

**COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015
PART 8 – COMMON GOOD PROPERTY**

1.0 EXECUTIVE SUMMARY

- 1.1 The Community Empowerment (Scotland) Act 2015, which received Royal Assent on 24 July 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.
- 1.2 To ensure compliance with the Act, a Working Group was established in August 2015, chaired by the Executive Director of Customer Services, with Officer representation from across all relevant Council services. Argyll and Bute Community Planning Partners were also invited to attend these meetings.
- 1.3 The majority of those elements of the Act which impact on the Council have now been implemented including; Non Domestic Rates, Community Planning, Participation Requests, and Asset Transfer Requests. The only remaining two components which have not been implemented yet are in respect of Part 9 – Allotments (subject to a separate report to Policy and Resources in October 2018) and Part 8 – Common Good Property, which this report deals with.
- 1.4 Part 8 of the Act seeks to increase transparency about the existence of common good assets and to ensure there is community involvement in decisions taken about their identification, use and disposal. Specifically:
- Section 102 places a duty on local authorities to “*establish and maintain a register of property which is held by the authority as part of common good*”; and;
 - Section 104 places a duty on local authorities that “*before taking any decision to dispose of, or change the use of, such (common good) property the local authority must publish details about the proposed disposal or, as the case may be, the use to which the authority proposes to put the property.*”
- 1.5 Members are asked to agree that, in order to comply with Part 8 of the Act, Officers take the necessary steps to consult on the draft common good property list detailed at appendix 1, which will in turn be published as the Common Good Register.

COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015
PART 8 – COMMON GOOD PROPERTY

2.0 INTRODUCTION

- 2.1 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.
- 2.2 To ensure compliance with the Act, a Working Group was established in August 2015, chaired by the Executive Director of Customer Services. The majority of those elements of the Act which impact on the Council have now been implemented including; Non Domestic Rates, Community Planning, participation Requests, and Asset Transfer Requests. The only remaining two components which have not been implemented yet are in respect of Part 9 – Allotments (subject to a separate report to Policy and Resources in October 2018) and Part 8 – Common Good Property, which this report considers.

3.0 RECOMMENDATIONS

Members are asked to:-

- 3.1 Agree that Officers take the necessary steps, in line with the statutory guidance, to consult on the draft common good property list detailed at appendix 1.
- 3.2 Note the process that will be followed in the event that the Council seek to dispose of, or change the use of, common good property, as set out in section 4.3 of the report.

4.0 DETAIL

- 4.1 On 23 July 2018 the Scottish Government published the statutory guidance in respect of Part 8 of the Act, which imposed the following duties on local authorities in relation to common good:-
- Section 102 – to “*establish and maintain a register of property which is held by the authority as part of the common good*”; and
 - Section 104 – “*before taking any decision to dispose of, or change the use of, such (common good) property the local authority must publish details about the proposed disposal or, as the case may be, the use to which the authority proposes to put the property*”.

4.2 Section 102 – Establishing/Publishing a Common Good Register

- 4.2.1 Before establishing a common good register, the Act requires a local authority to publish a list of property it proposes to include in the register, and to consult on this

list. The Act provides that the list may be published in such a way as the local authority may determine but on publishing the list the local authority must notify any Community Council established for the area and any community body of which the authority is aware.

- 4.2.2 In establishing a common good register, the local authority must have regard to any representations made by those bodies mentioned in 4.2.1 above and any other persons who wish to comment/provide views as part of the consultation on the common good list. Representations could be whether the property proposed to be included in the register is part of the common good or the identification of other property which, in the opinion of the body or person making the representation, is part of the common good. When publishing the common good list, the local authority should set out clearly the process and timescale for making any representations, which require to be made in writing, either by email or letter. The Council should aim to consider and respond to representations within 12 weeks and arrange for all representations to be published/accessible in the same place as the list of property and, in due course, the common good register.
- 4.2.3 For the purposes of the consultation the local authority should publicise this on the Council website, on social media or in publications which it produces. The list of common good property should be made publicly available for comment for at least 12 weeks.
- 4.2.4 Appendix 1 details the list of common good property that has been identified by the Council, following consultation with the relevant services, and provides information on the former burgh, name of asset, location of asset and description of asset.
- 4.2.5 Members are asked to agree that Officers now put in place the necessary steps to consult on the draft common good property list detailed at appendix 1, in line with the statutory guidance. Thereafter, taking account of any representations made during the 12 week consultation period, the list will be published as the common good register as soon as practicable, and in any case, within 6 months of the end of the consultation. In cases where there have been numerous or complex representations, and the local authority is still carrying out investigations, a note should be added to the register making it clear that some representations are still being followed up.
- 4.2.6 In terms of accessing the published register, the local authority must make arrangements to enable members of the public to inspect it, free of charge, at reasonable times and at such places as the authority may determine (e.g. local council offices), and make the common good register available on the Council website, or by other electronic means, to members of the public.
- 4.2.7 The common good register is a live document and should be updated if new property is identified or if existing property is disposed of or reclassified. Changes to the register for acquisitions and disposals must be made in the same financial year as the property is acquired or disposed. It is good practice for the register to be reviewed at regular intervals, of no more than 5 years, and the Council should arrange to publish its review process.

