
Report To:	Policy and Resources Committee	Date:	14 November 2017
Report By:	Wilma Bain, Corporate Director Education, Communities and Organisational Development	Report No:	PR/18/17/MMcK
Contact Officer:	Miriam McKenna, Corporate Policy and Partnership Manager	Contact No:	01475 712042
Subject:	Community Empowerment Act Implementation		

1.0 PURPOSE

1.1 The purpose of this report is to update the Policy and Resources Committee on progress towards the implementation of the Community Empowerment (Scotland) Act 2015, including the preparation of Inverclyde Council guidance on Part 3 of the Act 'Participation Requests' and Part 5 'Community Asset Transfer'. This report follows on from an update report which was submitted to the Policy and Resources Committee on 21 March 2017.

2.0 SUMMARY

2.1 The Community Empowerment (Scotland) Act 2015 was enacted in July 2015, however many parts of the Act have been introduced over the last year as guidance and regulations have been published.

2.2 In summary, the main provisions of the Act are:

- National Outcomes
- Community Planning
- Participation Requests
- Taking over assets
- Delegation of Forestry Commissioners' functions
- Supporter Involvement in Football clubs
- Common Good
- Allotments
- Participation in Public Decision-Making
- Non Domestic Rates

2.3 Set out in paragraph 4 of this report is a summary of progress in implementing the community planning, participation requests, taking over assets and participation in public decision making provisions.

2.4 Guidance on Participation Requests and Asset Transfer Requests has been developed to assist groups or communities wishing to make a request. The guidance is set out for the consideration of Members in Appendix 1 and Appendix 2 respectively. This guidance is designed to complement, not replace, the national guidance produced by the Scottish Government.

2.5 The Council's position in regard to other provisions of the Act remains as was reported to this Committee in March 2017.

3.0 RECOMMENDATIONS

3.1 It is recommended that the Policy and Resources Committee:

- a. Note the progress made in delivering the requirements of the Community Empowerment Act;
- b. Approve the Guidance on submitting a Participation Request as set out in Appendix 1;
- c. Approve the Guidance on submitting a request for Community Asset Transfer as set out in Appendix 2;
- d. Note the Community Choices Budgeting Framework set out in Appendix 3;
- e. Delegate to the Heads of Legal and Property and Safer and Inclusive Communities to keep the guidance under review and make such changes as they, in consultation with the Chief Financial Officer, consider necessary.

Wilma Bain, Corporate Director

Education, Communities and Organisational Development

4.0 BACKGROUND

4.1 The Community Empowerment (Scotland) Act as passed is:

'An Act of the Scottish Parliament to make provision about national outcomes; to confer functions on certain persons in relation to services provided by, and assets of, certain public bodies; to amend parts 2 and 3 of the Land Reform (Scotland) Act 2003; to enable certain bodies to buy abandoned, neglected or detrimental land; to amend section 7C of the Forestry Act 1967; to enable the Scottish Ministers to make provision about supporters' involvement in and ownership of football clubs; to make provision for registers of common good property and about disposal and use of such property; to restate and amend the law on allotments; to enable participation in decision-making by specified persons having public functions; to enable local authorities to reduce or remit non-domestic rates; and for connected purposes.'

4.2 Inverclyde Council has been working to deliver on the main provisions of the Act as they have been enacted and as guidance has been published.

4.3 **Part 2: Community Planning**

The guidance on Community Planning was published on 20 December 2016, coming into force on that date. Similarly, the sole regulation regarding locality planning also came into force that day, which describes the localities into which CPPs must divide local authority areas for the purpose of carrying out locality planning. It has 2 criteria that such a locality be either an area within the local authority with a population that does not exceed 30,000 or an electoral ward. The guidance can be found at <http://www.gov.scot/Publications/2016/12/8801>.

4.4 The main components of the community planning element that are being developed by the Inverclyde Alliance are the Local Outcomes Improvement Plan (LOIP) and the Locality Plans. Localities have been agreed across all the partners and community engagement, using a survey called 'Our Place Our Future', took place during May and June 2017. 1,310 people completed the survey, with 83 young people responding to an adapted survey featuring some of the same questions. This represents 1.7% of the total population of Inverclyde and is the highest number of respondents Inverclyde Alliance has ever had to an engagement process. The information from the Our Place Our Future survey, along with a Strategic Needs Assessment using data about Inverclyde, was used to draft the new LOIP for Inverclyde and is being used in the three asset based Locality Plans. The LOIP is currently out for engagement as a consultative draft and the locality plans are developing, with local strategic needs analysis and community engagement feedback gathered. Assets are currently being mapped to each area and then this information will be discussed with community groups in Port Glasgow, Greenock East and Central and Greenock South and South West to agree the main priorities and what actions will need to be taken by communities and services.

4.5 **Part 3: Participation Requests**

This part of the Act provides a mechanism for community bodies to put forward their ideas for how services could be changed to improve outcomes for their community. This could include community bodies taking on delivery of services. The legislation, which came into force on 1 April 2017, enables communities to request to participate in decisions and processes which are aimed at improving outcomes. The legislation pertaining to Part 3 of the Act can be found here: [Community Empowerment Act 2015, Part 3 \(http://www.legislation.gov.uk/asp/2015/6/part/3\)](http://www.legislation.gov.uk/asp/2015/6/part/3)

4.6 The Scottish Government has published national guidance for both public service authorities and community bodies to use. Public service authorities are required to have regard to this guidance in carrying out their functions relating to participation requests. Similarly, a community body looking to make a participation request is required to follow the national guidance and statutory processes. The guidance can be found here: [Participation Requests Guidance \(http://www.gov.scot/Topics/People/engage/ParticipationRequests/ParticipationRequestsGuidance\)](http://www.gov.scot/Topics/People/engage/ParticipationRequests/ParticipationRequestsGuidance)

- 4.7 Appendix 1 sets out draft guidance to be used by Inverclyde Council and local community bodies when making a participation request.
- 4.8 Audit Scotland made a recommendation in the Best Value Assurance Report for Inverclyde to further develop the capacity of communities, particularly around raising awareness of possibilities for communities and reviewing funding and staffing required to work with communities. There will be a requirement to support communities to enable them to take advantage of the participation request process and community asset transfer process.

4.9 **Part 5: Asset Transfer Requests**

This part of the Act provides community bodies with a right to request to purchase, lease, manage or use land and buildings belonging to local authorities, Scottish public bodies or Scottish Ministers. There will be a presumption of agreement to requests, unless there are reasonable grounds for refusal. Reducing inequalities will be a factor for public authorities to consider when making a decision. Relevant authorities will be required to create and maintain a register of land which they will make available to the public.

This part of the Act came into force on 23 January 2017. Inverclyde Council has published its register of land on the Council's website here <http://www.inverclyde.gov.uk/council-and-government/register-of-land>. Legal and Property Services and Safer and Inclusive Communities have developed asset transfer guidance and how this will be managed by the Council. Draft guidance for communities on how to make an Asset Transfer Request is provided in Appendix 2.

- 4.10 Asset transfer is nothing new for public bodies and Inverclyde Council has been involved in transferring assets to communities over the years, including Kilmacolm New Community Centre, Inverclyde Community Centre, the Multi Use Games Area at Woodhall and the Mearns Centre to Inverclyde Association for Mental Health.

4.11 **Part 10: Participation in Public Decision-Making**

This is a new regulation-making power enabling Ministers to require Scottish public authorities to promote and facilitate the participation of members of the public in the decisions and activities of the authority, including in the allocation of its resources. Involving people and communities in making decisions helps build community capacity and also helps the public sector identify local needs and priorities and target budgets more effectively.

