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**Community Empowerment (Scotland) Act 2015 – Implementation Update**

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**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 Community Empowerment Working Group (CEWG) 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. Details of membership is attached at appendix 1.
- 1.3 Now that each element of the Act is in force, the latest meeting of the CEWG took place on 15 November 2018, to consider whether any outstanding actions remained for the working group or whether the continued monitoring/implementation of the various parts of the Act can be considered as business as usual and embedded within the day to day operations of the Council/CPP Partners.
- 1.4 It is recommended that Members:-
- Agree that the CEWG has fulfilled its role and can be disbanded;
  - Agree that the required annual reports in respect of Asset Transfer Requests and Participation Requests will continue to be tabled at the Policy and Resources Committee; and
  - Agree that such other reports as may be required will come forward to the appropriate Committee as and when required in the future.

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**Community Empowerment (Scotland) Act 2015 – Working Group Update**

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**2.0 INTRODUCTION**

- 2.1 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.
- 2.2 This report provides an overview of the progress made against each element of the Act, which can now be considered as business as usual and embedded within the day-to-day operations of the Council/Partners.

**3.0 RECOMMENDATIONS**

Members are asked to;

- 3.1 Agree that the CEWG has fulfilled its role and can be disbanded;
- 3.2 Agree that the required annual reports in respect of Asset Transfer Requests and Participation Requests will continue to be tabled at the Policy and Resources Committee; and
- 3.3 Agree that such other reports as may be required will come forward to the appropriate Committee as and when required in the future.

**4.0 DETAIL**

- 4.1 The Community Empowerment (Scotland) Act 2015 places a number of new duties on public authorities, including the Council.
- 4.2 To ensure compliance with the Act, a CEWG 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.
- 4.3 Now that each element of the Act is in force, the latest meeting of the CEWG took place on 15 November 2018, to consider whether any outstanding actions remained for the working group or whether the continued monitoring/implementation of the various parts of the Act can be considered as business as usual and embedded within the day to day operations of the Council/CPP Partners.

- 4.4 Non Domestic Rates (came into force 31 October 2015)
- 4.4.1 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.
- 4.4.2 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. Any relief granted needs to be fully funded by the Council and there is currently no budget for this.
- 4.4.3 There is no ongoing role for the CEWG in respect of Non Domestic Rates and the application of the new powers will be considered by the Council on an ongoing basis, as and when there is a desire to create and fund new areas of relief.
- 4.5 Community Planning (came into force 20 December 2016)
- 4.5.1 All requirements in respect of this part of the Act have been implemented including:-
- SOA updated to ensure its compliance with the regulations and requirements of the Local Outcomes Improvement Plan (LOIP)
  - Production (and compliance with reporting duties) of outcome plans at a locality level (Locality Plans) – these plans have now been operational for a year and their review/development will be undertaken as part of ordinary CPP business, with meetings scheduled in November 2018 and January 2019 to look at this.
  - Review of CPP membership – a review has been undertaken with a view to widening membership of the CPP. There has been ongoing dialogue with a number of organisations and this will continue as part of the day to day work undertaken by the Community Planning Team.
- 4.5.2 On the basis that all necessary actions have been taken to ensure compliance with the Act and this has been embedded across the CPP, it is proposed that there is no further role for the CEWG.
- 4.6 Participation Requests (came into force 1 April 2017)
- 4.6.1 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. In line with the requirements of the Act, and the guidelines proposed by the Scottish Government, the Council have developed processes and guidance which can be found on the dedicated webpages on the Council website.
- 4.6.2 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.

