

**COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015 – UPDATE – EXPRESSIONS
OF INTEREST / ASSET TRANSFER REQUESTS / 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 or be dealt with outwith the formal asset transfer process;
- The conclusion of the asset transfer request which was 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;
- 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.

RECOMMENDATIONS

It is recommended that:

1.2 The Policy and Resources Committee note the report.

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

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 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 or be dealt with outwith the formal asset transfer process;
- The conclusion of the asset transfer request which was 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;
- 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 note the report.

4. DETAIL

4.1 The Council operates processes in compliance with parts 3 and 5 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 fourteen (14) active Expressions of Interest (EOIs) relating to potential asset transfer requests (all active EOI's are listed in Appendix 1). In the current year 7 EOI's have been received 1 of which was subsequently withdrawn. To date, since January 2017, 68 EOIs have been received of which 51 have been resolved or withdrawn and 3 developed into Asset Transfer Requests. 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. There are currently no actions on the Council in relation to these.
- 4.3 Further, 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 formal asset transfer process.

ASSET TRANSFER REQUESTS

- 4.4 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 <https://www.argyll-bute.gov.uk/asset-transfer>.
- 4.5 In May 2020 the Best Value Assurance Report prepared by Audit Scotland noted that the council had made good progress with the Community Empowerment Act but that it needed to make the process easier to follow and accessible to all communities. The Asset Transfer Request process is statutory and therefore has limited options to make changes however the Asset Transfer Group have considered the Best Value Improvement Plan and have worked to develop the EOI process to simplify the approach for communities. This has also led to the development of a section of the website to promote assets for community participation which will be trialled during 2021/22 as part of the improvement plan actions.

KILMORY WOODLANDS – PART OF KILMORY HOME FARM

- 4.6 On 25 March 2019, Kilmory Woodlands 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. It should be noted that:
- The Asset Transfer Request was validated on 14 June 2019;
 - The Asset Transfer Group on 14 October 2019 and the Executive Director with responsibility for Commercial Services on 4th November 2019 agreed to recommend refusal which was confirmed by the Asset Transfer Review Sub Committee of the Policy and Resources Committee on 17 December 2019;
 - On 13th January 2020 Kilmory Woodlands submitted a request for the council to review its decision.
 - The Asset Transfer Group on 18 March 2020 and the Executive Director with responsibility for Commercial Services on 14 April 2020 agreed to reaffirm refusal which was confirmed by the Asset Transfer Review Sub Committee of the Policy and Resources Committee on 24 September 2020.

- Kilmory Woodlands did not appeal this decision to the Scottish Government and the council undertook to continue to work with the groups involved to explore other options to realise their aspirations.

PARTICIPATION REQUESTS

- 4.7 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.
- 4.8 In line with the requirements of the Act, the Council has put in place a procedure which allows consideration of any requests made by community bodies. The procedure and further information can be found on the Council's website at <https://www.argyll-bute.gov.uk/find-out-more-about-participation-requests>
- 4.9 During the period 1 April 2020 to 31 March 2021, the Council received one participation request, which was not submitted with enough information to validate it. Support was offered to the group to help submit it in a format that could be validated. The group have engaged with the council through an alternative process and decided not to progress with a Participation Request. During this period the council held two advertised sessions for community bodies to provide information on the Participation Request process.

ASSET TRANSFER AND PARTICIPATION REQUESTS - ANNUAL REPORTING REQUIREMENTS

- 4.10 Section 95 of the Community Empowerment (Scotland) Act 2015 requires the Council to publish an annual report setting out the numbers of asset transfer requests received and their outcomes.
- 4.11 The report also requires to set out what the Council has done to 1: promote the use of asset transfer requests and 2: support community bodies to make requests and can be found on the Council's asset transfer webpages here: <https://www.argyll-bute.gov.uk/asset-transfer>
- 4.12 Annual reports cover each year from 1 April to 31 March and must be published by 30 June.
- 4.13 Section 32 of the Act also requires the Council to publish an annual report in respect of Participation Requests 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; and
 - Any action taken by the public service authority to promote and support the use of participation requests.
- 4.14 Annual reports Participation Requests cover each year from 1 April to 31 March and must be published by 30 June. The relevant report has been published on the [Council's Participation webpages](#).