- 4.12 In their 2016 Election Manifesto, the SNP made a commitment to build on the Community Empowerment Act to set "councils a target of having at least 1% of their budget subject to Community Choices budgeting by 2020/21." The Scottish Government has implemented Community Choices, better known globally as participatory budgeting (PB), as recognised as a way for local people to have a direct say in how public funds are used to address local needs. It is a method which when used alongside other models of community engagement and empowerment forms a wider strategic approach to advancing participatory democracy and strengthening local representative democracy.
- 4.13 Ministers and CoSLA came to an agreement that a framework for the 1% was required, and that there was an opportunity for local government to help shape and develop the target into one that is workable and not burdensome. The proposed framework defines Community Choices as the term used in Scotland for PB and aims to set it as the enabler for active participation of citizens in local budget decision making. It sets out the Scottish Government's expectation that elected members, senior officers, civil society and local communities will use PB to go beyond the current arrangements for consultation and engagement. In setting out this expectation it is also clear that how local authorities approach Community Choices / PB is for them to decide at a local level.
- 4.14 The Framework was agreed at the CoSLA Leaders Meeting on Friday 27 October and is attached at Appendix 3. The emphasis of the framework is a focus on local decision making

and ensuring that there is flexibility for all local authorities to work towards embedding participatory budgeting as part of their funding and policy decision making processes. There is an agreement to progress from a grants making model to a mainstream version of PB that is both effective and meaningful. COSLA's membership is committed to working with the Scottish Government to deliver the shared vision of communities having greater participation in local affairs that affect them. Community Choices / participatory budgeting is one method, which can be used together with other models of community engagement, to strengthen local democracy and the challenges faced by the public sector more broadly.

- 4.15 A workshop was held for Members regarding participatory budgeting (PB) on 16 March and a report on PB was considered at the Alliance Board on 19 June. Engagement is ongoing around participatory budgeting via a cluster meeting to be held with other local authorities on 9 November.
- 4.16 A report in March of this year to the Policy and Resources Committee set out progress against the remaining provisions of the Act, and the Council's position remains the same in regard to these provisions at this time.

5.0 NEXT STEPS

- 5.1 As further guidance and regulations are published the Council will continue to identify action to be taken to meet the requirements of the Act.

6.0 IMPLICATIONS

6.1 Financial Implications - One off Costs

Cost Centre	Budget Heading	Budget Year	Proposed Spend this Report	Virement From	Other Comments
n/a					

Financial Implications - Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (if applicable)	Other Comments
n/a					

- 6.2 Human Resources: none at present
- 6.3 Legal: none at present
- 6.4 Equalities: none at present
- 6.5 Repopulation: none at present

7.0 CONSULTATIONS

- 7.1 N/a

8.0 CONCLUSIONS

- 8.1 Officers of the Council are continuing to keep a watching brief on the guidance and regulations being issued by the Scottish Government and will develop services accordingly.

9.0 LIST OF BACKGROUND PAPERS

9.1 <http://www.gov.scot/Topics/People/engage/CommEmpowerBill>

**Guidance on submitting a Participation Request
Under the Community Empowerment (Scotland) Act 2015**



May 2017

APPENDIX 1

1. Purpose

This guidance is aimed at helping groups who are interested in making a participation request to Inverclyde Council. It provides an overview of the participation request process and is based on the national guidance produced by the Scottish Government.

This guidance does not replace the national guidance however and we strongly recommend that you read both before making a participation request. You can find the national guidance here:

<http://www.gov.scot/Topics/People/engage/ParticipationRequests/ParticipationRequestsGuidance>

We would welcome the opportunity to discuss your participation request with you prior to its submission. This will help to ensure that a participation request is the most appropriate way for your group to engage in improving outcomes in Inverclyde.

2. Community Empowerment (Scotland) Act 2015

The Community Empowerment (Scotland) Act was enacted in July 2015. Part 3 of the Act, 'Participation Requests' and its Regulations came into force on 1 April 2017. This section of the Act provides a way for community bodies to put forward their ideas as to how services could be changed to improve outcomes for their community via a participation request.

3. What is a Participation Request?

The most common definitions describe participation as 'the action of taking part in, or sharing in something'. The purpose of the Act is to enable the active participation of communities in addressing the issues and opportunities that are of greatest importance to them and to provide more influence over the services and decisions that affect their lives. A community group can use the Act to discuss with service providers how they could better meet the needs of users around a particular issue or topic that the community group feel would result in an improvement to the service. Participation requests are **not** designed to:

- Replace good quality existing community engagement or participation processes
- Be used as an extension to a complaints procedure

The national guidance suggests a range of scenarios where a participation request may be used:

- To help people start a dialogue about something that matters to a community, through highlighting needs, issues or opportunities for involvement

Example 1:

A group of fathers / grandfathers have identified a lack of opportunities for support for men and their children within their local area. They are not a constituted group, but have informally come together to provide play activities for their children and have established an informal network. They have identified that there are many men living in the area who are unemployed and who care for their children/grandchildren, and that they struggle to access free or affordable play activities and support. The group want to improve access to existing parents' groups for men locally, and to work with service providers to establish a father's group. They have made a participation request to their health board around positive parenting.

APPENDIX 1

- To help people have their voice heard in policy and service development through contributing to decision making processes

Example 2:

A tenants' organisation which represents a neighbourhood wishes to influence how decisions are made in relation to community safety. They have identified a community safety issue which is specific to their neighbourhood, but which they believe has not been prioritised within wider community safety planning. They feel that their voices have not been heard within the process, and have made a participation request to their local authority to be involved in community safety planning structures.

- To help people to participate in the design, delivery, monitoring or review of service provision, through contributing to service change or improvement

Example 3:

A network of refugees and asylum seekers from across Scotland have carried out a survey which shows a range of experiences in relation to accessing English language courses. They wish to work with statutory providers to ensure that all refugees and asylum seekers have equal opportunity to access English language tuition, and in particular to address the issue of cost and timing/availability of transport which was reported as barrier for those living in more rural communities. They have made a participation request to a regional transport provider around equality of access to transport.

Example 4:

A local Development Trust wants to take over the running of a local care service and makes a participation request to the local authority to start a dialogue on the issue. People in the community feel strongly that there is a need for such a care service to be delivered locally as it enables many older people to continue to live in their own homes.

- To help people challenge decisions and seek support for alternatives which improve outcomes

Example 5:

A community development trust is seeking to challenge a decision about a woodland area which is well used by the local community for outdoor activities such as biking, walking and woodland education. The woodland is owned and managed privately and the owner has endeavoured to restrict access to the site claiming that this is due to the discovery of a protected species. The community development trust has made a participation request to the National Park Authority to become involved in finding a suitable resolution.

4. Who can make a participation request?

To make a participation request an organisation needs to be a 'community participation body'. This could be a:

- **A community council**

Community Councils are able to make a participation request under the Act. When making a request the community council should supply its agreed Scheme of Establishment and written Constitution. The community council should engage with local people in the area that could be impacted by the outcome improvement process and think about how the proposals may affect them.

- **A community controlled body**

A community controlled body will have a written constitution that includes a definition of the community which the body relates to and the provision that the majority of members will be drawn from that community. The organisation should be open to any members of that community and be member controlled. Surplus funds or assets should be used for the benefit of that community and the aims and purpose of the body should clearly state that it exists to benefit that community.

