

**COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015 – UPDATE – EXPRESSIONS
OF INTEREST / ASSET TRANSFER REQUESTS/PARTICIPATION REQUESTS/ ANNUAL
REPORTING REQUIREMENTS**

1. EXECUTIVE SUMMARY

1.1 The purpose of this report is to advise the Policy and Resources Committee on:

- The operation of the processes in regard to Asset Transfer Requests (ATR) and Participation Requests in terms of the Community Empowerment (Scotland) Act 2015;
- Current live Expressions of Interest (EOI's) which may become subject to a formal asset transfer request;
- Community group proposals which have been dealt with out-with the formal asset transfer process;
- The progress of the asset transfer request which has been submitted by Kilmory Woodlands (KW) seeking transfer of part of part of Kilmory Home Farm on a 99 year lease of the land at £1 per annum;
- An update on the asset transfer request and subsequent review which were submitted by Isle of Gigha Heritage Trust (IGHT) seeking transfer of ownership of the Isle of Gigha Ferry Terminal for £1;
- Current live ongoing or agreed Participation Requests received by the Council;
- The annual reporting requirements in respect of Asset Transfer Requests and Participation Requests set out in Section 95 and 32 of the Community Empowerment (Scotland) Act 2015 respectively;

RECOMMENDATIONS

It is recommended that:

1.2 The Policy and Resources Committee notes the report.

**COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015 – UPDATE – EXPRESSIONS
OF INTEREST / ASSET TRANSFER REQUESTS/PARTICIPATION REQUESTS/ ANNUAL
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2. INTRODUCTION

2.1 The purpose of this report is to advise the Policy and Resources Committee on:

- The operation of the processes in regard to Asset Transfer Requests (ATR) and Participation Requests in terms of the Community Empowerment (Scotland) Act 2015;
- Current live Expressions of Interest (EOI's) which may become subject to a formal asset transfer request;
- Community group proposals which have been dealt with out-with the formal asset transfer process;
- The progress of the asset transfer request which has been submitted by Kilmory Woodlands (KW) seeking transfer of part of part of Kilmory Home Farm on a 99 year lease of the land at £1 per annum;
- An update on the asset transfer request and subsequent review which were submitted by Isle of Gigha Heritage Trust (IGHT) seeking transfer of ownership of the Isle of Gigha Ferry Terminal for £1;
- Current live ongoing or agreed Participation Requests received by the Council; and
- The annual reporting requirements in respect of Asset Transfer Requests and Participation Requests set out in Section 95 and 32 of the Community Empowerment (Scotland) Act 2015 respectively;

3. RECOMMENDATIONS

It is recommended that:

3.1 The Policy and Resources Committee notes the report.

4. DETAIL

4.1 The Council operates processes in compliance with parts 3, 5 and 9 of the Community Empowerment (Scotland) Act 2015 in regard to:

- Asset Transfer Requests (ATR's) (part 5 of the Act) which came into force on 23 January 2017. ATR's enable community bodies to make requests to all local authorities, Scottish Ministers and a range of public bodies for any land or

buildings they feel they could make better use of. They can request ownership, lease or other rights as they wish.

- Participation Requests (Part 3 of the Act) which came in to force on 1 April 2017. These are requests to public bodies which, if granted, enable communities to participate in decisions and processes which are aimed at improving outcomes.

EXPRESSIONS OF INTEREST IN POTENTIAL ASSET TRANSFER REQUESTS

- 4.2 There are currently sixteen (16) live Expressions of Interest (EOIs) relating to potential asset transfer requests (all active EOI's are listed in Appendix 1). It should be noted that the Council has continued to engage with community groups who have had EOI's active for a significant period of time and while they remain active the requesters have not taken steps to progress them further.
- 4.3 Not all EOI's will necessarily become subject to a formal asset transfer request. Some may be subsequently withdrawn, or dealt with in a way that delivers the outcome required by the community group out-with the asset transfer process.

PROPOSALS DEALT WITH OUT-WITH THE ASSET TRANSFER PROCESS

- 4.4 While there have been a number of proposals which were dealt with in a way that delivered the outcome required by the community group outside the formal asset transfer process, there were none during the reporting period.