5. CONCLUSION

- 5.1 This report advises the Policy and Resources Committee 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 to date.
- 5.2 It is recommended that the Policy and Resources Committee note the contents of the report.

6. IMPLICATIONS

- 6.1 Policy – In line with council policy relating to Asset Transfer and Participation Request processes.
- 6.2 Financial – None from annual reporting.
- 6.3 Legal – In line with statutory requirements of the Community Empowerment (Scotland) Act 2015 and related Regulations.
- 6.4 HR – None.
- 6.5 Fairer Scotland Duty
 - 6.5.1 Equalities – Protected characteristics – None.
 - 6.5.2 Socio economic Duty – None.
 - 6.5.3 Islands – None
- 6.6 Risk – Failure to meet statutory requirements could have reputational implications for the council.
- 6.7 Customer Service – None.

Douglas Hendry - Executive Director with responsibility for Commercial Services
Date: 8th April 2021

Councillor Alastair Redman, Policy Lead for Business, Regeneration and Commercial Development.

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 Active 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. There are currently no actions on the Council in relation to these.

No	Date Received	Organisation	Asset	Summary of Expression of Interest	Current Status
1	20.05.19	Islay Development Initiative	Killarow Stables, Islay	Convert to flats for service workers and community uses.	Group's interest has expanded to looking at feasibility of developing the whole site. Main building is currently operational.
2	03.06.19	Argyll and Bute Third Sector Interface	Marriage Rooms Inveraray	Commercial lease of office.	Finalising agreement. Awaiting completion of repairs.
3	23.08.19	Mid Argyll Rugby Club	Pony Park show ground	Licence to use the space that will satisfy funders to invest in the site	Officers facilitating meetings with all parties to finalise agreement. Requires agreement of existing licence holder.
4	27.08.19	Adventure Oban Ltd	Land at Ganavan	Request to develop sports hub on site	Hub development will take time for group to obtain funding. Request for temporary structure received and being processed in the meantime.
5	20.11.19	Kirkmichael Community Development Group	Kirkmichael Park Changing Room	Request for formal lease to continue using the site	Offer under consideration as group developed business plan.
6	27.01.20	Barbara's Wildlife Rescue	No clear site been identified	Looking to build a rescue centre	Group trying to clarify possible site that would be suitable.
7	10.02.20	Sandbank Community Council	Former Teacher Centre Sandbank	No clear use of the asset has been identified	Limited response from the group to move EOI forward.
8	16.02.20	Colintraive & Glendaruel Development Trust	Site 10 Land at Glendaruel	Transfer of ownership of large section of land to build	Plans will take some time to develop. Initial lease for section of the land to

				community facilities	develop nature pathway being progressed.
9	29.05.20	South Islay Development	Ramsay Hall	Sub lease building from Live Argyll to open Nursery facilities	Group still investigating viability of plan.
10	29.05.20	South Islay Development	Port Ellen Toilets	Request to take ownership and add to their campsite development	Group are developing their plans following the initial EOI.
11	05.10.20	Rhu and Shandon Community Centre	Rhu Community Centre	Looking for formal lease to assist in applying for development funding for the building	Estates working with group to establish a manageable cost for the lease but to be consistent with other hall leases.
12	20.10.20	Carradale Public Toilets	East Kintyre Community Council	Wishing to work in partnership with the Council to reopen the facilities with a view to developing the asset in the future	Group working with Amenity Services to make a suitable arrangement.
13	18.12.20	Oban Harbour and Oban Times Slip	Oban Community Harbour Development Association	Lease of council assets at the site. Looking to work in partnership with the council to develop a harbour authority	Ongoing discussions with the service as the proposal has significant operational implications and support from ATG.
14	02.02.21	Kilfinan Community Forest	Tighnabruaich Primary School Grazings access	Servitude right of access to allow development of their adjacent site.	Request under consideration.