4.3 Section 104 – Disposal and use of Common Good – Consultation

- 4.3.1 In the event that the Council plans to dispose of common good property or change

its use, this section of the Act would come into play, which requires the Council to consult with the local community, publish details of the proposals, and notify/invite representations from Community Councils and community bodies.

- 4.3.2 The proposal should clearly state which property the change relates to (using the details from the common good register) and what change is being proposed, along with likely timescales.
- 4.3.3 In keeping with the requirements for publishing the common good register, the Council should ensure that members of the public are able to view any proposals to change the use of, or dispose of, common good property on the Council website, and in person at, for example, local Council offices/CSCs. Similarly, the Council would arrange for the consultation to be publicised on the website/social media and, if the request relates to a building or area of land, a public notice should be placed on the building/land, or an object close to it.
- 4.3.4 Representations would be invited from Community Councils and other community bodies over an 8 week consultation period. The Council should aim to consider any views/comments received within 8 weeks of receiving them, with the final response published online alongside the original representation. The final decision about the proposal should also be published and the relevant community bodies/those who made representations informed.

5.0 CONCLUSION

- 5.1 In order to ensure compliance with the duties set out within Part 8 of the Community Empowerment (Scotland) Act 2015 in respect of Common Good Property, the Council are required to publish a common good register. This paper sets out the proposed process, which is in line with the statutory guidance, and seeks approval to consult on the draft list detailed at appendix 1.

6.0 IMPLICATIONS

- 6.1 Policy – proposals to ensure compliance with Part 8 Common Good Property
- 6.2 Financial – None
- 6.3 Legal – compliance with Community Empowerment (Scotland) Act 2015
- 6.4 HR – none
- 6.5 Equalities and Socio Economic – policy applies equally to all
- 6.6 Risk – reputational damage if non-compliant with legislation
- 6.7 Customer Service – increases opportunity for community engagement/consultation

7.0 APPENDICES

- 7.1 Appendix 1 – List of Common Good Property/Funds

Douglas Hendry
Executive Director – Customer Services

Policy Lead – Councillor Rory Colville
16 August 2018

For further information please contact:
Laura Blackwood - Executive Support Officer - Tel: 01546 604325

Appendix 1 – List of Common Good Property/Funds

Burgh of Campbeltown

Investments		
Name of Asset	Location	Description
COIF - Charities Official Investment Fund	N/A	61,268.46 Units @ 1,422.01 pence Value as at 31/03/2018 - £871,243.63

Burgh of Cove and Kilcreggan

Investments		
Name of Asset	Location	Description
Argyll and Bute Councils Loans Fund	N/A	Value as at 31/03/2018 - £616.68

Burgh of Dunoon

Investments		
Name of Asset	Location	Description
Argyll and Bute Councils Loans Fund	N/A	Value as at 31/03/2018 - £6,111.14

Royal Burgh of Inveraray

Investments		
Name of Asset	Location	Description
Argyll and Bute Councils Loans Fund	N/A	Value as at 31/03/2018 - £444.48

Burgh of Lochgilphead

Investments		
Name of Asset	Location	Description
Argyll and Bute Councils Loans Fund	N/A	Value as at 31/03/2018 - £6,794.35

Burgh of Oban

Land		
Name of Asset	Location	Description
Atlantis Leisure	Dalriach Road, Oban	This property was transferred to the Common Good following a decision of Argyll and Bute District Council in 1995. The property is currently leased to Oban and Lorn Community Enterprise Company Limited.
Investments		
Name of Asset	Location	Description
COIF – Charities Official Investment Fund	N/A	102,416.64 Units @ 1,422.01 pence Value as at 31/03/2018 - £1,456,374.86
Shares		
Name of Asset	Location	Description
Oban Livestock Centre Ltd	Upper Soroba, Oban	20,000 shares @ £1 Value as at 31/03/18 - £20,000

Royal Burgh of Rothesay

Land		
Name of Asset	Location	Description
Eastlands Farm, Rothesay	Agricultural holding on the outskirts of Rothesay	Acquired by virtue of the Burgh Charter, the property comprises fields together known as Eastlands Farm, Rothesay. The fields are currently leased as an agricultural holding to Mr G Sproul.
Westlands Farm, Rothesay	Agricultural holding on the outskirts of Rothesay	Acquired by virtue of the Burgh Charter, the property comprises farmland and farm steading together known as Westlands Farm, Rothesay. The property is currently leased as an agricultural holding to R & M Currie.
Investments		
Name of Asset	Location	Description
Argyll and Bute Councils Loans Fund	N/A	Value as at 31/03/18 - £103,214.19