ASSET TRANSFER REQUESTS

- 4.5 The Council has put in place information, advice and guidance to community bodies who are interested in making an ATR and further information on this can be found on the Council's website at this [LINK](#)

KILMORY WOODLANDS – PART OF KILMORY HOME FARM

- 4.6 On 25 March 2019, Kilmory Woodlands (KW) submitted an asset transfer request in respect of part of Kilmory Home Farm, Lochgilphead seeking a 99 year lease of the land at £1 per annum. The purpose of the ATR is to provide sports facilities including a rugby, pitch, running track, shooting targets and BMX tracks.
- 4.7 On 17 December 2019 the standing sub-committee of the Policy and Resources Committee (following a recommendation from the Council's Asset Transfer Group and the Executive Director of Commercial Services) refused KW's Asset Transfer Request (ATR). Where the Council refuse an asset transfer request the community transfer body may apply in writing to the Council for a review of that decision within 20 working days of the date of the decision notice.
- 4.8 On 13 January 2020, KW submitted a request for a review of that decision. There is an obligation on the Council to carry out such a review within 6 months of the date of the request for a review being received which under normal circumstances would 13 July 2020.
- 4.9 Due to the current Covid19 pandemic and the changes in the way the Council has had to work the Council agreed an extension with KW and the matter was considered by the Policy and Resources asset transfer sub-committee on 24

September 2020 who confirmed the original decision of the Asset Transfer Sub-Committee of Policy and Resources to refuse the Asset Transfer Request submitted by Kilmory Woodlands seeking a 99 year lease of part of Kilmory Home Farm for £1 per annum (in accordance with the recommendation of the Executive Director with responsibility for Commercial Services and the Asset Transfer Group). However, the sub-committee requested that Officers continue to work with Kilmory Woodlands to develop their proposals and options.

ISLE OF GIGHA HERITAGE TRUST – ASSET TRANSFER REQUEST AND REVIEW

- 4.10 On 18 October 2018, IGHT submitted an asset transfer request in respect of Isle of Gigha Ferry Terminal Car Park seeking ownership of the asset at £1 per annum. The original ATR was inter alia in the following terms: ownership of the car park at the Gigha ferry terminal to use it as their primary access to provide camping and motorhome facilities at Ardmish on the Isle of Gigha.
- 4.11 On 16 May 2019 the standing sub-committee of the Policy and Resources Committee (following a recommendation from the Council's Asset Transfer Group and the Executive Director of Commercial Services) refused the Asset Transfer Request (ATR). Where the Council refuse an asset transfer request the community transfer body may apply in writing to the Council for a review of that decision within 20 working days of the date of the decision notice.
- 4.12 On 12 June 2019, IGHT submitted a request for a mandatory review of the decision to refuse the request. The review was considered through the Council's review assessment process and after discussion with IGHT and Roads and Infrastructure Services which developed a common understanding of areas they could work together, the request for review was withdrawn by IGHT.

PARTICIPATION REQUESTS

- 4.13 Part 3 of the Community Empowerment (Scotland) Act 2015 provides a framework for the use of participation requests by community bodies, with the intention of enabling communities to have more influence over services and decisions which affect them. Part 3 of the Act came into force on the 1st April 2017.
- 4.14 In line with the requirements of the Act, the Council has put in place a procedure which allows consideration of any requests made community bodies. The procedure and further information can be found on the Council's website at this [LINK](#)
- 4.15 During the period 1 April 2019 to 31 March 2020, the Council received 1 participation requests as set out in appendix 2 of this report.

ASSET TRANSFER AND PARTICIPATION REQUESTS - ANNUAL REPORTING REQUIREMENTS

- 4.16 Sections 32 and 95 of the Act requires the Council to publish annual reports setting out the numbers of participation and asset transfer requests received and their outcomes. Annual reports cover each year from 1 April to 31 March and must be published by 30 June of each reporting year.

4.17 Asset Transfer Request Annual Reports are required to set out:

- The number of requests received;
- The number of requests agreed and refused;
- The number of requests which resulted in a transfer of land, a lease or other rights;
- The number of requests which resulted in a review or an appeal;
- Whether those reviews or appeal resulted in a decision being confirmed, modified or substituted for another decision;
- Any action being taken by the Council to promote the use of ATR's and support those making a request.

