



REPORT TO: POLICY & RESOURCES COMMITTEE ON 4 JUNE 2019

SUBJECT: COMMUNITY ASSET TRANSFERS – ANNUAL REPORT

BY: CORPORATE DIRECTOR (CORPORATE SERVICES)

1. REASON FOR REPORT

1.1 This report meets the reporting requirements of section 95 of the Community Empowerment (Scotland) Act 2015 in relation to Community Asset Transfer requests for the period up to 31 March 2019.

1.2 This report is submitted to Committee in terms of section III (B) (59) of the Scheme of Administration relating to Community Asset Transfer requests.

2. RECOMMENDATION

2.1 The Committee is invited to consider and note that:

- (i) the asset transfer provisions contained in Part 5 of the Community Empowerment (Scotland) Act 2015 (the Act) do not apply to land held by the Council under a Public Trust;**
- (ii) during the year ending 31 March 2019 no valid asset transfer requests were made to the Council under Part 5 of the Act;**
- (iii) during the same period four asset transfer requests were dealt with outside of the provisions of the Act, details of which are set out in the Appendix to this report;**
- (iv) all community groups submitting a formal Expression of Interest in a Council property asset are signposted to both internal and external sources of additional guidance and support;**
- (v) a series of targeted training and workshop events have been delivered to community groups by the Community Support Unit over the reporting period; and,**
- (vi) in the event of a formal review request being received in respect of a decision made by this Committee in relation to an asset transfer request made under the Act, further training will be made available to Elected Members prior to its consideration.**

3. BACKGROUND

- 3.1 Community Asset Transfer (CAT) is concerned with the transfer of property assets held by public authorities to community-controlled bodies. Moray Council, like many other local authorities, has a long history of transferring assets to the community on a voluntary basis, either through the granting of long leases or the transfer of ownership.
- 3.2 Part 5 of the Community Empowerment (Scotland) Act 2015 (the Act), which gives community transfer bodies a right to request a transfer of land held by public authorities, came into force on 23 January 2017. Section 95 of the Act requires each relevant authority to publish an asset transfer report for the reporting year commencing 1 April by the end of June each year. This report covers the period 1 April 2018 to 31 March 2019.
- 3.3 The Act provides community-controlled bodies, known as community transfer bodies for the purposes of the Act, with various rights and protections. Notwithstanding these provisions, there is no requirement that all asset transfer requests be made under the Act. The formal guidance prepared by the Scottish Government for public authorities and community transfer bodies recognises that the rights provided by the Act can be used where agreement cannot otherwise be reached.
- 3.4 The legislation requires two areas to be covered in the report. The first relates to asset transfer requests received under the Act and decisions made in respect of these. The second relates to actions taken by the Council to promote the use of asset transfer requests and to support community transfer bodies in the making of such requests.
- 3.5 During the period covered by this report, the Council did not receive any valid asset transfer requests made under the Act. However, in the interests of openness and transparency, details of those requests received outside of the Act are included in this report.
- 3.6 One request was submitted to the Council under the Act. However, as it was made for a Public Trust property, it was progressed outwith the Act. This is because the Act only applies to the Council when acting in its capacity as a local authority. Where the Council Members act as Trustees under a Public Trust, they are not acting in the capacity of a local authority but in their capacity as Trustees under and in terms of the Trust. Consequently, the Act confers no rights on community-controlled bodies in these cases.
- 3.7 All of the other community bodies that made asset transfer requests during the reporting year were aware of the provisions of the Act but chose not to avail themselves of the rights and protections provided.
- 3.8 Officers dealt with forty-nine cases over the period 1 April 2018 to 31 March 2019. Of these, twenty-eight remained current at the end of the reporting period. These figures exclude enquiries that did not progress to a formal Expression of Interest. Details of those that progressed to a formal asset transfer request during the reporting period are included in the **Appendix**.
- 3.9 Following the Council's budget decision to make all of its town halls and two of its community centres available for transfer to the community, a series of workshops and drop-in sessions were delivered. These were targeted at

community groups who had shown interest in taking over responsibility for Council assets. Subsequently, a programme of more detailed workshops and training events customised to the type of facilities involved was put in place.

