
Report To:	Education & Communities Committee	Date:	19 March 2024
Report By:	Ruth Binks Corporate Director Education, Communities & Organisational Development	Report No:	EDUCOM/16/24/TM
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Subject:	Update on Inverclyde Council's Approach to Asset Transfer		

1.0 PURPOSE AND SUMMARY

- 1.1 For Decision For Information/Noting
- 1.2 Following a request by the Education and Communities Committee in January 2024, this report provides the Committee with a further update on the Asset Transfer Process in Inverclyde.
- 1.3 The report provides background to the Community Empowerment (Scotland) Act 2015 and how the Council responds to the Act through the work of the Asset Transfer Working Group (ATWG).

2.0 RECOMMENDATIONS

- 2.1 It is recommended that the Education and Communities Committee:
- notes the content of the report; and
 - agrees to the submission of an Asset Transfer Annual Report to Committee at the end of 2024/2025.

Ruth Binks
Corporate Director
Education, Communities and Organisational Development

3.0 BACKGROUND AND CONTEXT

- 3.1 The Community Empowerment (Scotland) Act 2015 (the 2015 Act) provides a formal mechanism for certain community bodies to submit applications to various types of public body, including the Council, to purchase, lease, manage or simply use land and buildings belonging to that public body. The application to do this is known as an asset transfer request. If a request is submitted formally in terms of the 2015 Act, there is a deadline on public bodies to determine that application within six months of the valid application date. Councils were however able to and progress community asset transfers prior to the 2015 Act, and still can without the use of the formal 2015 Act procedure. This less formal approach may suit some community groups better. When officers discuss asset transfer it should therefore be noted this can include both formal and informal requests.
- 3.2 The term 'asset transfer' should be viewed as a spectrum of types of tenure, which can range from simple agreements regarding management or use; a short or long-term lease being put in place; or it can mean outright ownership of land or buildings transferring from the public body to the applicant. The applicant must be a considered as a community transfer body for a formal application to be considered under the 2015 Act, with additional requirements placed on community transfer bodies seeking transfer of ownership.
- 3.3 A number of factors are taken into consideration by both the community body and the Council when determining the most appropriate type of asset transfer. For example, if a community body is less experienced, a short-term lease arrangement may be the most appropriate form of asset transfer as this reduces the risk to the group. Where an asset belonging to the Council is of strategic or historical significance; is subject to specific title or other legal restrictions; or where there is a need to secure a community benefit promised by and justifying the transfer, a long-term lease may be the most appropriate way forward. There is sufficient flexibility within the asset transfer approach to move from a short-term lease, to longer term and then potentially to outright ownership, should a community group wish to pursue this approach. There are of course conditions in accordance with the 2015 Act, which the group would need to meet at each stage, but the Council always aims to work positively with each group to assist them in their asset transfer 'journey'.
- 3.4 For some community bodies, outright ownership may be the most appropriate form of asset transfer from the outset. The benefit of this approach would be that groups might be able to access longer term external funding, loans or investment if the asset was under their ownership. Outright ownership does transfer the longer-term risk of maintaining an asset from the Council to the community body. It is therefore of critical importance that a community body is well-established, sustainable, has the support of its community, and its constitution and business plan are robust. And as has been discussed above, there are additional groups seeking ownership must meet, meaning not all community transfer bodies will be able to request ownership under the 2015 Act.
- 3.5 Nationally, an annual report on asset transfers is published by the Scottish Government. A link to the most recent report can be found here [1 \(www.gov.scot\)](http://www.gov.scot)
- 3.6 Appendix 1 of this report provides an extract from the report referred to in 3.5 and shows the total number of assets which have been transferred in each Council area up until 2022. The asset transfers shown here refer to assets which have transferred to outright ownership. However, as each Council area has differing numbers and types of land and properties, of differing ages and conditions and tenures, comparisons in 'performance' between Councils and other public bodies is difficult. Because of the historical data in the Appendix and different ways of recording over time then a note of caution should be taken over the currency and accuracy of the total data. The most recent data will be more reliable than older data.

