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**REPORT TO: MORAY COUNCIL ON 17 JUNE 2020**

**SUBJECT: COMMUNITY ASSET TRANSFERS – ANNUAL REPORT**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND FINANCE)**

**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 dealt with during the period 1 April 2019 to 31 March 2020.
- 1.2 This report is submitted to the Council 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 consideration of Community Asset Transfer requests.

**2. RECOMMENDATION**

**2.1 The Council is invited to consider and note that:**

- (i) during the financial year ending 31 March 2020, eight valid asset transfer requests were made to the Council under Part 5 of the Community Empowerment (Scotland) Act 2015, details of which are set out in Appendix 1;**
- (ii) during the same period, six asset transfer requests made outside of the provisions of the Act were dealt with, details of which are set out in the Appendix 2;**
- (iii) 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;**
- (iv) a series of targeted training and workshop events were delivered to community groups by the Community Support Unit over the reporting period; and,**
- (v) in the event of a formal review request being received in respect of a decision made by the Council 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 came into force on 23 January 2017, gives eligible community-controlled bodies a right to make a request for the transfer of land held by public authorities. Section 95 of the Act requires each relevant authority to publish an asset transfer report for the reporting year by the end of June each year. This report covers the period 1 April 2019 to 31 March 2020.
- 3.3 The Act provides eligible 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 provide communities with a way forward 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. In the interests of openness and transparency, details of those requests received outside of the Act are also included in this report.
- 3.5 During the period covered by this report, the Council received eight valid asset transfer requests made under the provisions contained in the Act. Details of these are included in **Appendix 1**. One application has been approved for transfer. The others remain to be determined. Progress on these has slowed due to the Covid-19 lockdown. An extension of the decision period has been agreed with two groups. All of the community bodies that made asset transfer requests outwith the Act during the reporting year were aware of these provisions but chose not to avail themselves of the rights and protections provided. Those requests received outwith the Act are shown in **Appendix 2**.
- 3.6 Officers dealt with forty-four cases in total over the reporting period, covering both stages of the process – expressions of interest (stage 1) and asset transfer requests (stage 2). Of these cases, twenty-eight remained current at the end of the reporting period. These figures exclude numerous enquiries that did not progress to the formal expression of interest stage.
- 3.7 Following the Council's budget decision in February 2018 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 established, extending into 2019/20.

- 3.8 To ensure that adequate support would be available to facilitate successful transfers of the town halls and community centres, the Council agreed to create a temporary Community Support Officer post, based in the Community Support Unit. The temporary contract for this post ended in March 2020.
- 3.9 Temporary short terms lease arrangements were agreed during 2018/19 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. These arrangements are currently being extended and will remain in place while the community groups are being supported by the Council through the community asset transfer process. These arrangements are listed in **Appendix 2**.
- 3.10 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 the operating service is neutral.
  - (iv) Unsupported – community initiatives where a transfer is likely to be detrimental to current or future Council service delivery.
- 3.11 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. To date, no requests for a review under the Act have been made.

#### **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.

## **(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.

The Community Empowerment (Scotland) Act 2015 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.

## **(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.

**(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**

The Depute Chief Executive (Economy, Environment and Finance), Chief Financial Officer, Head of Economic Growth and Development, Head of Education Resources and Communities, Legal Services Manager, Democratic Services Manager, D. Brodie Community Support Officer, and Equal Opportunities Officer have been consulted and comments 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 2019 to 31 March 2020.**
- 5.2 Eight 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 also includes details of the six 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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