- 3.10 Temporary arrangements were agreed in respect of seven town halls and community centres to allow community groups an opportunity to take over responsibility for running the facilities while preparing a business case in support of a full asset transfer. Details of these are included in the **Appendix**.
- 3.11 Generally, all groups enquiring about CAT will be signposted to both internal and external sources of additional guidance and support. Once an Expression of Interest is received, an officer will meet with the group to assess their readiness to proceed and identify its development needs. Officer support for community groups is prioritised based on the following categories:
- (i) High – council initiatives, e.g. halls, community centres, public toilets.
 - (ii) Medium – community initiatives supported by operating service.
 - (iii) Low – community initiatives where operating service is neutral.
 - (iv) Unsupported – community initiatives where a transfer is likely to be detrimental to current or future council service delivery.
- 3.12 On 24 October 2018, training on determining asset transfer requests made under Part 5 of the Act was made available to Elected Members. This training was aimed at members of the Policy and Resources Committee. Due to the low numbers of requests expected under these provisions, a further training event for all elected Members aimed at determining review requests made under the Act will be scheduled prior to such a request being considered.

4. SUMMARY OF IMPLICATIONS

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

Where the property is a Common Good asset, the interests of the inhabitants of the former burgh will take precedence over the Council's Corporate Plan and 10 Year Plan (LOIP).

Where the property is held under a Public Trust, it is burdened with the trust purposes. Consequently, a request must be considered only in relation to the trust purposes.

Transferring assets to the community can support the 10 Year Plan (LOIP) aim of creating more resilient and sustainable communities with less need for universal services provided by the public sector. It can also be consistent with the Corporate Plan value of promoting community empowerment as a means of supporting communities take on more responsibility.

The Council's corporate priority of working towards a financially stable Council should be taken into consideration when dealing with requests for a transfer of an asset at less than market value.

(b) Policy and Legal

On 21 March 2017, the Policy and Resources Committee approved the following policy statement in relation to Community Asset Transfers (para 5 of the Minute refers).

“Moray Council recognises the important role that the transfer of property assets can play in empowering communities and strengthening their resilience. Where appropriate, the Council will use the transfer of assets to give more control to communities and local people, inspire them to find local solutions to community needs, and as a means of helping communities become more sustainable in the long term. In determining all asset transfer requests, the Council will have regard to the guidance provided by the Scottish Government in relation to asset transfer requests made under Part 5 of the Community Empowerment (Scotland) Act 2015, whether or not such requests are made under the provisions contained in the Act.”

Where assets are transferred at less than market value, such disposals must comply with the Disposal of Land by Local Authorities (Scotland) Regulations 2010, which requires that the Council must be satisfied that the proposed transfer is reasonable and that the disposal is likely to contribute to at least one of the following purposes:

- a) Economic Development,
- b) Regeneration,
- c) Public Health,
- d) Social Wellbeing, or
- e) Environmental Wellbeing.

Reasonableness is taken to imply that the requested discount is the minimum necessary to allow the project to proceed and that it is proportionate to the costs and benefits of the project.

(c) Financial Implications

There are no financial implications arising directly from this report.

(d) Risk Implications

There are no risk implications arising directly from this report. Risks will be minimised where all those involved in the process, including Elected Members have received appropriate training.

(e) Staffing Implications

There are no staffing implications arising directly from this report. Following the Council’s budget decision to make all of its town halls and two of its community centres available for transfer to the community, the Council agreed to create a temporary Community Support Officer post for up to two years, based in the Community Support Unit, to ensure that adequate support would be available to facilitate successful transfers.

(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, Democratic Services Manager, Community Support Manager, and Equal Opportunities Officer. All comments are incorporated in the report.

5. CONCLUSION

5.1 This report meets the reporting requirements of the Community Empowerment (Scotland) Act 2015 for the period from 1 April 2018 to 31 March 2019.

5.2 Although no asset transfer requests were made to the Council under the provisions contained in Part 5 of the Act during the reporting period, in the interests of openness and transparency, this report includes details of all requests progressed outside of these provisions.

5.3 The report provides details of the actions taken to promote the use of asset transfer requests, support communities in the making of such requests, and ensure that requests are determined appropriately.

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