4.0 ELIGIBILITY REQUIREMENTS FOR ASSET TRANSFER

- 4.1 For a community body to be eligible for any kind of asset transfer it needs to be considered as a 'community transfer body' under The Community Empowerment (Scotland) Act 2015. The community can be a geographic community such as a village, area or part of a town; or a community of interest, such as a group that shares a characteristic or interest. It is important to note that a distinction is made between which type of body can request an asset transfer on the basis of a lease or management agreement; and one that is for ownership. The latter placing additional conditions for eligibility.
- 4.2 To be eligible for an asset transfer, the community group needs to be a community-controlled body which has a written constitution which includes the following:
- A definition of the community to which the body relates;
 - Provision that the majority of the members of the body consists of members of that community;
 - Provision that the members of the body, who consist of members of that community, have control of the body;
 - Provision that membership of the body is open to any member of that community;
 - A statement of the body's aims and purposes, including the promotion of a benefit for that community; and
 - Provision that any surplus funds or assets of the body are to be applied for the benefit of that community.
- 4.3 To be eligible for an application to transfer ownership of an asset, there are additional requirements placed on that community body. The community body must have not fewer than 20 members, and also be incorporated as:
- a Scottish Charitable Incorporated Organisation (SCIO);
 - a Community Benefit Society (BenCom); or
 - a Company whose articles of association must provide for, amongst other things, upon winding up that the asset and its liabilities transfer to another community transfer body or charity.

5.0 INVERCLYDE COUNCIL'S APPROACH

- 5.1 The Council has, in line with the Community Empowerment Act, a register of all its assets which is published on the Council's website. A link to this register can be found <https://www.inverclyde.gov.uk/landregister> .
- 5.2 In 2022, an Asset Transfer Working Group (ATWG) was established to oversee the asset transfer process. This is chaired by the Head of Culture, Communities and Educational Resources with current asset transfer work being reported regularly to the Education and Communities Committee. The group has representation from Communities, Property Services, Legal and Democratic Services and Finance Services. The final decision around an asset transfer is formally considered by the Environment and Regeneration Committee with recommendations being made by the ATWG.
- 5.3 The ATWG works from a starting point of a presumption of transfer, meaning that it will always work in a manner that will aim to achieve a transfer of an asset that meets a community group's needs and aspirations. It co-ordinates the information on the Council's website and ensures that there is a single point of contact for community organisations interested in, or in the process of going through, the asset transfer process. The 2015 Act sets out the matters which must be considered when deciding on a request. Where a discount on any fee, rent or price is being

discussed, the Disposal of Land by Local Authorities (Scotland) Regulations 2010 must be complied with, which set out matters that must be considered when determining whether or not such discount is reasonable or permissible.

- 5.4 Asset transfer requests can be made informally or formally with the decision to make a formal or informal application being the decision of the applicant. The benefit of an informal approach is that officers are able to work with the group to ensure it meets the conditions detailed at paragraphs 4.2 and 4.3 above. In addition, should a group make a formal application and not meet any of the conditions above, the application must be refused.
- 5.5 Applications and or enquiries for asset transfers are made through the Asset Transfer area of the Council's website. In addition, informal approaches are sometimes made by community groups directly to services which are then considered at the monthly meeting of the Asset Transfer Working Group. Since the establishment of the ATWG, response times and support to community groups continues to improve with officers actively working with community groups at an earlier stage to support them with their applications.
- 5.6 The application and evaluation process can be complex and time-consuming at times with delays often being outwith the Council's control. In addition the scope of applications can often change and evolve over time as community groups evolve their own plans. Officers will always work positively with community groups to ensure that their plans for asset transfer are sustainable. Officers do not express a preference for either a lease or ownership but will have a role in ensuring groups are fully aware of the advantages and disadvantages of each tenure option. Ultimately, the decision on the type of tenure the group is applying for rests with the group and its business plan will reflect this.
- 5.7 Reporting in relation to asset transfers continues to evolve and improve. The service is keen that the Education and Communities Committee is regularly kept up to date with the asset transfer process. To support this, elected member briefings on the asset transfer process were held in May 2022 and again in January 2023. An update on asset transfers is also provided as part of the Communities Capital Report which is submitted to every cycle of the Education and Communities Committee. In order to continue our efforts in improving transparency of the process, the Council's website is kept up-to-date with assets which are subject to community interest. This is also provided in each committee report to elected members. At the end of 2024/25, an additional annual report is planned which will show, amongst other things, the number of days it has taken from application to determination. This should provide members, on an annual basis, with additional assurance that the ATWG continues to pro-actively support community bodies in the asset transfer process.
- 5.8 In the past few years, the following assets have been subject to asset transfer:

