



## **CHEX policy briefing 1/18**

**June 2018**

### **Words into Action**

#### **How can community-led health organisations make use of the Community Empowerment (Scotland) Act?**

##### **Background**

The meaning of the word “act” varies. When it is used in the title of a piece of legislation it generally means something that is done, or a deed. However, as a verb, “act” can mean to **take action** or to **do something**.

As a piece of legislation, the Community Empowerment (Scotland) Act, is certainly there “**to do something**” with. Most parts of the Act have been in force for at least a year, so now seems to be a good time to ask the following:

*How have community organisations been making use of the Act since it came into force?*

And

*What can community organisations in the CHEX network learn from other organisations using the Act?*

In this briefing we provide an up-to-date overview of some of the main parts of the Act – namely, community planning, participation requests and community asset transfer. We then point to examples of community organisations making use of these different bits of legislation. To round off, we consider some of the wider implications of the Act and outline why it is important that community-led health organisations consider using the Act in their own work involving communities in addressing health and wellbeing issues and tackling health inequalities.

## Community planning – a complex picture

Community planning partnerships (CPPs) are nothing new. They came into being in 2003 as a way for different agencies providing public services to work together, and with communities, in order to improve services.

The Community Empowerment (Scotland) Act makes CPPs a statutory requirement, meaning that one must now exist by law in every local authority area. The Act extends CPPs so that more public bodies must now be partners. These public sector partners must also contribute resources to CPPs. The main partners in CPPs still include local authorities, but health boards, the fire service, police service and enterprise agencies are also named as key partners. The Act does not give the voluntary sector the same level of roles and responsibilities. As before, many Third Sector Interfaces will be members of CPPs, but they are not statutory partners.

CPPs have to develop two types of local plans. The first is called a Local Outcome Improvement Plan or LOIP. This replaces the Single Outcome Agreements as the main local plan stating local priorities and how these will be addressed.

The second type of plan is called a locality plan. This is a more focused plan for a particularly disadvantaged local community. CPPs are required to produce one or more of these plans. Locality plans are likely to focus on postcode areas with the highest Social Index of Multiple Deprivation scores. In addition, locality plans can also focus on communities of identity, such as black and minority ethnic (BME) communities or people with disabilities.

Importantly, CPPs must now involve community organisations at all stages of community planning. This includes communities being involved in identifying local priorities, developing LOIPs and locality plans, and evaluating progress in achieving these plans.

## Illustration – The Broomhouse Centre

[The Broomhouse Centre](#) provides opportunities to people in Broomhouse, Sighthill & Parkhead, and South West Edinburgh, to enable them to flourish, thrive and achieve their highest potential. It is an anchor community organisation, in the form of a Development Trust, with a local community membership drawn from the South West partnership area of Edinburgh.

Chief Executive of the Centre, Bridie Ashrowan, sits on [South West & Pentlands Voluntary Sector Forum](#). Voluntary Sector Forums (VSFs) are part of the city's structures for feeding into planning at a local level. The VSFs are facilitated by Edinburgh Voluntary Organisation's Council (EVOC) and contribute to the development of Edinburgh's Locality Improvement Plans (LIPs).

Edinburgh has four 'localities', North West, North East, South West and South East, each of which has a Locality Leadership Team consisting of representatives from the council, police, fire service and NHS. A LIP is produced for each locality.

The VSFs hold four or five meetings per year where local priorities are discussed and what role the community and voluntary sector should have in identifying and addressing these. Through her role in the VSF, Bridie is also supported by EVOC to attend locality leadership meetings to represent the Third Sector.

Community planning structures are rarely straightforward. There is an array of wider structures in Edinburgh that feed into different areas of planning and which also overlap at times. For instance, EVOC hosts Edinburgh's Third Sector Strategy Group (TSSG), bringing together a range of voices from Edinburgh's Third Sector, including the Broomhouse Centre, to consider matters of strategic importance and feed into the [Edinburgh Compact Partnership](#) – a city-wide partnership between the Public and Third Sectors.

A further 'complication' in Edinburgh is that 'locality plans' in the Community Empowerment (Scotland) Act have been combined with 'localities' which are the most local tier of the new Health and Social Care arrangements – see CHEX's previous policy briefing on the [integration of health and social care](#) for more on these structures.