- **A community body without a written constitution**

Your group may also be a more loosely associated group of people but must have similar features to that provided by a community controlled body, but with no written constitution.

In terms of the national guidance published, it will be for Inverclyde Council to determine whether such a group meets the requirements under the Act.

- **A body designated by Scottish Ministers**

Scottish Minister can designate a body to be a community participation body by making an order. Ministers will normally only designate a body if it works in a way similar to a community controlled body and there is good reason why it is not able to meet the requirements of the Act e.g. a charitable trust which cannot change who is on its Board.

- **Communities of interest**

The Act does not specify that community bodies have to be geographically defined in order to make a participation request. This means that community organisations shaped around faith or a shared interest or characteristic e.g. ethnicity, disability or sexual orientation, can initiate participation requests if they want to improve an outcome relating to their community of interest.

5. Who can receive a participation request?

A participation request can be made to one or more organisations known as a 'public service authority'. The organisations that fall under this term are:

- Local authorities
- Health Boards / Integrated Joint Boards
- Colleges and Universities
- Police Scotland
- Scottish Fire and Rescue
- Scottish Enterprise
- National Park Authority
- Scottish Environment Protection Agency
- Scottish Natural Heritage
- Strathclyde Partnership for Transport

APPENDIX 1

6. How to make a participation request

Inverclyde Council would welcome the opportunity to engage in discussions at an early stage and before any formal participation request is submitted.

Participation requests should be made in writing using the form in Appendix 1. You must provide information on:

- The outcome that you are seeking to improve.
- The reasons why your group should be involved in the improvement process.
- Knowledge, expertise or experience that your group has in relation to the outcome.
- What improvement you want to achieve to your overall outcome.

You can return your participation request form via email or by returning a paper copy to Inverclyde Council's Customer Service Centre, Municipal Buildings, Greenock. Please ensure that you include any supporting documentation with your request.

7. Decision Making

On receipt of a participation request, Inverclyde Council will check it to ensure that all the information needed is there. This will include checking that you have submitted your request to the right organisation, the status of your community group and whether any other organisation should be involved. If it is not a valid request we will contact you to inform you of what the issue is.

Once we are satisfied that all the required information has been received you will receive a formal acknowledgement of the participation request and a validation date – this is the date on which the last of the required information was received.

We will assess your request and respond to you within 30 working days of the date provided (or 45 working days if the request includes more than one public body).

When assessing your request we will consider:

- The reasons why your community body considers it should participate in the outcome improvement process
- Any other information in support of the request
- Whether agreeing to the request would be likely to promote or improve economic development; regeneration; public health; social wellbeing and environmental wellbeing
- Whether agreeing to the request would be likely to reduce inequalities of outcome which result from socio-economic disadvantage or lead to an increase in participation by persons who experience social– economic disadvantage.

We must also ensure that we make the decision in a manner which encourages equal opportunities.

Unsuccessful requests

Inverclyde Council will not refuse your request unless there are reasonable grounds for doing so. This includes where a request relates to matters that are the same, or substantially the same, as a previous participation request made in the previous 2 years. If a request is unsuccessful we will provide you with a decision notice and an explanation why. A copy of the decision will be published on the Council's website. Currently, there is no process to appeal an unsuccessful participation request.

APPENDIX 1

Successful requests

If your request is successful, Inverclyde Council will issue a decision notice accepting the request. This decision notice will also include details on how the proposed outcome improvement process is intended to operate. This may be an existing process which your group is invited to join or it may be a new outcome improvement process. A copy of the decision will be published on the Council's website.

8. Outcome Improvement Process

If Inverclyde Council already has an established outcome improvement process in place the decision notice will:

- Describe the operation of the outcome improvement process
- Specify what stage it has already reached
- Set out how your group will participate in the process
- Identify others that are part of the process and how they will contribute.

If an outcome improvement process has not been established then the decision notice will:

- Describe how the outcome improvement process will work
- Explain how your group is expected to participate
- Describe how any other persons are expected to participate in the process.

Your community group has 28 calendar days (from the day on which the decision notice is given) to make written representation suggesting changes to the proposal on how the community participation process will take place. Inverclyde Council must take account of these proposals, again within 28 calendar days.

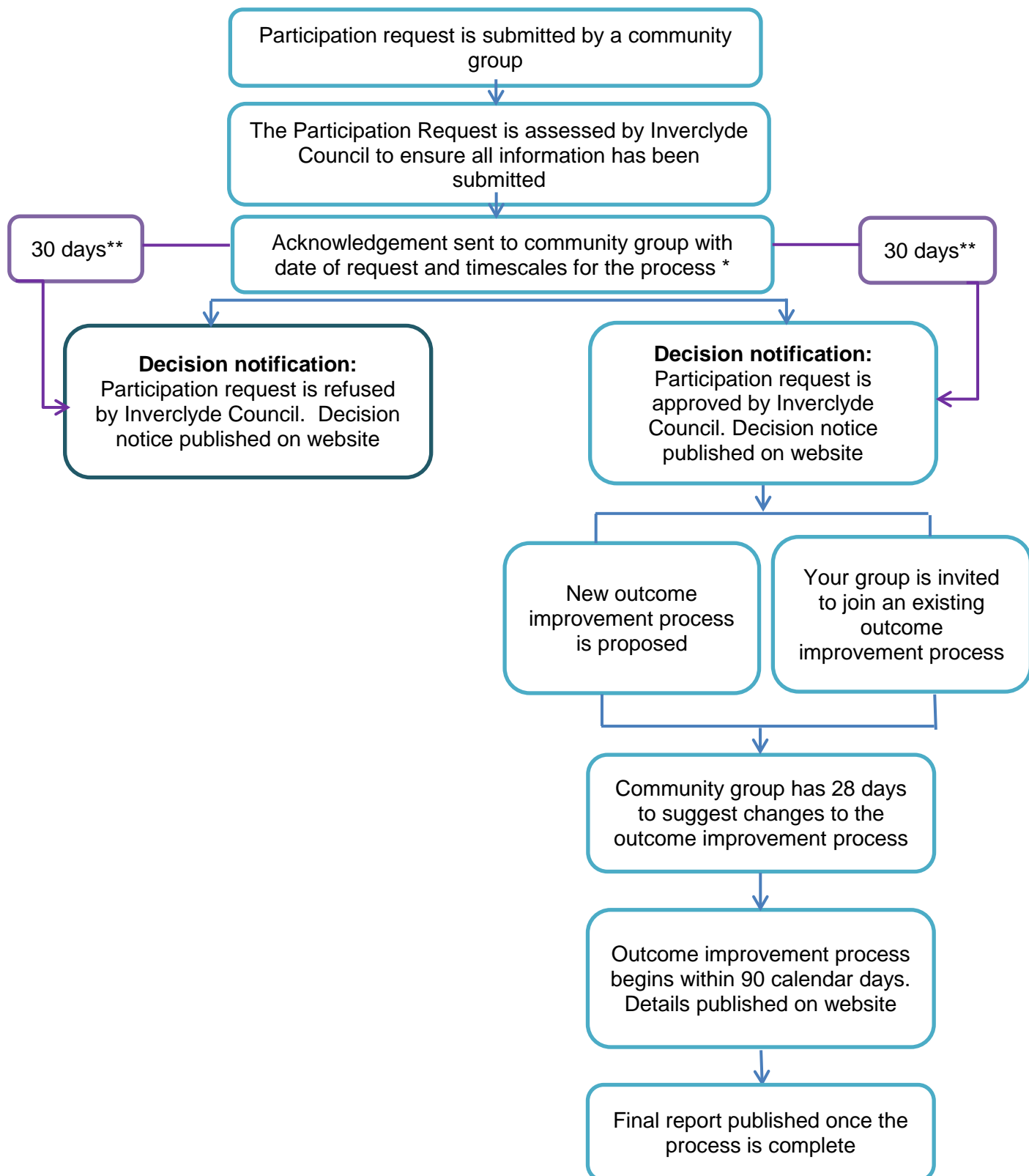
Once a decision notice has been issued agreeing to a participation request the Council has a period of 90 calendar days (from the day on which the decision notice is given) to establish an outcome improvement process.

