REPORT TO: COMMUNITY PLANNING BOARD ON 14 AUGUST 2014

SUBJECT: COMMUNITY EMPOWERMENT (SCOTLAND) BILL 2014

BY: COMMUNITY PLANNING & DEVELOPMENT MANAGER

1. REASON FOR REPORT

1.1 This report details the progress made on the Community Empowerment (Scotland) Bill 2014 following its launch and identifies possible implications for the partnership.

2. RECOMMENDATION

2.1 It is recommended that the Community Planning Board consider the Community Empowerment (Scotland) Bill, in particular the implications for Community Planning in Moray, and note the call for evidence to the Parliamentary Local Authority and Regeneration Committee.

3. BACKGROUND

3.1 At the special Community Planning Board meeting held on 5 December 2013 a paper was presented to the Board inviting attendance at a Moray Council briefing on the draft Bill outlining the history aims and possible implications for the partnership and for individual partners. At the last Community Planning Board held on the 14 June 2014 (para 6 of the minute refers) it was unanimously agreed following a request, that the Board hold a discussion on the Community Empowerment (Scotland) Bill 2014 and its implications.

3.2 Two consultations were held on the proposed Bill; the first was an exploratory consultation between June and September 2012 and a second more detailed consultation on the draft Bill was held between November 2013 and January 2014.

3.3 On 11 June 2014, the Community Empowerment (Scotland) Bill 2014 [http://www.scottish.parliament.uk/S4_Bills/Community%20Empowerment%20(Scotland)%20Bill/b52s4-introd.pdf] was introduced to the Scottish Parliament and has now been published. The responsibility for the bill has been passed to the Parliamentary Local Government and Regeneration
Committee. They have made a call for evidence and have outlined the stages of the Bill until it receives Royal Assent and is implemented in late summer 2015.

3.4 The core purpose of the Bill is to focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish through increasing sustainable economic growth and to create the conditions for community empowerment as reflected in Empowering Scotland: The Government's programme for Scotland 2013-2014.

3.5 The Bill was published with few changes to the draft, the main implications and the main activities are reflected below:

- Extending the community right to buy, given to remote areas under the Land Reform (Scotland) Act 2003, to all of Scotland.
- Introducing a new provision for community bodies to purchase neglected and abandoned land where the owner is not willing to sell that land.
- Giving community bodies a right to request to purchase, lease, manage or use land and buildings belonging to local authorities, most Scottish public bodies or Scottish Ministers.
- The new Bill completely replaces the previous provisions on community planning in Part 2 of the Local Government in Scotland Act 2003. It provides a statutory basis for community planning partnerships, and places duties on them around the planning and achievement of local outcomes. It also places responsibilities on partners to support each partnership to fulfill its duties.
- The provision for community bodies to be able to make ‘Participation Requests’ to enable them to assist in the achievement of public service outcomes, which may not legally be refused ‘unreasonably’.
- Changes to improve the law on common good assets have been made.
- The law on allotments has been updated and changed.
- The Bill contains a requirement for Ministers to develop, consult and publish a set of national Outcomes.

3.6 There are a number of proposals within the Bill that will directly affect individual partners and it is assumed that partners will be providing evidence to the Committee from their own organisations.

3.7 The Bill has made significant changes aimed at strengthening Community Planning. The major recommendations for Community Planning Partnerships are as follows:

- An increased emphasis on the planning and delivery of outcomes.
Putting Community Planning Partnerships and their key roles on a statutory basis.

New duties on partner bodies so that the Community Planning Partnership can fulfil its responsibilities, and so that each partner’s role in community planning is reflected in its own governance and accountability arrangements.

Ensuring that the external scrutiny provided by the accounts commission, the auditor general and other bodies reinforces these recommendations and supports progress towards the Statement of Ambition.

3.8 The Bill was launched alongside a policy memorandum (http://www.scottish.parliament.uk/S4_Bills/Community%20Empowerment%20(Scotland)%20Bill/b52s4-introd-pm.pdf), explanatory notes (http://www.scottish.parliament.uk/S4_Bills/Community%20Empowerment%20(Scotland)%20Bill/b52s4-introd-en.pdf) and a request for evidence from the Local Government and Regeneration Committee.

3.9 The request for evidence is based on a response to 5 questions. The Moray Council is currently compiling its response and NHS Grampian has produced a response which is attached as appendix 1.