Bridie values community planning for the following reasons:

- An understanding between statutory and community partners being built through regular interaction
- Joint/shared budgets help investments being made into third sector and communities, and for statutory partners to take responsibility for and make connections between outcomes and investment: an example is how much a helicopter costs the police for a disorder incident, compared to early intervention youth work, we need to focus on early intervention.
- Creating a context for Christie Commission recommendations to be made real
- Creating a context for more volunteering and civic involvement in our communities

Bridie adds:

*“As Chair of the South West VSF, with EVOC, we have had Christine Doherty, Life Long Learning, City of Edinburgh Council, in to talk about the LIP and that the third sector is a vital part of future planning. Many small organisations may not have the capacity to support going to the action plan groups. We will aim to map them and they are key to the work already, e.g. employability providers in South West Edinburgh.*

*In Edinburgh, councillors who work closely with City of Edinburgh Council staff sit on the local Neighbourhood Partnership. A challenge is that they are also new to shared budgets in relation to partnership working across organisations, fire, police, third sector etc. This is a new relationship to what is solely council business. Is it more appropriate for elected member involvement to be at a more strategic level? Local community councils are also finding themselves having to adjust to this partnership approach, as they have previously dealt more solely with the Council.*

*The City Council have been running a consultation exercise on how these structures can change for VSFs, for community councils and it has been discussed at the Third Sector Strategy Group for the city. If new structures do not engage the public, this is a disadvantage, and we need to find ways to bring this to the community. More plain language will also help, e.g. mirroring the Scottish Government National Performance Framework which can be understood by many.”*

## **A new way to have your say - participation requests**

As a community-led health organisation, it is likely that you and your community will have a list of improvements you would like to see made to public services.

Participation requests are a new way to take forward your suggestions for improvements with the organisations that run these services. And this bit of the Act was created with community organisations such as yours in mind!

By making a participation request, a community body (or group of people in a community) can ask to start a discussion with organisations in charge of public services, such as hospitals, schools and transport, about how to improve these services. The organisations that participation requests can be made to are called ‘public service authorities’ and include local authorities and health boards as well as [a list of other organisations](#).

Public service authorities must make clear how to make a participation request. This information will normally be available on the organisation’s website along with a downloadable form for making one. In most cases, there will be one central point or person within each public service authority to send a participation request to. The request will then be sent to whichever part of the organisation that it is most relevant to.

The public service authority then has 30 days (or 45 days if more than one public service authority it involved) to agree or refuse the request. If agreed, a dialogue will start between the authority and the community organisation, involving meetings and other communication. This is called an outcome improvement process. As the name suggests, it should result in the best solution being reached for how to improve the outcomes of the service.

It may seem strange that legislation is required in order to have a right to ask to be involved. However, the value of participation requests appears to be in the presumption that the request will be granted unless the authority can demonstrate that there are “reasonable grounds” why this should not be the case, based on factors including economic development, public health, social and environmental wellbeing and reducing inequality.

CHEX’s interpretation is that this should make it quite difficult to legitimately turn down a valid participation request, as it is hard to see how “reasonable grounds” can be given that dialogue with people with direct experience of an issue can lead to negative outcomes.

CHEX's parent organisation, Scottish Community Development Centre (SCDC) developed the [summary guidance for participation requests](#), which is a great place to start for anyone interested in finding out more.

## **Illustration – Families into Sport for Health (FiSH)**

Families into Sport for Health (FiSH) has been campaigning for better weekend access to indoor sports facilities in Lewis and Harris, where there aren't currently any indoor recreational spaces available on Sundays. Last year the group submitted a participation request to Western Isles Council around improving weekend access to indoor sports facilities.

The group was initially told that they had not specified a proper outcome in the request they submitted. This meant that FiSH had to resubmit their request, settling on the following outcome: "improved and equitable access to recreational facilities for the health and wellbeing of families, especially children."

In February 2018 the council agreed to FiSH's participation request, stating that FiSH is to be consulted by a subgroup of the Outer Hebrides Community Planning Partnership which is developing an action plan around improving health and wellbeing as a priority of the CPP's Local Outcome Improvement Plan.

Making a participation request appears to have progressed FiSH's campaign to improve access to sports facilities. CHEX would hope that the outcome improvement process goes beyond consultation to establish a meaningful ongoing dialogue where the community group's views are fully considered, something that the Act quite clearly calls for. More details can be found on the [website of Comhairle nan Eilean Siar](#) (Western Isles Council).

## **Asset transfer – the land that we stand on is ours**

Parts 4 and 5 of the Act aim to make it easier for communities to buy and/or control local land and buildings.

The community right to buy land and buildings already existed for rural communities, following the Land Reform Act in 2003. Part 4 of the Community Empowerment (Scotland) Act extends this right to urban communities, and also adds a new power in that landowners can be forced to sell land and buildings that have been abandoned, neglected or are detrimental to the environmental wellbeing of the community.

Whereas part 4 of the Act relates to privately owned land, part 5 creates a new right for a community to request the transfer of publicly-owned asset for the benefit of the wider community. Asset transfer requests can be made to a wide range of public bodies, including local authorities and health boards. Each of these public bodies has to provide a publicly-available register of all the assets they own and many

public bodies now provide these online. An asset transfer request can be made for any of these assets.

