

Supporting Communities to tackle health inequalities



CHEX Policy Briefing 1/16

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Community Empowerment (Scotland) Act Opportunities and implications for community-led health organisations

Summary

The Act has received assent at the Scottish Parliament and different parts of the Act will come into effect in a phased manner over 2016.

Provisions of the Act include:

- A requirement for Community Planning Partnerships (CPP) to exist in each local authority and the need for CPPs to engage with community organisations and to focus on disadvantaged neighbourhoods.
- Providing a mechanism (participation requests) for communities to have a stronger voice in the way services are planned and delivered.
- Making it easier for community organisations to take over, manage and make use of land and buildings.

Implications and opportunities of the above for community-led health organisations include:

- Improved partnership working between community-led health organisations and statutory partners.
- Increased ability of community-led health organisations to influence, and contribute to, both the decision making by public authorities and the design and delivery of public services.
- More options when it comes to taking control of local land and buildings.

Introduction

The Community Empowerment (Scotland) Act received Royal Assent on 24 July 2015. See the final version at: <http://www.legislation.gov.uk/asp/2015/6/section/1/enacted>.

The Act's provisions are not yet in force; separate parts of the legislation will come into force over 2016 and it is expected that most parts will be in place by summer 2016. The full details of the legislation will emerge as these guidelines are published, as well as how far reaching the legislation is in terms of shifting power from government to communities.

This CHEX briefing highlights some of the main opportunities and implications that the Act *is likely to create* for community-led health organisations. It may be helpful to read in conjunction with the recent Scottish Community Development Centre (SCDC)¹ briefing on the Act, which explains the provisions of the Act in more detail. We will continue to update our network of future, more concrete, developments.

The briefing outlines the provisions in the Act. We then suggest some implications for community-led health organisations.

The three major provisions of the Act that are of interest to community-led health, and which this briefing focuses on, are:

- the strengthening of community planning to give communities more of a say in how public services are to be planned and provided
- new rights enabling communities to identify needs and issues and to request action to be taken on these, and
- the extension of the community right to buy or have greater control over assets.

Underpinning all these provisions is a welcome intention to focus attention on disadvantage and inequality.

¹ <http://www.scdc.org.uk/news/article/scdc-briefing-community-empowerment-scotland-act/>

How the Act affects community planning

The purpose of community planning is defined by the Act as “improvement in the achievement of outcomes resulting from, or contributed to by, the provision of [public] services.” The changes include:

- Community Planning Partnerships (CPPs) must now by law exist in every Scottish local authority area.
- Councils and a range of other public service partners (from the police to health services) must now, by law, participate in CPPs.
- CPPs must participate with any community bodies which the partnership considers likely to be able to contribute to community planning. There is a particular focus on involving organisations which represent disadvantaged groups and CPPs must “take such steps as are reasonable” to enable these community bodies to take part.
- As well as developing, publishing and annually reporting on “local outcomes improvement plans” (replacing Single Outcome Agreements), the CPPs must identify disadvantaged localities within their planning area and prepare and publish a “locality plan” for each.

Implications/opportunities

Public services are a key factor in people’s quality of life, and in their health and wellbeing, so it is important for communities to think about how they can take advantage of the new legislation and engage with public services to highlight needs and issues, to participate in developing plans and proposals and, where appropriate, play a part in providing services or projects.

In addition to the Community Empowerment (Scotland) Act, Scottish local authorities are now required to have developed 3-year Community Learning and Development (CLD) plans under the Scottish Government’s CLD Regulations.² The regulations stipulate that these plans identify CLD activity, the support it needs and barriers to its provision.

Community planning has been identified by NHS Health Scotland³ as the best available vehicle for collaborating across sectors, and with communities to tackle health inequalities, although evidence of meaningful collaboration is mixed. Audit Scotland’s *Health Inequalities in Scotland Impact Report* found little evidence of CPP’s planning to engage with communities in tackling health inequalities.⁴ In our Healthy Influences⁵ research, CHEX has

² https://www.educationscotland.gov.uk/Images/CLDRegulationsLAGuidance_tcm4-829886.pdf

³ See NHS Health Scotland (June 2013) *Health Inequalities Policy Review for the Scottish Ministerial Task Force on Health Inequalities* <http://www.healthscotland.com/uploads/documents/23047-1.%20HealthInequalitiesPolicyReview.pdf>, p71-5

⁴ http://www.audit-scotland.gov.uk/docs/health/2014/ir_140617_health_inequalities.pdf, p18

⁵ <http://www.chex.org.uk/media/resources/publications/briefings/Healthy%20Influences%202015%20web.pdf>

highlighted that more than one third (36.6%) of surveyed community-led health organisations reported having no contact with their local CPP. At the same time, 22% said that CPPs listened to them and acted on this. One organisation stated:

“We now sit on the Community Health and Wellbeing Thematic Board which is part of Community Planning. We are starting to see positive changes and believe there is a willingness to work more closely with the third sector.”

