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**REPORT TO: POLICY & RESOURCES COMMITTEE ON 4 JUNE 2019**

**SUBJECT: COMMUNITY ASSET TRANSFERS – COMMON GOOD HALLS**

**BY: CORPORATE DIRECTOR (CORPORATE SERVICES)**

**1. REASON FOR REPORT**

- 1.1 This report brings forward proposals for expediting the statutory consultation requirements of section 104 of the Community Empowerment (Scotland) Act 2015 in relation to the potential transfer of three common good properties.
- 1.2 This report is submitted to committee in terms of section III (B) (16) of the council's Scheme of Administration relating to the management of common good and trust property and section III (B) (59) relating to the determination of community asset transfer requests.

**2. RECOMMENDATION**

- 2.1 **The committee is invited to grant delegated authority to the Corporate Director (Corporate Services) to undertake the statutory consultations required by section 104 of the Community Empowerment (Scotland) Act 2015 in respect of three town halls held on common good titles, being Buckie Fishermen's Hall, Findochty Town Hall and Forres Town Hall.**

**3. BACKGROUND**

- 3.1 On 11 April 2018, Moray Council approved transitional arrangements aimed at enabling successful asset transfers of seven town halls and community centres to the community (para 6 of the Minute refers). Three of these halls are held on common good titles, being Buckie Fishermen's Hall, Findochty Town Hall and Forres Town Hall.
- 3.2 Section 104 of the Community Empowerment (Scotland) Act 2015 (the Act) requires that before taking a decision to dispose of a common good property the council must first publish details of its proposals, notify certain specified bodies, and invite those bodies to make representations. Section 104 of the Act came into force on 27 June 2018. The transitional arrangements were not considered to be disposals requiring consultation.
- 3.3 Each of the three halls concerned has been leased to a community group under the approved transitional arrangements. These community groups are now preparing their formal asset transfer requests. Each group has the option

of making a request under Part 5 of the Act, in which case the council would be obliged to consider the request and proceed with a statutory consultation. Requests under Part 5 of the Act are seen as a last resort for community bodies that have been unable to otherwise reach agreement with an authority.

- 3.4 The council is not obliged to consider a request made outside of Part 5 of the Act. Consequently, in these circumstances officers would need to seek authority from this committee before proceeding to public consultation. The consultation required by section 104 of the Act is time consuming and the requirement to seek authority to proceed can add a significant delay before the request can be determined.
- 3.5 Granting delegated authority to officers to proceed to statutory consultation will reduce the time from receipt of a valid asset transfer request to its determination by up to 2 months. The results of the consultation will come back to committee for consideration before a final decision is made.
- 3.6 Under the proposed arrangements, statutory consultation would not commence until a valid asset transfer request is received from a viable community group.

#### **4. SUMMARY OF IMPLICATIONS**

##### **(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

Where the property is held on a common good title, the interests of the inhabitants of the former burgh will take precedence over the council's Corporate Plan and 10 Year Plan (LOIP).

##### **(b) Policy and Legal**

Common good assets are administered by the council in relation to each former burgh within its administrative area. Common good property is owned outright by the council by virtue of Section 222(2) of the Local Government (Scotland) Act 1973. In administering these assets, the council is required to have regard to the interests of the inhabitants of the area to which the common good formerly related.

Section 104 of the Community Empowerment (Scotland) Act 2015 requires that before taking any decision to dispose of a common good property the council must first publish details of the proposed disposal. In publishing these details, the council must:

- (i) notify the relevant community council and any community body that is known to have an interest in the property, and
- (ii) invite those bodies to make representations in respect of the proposals.

In deciding whether or not to dispose of the property, the council must have regard to any representations made, whether by those invited or by some other relevant party.

##### **(c) Financial Implications**

There are no financial implications arising directly from the recommendation in this report to delegate authority.

**(d) Risk Implications**

There are no risk implications arising directly from this report.

**(e) Staffing Implications**

Approving the recommendation will reduce the amount of staff time required to process asset transfer requests for these three properties.

**(f) Property**

There are no property implications arising directly from this report.

**(g) Equalities/Socio Economic Impact**

An Equalities Impact Assessment is not required as agreeing the recommendations would have no impact on service delivery.

**(h) Consultations**

Consultation has taken place with the Legal Services Manager, Paul Connor Principal Accountant, Lissa Rowan Committee Services Officer, and Equal Opportunities Officer. All comments are incorporated in the report.

Ward Members for Buckie and Forres have been made aware of this report and may make their views known at committee.

**5. CONCLUSION**

**5.1 Officers do not have authority to proceed to public consultation when a community body makes an asset transfer request for a property held on a common good title.**

**5.2 Granting delegated authority to the Corporate Director (Corporate Services) to proceed to statutory consultation will reduce the time from receipt of a valid request to its determination by up to 2 months.**

Author of Report: Andrew Gray, Asset Management Coordinator  
Background Papers: Held by author  
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