Inverclyde Council must publish information on its website about the proposed outcome improvement process.

Inverclyde council will have a process in place to support participation requests and to develop outcome improvement processes. We will tailor our approach to meet the needs of each situation, regarding who is involved, how often people need to meet, the best way to engage etc. It is envisaged that the start of the process will be bringing all relevant parties around the table to discuss the outcome to be improved and to develop the process from there.

APPENDIX 1

The key stages in the process are shown in the diagram below:



* Your application will be formally acknowledged once you have submitted all the information Inverclyde Council requires.

** If the request relates to more than 1 public service body, the timeframe increases to 45 days.

APPENDIX 1

9. Reporting

Once the outcome improvement process is complete Inverclyde Council will publish a report on the process. The report will include details of the progress that has been made to improve the outcome and a description of how your community group influenced both the process and outcomes. It will also explain how your group will be informed of any future changes to the outcomes.

In preparing the report we will seek the views of your group and others who participated in the process on the ways in which the outcome improvement process was conducted and the outcomes achieved.

Annual report

Inverclyde Council will produce an annual report by 30 June each year for the period 1 April to 31 March. This report will set out:

- The number of requests received
- The number of requests accepted or rejected
- The number of requests which resulted in changes to service delivery
- Any action taken by the public service authority to promote and support groups

This guidance can be provided in alternative formats such as large print and Braille or other languages.

For further information please contact TBC
Or email TBC

**Community Empowerment (Scotland) Act 2015
Participation Request Form**

IMPORTANT

This is a participation request made under Part 3 of the Community Empowerment (Scotland) Act 2015. Before completing this form please ensure that you read both Inverclyde Council's Guidance on submitting a Participation Request and the national guidance produced by the Scottish Government, which is available here: <http://www.gov.scot/Topics/People/engage/ParticipationRequests/ParticipationRequestGuidance>.

Advice on the information that should be provided in each section can be found in the additional notes on the last page of this form.

If you would like to discuss your proposal before making a participation request, please contact: TBC

When completed this form should be sent to: TBC



1. Details of the Community Participation Body

Name of Community Body	<input type="text"/>
Contact name	<input type="text"/>
Contact address	<input type="text"/>
Contact telephone number	<input type="text"/>
Contact email	<input type="text"/>
Website (if available)	<input type="text"/>

Please select what type of community participation body you are (refer to note 1)

a) A Community Controlled Body	<input type="checkbox"/>
b) A Community Council	<input type="checkbox"/>
c) A Community body without written constitution	<input type="checkbox"/>
d) A body designated by Scottish Ministers	<input type="checkbox"/>

Please ensure that you include a copy of your written constitution or governance documents if available.

2. Name of the public service authority to which the request is being made:
(refer to note 2)

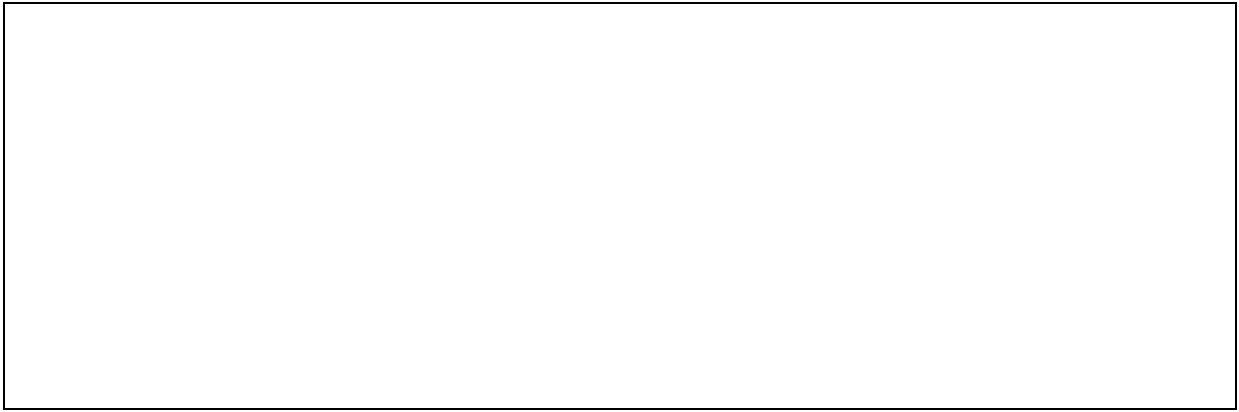
3. Name of any other public service authority which the community participation body requests should participate in the outcome improvement process: (refer to note 3)

4. The outcome that community participation body want to improve: (refer to note 4)

5. The reasons why the community participation body should participate in an outcome improvement process: (refer to note 5)

6. Please provide details of the knowledge, expertise and experience the community participation body has in relation to the outcome: (refer to note 6)

7. Please provide details of how the outcome will be improved because of the involvement of the community participation body: (refer to note 7)



8. Additional Information (refer to note 8)



APPENDIX 1

Additional Notes:

1. The Community Empowerment (Scotland) Act sets out that in order to make a participation request a group needs to be a 'community participation body'. This could be:
 - A community controlled body
 - A community council
 - A community body without a written constitution
 - A body designated by the Scottish Ministers

The community participation body should provide the necessary information to Inverclyde Council to show that they are a valid body that is entitled to make a participation request.

2. The authorities to whom a request can be made are listed in Schedule 2 in the Community Empowerment (Scotland) Act 2015. These are:
 - A local authority
 - A Health Board
 - The Board of management of a college of further education
 - Highlands and Islands Enterprise
 - The Scottish Environmental Protection Agency
 - A National Park Authority
 - Police Scotland
 - Scottish Enterprise
 - The Scottish Fire and Rescue Service
 - Scottish Natural Heritage
 - A Regional Transport Partnership
3. Insert the names(s) of any other public service authority which the community participation body requests should participate in the outcome improvement process.
4. Specify an outcome that results from, or is contributed to by virtue of, the provision of a service provided to the public by or on behalf of the authority. An explanation of outcomes and examples can be found in section 3.47.
5. Set out the reasons why the community body believes it should participate in the outcome improvement process.
6. Provide details of any knowledge, expertise and experience the community body has in relation to the outcome specified under paragraph 4.
7. Provide an explanation of the improvement in the outcome specified under paragraph 4 which the community body anticipates may arise as a result of its participation in an outcome improvement process.
8. Any other information in support of the participation request can be included in this section or attached separately should the community body wish to do so. It may be helpful for the community participation body to outline if they have previously been in contact with the public service authority regarding the outcome. The community participation body may also want to provide information on any additional support they may require to be able to participate in an outcome improvement process.

