

Corporate Policy and Strategy Committee

10am, Tuesday, 8 November 2016

Community Empowerment (Scotland) Act 2015: Update on Participation Requests and Asset Transfer Requests

Item number	7.6
Report number	
Executive/routine	
Wards	All

Executive Summary

This report provides an update on provisions contained within the Community Empowerment (Scotland) Act 2015 with specific reference to Parts 3 and 5 covering participation requests and asset transfer requests. It outlines the indicative timescale for the provisions coming into force, together with proposals for the Council's approach in preparing for these new duties.

Links

Coalition Pledges	P23 , P33
Council Priorities	CP4 , CP13
Single Outcome Agreement	SO4

Community Empowerment (Scotland) Act 2015: Update on Participation Requests and Asset Transfer Requests

1. Recommendations

It is recommended that the Corporate Policy and Strategy Committee:

- 1.1 note the indicative timescale for the duties under the Community Empowerment (Scotland) Act 2015 coming into force;
- 1.2 agree the proposed approach to addressing the duties in relation to participation requests and asset transfer requests; and
- 1.3 agree to refer the report to Communities and Neighbourhoods Committee on 29 November 2016.

2. Background

- 2.1 The Community Empowerment (Scotland) Act 2015 passed into law on 24 July 2015. The Act covers eleven topics, each of which come into force at different times subject to the passing of secondary legislation and the development of guidance.
- 2.2 The Act aims to “empower community bodies through the ownership of land and buildings and by strengthening their voices in decisions about public services”.
- 2.3 The provisions within the Act will provide further impetus to the already established practice in the City of involving citizens in improving outcomes and influencing decision making processes, and contribute to the delivery of the Council’s Business Plan.

3. Main report

- 3.1 The Act places a new duty on public bodies in respect of participation requests which provide community bodies with a mechanism to put forward their ideas for how services might be changed to improve outcomes. They are designed to encourage dialogue between public bodies and the community and to foster the collaborative approach which is core to public sector reform. Participation requests are not intended to replace but to strengthen and build on existing channels of participation. Public bodies are required to agree to a request unless there are reasonable grounds for refusal. A community group to request to improve a service does not need to be constituted but must be community led, with most members

drawn from the community, with an open membership and work for the benefit of the community. Community councils are included.

- 3.2 Part 5 of the Act sets out the duty in respect of asset transfer requests and covers land and buildings owned by public bodies with community bodies being able to apply to buy, lease, manage or use these assets. As with participation requests, requests must be granted unless there are reasonable grounds not to. As part of the duty, the Council will be required to publish and maintain a list of assets it owns or leases as these can be subject to a transfer request. Under the duty, the definition of a community body differs depending on the nature of the transfer request. Where it relates to ownership the body must be a company limited by guarantee, or similarly constituted body. Unlike with participation requests, the legislation for asset transfer requests includes the right of appeal to Scottish Ministers.
- 3.3 An [Interim Community Asset Transfer Policy](#) was agreed by Communities and Neighbourhoods Committee on 24 November 2015 in advance of the release of the ministerial guidance and consultation on the duties. The interim policy was co-produced with third sector and community planning partners and covers the requirements for initial and full submissions from community bodies, ten key principles for transfer and the use of leases. Approaches have been received from community bodies noting interest in 12 Council owned properties to date and three of these have progressed to Stage 1 submissions as detailed in the interim policy. A register of notes of interest is being maintained by Estates Services, and work on preferred methods and options for producing and publishing a register of Council properties is being progressed in line with the new legislative requirements. As the interim policy was approved ahead of the legislation coming into force, it was recognised that further work would be required to incorporate new requirements and to make any necessary practice changes following an evaluation of the operation of the interim policy.
- 3.4 The [Council response to the Scottish Government consultation](#) on the draft regulations (between March and June 2016), and agreed by Corporate Policy and Strategy on 14 June 2016, supported the aims of the Act whilst identifying a number of areas where further detail and potential revision would be welcomed. The findings from this consultation are currently being used by the Scottish Government to inform the production of the final regulations, due to be set before Parliament in early November 2016, and preparation of the statutory guidance, with the new duties proposed to come into force in early January 2017.
- 3.5 Whilst the final regulations and statutory guidance are not available, work can still be progressed in preparation of the duties coming into force. On this basis, it is proposed to establish an Officer Working Group to develop and implement a programme of work, which in addition to the areas identified above in relation to asset transfers, will comprise a number of elements including:
- (i) Governance framework for participation requests including consideration of whether any changes are required to the Committee Terms of Reference and

Delegated Functions, and the Scheme of Delegation to Officers in determining whether to accept or refuse requests.

- (ii) Policy for managing participation requests which is transparent, consistent and accessible. This includes working with partners to ensure relevant processes are in place for dealing with requests where the outcome relates to more than one public body.
 - (iii) Design of a programme of promotion and support tailored to reflect a range of stakeholders, including staff, communities and elected members. The need to provide communities with information and support is identified within the legislation, with public bodies in relation to participation requests required to report on how it has done this annually. In developing the programme particular regard needs to be given to establishing approaches to ensure marginalised groups and those least likely to participate are reached.
 - (iv) Performance framework arrangements recognising the specific requirement in relation to participation requests to record and report on progress and to publish an annual report.
- 3.6 Progress on the delivery of the programme of work will be the subject of future reports to Committee.

4. Measures of success

- 4.1 Specific measures of success are yet to be identified but might include (i) the number of assets transferred to the community on a sustainable basis; (ii) the number of participation requests dealt with that lead to improved services and citizen satisfaction; or (iii) publication of land and assets register.

5. Financial impact

- 5.1 Specific financial and resource impacts remain to be quantified as this depends on the extent to which communities use the powers available to them under the legislation.
- 5.2 Resources for the operation of the Interim Community Asset Transfer Policy are contained within existing service area budgets however it should be noted that the staffing resources required to progress a community asset transfer significantly exceed the staffing resources required to progress disposal of an asset on the open market. There are also resource implications arising from aborted requests.

6. Risk, policy, compliance and governance impact

- 6.1 Requests will be monitored for adherence to timescale, refusals, withdrawals and outcomes. There are potential local and national reputational risks by failing to meet timescales and by refusing a high proportion of requests.

7. Equalities impact

- 7.1 The Interim Community Asset Transfer Policy assists the Council to deliver key equality and rights outcomes, and to meet the Equality Act 2010 public sector duties to eliminate unlawful discrimination, harassment and victimisation and advance equality of opportunity and foster good relations. An Equalities and Rights Impact Assessment was undertaken in regard to the establishment of the interim policy and no specific concerns were highlighted as a result.

8. Sustainability impact

- 8.1 It is hoped that through local democratic arrangements and the transfer of under-used assets to community ownership that the overall sustainability of services and assets in the city can be improved whilst still achieving a capital receipt on the disposal of surplus assets.

9. Consultation and engagement

- 9.1 The Interim Community Asset Transfer Policy was co-produced with third sector and community planning partners, and included the establishment of an Asset Transfer Policy Co-Production Steering Group.
- 9.2 Engagement with stakeholders will form a key element of the forward work programme.

10. Background reading/external references

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11. Links

Coalition Pledges	P23 – Identify unused Council premises to offer on short low-cost lets to small businesses, community groups and other interested parties P33 – Strengthen Neighbourhood Partnerships and further involve local people in decisions on how Council resources are used
Council Priorities	CP4 – Improve quality of life – Safe and empowered communities CP13 – Transformation, workforce, citizen and partner engagement, budget
Single Outcome Agreement Appendices	SO4 – Edinburgh’s communities are safer and have improved physical and social fabric