- 4.6.3 Responsibility for logging all validated Participation Requests sits corporately within Governance and Law, who are also responsible for ensuring that an annual report is published by the local authority setting out, for example, the number of requests received from community bodies. The first annual report has been published on the Council website and was also reported to the Policy and Resources Committee. It is proposed that moving forward, these reporting arrangements remain in place.
- 4.6.4 The legislative requirements in respect of Participation Requests have been fully implemented and the associated processes/guidance that are in place have been embedded as part of business as usual. Therefore, there is no further input required from the Working Group.
- 4.7 Asset Transfer Requests (came into force 23 January 2017)
- 4.7.1 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.
- 4.7.2 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 Participation Requests, 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 who provide ongoing support to any community group making an asset transfer request, or considering making an asset transfer request. The Council's Special Projects Team undertake an ongoing monitoring role and oversee the Asset Transfer Group which meet on a regular basis to review all asset transfer requests and any expressions of interest which have been received by the Council. All requests received by the Council are processed and evaluated in line with the Scottish Government guidance/timescales, and thereafter reported to the relevant committee(s) for a decision.
- 4.7.3 Regular reports are prepared for Departmental Management Team's (DMTs), the SMT and elected members, via the Policy and Resources Committee. This includes reporting of the annual report, the first of which was tabled at the Policy and Resources on 18 October 2018. It is proposed that the current reporting and monitoring arrangements are continued moving forward.
- 4.7.4 The CEWG are satisfied that all legislative requirements have been met and there is no ongoing role for them in terms of this part of the Act.
- 4.8 Common Good Property
- 4.8.1 Part 8 of the Community Empowerment (Scotland) Act 2015 in respect of Common Good Property 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, including:-
- Section 102 - To establish and maintain a register of all property which is

held by the authority as part of 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.

4.8.2 Following the publication of the statutory guidance for Part 8 of the Act in July 2018 a report was tabled, and subsequently agreed, at the Policy and Resources Committee on 18 October 2018 setting out the steps that will be taken by Officers within Governance and Law to ensure compliance with the legislation. This includes putting in place arrangements for a 12 week consultation exercise to consult on the draft list of common good property identified by the local authority. Thereafter, taking account of any representations made during the consultation period, the list will be published as the common good register.

4.8.3 The CEWG are satisfied that the actions set out within the report to the Policy and Resources Committee in October 2018 are in hand and their ongoing implementation will be monitored via the Customer Services DMT, therefore there is no continuing role for the CEWG.

#### 4.9 Allotments

4.9.1 Part 9 of the Community Empowerment (Scotland) Act in respect of Allotments, which came into force on 1 April 2018, places a number of duties on local authorities, including:-

- Establish and maintain a list of those seeking allotments
- Provide allotments
- Make allotment regulations
- Prepare a food growing strategy (by 1 April 2020)
- Prepare an annual allotments report

4.9.2 Although some provisions in respect of Allotments went live on 1 April 2018 (e.g section 119 in respect of the duty to prepare a food growing strategy) the Scottish Government continue to work on developing statutory guidance to support the other provisions. The Council have responded to the numerous consultations undertaken to date, including the latest which closed on 20 August 2018.

4.9.3 A report was tabled and endorsed at the Policy and Resources Committee on 18 October 2018 setting out the steps that will be taken across services to ensure compliance with each new duty. Following on from the Committee decision the Executive Director of Customer Services met with the Head of Planning, Housing and Regulatory Services, and Head of Governance and Law to clarify the lead officer(s) and timescales for each action required. It was also agreed that an Allotments Group, with cross service/partner representation, would be convened as and when required to ensure compliance.

4.9.4 On the basis of the above it is the view of the CEWG that there are sufficient arrangements in place for the ongoing implementation of Part 9 of the Act to be embedded as business as usual, with no required role for the CEWG.

#### **4.10     Internal Audit Review**

- 4.10.1     As part of the 2018/19 internal audit plan, approved by the Audit and Scrutiny Committee in March 2018, an audit of Argyll and Bute Council's system of internal control and governance in relation to the Community Empowerment (Scotland) Act 2015 was undertaken. The scope of the audit was to ensure that appropriate governance and procedures are in place to achieve compliance. The overall audit opinion, as per the published report in September 2018, is that there is a high level of assurance, which means that internal control, governance and the management of risk are at a high standard. The audit did not highlight any areas for improvement.
- 4.10.2     On the basis of the assessment from Internal Audit and the views of the CEWG that all elements of the Community Empowerment Act are either now fully implemented or embedded as part of the day to day operations of services, it is proposed that the CEWG is disbanded.

