

Implementation of the Community Empowerment (Scotland) Act 2015 - Update

1.0 EXECUTIVE SUMMARY

- 1.1 This report provides Members with an overview of the progress that has been made to date in implementing the various elements of the Community Empowerment (Scotland) Act which received Royal Assent on 24 July 2015.
- 1.2 Members are asked to consider the key requirements/implications placed on the Council in respect of the main components of the Act, and the progress that has been against each to ensure compliance.

Implementation of the Community Empowerment (Scotland) Act 2015 - Update

1.0 INTRODUCTION

- 1.1 This report provides Members with an overview of the progress that has been made to date in implementing the various elements of the Community Empowerment (Scotland) Act which received Royal Assent on 24 July 2015.
- 1.2 This is a technical paper advising of the progress by Officers of the Community Empowerment Working Group, and does not cover details on how communities/localities will engage with agencies. This will be the subject of a separate report to the Community Services Committee.

2.0 RECOMMENDATIONS

Members are asked to;

- 2.1 Consider the key requirements/implications placed on the Council in respect of the main components of the Act, and;
- 2.2 Consider the progress that has been achieved against each element of the Act to ensure compliance as and when the regulations come into force.

3.0 DETAIL

- 3.1 The Community Empowerment (Scotland) Act 2015 provides a legal framework that will promote and encourage community empowerment and participation. It creates new rights for community bodies and places new duties on public authorities
- 3.2 In order for the Council to ensure compliance with the relevant parts of the Act a Working Group has been established, Chaired by the Executive Director of Customer Services, which has appropriate Officer representation from across Services and Argyll and Bute Community Planning Partnership (CPP) Partners are also invited to attend all meetings on a 6-8 weekly basis. A list of those Officers who attend the Working Group and their roles is attached at appendix 1 for information.
- 3.3 Detailed below is an overview of those elements which impact on the Council, together with an update on what action the Council has taken

to meet requirements.

3.4 Community Planning (came into force 20 December 2016)

3.4.1 One of the main requirements of the Council under the Act is to produce outcome plans at a locality level, which are referred to as Locality Plans. The terminology of Single Outcome Agreement (SOA) has also changed to Local Outcomes Improvement Plan (LOIP).

3.4.2 The Council's Community Planning Manager is leading on this element of the Act and is on track to complete all relevant actions to ensure compliance within the designated timeframes. For example, a review of the CPP membership has been undertaken, and work is in progress to ensure that the minor changes needed to the current SOA, to ensure it is compliant with the regulations and requirements of the LOIP, are completed. With regard to the main provision of producing locality plans, consultation has begun with communities to start identifying/developing key priorities/issues that will form the basis of the plans. This work is on target for completion by 1 October 2017.

3.5 Participation Requests (in force 1 April 2017)

3.5.1 Part 3 of the Act provides a mechanism for community bodies to enter into dialogue with public authorities about how local services are planned and delivered. Where a community body believes it could help to improve an outcome which is delivered by a public services, it will be able to request to participate in a process with the public service to improve that outcome.

3.5.2 The Scottish Government published their draft guidance on this part of the Act in February 2017 and the legislation came into force on 1 April 2017. The Council have developed processes and guidance in line with that proposed by the Scottish Government, and dedicated webpages have been set up which contain links to all the relevant documentation, and details of who to contact within the Council to obtain support in submitting a participation request. The first point of contact for communities is the Community Development Team who will be able to provide support and guidance on how to submit a request. They will also carry out an initial assessment of any requests submitted by a community participation body, including determining their viability as a group and the validity of their request. Thereafter, any valid requests will be processed in conjunction with the relevant Council service(s), and submitted to the relevant committee(s) for a decision.

3.6

Asset Transfer Requests (in force 23 January 2017)

3.6.1

The Act provides community bodies with a right to request to purchase, lease, manage or use land and buildings belonging to local authorities, Scottish public bodies or Scottish Ministers. There is a presumption of agreement to requests, unless there are reasonable grounds for refusal. Reducing inequalities will be a factor for public

3.6.2 authorities to consider when making a decision. Authorities are required to create or maintain a register of land which they will make available to the public.

3.6.3 This part of the Act went live on 23 January 2017 as planned following the development of appropriate processes and guidance notes to aid communities. As per Asset Transfers, dedicated webpages have been set up which contain links to all the relevant documentation, the land and asset register, together with details of who to contact within the Council for support in developing a request. The central point of contact within the Council for Asset Transfer requests is the Social Enterprise Team, Economic Development, who previously had responsibility for the third sector asset transfer process.

3.6.4 Any requests received by the Council will be processed and evaluated in line with the Scottish Government guidance/timescales, and thereafter report to the relevant committee(s) for a decision.

3.7 Since going live there have been no formal Asset Transfer Requests. There have been some 11 Expressions of Interest and in all of these there has been dialogue and exchange of information with the requestor to assist in the process. At least 2 of these expressions of interest are being progressed on the basis of a grant of licence with the agreement of the requestor.