4.18 The Asset Transfer Request Annual Report for April 2019 – March 2020 is attached as appendix 3 of this report.

4.19 The Participation Request Annual Report is required to set out:

- The number of requests received;
- The number of requests agreed and refused;
- The number of requests which resulted in changes to a public service provided by, or on behalf of, the public service authority; and
- Any action taken by the public service authority to promote and support the use of participation requests.

4.20 The current Participation Request Annual Report is attached as appendix 4 of this report.

5. CONCLUSION

5.1 This report advises the Council on the operation, of the processes in regard to Asset Transfer Requests and Participation Requests in terms of the Community Empowerment Act 2015 and updates on ATR's, EOI's and Participation requests.

5.2 It is recommended that the Policy and Resources Committee notes the contents of the report.

6.0 IMPLICATIONS

6.1 Policy – In line with Council policy on Asset Transfer Requests

6.2 Financial – None;

6.3 Legal - In line with Community Empowerment (Scotland) Act 2015

6.4 HR - None

6.5 Fairer Scotland Duty: None

6.5.1 Equalities - protected characteristics – None

6.5.2 Socio-economic Duty: None

6.5.3 Islands –None

6.6. Risk – As above

6.7 Customer Service - None

Douglas Hendry - Executive Director with responsibility for Commercial Services
08 September 2020

Policy Lead Commercial Services: Aileen Morton

For further information contact:

Ross McLaughlin, Head of Commercial Services, 01436 658 914

David Allan, Estates and Property Development Manager, 01436 657 620

Michael Nicol, Solicitor, Legal and Regulatory Services, 01546 604 468

APPENDIX 1 – CURRENT EXPRESSIONS OF INTEREST

It should be noted that the Council has continued to engage with community groups who have had EOI's active for a significant period of time and while they remain active the requesters have not yet moved them on.

No	Date Received	Organisation	Asset	Summary of Expression of Interest	Current Status
1	01.03.17	Oban Lorne Rugby Club	Glencruitten Sports Field and clubhouse, Oban	Extend the footprint of club house lease to allow expansion and lease/ licence to manage the pitch.	Group have agreement for the footprint extension – working to progress agreement to manage the pitch outwith ATR process
2	05.09.17	Mull and Iona Community Trust	Public Toilets adjacent to Calgary Bay SSSI	Ultimate transfer of ownership needed to secure future of toilets including major upgrade of the toilets to ensure they are fit for purpose – arrangement short term to work with service to manage the asset.	Amenity Services have progressed a suitable lease agreement that is being signed off.
3	28.09.17	Argyll and Bute Third Sector Interface	Dunoon CEC Woodside Building	Lease of shared use of office space and community training workshop	Group working with Social Enterprise Officer /Estates – ongoing investigation to support request outwith ATR process.
4.	14.02.19	The Ardchattan Community Centre	Ardchattan Primary School	Transfer of ownership of the school buildings and ground – 90% of Market Value if the receive Land fund	Group has a successful Land Fund grant to purchase the asset papers are with legal services
5.	24.04.18	Argyll and Bute Third Sector Interface	Marriage Room, Inveraray	Lease of building as part of a rationalisation of buildings process	Group working with Social Enterprise Officer /Estates – ongoing investigation to support request outwith ATR

					process.
6.	15.09,19	Islay Development Initiative	Killarrow stables, and the wider site, Islay	Transfer of ownership to build flats for key workers at affordable rents, develop community and young people centre	Estates liaising with group about progressing outwith ATR process
7.	12.11.18	Mid Argyll Rugby Club	Pony Park near High School Lochgilphead	Lease of land to lay new pitch develop facilities to promote and rugby – working to support outwith ATR Process	Group have supplied detailed plans that Estates are working with current lease holder to progress their request forward outwith ATR process
8.	26.11.18	Ganavan Sports Hub	Pitch and Land at Ganavan	Lease of asset as community use as an outdoor sports hub – no length of term or price indicated.	Group working with local businesses to develop their request working with Social Enterprise Officer /Estates to clarify their EOI
9.	20.11.19	Kirkmichael Community Development Group	Kirkmichael Park Changing Room	Lease of asset for £500 per year for community use as an outdoor sports hub – no length of term	Group working with Estates and Social Enterprise Team to support request for lease outwith ATR process
10.	27.01.20	Barbara's Wildlife Rescue	Land at Hafton Estate, Sandbank	Transfer of Ownership or lease to build and open a wildlife rescue centre – No Price Indicated	Group are unable to use the ATR process officers working with group to support their request through traditional channels
11.	10.02.20	Sandbank Community Council	Former Teachers Centre, Sandbank	Transfer of Ownership for use as community garden and meeting space – No Price Indicated	Group are unable to use the ATR process, Social Enterprise Officer /Estates are still trying to support their request through traditional channels