4. CONCLUSION

4.1 The Community Empowerment (Scotland) Bill 2014 was launched on the 14 June 2014; there has been a request for evidence from the parliamentary committee now overseeing the Bill due for implementation in the autumn of 2015. The partnership is asked to consider and discuss the implications on its future work.

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Background Papers:
Ref: 230-3116
Appendix 1
NHS GRAMPIAN CONSULTATION RESPONSE

The Scottish Parliament has issued a call for evidence to inform its consideration of the new Community Empowerment (Scotland) Bill. The five areas they are focusing on are:

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

NHS Grampian believes that the Bill will support the empowerment of communities in its provisions which support:

- Community ownership of land and assets;
- Removal of barriers that prevent communities taking on more responsibility for assets;
- Potential for communities and community groups to own and deliver key local services to that population, close to home, and based on clear knowledge and understanding of what communities want;
- Enablement of community capacity building, resilience and wellbeing and the ability to support focussed change in disadvantaged communities or areas of deprivation;
- Direct engagement of communities with Public Sector organisations and Community Planning Partnerships and ability to directly influence and suggest improvement and change in services; and
- Potential for innovation and sustainability of local services through local ownership.

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

Potential Benefits to Public Sector Organisations

- Empowered, enabled communities with ambitions to take more responsibility for local assets and potentially service provision;
- Public Sector organisations being able to target, through the provisions in the Public Bodies (Joint Working)(Scotland) Act, community empowerment at some of our more disadvantaged communities, supporting their development, capacity and resilience;
- Ability to engage in more productive dialogue with communities on the potential innovative use of assets to deliver and drive modern, 21st century models of health and care;
- Supporting development under Self Directed Support Act and ambitions for local people to develop and manage their own care and support and also support social entrepreneurship;
- Strengthening the role of the Community Planning Partnership and potential, through that for innovation through partnership working and with input from communities
Disadvantages / Challenges to Public Sector Organisations

While welcoming the policy intention of the draft Bill NHS Grampian would note its concerns regarding potential disadvantages and challenges for Public Sector organisations and for NHS Boards in particular:

- Significant capacity will be required of NHS Boards and other public sector organisations in relation to supporting the processes enabled by the Bill. For example, organisations will be required to put in place processes to manage community requests to improve outcomes of services. The parameters for such requests has not been set out in detail in the Bill and we would welcome more guidance on what constitutes an ‘appropriate’ community body and what is ‘reasonable’ in terms of refusal of such a request. Similarly, the provisions of the Bill enable community organisations to request and receive ‘detailed’ information about a property that they are interested in. This may include detailed information about the energy efficiency and maintenance costs. This would again require a process to be put in place and for current NHS Board Estates capacity to be directed at providing such information, at a potential cost to maintenance and delivery of Board outcomes and target. Finally, in relation to this section – capacity and processes will also be required in relation to Public Bodies having to assess community bodies’ proposals. As set out in the policy memo, this work would include: ‘economic, social and environmental benefits of different proposals..’ and goes on to conclude: ‘The authority must agree to the request unless there are reasonable grounds for refusal.’ NHS Grampian would note concern of the untested nature of this Bill and concern that the extent of work required by Public Sector organisations, with no additional resources to manage it, would place significant additional pressure upon them and challenge their ability to deliver core work and statutory targets. We would reiterate the need for guidance on what would constitute ‘reasonable grounds for refusal’; and

- This is a time of far reaching change in Public Sector organisations, especially as we move to implement Integration under the Public Bodies (Joint Working)(Scotland) Act and it would be imperative to ensure that there was no duplication of effort and reporting. The Public Bodies Act prescribes actions around locality work, prescribes groups that must be engaged with in the development of Integration Schemes and Strategic Plans and there is a risk that this sits in parallel to, rather integrated with, the intention of the Community Empowerment Bill. Public Sector organisations will need guidance on how these aligned policies are intended to interact to ensure best outcomes.

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?

All communities are different and have different capacities and capabilities. One challenge will be to ensure that all communities, especially those that are disadvantaged and which don’t have the confidence or capability to engage with the policy and local Public Sector organisations are supported and enabled to do so. NHS Grampian recognises that a lot of
work in this area is already being done, both in NHS Boards, within Councils and across other areas of the Public Sector. Community Planning Partnerships are potentially well placed to support this agenda, as are the emerging Integration Joint Boards which have a duty to engage with local communities. The Bill, and associated guidance can support this work and focus through sharing good practice and research in relation to what organisations can do to maximise community capacity and capability.

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?

See responses at section 3 and 4.

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?

NHS Grampian has no specific response to these sections.