**Guidance on submitting an Asset Transfer Request
Under the Community Empowerment (Scotland) Act 2015**



September 2017

APPENDIX 2

1. What is an Asset Transfer Request?

The Community Empowerment (Scotland) Act 2015 provides a mechanism whereby certain community bodies can make request to certain public authorities, including the Council, for a transfer to them of an interest in land or buildings owned or leased by the authority, which the body feel they could make better use of.

An asset transfer request can be a request for:

- the transfer of outright ownership;
- the granting of a lease; or
- the transfer of other rights.

The relevant parts of the Act and the related Regulations came into force on 23 January 2017.

The Scottish Government has published comprehensive guidance for community bodies looking to make an asset transfer request which we also would recommend you look at if you are considering an asset transfer request. There is a link to the page on the Scottish Government web site that includes this guidance in the links section at the end of this document. There is a great deal of information there on asset transfer requests, including links to the relevant legislation and regulations, style documents, and case studies.

The guidance that we provide here should be treated as supplemental to the Scottish Government Guidance.

If you are thinking about making an asset transfer request, the first thing you should contact us to discuss the detail of what you want to have transferred, what you intend to do with it and the detail of your group.

Discussions around any request or potential request will involve council staff from Property, Community Learning and Development, Finance and Legal, but your first point of contact will be the Council's Property Asset Manager, whose details are in the Contacts section at the end of this document.

We recommend that you contact us early to discuss any proposals that you may have. Depending on the circumstances of your group or your proposals, a transfer may be possible without the need for a formal asset transfer request. If a formal application is necessary, then these discussions are likely to make the application process quicker and simpler.

2. How do I make a formal Asset Transfer Request?

Under Section 79(4) of the Community Empowerment (Scotland) Act 2015, an asset transfer request must specify:

- the land to which the request relates;
- whether the request is for –
 - transfer of ownership;
 - grant of a lease; or
 - transfer of rights;
- the reasons for making the request;
- the benefits which the community transfer body considers the transfer would bring;
- where the request is for transfer of ownership, the price that the community transfer body would be prepared to pay for the transfer;
- where the request is for grant of a lease;
 - the amount of rent that the community transfer body would be prepared to pay in respect of any lease;
 - the duration of any such lease, and
 - any other terms and conditions that the community transfer body considers should be included in any such lease,
- where the request is for a transfer of rights, the nature and extent of the rights sought, and
- any other terms or conditions applicable to the request.

Under Regulation 3 of the Asset Transfer Request (Procedure) (Scotland) Regulations 2016 an asset transfer request must:

- be made in writing;
- state that it is an asset transfer request made under Part 5 of the Community Empowerment (Scotland Act) 2015;
- state the name and address of the community transfer body applying;
- describe how the community transfer body proposes that the land to which the request relates is to be used;
- outline how it is proposed that—
 - the transfer of ownership of the land, the lease of the land or the conferral of other rights in respect of the land on the community transfer body (as the case may be) is to be funded; and
 - the proposed use of the land is to be funded;
- describe the level and nature of support for the asset transfer request from the community to which the community transfer body relates;
- if the request is made by a body which is not a community-controlled body, explain the basis on which the body is a community transfer body; and
- be accompanied by a copy of the constitution of the community transfer body.

Your formal asset transfer request should be sent in writing to the Property Asset Manager, whose details are in the Contacts section at the end of this document. We provide a style of asset transfer request form on our website, which is included in the links section at the end of this document. You do not need to use this style form, but as the request must meet the various requirements of the Act and the regulations, it is likely to make the process quicker if you do.

APPENDIX 2

3. Who can make an Asset Transfer Request?

Asset transfer requests can only be made by a “community transfer body”, that is a body meeting the various requirements under the Act. There are additional requirements that apply to bodies seeking transfer of ownership.

ALL REQUESTS

An **asset transfer request** under the **Community Empowerment (Scotland) Act 2015** can only be made by a **community transfer body** as defined in **Section 77** of the Act.

A **community transfer body** is a body which has a written constitution that includes:

- a definition of the community to which it relates;
- provision that the majority of the members of the body must come from that community;
- provision that the members of the body who are from 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 aims and purposes of the body, which must include proposition 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.

There are additional requirements set out below that must be met where a community transfer body wishes to take outright ownership of an asset.

Under Section 77(2) of the Act the Scottish Ministers can by order designate that a body is a community transfer body, or that a class of bodies are all community transfer bodies.

REQUESTS FOR TRANSFER OF OWNERSHIP

In addition to the above requirements, an **asset transfer request for transfer of ownership** can, in terms of **Section 80** of the **Community Empowerment (Scotland) Act 2015**, only be made by a **community transfer body** if:

- it is a company the articles of association of which include provision that it must have not fewer than 20 members and that on the winding up of the company any property (including any land, and any rights in land, acquired as a result of an asset transfer request the Act) passes—
 - to another community transfer body,
 - to a charity,
 - to such community body (within the meaning of section 34 of the Land Reform (Scotland) Act 2003) as may be approved by the Scottish Ministers,
 - to such crofting community body (within the meaning of section 71 of that Act) as may be so approved, or
 - if no such community body or crofting community body is so approved, to the Scottish Ministers or to such charity as the Scottish Ministers may direct;
- it is a Scottish charitable incorporated organisation the constitution of which includes provision that the organisation must have not fewer than 20 members,
- it is a community benefit society the registered rules of which include provision that the society must have not fewer than 20 members,
- in the case of a body designated by an order by the Scottish Ministers under the Act, the order includes provision that the body may make an asset transfer for transfer of ownership, or
- in the case of a body falling within a class of bodies designated in an order made by the Scottish Ministers under the Act, the order includes provision that bodies falling within the class may make an asset transfer request for transfer of ownership.

APPENDIX 2

If you wish to check if your organisation meets the conditions to qualify as a community transfer body, or the particular requirements where you are seeking a transfer of ownership, then get in touch with us and we can discuss. As before, the first point of contact should be the Council's Property Asset Manager, whose details are in the Contacts section at the end of this document.

The Scottish Government guidance provides a great deal of detail on these requirements and this may also help answer any questions you may have. There is a link to the Scottish Government web page where you will find this guidance in the links section at the end of this document.

4. Procedure on Receipt of an Asset Transfer Request – Receipt to Validation

There is a flow chart on the following page outlining the process that will be followed after your asset transfer request is received. There is a two stage process to this.

The first stage is to confirm if the request is valid. The request will be reviewed to confirm:

- if your group is a community transfer body (and if ownership is asked for, does it meet the additional tests); and
- if all the information required under the act for it to be a formal asset transfer request is included?