12.	16.02.20	Colintraive & Glendaruel Development Trust	Site 10, Land at Glendaruel	Transfer of Ownership - to develop multi-purpose hub for services currently absent from the rural community – such as café /bistro	Estates are supporting developing a lease for a nature trail, while the group work on developing a larger business plan for the area
13.	29.05.20	South Islay Development	Port Ellen School House	Requesting sale of asset to build a childcare facility to cater for children under 3 years	Traffic congestion and safe drop off issues have led the request for this venue to be withdrawn. Refocusing on using the Ramsay Hall as an alternative venue.
14.	29.05.20	South Islay Development	Public Toilets	Transfer the Toilet block and merge facilities with their campsite toilet block	Initial discussion no firm proposals to date
15.	28.08.20	Oban Men's Shed	Former toilets at Corran Halls Esplanade	To run Men's Shed programme from the space	Initial discussions, arrangements for viewing underway
16.	05.10.20	Rhu and Shandon Community Centre	Rhu Community Centre	Looking for formal lease to allow funding applications for upgrading facilities	Initial request received under investigation

APPENDIX 2 - PARTICIPATION REQUESTS – DURING THE PERIOD 1 APRIL 2019 TO 31 MARCH 2020

Received from	Request details	Outcome
Oban Community Council	An increase in the use of Council car parks and on-street bays. A decrease in inconsiderate parking around the town and a better flow of traffic as a result	Discussion are ongoing to facilitate further discussion on how the aims of the group might be achieved.

APPENDIX 3 – ASSET TRANSFER REQUEST ANNUAL REPORT



Section 95 - Community Empowerment (Scotland) Act 2015
Part 5 – Asset Transfer Requests
Annual Report 23 January 2019 – 31 March 2020

1. EXECUTIVE SUMMARY

- 1.1 Section 95 of the Community Empowerment (Scotland) Act 2015 requires the Council to publish an asset transfer report for each reporting year. This Annual Report covers the period from 1 April 2019 through to 31 March 2020.

2. ASSET TRANSFER REQUESTS

- 2.1 Between 1 April 2019 and 31 March 2020 the Council received one (1) validated Asset Transfer Request relating to the transfer of ownership of land and 17 informal Expressions of Interest.
- 2.2 The Council did not receive any asset transfer requests during the reporting period which resulted in:
- The transfer of ownership of land to a community transfer body;
 - A lease of land to a community transfer body; or
 - Rights in respect of that land being conferred on a community transfer body.

3. REVIEWS

- 3.1 There were 2 requests for a review in respect of a decision taken by the Council in relation to an asset transfer request during the reporting period.
- 3.2 One review was subsequently withdrawn and the other is still ongoing however due to the current Covid19 restrictions an extension to the deadline for making a decision has been agreed to 30 September 2020.

4. APPEALS

- 4.1 There were no appeals in respect of a decision taken by the Council in relation to an asset transfer request during the reporting period

5. PROMOTION OF THE USE OF ASSET TRANSFER REQUESTS

5.1 The Council's Social Enterprise Officer takes an active role in engaging and working pro-actively with community groups to ensure they receive the support that they need to overcome any challenges they face in submitting an asset transfer request.

5.2 The Council's Community Asset Transfer webpages promote the use of asset transfers online which are available here:

<https://www.argyll-bute.gov.uk/assettransfer-support>.

5.3 Moreover, in order to raise awareness of the Asset Transfer Request process within the community and to help the public access the information and support, SET participate in community meetings and events to present information, signposting to the website and / or provide advice on the Asset Transfer Request process to community groups considering making an asset transfer request, including:

- Community Right to buy event – 1st October 2019.