Community organisations can request to own the land or building outright or they can apply to use or lease the asset. In doing so, they will have to identify how much they would be willing to pay for leasing or buying the asset and describe what community benefits would result from granting the request. As with participation requests, there is a presumption in favour of granting a request unless the public body can give reasonable grounds for not doing so. In reaching its decision, the public body will have to consider the financial implications and community benefits involved. The public body will also have to think about how the request affects its ability to carry out its functions.

Some aspects of this part of the Act are worth highlighting. Firstly, community organisations have the right to request information on any public asset that they are interested in, including its condition and maintenance costs. Secondly, the public authority cannot begin to dispose of the asset once the request is received. The community organisation must be given time to get its bid organised which will be considered alongside other bids for the asset.

Thirdly, CHEX believes it is worth restating that an asset transfer request can be made to *lease or make use of* a piece of publicly-owned land or building. A lot of the focus on asset transfer has been on full ownership. However, smaller community organisations without the funds in place to take on full ownership may well find that requesting to use or lease an asset is a more practical route towards finding somewhere to be based than applying to own an asset outright.<sup>1</sup>

For example, a case could be made that ‘out of hours’ use of an asset would benefit a community at no, or very little, cost to the public service authority. The wording of the Act implies that it should be difficult for a public service authority to decline such a request to use an asset.

### **Illustration – Mid-Lin Day Care.**

Mid-Lin Day Care, a community-led day care centre in the Linlathen area of Dundee is currently in the pre-application stage of Dundee City Council’s asset transfer procedure. The group intends to purchase the land on which its current council-owned premises are located. The plan is to demolish the current building which has become unable to meet the needs of the older people benefitting from Mid-Lin’s provision. A new two-story building will then be built in its place, which will better suit the current and future needs of Mid-Lin Day Care and the older people it works with.

The group has had a productive working relationship with Dundee City Council, and believes the council has put in place the pre-application stage as a filter to lay the groundworks of the project and to open dialogue with council departments, planning

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<sup>1</sup> CHEX’s parent organisation, SCDC has carried out [research](#) into community ownership which highlights some potential benefits of leasing as opposed to outright ownership.

& city development. The group hopes this will ensure that when the formal stages of the application are set in motion, and later into the overall project, it should be a relatively smooth process. Having got through the informal stages of the process, Mid-Lin Day Care will then be in a better position to look at costs of the project and how to meet them through funding.

The Act specifies that community organisations evidence community support for any asset transfer request. Mid-Lin Day Care has had three community events focused on older people who use day care services as well as with the local geographic community. The consultation is exploring how the proposed development could benefit local people through better community facilities. By demonstrating the community benefits of the project, the group may also be able to purchase the land at a discounted rate relative to market value.

CHEX also has some good examples of community land buyouts and asset transfer in our previous publications, most of which took place before the Act was in place. In our [Communities at the Centre](#) publication, we showed how North Coast Connection in Sutherland have taken over the running of Tongue's day care centre, leading to greater use of the centre and more accessible, flexible services. Our follow up publication, [More Communities at the Centre](#), included the story of community members in Point, Lewis, who have purchased a disused school from Western Isles Council and converted it into a community shop and café as a hub for local people.

## **Conclusion**

It's early days for the Act, and important to recognise that it will take time before we see any real difference in terms of communities using it effectively. Community organisations need to be made more aware of the different parts of the Act. They will require time to consider how best to use the Act to benefit their communities. Public bodies are also at varying stages of preparation for the Act, which needs to be remembered when looking at the uptake of the Act by community groups.

It is particularly important that less-well-heard community groups are made aware of and supported to use the Act. The Act has been designed to try to ensure that those who use it act in the interests of the wider community. However, the participation of those who are disempowered through poverty, inequality and exclusion is at the heart of the notion of community empowerment. For the Act to be a success, these groups must be able to take advantage of the opportunities it offers.

Community-led health organisations are focused on tackling inequality in all its forms and involve people experiencing poverty as well as disabled, BME, LGBTQ and other marginalised groups at all levels of their work. CHEX therefore encourages community-led health organisations to think about using the Act as part of a wider movement towards tackling inequalities and strengthening democracy. This will lead to greater use of the Act's provisions and the more the Act is used the greater the likelihood that it will be taken seriously. Community organisations and public bodies need to see what is possible and try it out themselves. Learning from what has not worked will also enable the Act to be strengthened in future.

On this note, CHEX is interested in any work that community-led health organisations are doing that makes use of, or relates to, the Act. This will help us to build a picture of the impact the Act is having and any issues that need to be addressed, which can then be passed onto the Scottish Government. CHEX is also happy to discuss any aspect of the Act with members of our network who are interested in using it.

### *Contact*

**To discuss any of the issues in this briefing, please contact Andrew Paterson, CHEX Policy and Research Officer, on 0141 222 4837 or email [andrew@scdc.org.uk](mailto:andrew@scdc.org.uk).**