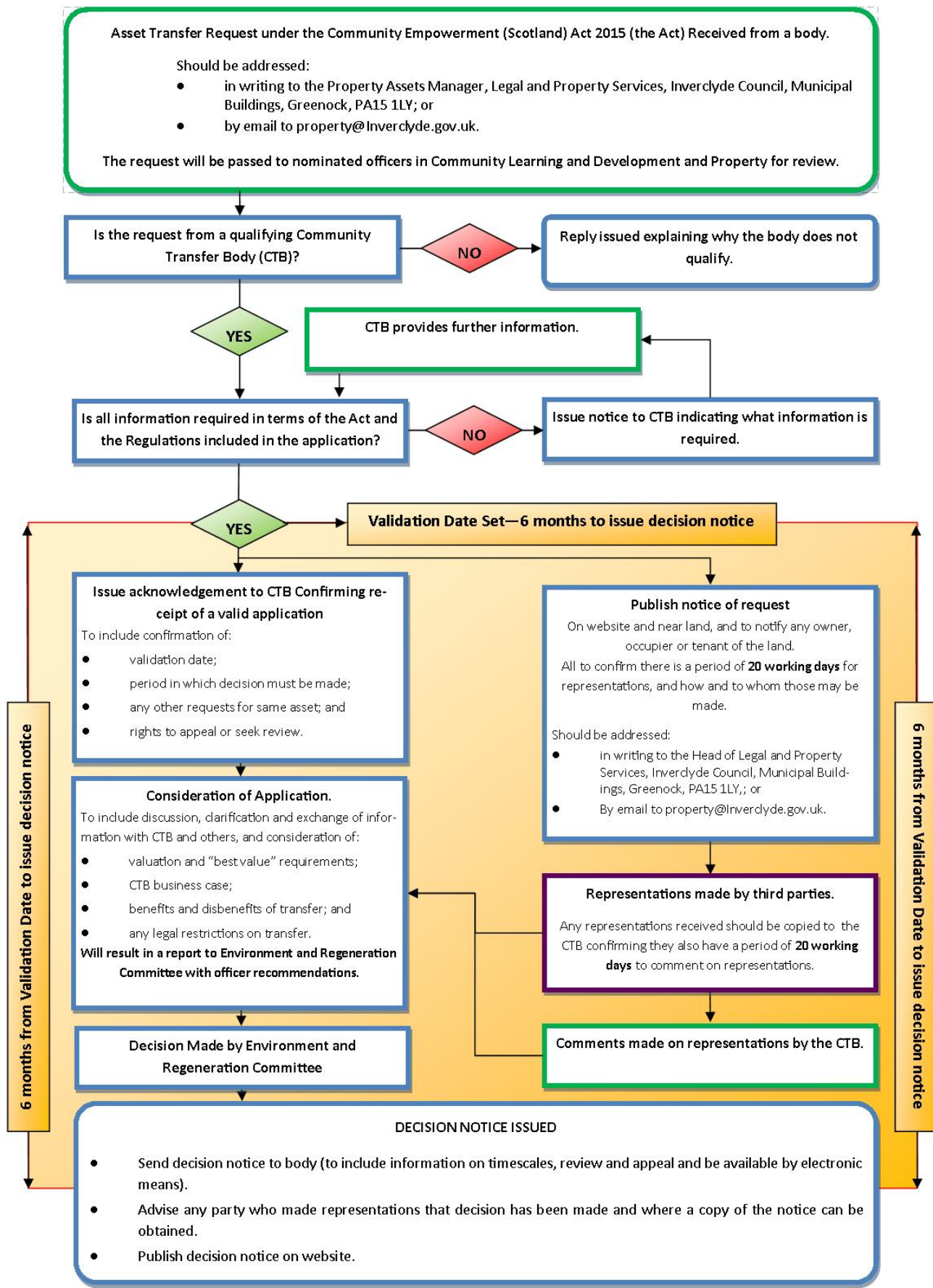
If your group is not a community transfer body, then you will be contacted to confirm why that is the case.

If all the necessary information is not included, then you will be contacted to discuss the further information that is required and to ask for that to be provided.

Under the regulations, the validation date is the date on which all the required information under the Act and the regulations for a valid asset transfer request has been received by the Council. When we have that from you, we will provide you with a formal acknowledgement of your request which will include confirmation of that validation date.

The Council then has a period of six months to reach a decision on your request. This is the second stage of the process and is dealt with in the next section of this guidance.

Inverclyde Council - Asset Transfer Request Procedure Flow Diagram.



APPENDIX 2

5. Procedure on Receipt of an Asset Transfer Request – Validation to Decision

At the same time as you are sent confirmation of the validation date, the Council will issue a public notice that the request has been received, which will be published on the Council website and displayed in a public place near the land affected. This will include your details, details of the request and confirm that representations can be made to the Council on the asset transfer request for a period of not less than 20 working days. The Council will also send notice to any owner, tenant or persons with an interest in the land, again inviting representations.

Any representations received will be sent to you, and you will similarly have a period of 20 working days to comment on them.

There will then follow a period of discussion with you of the detail of your request and consideration of all the documentation submitted. As part of this process, we may ask you for further documentation or information. We may also provide alternative proposals for you to consider.

Under **Section 82(3)** of the **Community Empowerment (Scotland) Act 2015**, in deciding whether or not to agree to an **asset transfer request** the Council must consider the following matters:

- (a). the reasons for the request,
- (b). any other information provided in support of the request (whether such other information is contained in the request or otherwise provided),
- (c). whether agreeing to the request would be likely to promote or improve—
 - i. economic development,
 - ii. regeneration,
 - iii. public health,
 - iv. social wellbeing, or
 - v. environmental wellbeing,
- (d). whether agreeing to the request would be likely to reduce inequalities of outcome which result from socio-economic disadvantage,
- (e). any other benefits that might arise if the request were agreed to,
- (f). any benefits that might arise if the Council were to agree to or otherwise adopt an alternative proposal in respect of the land to which the request relates,
- (g). how such benefits would compare to any benefits such as are mentioned in paragraphs (c) and (e),
- (h). how any benefits such as are mentioned in paragraph (f) relate to other matters the Council considers relevant (including, in particular, the functions and purposes of the authority),
- (i). any obligations imposed on the Council, by or under any enactment or otherwise, that may prevent, restrict or otherwise affect its ability to agree to the request, and
- (j). such other matters (whether or not included in or arising out of the request) as the authority considers relevant.

Under **Section 82(5)** of the Act the Council must agree to the request unless there are reasonable grounds for refusing it.

APPENDIX 2

The Council will take a variety of matters into consideration when reaching a decision. The Act lists many of these explicitly, but also requires the Council to take into consideration any other matters it considers relevant.

The matters that will be considered will depend on the circumstances surrounding your group, the land affected, the interest sought and the use proposed, but the following are likely to feature in most applications.

- There will be a valuation obtained for the land involved, taking account of the type of transfer requested, so that we can see if the requirements of the Disposal of Land by Local Authorities (Scotland) Regulations 2010 apply. There will need to be a separate appraisal under these regulations if the price or rent proposed is less than “best value” in terms of the same. Much of the information required for that is likely to be in your asset transfer request, but it may be necessary to get further information from you.
- There will be a review of the Council’s legal interest in the land affected, be that title deeds or a lease, and an assessment made of any restrictions there may be on the Council making such a transfer.
- The impact that the transfer would have on any existing use by the Council, and on the provision of Council services.
- The impact that the transfer would have on any owner, tenant or other party having an interest in it.
- Any impact of EU State Aid rules – these are wide reaching and apply to not-for-profit organisations and activities as well as commercial businesses. It is not the type of organisation which receives support that is important but the nature of the activities that it carries out.
- Any conditions that should attach to the transfer – in particular any mechanisms that should be used to secure any discount given or a public benefit to be provided.

As part of the process you will be asked for:

- information on how the organisation intends to use the asset.
- demonstration of a clear community/social demand for the transfer and the community benefits to be derived from the transfer.
- evidence that there is community backing for the transfer and that consultation has taken place within the community.
- evidence of engagement with Elected Members for that Ward in relation to the transfer.
- demonstration that the group has the capacity to manage the asset and has members who have the necessary skills and experience.
- demonstration that the organisation has the ability to conclude the transfer within 6 months of the date of the decision notice.
- financial information in relation to both capital and revenue costs, including cash flow projections for the first 3 years of the project (the Council recognises that many capital funding streams are dependent on full asset transfer, and the provision of unsecured funds within the business plan will be considered within this context).