Name of Asset	Land or Land and Building	Date of Transfer	Application Type Informal / Formal	Tenure Lease / Management Agreement / Ownership
14 East Blackhall Street, Greenock	Land and Building	1/11/2021	Formal	Lease
Craig End Resource Centre	Land and Building	1/7/2020	Informal	Transfer of Ownership
Coppermine	Land and Building	15/11/21	Informal	Lease
Bank Street Hub	Land and Building		Informal	Transfer of Ownership (via excambion)
Broomhill Hub	Land and Building	24/3/2016	Informal	Ground Lease
Caddlehill Allotments	Land	10/3/2023	Informal	Lease
Lady Alice Bowling Club	Land and Building	1/11/2021	Informal	Lease

5.9 Current assets which are being considered for potential asset transfer are detailed in the table below. This table also forms part of the Communities Capital Report to the Education and Communities Committee.

Name of Asset	Asset Type – Land / Land and Building	Application Type Informal / Formal	Tenure Lease / Management Agreement / Ownership
Gourock Park Walled Garden	Land	Formal	Proposed Lease
Wellington Allotments	Land	Informal	Proposed Lease
KGV Bowling Club	Bowling pavilion and greens	Informal	Proposed Lease

6.0 CONCLUSION

6.1 Inverclyde Council's approach to Asset Transfer is in line with the requirements of The Community Empowerment (Scotland) Act 2015 and, in addition, through the establishment of the ATWG, support and guidance is provided to community groups who are interested in, or who are advancing applications for, asset transfers.

6.2 The Council's approach to asset transfer continues to improve and evolve and the work of the ATWG is likely to become more critical as the Council continues to consider the most efficient and effective use of its buildings and land in the coming years.

7.0 IMPLICATIONS

7.1 The table below shows whether risks and implications apply if the recommendation(s) is(are) agreed:

SUBJECT	YES	NO
Financial		X
Legal/Risk	X	
Human Resources		X
Strategic (Partnership Plan/Council Plan)	X	
Equalities, Fairer Scotland Duty & Children/Young People's Rights & Wellbeing		X
Environmental & Sustainability		X
Data Protection		X

7.2 Finance

One off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report	Virement From	Other Comments
N/A					

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (If Applicable)	Other Comments
N/A					

7.3 Legal / Risk

- (a) The Community Empowerment (Scotland) Act 2015 (the 2015 Act), and regulations issued under that 2015 Act set out:
- the formal Asset Transfer Request process;
 - the types of body who may make a formal Asset Transfer Request;
 - additional requirements on bodies seeking transfer of outright ownership;
 - matters which the Council must consider when determining such requests; and
 - the timeframe in which such requests must be determined.
- (b) Transfer of an asset by the Council to a community body was competent prior to the 2015 Act and can still be progressed by the Council outwith the 2015 Act process, subject to the comments at (c) below.
- (c) Whether or not proceeding under the 2015 Act, where a transfer proposes a discounted (as the case may be) fee, rent or price, the Council must comply with the requirements of the Disposal of Land by Local Authorities (Scotland) Regulations 2010, which sets out the matters which must be considered when determining such discount is reasonable and permitted.

7.4 Human Resources

N/A

7.5 Strategic

A continued review of the Council's asset base is part of the Council Plan.

7.6 Equalities, Fairer Scotland Duty & Children/Young People

N/A

(a) Equalities

This report has been considered under the Corporate Equalities Impact Assessment (EqIA) process with the following outcome:

	YES – Assessed as relevant and an EqIA is required.
x	NO – This report does not introduce a new policy, function or strategy or recommend a substantive change to an existing policy, function or strategy. Therefore, assessed as not relevant and no EqIA is required. Provide any other relevant reasons why an EqIA is not necessary/screening statement.

(b) Fairer Scotland Duty

Has there been active consideration of how this report's recommendations reduce inequalities of outcome?