6. SUPPORT FOR COMMUNITY TRANSFER BODIES MAKING A REQUEST

6.1 The Councils Social Enterprise Officer provides ongoing support to any community transfer body making an asset transfer request, or considering making an asset transfer request.

6.2 This includes a pre-application stage where community groups are encouraged to discuss their proposals with the Council at an early stage, in order to help them understand how to make an effective asset transfer request, and provide guidance in relation to what is required in terms of the legislation.

6.3 The Council have developed Community Asset Transfer webpages which provide advice and guidance, a list of the Council's assets, contact details, the relevant forms and documents required to make a request, an Expression of Interest form (to facilitate early informal discussions between organisations and officers) and contact details for a single point of contact for enquiries.

6.4 The Councils Social Enterprise Officer is the single point of contact for any group who has submitted a formal Asset Transfer Request or the informal Expression of Interest enquiry. They ensure effective lines of communication are open throughout the assessment and determination of the asset transfer request, and advise community groups of the progress of any steps which require to be taken in order for a decision to be made.

APPENDIX 4 – PARTICIPATION REQUEST – ANNUAL REPORT



Section 32 - Community Empowerment (Scotland) Act 2015 Part 3 – Participation Requests Annual Report 23 January 2019 – 31 March 2020

1.0 EXECUTIVE SUMMARY

- 1.1 Section 32 of the Community Empowerment (Scotland) Act 2015 requires the Council to publish an participation request report for each reporting year. This Annual Report covers the period from 1 April 2019 through to 31 March 2020.

2.0 INTRODUCTION

- 2.1 The Community Empowerment (Scotland) Act 2015 came into force on 1 April 2017 and part 3 of the Act provided a framework for the use of participation requests by community bodies, the intention being to enable communities to have more influence over services and decisions which affect them.
- 2.2 In line with the requirements of the Act, the Council has put in place a procedure which allows consideration of any requests made community bodies. The procedure and further information can be found on the Council's website at:

<https://www.argybute.gov.uk/find-out-more-about-participation-requests>

3.0 DETAIL

- 3.1 The Act requires the Council to publish an annual report setting out
- The number of requests received
 - The number of requests agreed and refused
 - The number of requests which resulted in changes to a public service provided by, or on behalf of, the public service authority
 - Any action taken by the public service authority to promote and support the use of participation requests
- 3.2 During the period 1 April 2019 to 31 March 2020, the Council received 1 participation requests, all were agreed and details can be found on our website at the link detailed at 2.2

Received From	Request Details	Outcome
Oban Community Council	An increase in the use of Council car parks and on-street bays. A decrease in	Discussion are ongoing to facilitate further discussion on how the aims of the group might

	inconsiderate parking around the town and a better flow of traffic as a result	be achieved.
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4.0 PROMOTION AND SUPPORT

- 4.1 Promotion and Support - All information relating to participation requests is available on the Council's website <https://www.argyll-bute.gov.uk/find-out-more-about-participation-requests> and internal guidance was prepared for services who might receive requests, this is available on the HUB <http://intranet.argyll-bute.gov.uk/participation-requests>
- 4.2 In addition, the Scottish Community Development Centre have been commissioned by the Scottish Government to develop resources for communities around Participation Requests. They held the first of three focus groups in Oban on the 25th March – the others had to be rescheduled due to Covid-19 and will take place in July. Participants attended from Oban, Mull and Campbeltown. The next two sessions will take place online.

5.0 CONCLUSION

- 5.1 The Council has met its obligations in relation to the implementation of part 3 of the Act.

6.0 IMPLICATIONS

- 6.1 Policy – Statutory requirement to publish annual report
6.2 Financial – None
6.3 Legal – Statutory requirement to publish an annual report
6.4 HR – None
6.5 Equalities – None
6.6 Risk – None
6.7 Customer Service – None

Douglas Hendry Executive Director with responsibility for Commercial Services.

Policy Lead – Cllr Robin Currie

Date of report – 17 June 2020

For further information contact: Iain Jackson, Governance and Risk Manager 01546 604188