At the end of this process there will be a report to the Council’s Environment and Regeneration Committee, setting out your request in detail, the outcome of the various discussions and representations and giving a recommendation from officers on whether the transfer should or should not be agreed to. You will be given a formal decision notice once the decision has been made, which will also be published on the Council website and passed on to any party who made representations regarding the request.

APPENDIX 2

The decision notice will:

- confirm if your request has been agreed to or not;
- give your reasons for the decision;
- set out the rights you have to seek a review of or appeal in respect of any decision made; and
- if your request is agreed to:
 - set out any conditions that are to be attached to the transfer; and
 - confirm the period that you will have to submit a formal legal offer (which will be not less than 6 months from the date of the decision notice) offering to proceed with the transfer.

We will discuss with you further at that time, and any professional advisers you have involved, how to proceed with any legal documents that need to be completed to complete a transfer.

APPENDIX 2

6. Review and Appeal

There are a variety of rights in relation to review and appeal under the Act. These will be set out in detail in the notices you are provided with throughout the process.

You have a right to seek a review by the Council of your asset transfer request if:

- the Council refuses your request;
- the Council agrees to your request but includes conditions materially different from those specified in your request; or
- the Council does not give you a decision notice within 6 months (or such other period as has been agreed with you) of the validation date.

A review is a formal procedure conducted by the Council itself. Decisions on reviews are made by the Council's Policy and Resources Committee. A formal decision notice is also issued at the end of this process.

You have a right to appeal to the Scottish Ministers if:

- you have submitted an offer complying with a decision notice, and the Council has not accepted that offer within a period of 6 months of the date of the offer (or such longer period as may be agreed between you and the Council or directed by the Scottish Ministers);
- the Council, following a valid request for review, refuses your request;
- the Council, following a valid request for review, agrees to your request but includes conditions materially different from those specified in your request; or
- the Council, following a valid request for review, does not give you a decision notice within 6 months (or such other period as has been agreed with you) of the date of your application for review.

We again recommend you read the Scottish Government Guidance which has more detail on the appeal and review process, which you can download from the page of the Scottish Government Website shown in the links section at the end of this document.

APPENDIX 2

Contacts

Inverclyde Council's Property Assets Manager
Legal and Property Services
Municipal Buildings
Clyde Square
Greenock

property@inverclyde.gov.uk

01475 712102

Links

[Inverclyde Council page on community asset transfer]

<http://www.inverclyde.gov.uk/> []

Scottish Government page on community asset transfer – including:

- guidance for community transfer bodies
- guidance for relevant authorities (including the Council)
- links to the legislation and regulations
- model forms, notices and case studies of previous asset transfer projects are provided to accompany the Guidance

<http://www.gov.scot/Topics/People/engage/AssetTransfer>

COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015

ASSET TRANSFER REQUEST FORM

IMPORTANT NOTES:

This form can be used to make a request to Inverclyde Council and is based on the model form available on the Scottish Government website at:

<http://www.gov.scot/Topics/People/engage/AssetTransfer/Resources>

You do not need to use this form to make an asset transfer request, but doing so will help you to make sure you include all the required information.

Before making a request you should read the guidance on community asset transfer on our website at:

TBC

Guidance is also provided by the Scottish Government at:

<http://www.gov.scot/Topics/People/engage/AssetTransfer>

You are strongly advised to contact our property team to discuss your proposals before making an asset transfer request by telephone on 01475 712 102, by email on property@inverclyde.gov.uk, or in writing to the address on the next page of this form.

Once your application has been received and reviewed by Council Officers, please note we may need to seek additional information from you, or clarification of the information you have provided, depending on the circumstances of your group, the land or buildings in question and your proposals, before your application can be progressed.

IMPORTANT NOTES:

When completed, this form must be sent to us in writing or by email to the address below.

**Property Assets Manager
Inverclyde Council
Legal and Property Services
Municipal Buildings
Clyde Square
Greenock
PA15 1LY**

property@inverclyde.gov.uk

This is an asset transfer request made under Part 5 of the Community Empowerment (Scotland) Act 2015.

Section 1: Information about the community transfer body (CTB) making the request

1.1 Name of the CTB making the asset transfer request

1.2 CTB address. This should be the registered address, if you have one.

Postal address:

Postcode:

1.3 Contact details. Please provide the name and contact address to which correspondence in relation to this asset transfer request should be sent.

Contact name:

Postal address:

APPENDIX 2

Postcode:

Email:

Telephone:

We agree that correspondence in relation to this asset transfer request may be sent by email to the email address given above. *(Please tick to indicate agreement)*

You can ask us to stop sending correspondence by email, or change the email address, at a later date if you wish provided you give us reasonable notice of that change.

1.4 Please mark an “X” in the relevant box to confirm the type of CTB and its official number, if it has one.

	Company, and its company number is	
	Scottish Charitable Incorporated Organisation (SCIO), and its charity number is	
	Community Benefit Society (BenCom), and its registered number is	
	Unincorporated organisation (no number)	

Please attach a copy of the CTB’s constitution, articles of association or registered rules.

APPENDIX 2

1.5 Has the organisation been individually designated as a community transfer body by the Scottish Ministers?

No

Yes

Please give the title and date of the designation order:

1.6 Does the organisation fall within a class of bodies which has been designated as community transfer bodies by the Scottish Ministers?

No

Yes

If yes what class of bodies does it fall within?

APPENDIX 2

Section 2: Information about the land and rights requested

2.1 Please identify the land to which this asset transfer request relates.

You should provide a street address or grid reference and any name by which the land or building is known. If you have identified the land on the relevant authority's register of land, please enter the details listed there.

It may be helpful to provide one or more maps or drawings to show the boundaries of the land requested. If you are requesting part of a piece of land, you must give a full description of the boundaries of the area to which your request relates. If you are requesting part of a building, please make clear what area you require. A drawing may be helpful.

2.2 Please provide the UPRN (Unique Property Reference Number), if known.

If the property has a UPRN you will find it in the relevant authority's register of land.

UPRN:

APPENDIX 2

Section 3: Type of request, payment and conditions

3.1 Please tick what type of request is being made:

for ownership (under section 79(2)(a)) - go to section 3A

for lease (under section 79(2)(b)(i)) – go to section 3B

for other rights (section 79(2)(b)(ii)) - go to section 3C

3A – Request for ownership

What price are you prepared to pay for the land requested? :

Proposed price: £

Please attach a note setting out any other terms and conditions you wish to apply to the request.

3B – request for lease

What is the length of lease you are requesting?

How much rent are you prepared to pay? Please make clear whether this is per year or per month.

Proposed rent: £ per

Please attach a note setting out any other terms and conditions you wish to be included in the lease, or to apply to the request in any other way.

APPENDIX 2

3C – request for other rights

What are the rights you are requesting?

Do you propose to make any payment for these rights?

Yes

No

If yes, how much are you prepared to pay? Please make clear what period this would cover, for example per week, per month, per day?

Proposed payment: £ per

Please attach a note setting out any other terms and conditions you wish to apply to the request.

Section 4: Community Proposal

4.1 Please set out the reasons for making the request and how the land or building will be used.

This should explain the objectives of your project, why there is a need for it, any development or changes you plan to make to the land or building, and any activities that will take place there.

APPENDIX 2

Benefits of the proposal

4.2 Please set out the benefits that you consider will arise if the request is agreed to.

This section should explain how the project will benefit your community, and others. Please refer to the guidance on how the relevant authority will consider the benefits of a request.