### **5.0     CONCLUSION**

- 5.1         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 have either been implemented in full or continue to be rolled out/monitored as part of day to day operations. On this basis it is proposed that the CEWG, which was put in place to ensure compliance with the new legislation, is disbanded and that any reporting requirements arising from the Act, including annual reports, are scrutinised via the Policy and Resources Committee. It is also recommended that such other reports as may be required will come forward to the appropriate Committee as and when required in the future.

### **6.0     IMPLICATIONS**

- 6.1     Policy – new policies created to ensure compliance with Act
- 6.2     Financial – None arising from this report
- 6.3     Legal – delivery of legislative duties within the Community Empowerment Act
- 6.4     HR – None arising from this report
- 6.5     Fairer Scotland Duty:
- 6.5.1   Equalities – protected characteristics – none arising from this report
- 6.5.2   Socio –Economic Duty – none arising from this report
- 6.5.3   Islands – none arising from this report
- 6.6     Risk – failure to have policies/processes in place could result in high demand on resource and reputational damage for Council
- 6.7     Customer Service – appropriate awareness raising amongst communities, preparedness to deal with any requests, otherwise could lead to complaints.

**Douglas Hendry**  
**Executive Director of Customer Services**  
16 November 2018

**For further information contact:**  
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Executive Support Officer – Customer Services  
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## **APPENDICES**

Appendix 1 – Membership of the Community Empowerment Working Group

## Appendix 1 – Membership of the Community Empowerment Working Group

<b>Name</b>	<b>Designation/Role</b>	<b>Organisation</b>
Douglas Hendry	<ul style="list-style-type: none"> <li>Executive Director – Customer Services (Chair)</li> </ul>	Argyll and Bute Council
Morag Brown	<ul style="list-style-type: none"> <li>Business Improvement Manager, Community Services</li> </ul>	Argyll and Bute Council
Rona Gold	<ul style="list-style-type: none"> <li>Community Planning Manager, Community Services</li> </ul>	Argyll and Bute Council
David Logan	<ul style="list-style-type: none"> <li>Special Projects and Quality Improvement Manager, Customer Services</li> </ul>	Argyll and Bute Council
Shirley MacLeod	<ul style="list-style-type: none"> <li>Area Governance Manager</li> </ul>	Argyll and Bute Council
Laura MacDonald	<ul style="list-style-type: none"> <li>Community Development Officer, Chief Executive's</li> </ul>	Argyll and Bute Council
Sybil Johnson	<ul style="list-style-type: none"> <li>Senior Planning and Strategies Officer, Development and Infrastructure Services</li> </ul>	Argyll and Bute Council
Arlene Cullum	<ul style="list-style-type: none"> <li>Senior Development Officer, Development and Infrastructure Services</li> </ul>	Argyll and Bute Council
Audrey Martin	<ul style="list-style-type: none"> <li>Transformation Projects and Regeneration Manager, Development and Infrastructure Services</li> </ul>	Argyll and Bute Council
Laura Blackwood	<ul style="list-style-type: none"> <li>Executive Support Officer, Customer Services</li> </ul>	Argyll and Bute Council
Stuart MacLean	<ul style="list-style-type: none"> <li>Group Manager, Prevention and Protection</li> </ul>	Scottish Fire and Rescue Service
Hazel Hendren	<ul style="list-style-type: none"> <li>Chief Superintendent</li> </ul>	Police Scotland
Jennifer Nicoll	<ul style="list-style-type: none"> <li>Area Manager – Argyll and the Islands</li> </ul>	Highland and Islands Enterprise (HIE)
Anne Jackson	<ul style="list-style-type: none"> <li>Research and Performance Officer</li> </ul>	Loch Lomond & Trossachs National Park
Frances Webster	<ul style="list-style-type: none"> <li>Area Manager – North Region</li> </ul>	Skills Development Scotland (SDS)
Anthony Standing	<ul style="list-style-type: none"> <li>Head of Operations</li> </ul>	SDS
Fraser Durie	<ul style="list-style-type: none"> <li>Principal</li> </ul>	Argyll College UHI
Alison McGrory	<ul style="list-style-type: none"> <li>Health Improvement Principal</li> </ul>	HSCP