3.7.1 Common Good Property

The Act places the following statutory duties on local authorities;

- To establish and maintain a register of all property held by them for the common good (there must be consultation with community bodies in advance of establishing the register, and the local authority must have regard to any representations made by those community bodies).
 - Once established the local authority must make arrangements to enable members of the public to inspect, free of charge, its common good register at reasonable times and at such places as the authority may determine, and make its register available on a website or by other electronic means.
 - Consult before disposing of or changing the use of common good property and the local authority must have regard to any representations made in regards the proposed disposal/change of use.
- 3.7.2

It is anticipated that the provisions set out within the Act will come into force in 2018, but the Council are currently awaiting final guidance from the Scottish Government in this regard. Before the Scottish Government can issue final guidance documents, the Act specifies that Scottish Ministers must consult with local authorities, community councils and other community bodies. The Scottish Government has advised that they plan to issue draft guidance following the local

3.7.3 elections in May 2017 and will run a 12 week consultation period. The publication of final guidance and bringing the remaining provisions of Part 8 of the Act into force will depend upon the volume and nature of responses to the consultation.

3.8 In advance of the draft guidance being issued, the Council have begun the process of putting in place arrangements, as far as possible, to ensure that we are prepared for go live when it occurs. This includes ensuring that the list of common good property held by the Council is reviewed and updated in preparation for publication. Internal Audit have undertaken an assessment of our preparedness for the implementation and their report has returned an audit opinion of substantial assurance, and makes no recommendations for actions to be taken.

3.8.1

Allotments

The Act updates and simplifies the legislation in respect of allotments, which was very old. It requires local authorities to;

- Establish and maintain a list of those seeking allotments – the list may be established and maintained in such form as the authority sees fit.
 - Provide allotments – requires local authorities to take reasonable steps to provide allotments if waiting lists exceed certain trigger points and strengthens protection for allotments
 - Make regulations about allotment sites - provisions are made to allow the size of an allotment to be agreed between the person requesting an allotment and the local authority and to require fair rents to be set
 - Prepare a food growing strategy – Section 119 of the Act requires local authorities to have a strategy in place within 2 years of that section coming into force. In order to assist local authorities with this new duty the Scottish Government have seconded an Allotments Officer from Fife Council to initiate a national conversation around this and a Food Growing Strategy Event has been arranged for 16 August 2017 in Edinburgh which will be attended by an Officer from the Council.
- 3.8.2
- Prepare annual allotments statement

3.8.3 It is anticipated that the provisions will come into force by end 2017, however the Scottish Government are currently in the process of developing secondary legislation which is required before Part 9 of the Act may be brought into force. A letter from the Scottish Government on 7 June indicates that they plan to lay the implementing secondary legislation before parliament in late 2017, and to coincide with this they intend to publish Scottish Ministers' guidance and a Food Growing Strategy template that can be adopted by local authorities.

3.9 Officers are currently undertaking preparatory work to ensure

compliance with the new provisions once they come into force.

3.9.1

Non Domestic Rates (in force 31 October 2015)

The Act provides for a new power which allows local authorities to create and fund their own localised business rate relief schemes to better reflect local needs and support communities.

3.10

To date no new areas of relief to be funded by the Council are being considered, therefore the Council has not yet utilised the new powers brought about by the Act.

3.10.1

Information/Knowledge Sharing with Community Planning Partnership

Arrangements have been put in place by the Community Empowerment Working Group to monitor the number of Participation / Asset Transfer Requests received across the Argyll and Bute CPP). A report will be prepared for consideration at the quarterly CPP Chief Officers Group (COG), which take place in March, June, September and December, to allow for an overview of all requests/expressions of interest to be shared. The first of these monitoring reports will be tabled at the CPP COG meeting scheduled for 28th June 2017. The reports will also be submitted to the Community Empowerment Working Group for their interests.

3.10.2

As mentioned above, dedicated webpages have been developed on the Council's website (which can be viewed [here](#)) to provide an overview of the various elements of the Act and to advise on where further information and support can be provided. The webpages also contain links to our CPP Partners websites.

4.0

4.1

CONCLUSION

The Community Empowerment (Scotland) Act 2015 places a number of new legislative duties upon the Council and a dedicated Working Group has been put in place to ensure compliance with these. All elements of the Act which are currently in force have been implemented by the Council, including Participation and Asset Transfer Requests, and work is ongoing to comply with the other parts as and when they come into force. Regular progress reports from the Working Group are submitted to the SMT to ensure that all actions are completed on time.

5.0

5.1

5.2

5.3

IMPLICATIONS

5.4

Policy - new policies created to ensure compliance with Act

5.5

Financial – none at present

5.6

Legal - delivery of legislative duties within the Community Empowerment Act

- 5.7 HR – None at present
Equalities – the relevant parts of the Act will be applied equally to all communities
Risk – failure to have policies/processes in place could result in high demand on resource and reputational damage for Council
Customer Service – appropriate awareness raising amongst communities, preparedness to deal with any requests, otherwise could lead to complaints.

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24 May 2017

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APPENDICES

Appendix 1 – Membership of the Community Empowerment Working Group