Community-led organisations have also been funded by their local CPPs to carry out work that fits with strategic plans.⁶ We would hope that any legislation that improves community involvement in CPPs will lead to an increased amount of productive partnership working between community-led health organisations and statutory partners. In particular, CPPs will now be expected to assess what support community groups might need, particularly in disadvantaged areas, to ensure they can effectively engage in community planning and take advantage of other provisions in the Act. There may be opportunities for community-led health organisations to benefit from any such targeted support. What form this support will take will depend on future national guidance as well as how the Act is interpreted locally, but could range from financial support to attend meetings to helping groups understand and take part in community planning processes.

There is also an onus on community-led health organisations to make CPP partners aware of their work with disadvantaged communities. Many community-led health organisations are as well-placed as any other organisation to represent disadvantaged groups, but it cannot be assumed that CPPs will recognise this currently. Third Sector Interfaces (TSI), are often represented on CPPs and CHEX would therefore encourage active participation and membership with TSIs, especially if direct involvement in CPP structures is not possible.

⁶ For instance, in 2013 and 2014, South Ayrshire Seniors Forum was funded to run road shows for older people providing information, establishing priorities and raising awareness of campaigns.

Participation Requests

This section of the Act sets out a process whereby a community organisation can request that a service is improved, or to be part of helping to improve a service, if it believes this is needed. This section of the Act is potentially of great value for communities that have identified a need, issue or opportunity to tackle inequality, to contribute to regeneration or economic development, or to improve health and wellbeing.

The important aspects of this section are:

- When a community organisation, or group of organisations, believes a public service can be improved, it can make a participation request to the body (or bodies) that run that service. In doing so, the community organisation will need to set out how it thinks the service can be improved, what part it will play and its experience of the issues or services in question.
- If the request is agreed to (“reasonable grounds” must be given for saying “no” to a request), the public service provider must work with the community organisation to improve the service. This is done through involving the community organisation in a new or pre-existing “outcome improvement process”.
- Provisions have been made in the Act for making future regulations around providing support to groups to make participation requests and to participate in outcome improvement processes. The assumption, or hope, is that this will be brought into guidance and regulation when the law comes into force.

Implications/opportunities

As the Act currently stands, this is a highly significant advance in the ways in which public bodies will now be expected to work constructively with communities. The provisions should create more opportunities for community organisations and the communities they represent to influence the way that services are delivered.

Community-led health organisations may be able to use participation requests to help form stronger, more sustainable partnerships with local authorities and health boards. In practical terms this might mean funding or a service level agreement. To do this the community organisation will need to highlight the contribution they can make to meeting local health and wellbeing outcomes. They may need to have evidence of their own impact and also be able to show where current statutory services aren’t working. There are plenty of examples of how health related community initiatives contribute to local outcomes,⁷ and these may help other community-led health organisations to think about how they can make a strong case when initiating a participation request.

⁷ See SCDC (2012) *Not only but also: Celebrating the contribution of community food initiatives towards developing local outcomes*. Community Food and Health Scotland
<http://www.communityfoodandhealth.org.uk/publications/not-only-but-also-2/>

Another example of where participation requests could prove useful is where a community organisation and/or local people feel a decision made by a public body will adversely affect the health and wellbeing of people in the community. The Act should give community organisations more leverage in contesting such decisions so long as they are able to demonstrate the decision's impact on health and wellbeing.

The Act does not specify whether or not community bodies have to be geographically defined in order to make a participation request. CHEX interprets this to mean that community organisations that are formed around a shared interest, identity or characteristic, such as ethnicity, disability or sexual orientation, can initiate such a request if they can show that a service or decision affects them. This should become clearer through further guidance and regulations as the Act is put into force. One limitation of the Act is that the right to make participation requests does not apply to agencies working on reserved matters (issues under Westminster control). This includes agencies related to employment, welfare, immigration and defence.

CHEX's view is that participation requests should not be viewed as a replacement for engagement and participation processes where they already function well, but as a framework for initiating dialogue where communities find it difficult to be recognised or heard. As such, we expect they will become especially significant in helping create a better environment for co-production or, in other words, communities and agencies working together to achieve better health and other outcomes for people.⁸

⁸ For more on co-production, including case studies, see <http://www.coproductionscotland.org.uk/>

Taking over assets

Various provisions and changes to previous legislation are contained within the Act that should make it easier for community organisations to own, lease or make use of assets such as land and buildings. This section of the Act builds on the 2003 Land Reform (Scotland) Act and it is also worth noting that a new Land Reform (Scotland) Bill is currently going through the Scottish Parliament, which will have further implications in terms of community ownership.