APPENDIX 2

Restrictions on use of the land

- 4.3 If there are any restrictions on the use or development of the land, please explain how your project will comply with these.

Restrictions might include, amongst others, environmental designations such as a Site of Special Scientific Interest (SSI), heritage designations such as listed building status, controls on contaminated land or planning restrictions.

Negative consequences

- 4.4 What negative consequences (if any) may occur if your request is agreed to? How would you propose to minimise these?

You should consider any potential negative consequences for the local economy, environment, or any group of people, and explain how you could reduce these.

APPENDIX 2

Capacity to deliver

4.5 Please show how your organisation will be able to manage the project and achieve your objectives.

This could include the skills and experience of members of the organisation, any track record of previous projects, whether you intend to use professional advisers, etc.

Section 5: Level and nature of support

5.1 Please provide details of the level and nature of support for the request, from your community and, if relevant, from others.

This could include information on the proportion of your community who are involved with the request, how you have engaged with your community beyond the members of your organisation and what their response has been. You should also show how you have engaged with any other communities that may be affected by your proposals.

Section 6: Funding

6.1 Please outline how you propose to fund the price or rent you are prepared to pay for the land, and your proposed use of the land.

You should show your calculations of the costs associated with the transfer of the land or building and your future use of it, including any redevelopment, ongoing maintenance and the costs of your activities. All proposed income and investment should be identified, including volunteering and donations. If you intend to apply for grants or loans you should demonstrate that your proposals are eligible for the relevant scheme, according to the guidance available for applicants.

APPENDIX 2

Signature

Two office-bearers (board members, charity trustees or committee members) of the community transfer body must sign the form. They must provide their full names and home addresses for the purposes of prevention and detection of fraud.

This form and supporting documents will be made available online for any interested person to read and comment on. Personal information will be redacted before the form is made available.

We, the undersigned on behalf of the community transfer body as noted at section 1, make an asset transfer request as specified in this form.

We declare that the information provided in this form and any accompanying documents is accurate to the best of our knowledge.

Name

Address

Date

Position

Signature

Name

Address

Date

Position

Signature

APPENDIX 2

Checklist of accompanying documents

To check that nothing is missed, please list any documents which you are submitting to accompany this form.

Section 1 – you must attach your organisation’s constitution, articles of association or registered rules

Title of document attached:

Section 2 – any maps, drawings or description of the land requested

Documents attached:

Section 3 – note of any terms and conditions that are to apply to the request

Documents attached:

Section 4 – about your proposals, their benefits, any restrictions on the land or potential negative consequences, and your organisation’s capacity to deliver.

Documents attached:

Section 5 – evidence of community support

Documents attached:

Section 6 – funding

Documents attached:

<p style="text-align: center;">Community Choices Budgeting Framework for the operation of the 1% target for Local Authorities</p>

1. Introduction

The Scottish Government and Local Government have a shared vision for communities to have greater participation in decision making. One way in which to do this is to involve people and communities in funding decisions which should ultimately achieve better outcomes. Included in the 2016/17 programme for government was a commitment from Scottish Government to work in partnership with local government, to have at least 1% of local authority budgets subject to Community Choices budgeting.

Community Choices budgeting, better known worldwide as participatory budgeting, is recognised internationally as a way for local people to have a direct say in how public funds can be used to address local needs. It is one method which can be used alongside other models of community engagement and empowerment as part of a wider strategic approach to advancing participatory democracy.

This Framework Document has been drawn up collaboratively by the Scottish Government and COSLA to provide a high level guidance for local authorities on how to deliver the target set out in the programme for government.

2. Definition of Community Choices Budgeting

Community Choices budgeting is the term used in Scotland for participatory budgeting which enables the active participation of community voices in local financial decision making. Community Choices is defined as:

‘Community Choices budgeting supports a democratic and engaged citizenship by enabling local people to have a direct say in how a defined public budget can be used to address their priorities. It is one method of community engagement that can be used alongside other models of empowerment as part of a wider approach to advancing participatory democracy.’

3. What is Community Choices Budgeting?

Successful Community Choices budgeting requires political will, buy-in from senior management, interest from civil society and the local community, a defined budget, clarity of purpose and a clear definition of the rules. It goes beyond traditional consultation or including community representation on a decision making panel. The essence is about community cohesion, raising awareness, making connections and having a participative role in financial decision making that is deliberative and binding. As a consequence, its impact can be significantly greater and in particular if it is linked strategically to local action plans. As Community Choices budgeting can take many shapes and forms and covers a range of mechanisms, different Community Choices budgeting models exist. Therefore flexibility of approach is left to individual local authorities. As a starting point two Guides are recommended for further reference.

The first is the *Grant Making through Participatory Budgeting – A ‘How to’ Guide for Community Led Organisations and community engagement workers* (September 2016). It provides a step by step guide and a number of supporting templates to run a small projects process. The Guide is available at: [Grant Making - How to Guide](#)

The second is the *Mainstreaming Participatory Budgeting - Ideas for Delivering Participatory Budgeting at Scale* (October 2016). The Guide is designed to help better understand the issues of mainstreaming and to develop Community Choices models that work within each unique context. It includes an indication of the commissioning cycle, a budget matrix, the advantages and challenges of a number of approaches, a key set of principles and useful links to further information. The Guide is available at: [Mainstreaming Ideas Guide](#)

4. Budget

The Community Choices budgeting target is not necessarily about local authorities identifying a separate and/or additional resource. It is principally about involving communities in decisions regarding existing resources. The 1% is the minimum target set and can be made up of revenue and capital expenditure. It is for local authorities to decide how to take forward Community Choices budgeting at a local

APPENDIX 3

level to reach the target. To ensure a shared understanding of the 1% target, this is defined as 'total estimated expenditure for revenue, as per the local government finance circular, less assumed council tax intake. It is considered reasonable to exclude council tax as it is a local tax and therefore already directly and locally accountable.

5. Costs

There are financial costs associated with running meaningful and sustainable Community Choices budgeting but these vary from initiative to initiative. As a guide, costs could include staff, venue, promotion and evaluation. Local government is well placed to support this with its network of facilities and communication channels. There is also the possibility of increased costs associated with the outcome chosen by Communities for the benefit of the community. For example without clear parameters on available resources, a Community may design a more complicated contract or other aspect that requires additional on-going officer support from the council. With clear parameters, communities can help in the redesign and specification of services within available resources.

There are also a number of wider benefits to local democracy associated with running Community Choices budgeting. It can help improve the democratic process by widening participation and re-invigorating the role of local authorities, local councillors and civil society. It can contribute to the effectiveness of public spending by improving the way money is invested by increasing the knowledge available to the local authority when undertaking service planning. It also has the potential to strengthen the community and voluntary sectors by increasing the number of people taking part in local democratic processes. More information about the benefits of Community Choices budgeting can be found on the PB Scotland website www.pbscotland.scot.

6. Timescale

The 2016/17 Programme for Government commitment does not set a timescale. The expectation from the Scottish Government is that the target of having at least 1% of local authority budgets subject to Community Choices budgeting should be reached by the end of this session of the Scottish Parliament, that is the end of the

APPENDIX 3

financial year 2020/21. While it is recognised that many councils are already engaged in Community Choices budgeting, the planning and design of how councils will meet the target should be started at the earliest opportunity.

7. Reporting

For appropriate monitoring local authorities will complete a high-level pro-forma and return it to COSLA on an annual basis. COSLA will collate the information and report a global figure for local government to the Scottish Government on an annual basis.