
Report to Clackmannanshire Council

Date of Meeting: 6 October 2022

**Subject: Governance Arrangements for Community Asset Transfer
Under the Community Empowerment (Scotland) Act 2015**

Report by: Senior Manager, Partnership and Performance

1.0 Purpose

- 1.1 To agree the change to the governance arrangements for applications for Community Asset Transfer requests made by a community transfer body under the Community Empowerment (Scotland) Act 2015.

2.0 Recommendations

Council is asked to:

- 2.1. Agree that the Planning Committee is given delegated authority to take responsibility for making decisions on applications for Community Asset Transfers (CAT) in terms of the Community Empowerment Act (Scotland) 2015 (the "Act");
- 2.2. Make consequential changes to the Scheme of Delegation and Standing Orders to reflect the decision taken at recommendation 2.1;
- 2.3. If 2.1 is agreed, to note that the membership of the Community Asset Transfer Review Body agreed by Council on 20 December 2018 is amended so that members who are also members of the Planning Committee would not be part of any review body. In addition, elected members in whose ward the asset is situated would also be exempt from the independent review; and
- 2.4. If 2.1 is agreed, to note that it is still anticipated that before the request is referred to the Planning Committee for decision that a lead officer would bring together officers with relevant responsibilities within the Council including property, legal and those with a focus on community development and community engagement to prepare a report for the Committee prior to decision.
- 2.5. If 2.1 is agreed, to note that training on the Act will be made available to all members as part of Member Training.

3.0 Considerations

- 3.1. At its meeting held on 20 December 2018, the Council agreed that decisions on applications for Community Asset Transfer (CAT) in terms of the Act were to be made by the Place Committee. However, as the Place Committee was disestablished at the Statutory Meeting of Clackmannanshire Council held on 25 May 2022, in accordance with the statutory guidance, the governance arrangements will have to be amended accordingly.
- 3.2. **Decision Making:** Officers have reviewed the alternatives and consider that the best option is that the Planning Committee are given delegated authority to take responsibility for this decision making. The Planning Committee is the best fit in terms of its links with the Place portfolio. It is however necessary for there to be an explicit delegation of the decision making function in relation to CAT requests.
- 3.3. **Reviewing Decisions:** The legislation requires that any review of a CAT decision must be carried out by elected members and cannot be delegated to officers. The decision taken by Council on 20 December 2018 established the Community Asset Transfer Review Body made up of elected members and any applications for review would be dealt with through a process similar to that of the Local Review Body. It should be noted that elected members who are also members of the decision making body would not be part of any review body. In addition, elected members in whose ward the asset is situated would also be exempt from the independent review.
- 3.4. It is still anticipated that before the request is referred to the Planning Committee for decision that a lead officer would bring together officers with relevant responsibilities within the Council including property, legal and those with a focus on community development and community engagement to prepare a report for the Committee prior to decision.
- 3.5. In recognising that the Council is recently established, that all members will be provided with training on the Act as part of Member Training.

4.0 Sustainability Implications

- 4.1. None.

5.0 Resource Implications

5.1. *Financial Details*

- 5.2. The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes

- 5.3. Finance have been consulted and have agreed the financial implications as set out in the report. Yes

5.4. *Staffing*

6.0 Exempt Reports

6.1. Is this report exempt? Yes (please detail the reasons for exemption below) No

7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box)

Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all
Our families; children and young people will have the best possible start in life
Women and girls will be confident and aspirational, and achieve their full potential
Our communities will be resilient and empowered so that they can thrive and flourish

(2) **Council Policies** (Please detail)

8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?
Yes No

9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

10.0 Appendices

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

None

11.0 Background Papers

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes (please list the documents below) No

- Report to Council 20 December 2018 - Governance Arrangements for Community Asset Transfer Under the Community Empowerment (Scotland) Act 2015
- Report to Council 25 May 2022 - The Council's Decision-Making Framework and Special Responsibility Allowances

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Approved by

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