In summary, the provisions in the Community Empowerment (Scotland) Act are as follows:

- The Act extends the Land Reform (Scotland) Act 2003 so that urban as well as rural communities can now take advantage of the ‘right to buy’ land and buildings. This essentially means that if the owner of land, or a building, decides to sell it, they have to sell it to any community organisation which can afford to pay the market value so long as the Scottish Government agrees.
- Community bodies now have a right to buy “abandoned or neglected land”, which the owner of the land (or building) is unwilling to sell and that is being used in a way that causes direct or indirect harm to the environmental wellbeing of a community.
- Land and buildings that are owned by public service providers are also affected by the Act. Community groups can apply to buy, lease, manage or simply use such assets. The request must be granted unless the public authority has “reasonable grounds” to refuse. In addition, local authorities and other public agencies must publish a list of assets that can be subject to asset transfer requests.
- In addition, local authorities have to create and maintain a publically available list of all their common good property – land, buildings, art and other things which have been given to local councils as gifts in the past. The local council will have to make sure that people in the community are consulted about any changes to access or use of common good property, or plans to sell it.

Implications/opportunities

Community-led health organisations who have already been thinking about taking control of assets will be interested in the above widening and strengthening of the right to buy. For instance, CHEX has heard from urban community organisations that have identified assets they are keen to explore buying or leasing and who want to learn more about how the Act might help them do this. The future enforcement of the Act may also raise awareness of these rights to community groups which had not, up until now, thought about controlling assets.

On this note, asset transfer and the buying of land and buildings are not new, and there are many examples of community groups across Scotland taking control of local assets. Perhaps

the most widely-known examples are of community land-buy outs in the Highlands and Islands. CHEX has previously documented how the £1.5m community buyout of the Island of Eigg improved the health and wellbeing of the island's residents by giving them control of their own resources and increasing their stake in the community.⁹ On a smaller scale, we have recently profiled the taking over of a vacant pub in Burnfoot in Hawick to regenerate community spirit and wellbeing.¹⁰

Community control of assets has a range of benefits for community organisations. On a practical level, having more rights over important community facilities can ensure their future use is for the benefit of the community. It can also assist groups to embark on new ventures, such as setting up a community shop, hub or café, which can help to generate income to put back into the community. Furthermore, community control can lead to wider health benefits through increasing the confidence of local people and giving them a sense of control over what happens in their community.

CHEX encourages community-led health organisations to consider taking control of local assets where there is a clear benefit to doing so. At the same time, community ownership is potentially onerous for smaller organisations to take on, and community organisations should be alert to the danger of 'toxic' assets being offloaded onto them. For instance, a building may be relatively cheap to purchase but require expensive maintenance or running costs. In this regard, it is worth emphasising that the Act is designed to promote *leasing* and *use* of assets as well as outright ownership, and these may be more appropriate options in some circumstances.

More in-depth support and advice around taking over assets is available from Development Trust Association Scotland (DTAS), particularly through its Community Ownership Support Service (COSS).¹¹ The Scottish Government also has a dedicated page on asset transfer requests which will be updated as further guidance and regulations are developed around the Act.¹²

⁹ CHEX (2011) 'Remote Control: How people have been at the heart of Eigg's community ownership', article in *Engage*: issue 8, <http://www.chex.org.uk/media/resources/publications/Engage/Engage%20issue%208.pdf> pp6-9.

¹⁰ CHEX (2014) 'Burnfoot Community Hub: From conversion to transformation' in *Communities at the Centre: Evidencing Community-led Health* <http://www.chex.org.uk/media/resources/publications/Communities%20at%20the%20Centre%20-%20Case%20Studies.pdf> pp5-10.

¹¹ <http://www.dtascommunityownership.org.uk/>

¹² <http://www.gov.scot/Topics/People/engage/AssetTransfer>

Further information:

- Read the Act at <http://www.legislation.gov.uk/asp/2015/6/section/21/enacted>.
- Scottish Government frequently asked questions on the Act <http://www.gov.scot/Topics/People/engage/CommunityEmpowermentBillFAQs>
- The website of CHEX's parent organisation, SCDC, has an [Opinion and Debate](#) section which contains more briefings and responses to the Act at its various stages of development.
- [Communities Channel Scotland](#) has a page dedicated to the Community Empowerment Act, containing a brief background to the Act and further links.
- [Community Development Alliance Scotland](#) (CDAS) regularly produces updates on the Act on its website and in its monthly newsletter.
- [Development Trusts Association Scotland \(DTAS\)](#) and its [Community Ownership Support Service](#) are helpful sources of information on asset transfer and ownership.
- [Scottish Council for Voluntary Organisations \(SCVO\)](#) is another source of information on the Act and its implications for the third sector.

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