidance on participation requests through membership of the Scottish Community Development Centre and Scottish Government writing group.
- Supporting the development of the National Standards for Community Engagement through membership of the reference group and the early endorsement of the National Standards.
- Developing a public statement, endorsed by our Board, on our commitment to community empowerment and publishing this on our website. New web pages on community empowerment and the key elements in the Community Empowerment (Scotland) Act 2015 have been recently published (see [http://www.snh.gov.uk/about-snh/community-empowerment](http://www.snh.gov.uk/about-snh/community-empowerment)).
- Developing a new Rural Land Asset Management Plan which will commit us to supporting communities which express an interest in managing or owning land that we currently hold.
- Providing advice to the Scottish Government on Part 4 of the Land Reform (Scotland) Act 2016.
- Ensuring that processes and resources will be in place for handling participation and asset transfer requests once the Regulations are approved by the Scottish Parliament and the statutory guidance is finalised.
Joint working

Over the last nine months, SNH has led joint working across public agencies within the Rural Affairs & Environment portfolio\(^1\) on community empowerment issues. This joint working has also included Highlands & Islands Enterprise, the Scottish Community Development Centre and the Scottish Government.

This work has supported the development of approaches within each body as well influencing the work of the Scottish Government. Focus groups on individual elements of the legislation have been led by different bodies within the group. SNH led on Community Planning, the Cairngorms National Park Authority led on participation requests, and Forest Enterprise led on asset transfer.

Many of the points or suggestions made by RAFE bodies have been reflected in the regulations and guidance being issued by the Scottish Government. The Community Empowerment team at the Scottish Government has used this joint working as an example of how the public sector can work respond positively to new policy agendas and implementing new legislation.

We will continue to work together after the legislation comes into force to share experiences and learn from each other. SNH, SEPA and the two national park authorities are classed as community planning partners under the Act. We have been engaged with some Community Planning Partnerships for a number of years now and, over time, we may well see opportunities to increase our engagement with others. We will look to coordinate our efforts in working with and supporting these Partnerships.

Seizing the opportunity

Community empowerment and land reform provide a unique opportunity to help more communities to have a stronger stake in nature and its future. Over the last year, SNH has been exploring how we can use the resources we have to help encourage and support more communities to get actively involved in environmental issues, and in helping to shape the decisions that affect the environment.

Over the next few years, we hope to develop ways of “putting people in charge” and “opening up” our work. This could include: involving communities at an earlier stage in National Nature Reserve management planning; highlighting and explaining our performance to communities; supporting the provision of good quality environmental information (particularly at a local level); trialling participatory budgeting; supporting the transfer of assets to communities; and identifying how we can help more

communities to take control or ownership of local natural assets, be it a nature reserve, path network or areas of green space.

**Examples of SNH’s recent work with communities**

SNH works with a wide range of communities throughout Scotland. Some of our recent activity includes:

1. SNH and Young Scot have established **ReRoute**, a national youth advisory panel on biodiversity to explore how best to engage young people in the delivery of the Scottish Biodiversity Strategy Route Map. The panel’s work will feed into the Year of Young People 2018. The panel has members aged between 13 and 23 drawn from across Scotland (from Yell in Shetland to Wishaw in Lanark).

2. SNH is lead partner for a **Green Infrastructure Strategic Intervention** (part of Scotland’s European Regional Development Fund programme) which will bring transformative change to some of Scotland’s most deprived urban areas through the creation or improvement of multifunctional green spaces. The involvement of local communities in planning, designing and looking after their green spaces is a key requirement of our funding. In addition to supporting capital projects, a Community Engagement Challenge Fund is to be launched early in 2017.

3. Each year, we provide funding that helps 1,400 young people to have **volunteering opportunities**. In 2014/15, there were some 282 young volunteers on our National Nature Reserves contributing nearly 2,600 volunteer days.

4. We have published a toolkit for communities called “**Talking About Our Place**”. This is designed to help communities to understand and shape their local places. It provides communities with a range of guidance and practical tools on how to talk about their place, celebrate it, and consider ways to improve it.

5. Inviting communities to develop their own proposals for **Marine Protected Areas** (MPAs) alongside proposals from SNH. This included a proposal from the Scottish Sea Angling Conservation Network (for the common skate) and a proposal from the Small Isles community for Nature Conservation MPAs. A further example of this process is the formal approval of a proposal for a Fair Isle Demonstration and Research Marine Protected Area, developed by the Fair Isle Marine & Environment Tourism initiative. This came into force on 09 November with the aim of sustainable use of the local marine environment through co-management between a remote island community, government bodies and other stakeholders.

6. SNH worked with Scottish Community Development Centre on an action research programme called “**People and Nature: learning through doing**”. This involved six community and voluntary sector groups and it developed successful approaches to involving people in enjoying, learning about and caring for nature. The programme provided mentoring, guidance and some funding to each group to help them plan, carry out and disseminate their research.