	YES – A written statement showing how this report's recommendations reduce inequalities of outcome caused by socio-economic disadvantage has been completed.
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x

NO – Assessed as not relevant under the Fairer Scotland Duty for the following reasons: Provide reasons why the report has been assessed as not relevant.

(c) Children and Young People

Has a Children’s Rights and Wellbeing Impact Assessment been carried out?

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YES – Assessed as relevant and a CRWIA is required.

x

NO – Assessed as not relevant as this report does not involve a new policy, function or strategy or recommends a substantive change to an existing policy, function or strategy which will have an impact on children’s rights.

7.7 Environmental/Sustainability

Has a Strategic Environmental Assessment been carried out?

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YES – assessed as relevant and a Strategic Environmental Assessment is required.

x

NO – This report does not propose or seek approval for a plan, policy, programme, strategy or document which is like to have significant environmental effects, if implemented.

7.8 Data Protection

Has a Data Protection Impact Assessment been carried out?

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YES – This report involves data processing which may result in a high risk to the rights and freedoms of individuals.

x

NO – Assessed as not relevant as this report does not involve data processing which may result in a high risk to the rights and freedoms of individuals.

8.0 CONSULTATION

8.1 N/A.

9.0 BACKGROUND PAPERS

9.1 N/A.

APPENDIX 1A

Figure 9: Number of Assets in Community Ownership by Local Authority as at December 2022

This worksheet contains one table.

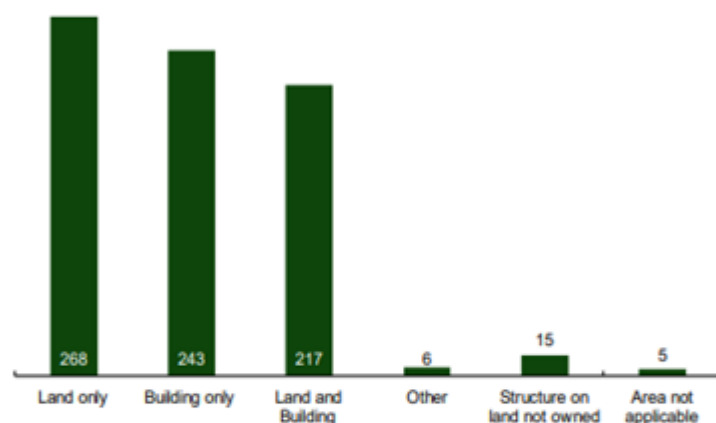
Local Authority	Number of Assets
Aberdeen City	4
Aberdeenshire	34
Angus	3
Argyll and Bute	97
City of Edinburgh	8
Clackmannanshire	1
Dumfries and Galloway	49
Dundee City	1
East Ayrshire	17
East Dunbartonshire	1
East Lothian	6
East Renfrewshire	1
Falkirk	0
Fife	27
Glasgow City	19
Highland	177
Inverclyde	6
Midlothian	6
Moray	44
Na h-Eileanan Siar	69
North Ayrshire	17
North Lanarkshire	7
Orkney Islands	39
Perth and Kinross	18
Renfrewshire	2
Scottish Borders	26
Shetland Islands	26
South Ayrshire	7
South Lanarkshire	11
Stirling	21
West Dunbartonshire	5
West Lothian	5
Scotland	754

Assets by Type, 2022

Community owned assets which are exclusively land: 268

Figure 7: Almost all community owned assets are land and/or buildings

The number of community owned assets recorded in Scotland as of 31 December 2022 by asset type



The figure is available in the [Figures](#) supporting document.

Of the 16 assets which came into community ownership in 2022, eight were land and buildings, four were buildings, three land only and one was a structure on land not owned.

There are 268 (36%) land only community owned asset, with just under a third (243) just buildings and 217 land and buildings.

Most assets will fall into the category of land, buildings or both. There are six assets categorised as 'Other' which are either piers, slipways, reservoirs or water intakes. The five non-land based assets are a ferry, a small boat, a pontoon for berthing watercraft, a single car transporter and salmon fishing rights for a river.

Community Ownership in Scotland

Year	Figure
2022	754
2021	738
2020	685
2019	658
2018	611
2017	571