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<b>Report To:</b>	<b>The Inverclyde Council</b>	<b>Date:</b>	<b>7 June 2018</b>
<b>Report By:</b>	<b>The Head of Legal and Property Services</b>	<b>Report No:</b>	<b>LP/066/18</b>
<b>Contact Officer:</b>	<b>Gerard Malone</b>	<b>Contact No:</b>	<b>01475 712618</b>
<b>Subject:</b>	<b>Community Empowerment (Scotland) Act 2015 - Asset Transfer Report</b>		

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## **1.0 PURPOSE**

- 1.1 The purpose of this report is to seek the Council's approval of the Asset Transfer Report at Appendix 1.

## **2.0 SUMMARY**

- 2.1 The Community Empowerment (Scotland) Act 2015 ("the Act") gives rights to community bodies (community transfer bodies) to formally request to purchase, lease, manage or use land and buildings belonging to various public bodies (including the Council).
- 2.2 Section 95 of the Act requires such public bodies to annually publish an Asset Transfer Report of the type included at Appendix 1, and this is the first occasion where such publication has been required.
- 2.3 An Asset Transfer Report for the period to 31/3/18 is included at Appendix 1 for the Council's approval.

## **3.0 RECOMMENDATIONS**

- 3.1 It is recommended that the Council approves the terms of the Asset Transfer Report at Appendix 1.

**Gerard Malone**  
**Head of Legal and Property Services**

## **BACKGROUND**

- 4.1 Part 5 of the Community Empowerment (Scotland) Act 2015 (“the Act”) provides community bodies (community transfer bodies) with a right to submit a formal Asset Transfer Request, being request to purchase, lease, manage or use land and buildings belonging to local authorities (including the Council), Scottish Ministers or certain other Scottish public bodies. There will be a presumption of agreement to requests, unless there are reasonable grounds for refusal. Reducing inequalities will be a factor for the relevant authorities to consider when making a decision. This part of the Act came into force on 23 January 2017.
- 4.2 Section 95 of the Act places a requirement on all such authorities to publish an annual Asset Transfer Report, in which the authority must set out for that year:
- a) the number of asset transfer requests received;
  - b) the number decided upon;
  - c) the number that have resulted in transfer, lease or grant of rights;
  - d) the number of decided appeals or reviews in relation to such requests; and
  - e) any action it has taken to promote the use of asset transfer requests or to support a community transfer body in the making of such a request.
- 4.3 The relevant commencement order provided that the first of such reports is to cover the period from 23 January 2017 (coming into force of Part 5 of the Act) to 31 March 2018. Subsequent reports will cover a 12 month period to 31 March in a given year. In terms of the Act, such reports require to be published by no later than 30 June following the end of the reporting year in question.
- 4.4 No formal asset transfer requests have been received, as can be seen from the report. As a consequence of this, various other questions to be covered in the report that arise from a submitted request, or from a decision on a request, are also nil responses.
- 4.5 The relevant provisions of the Act only recently came into force, and consequently practice is developing as to its implementation both by relevant authorities and by community transfer bodies. In the context of this, and the extent of the Council’s administrative area, officers would not have anticipated significant numbers of asset transfer requests to have been submitted by this stage.
- 4.6 Although this statutory mechanism is now in place, there is nothing to prevent Councils to enter discussions with community groups and when appropriate complete asset transfers (or indeed grant leases or confer rights) by agreement, without the need for a formal Asset Transfer Request under the Act, as was the case prior to the commencement of the Act. As the members will note from the Asset Transfer Report at Appendix 1, officers have been involved with extensive discussions with a variety of community bodies, to enter into such voluntary arrangements. This demonstrates the Council’s engagement with and support for community asset transfer and minimises the need for groups to resort to a formal asset transfer request.
- 4.7 The publication of this report is a statutory requirement on the Council; it is appropriate that it be brought before the Council for approval in this instance as it is the first time such a report will be published. A proposed revisal of the Scheme of Delegation is being reported on separately and the revised scheme, if approved, will include a delegated authority to the Head of Legal and Property Services to publish this report in future years.

## **5.0 IMPLICATIONS**

### **Finance**

- 5.1 There are no financial implications from this report.

### **Legal**

- 6.2 Part 5 of the Community Empowerment (Scotland) Act 2015 (“the Act”) provides certain

community bodies with a right to request to purchase, lease, manage or use land and buildings belonging to certain public bodies, including the Council. Section 95 of the Act requires those bodies to annually produce an Asset Transfer Report of the type shown at Appendix 1.

### **Human Resources**

6.3 None.

### **Equalities**

6.4 None.

### **Repopulation**

6.5 There are no repopulation implications.

## **7.0 CONSULTATIONS**

7.1 The Head of Environmental and Public Protection has been consulted on the terms of this report.

## **8.0 LIST OF BACKGROUND PAPERS**

8.1 None.

# The Inverclyde Council

## Community Empowerment (Scotland) Act 2015

### Asset Transfer Report - 2017 to 2018

This is an Asset Transfer Report by the Inverclyde Council (“**the Council**”) in terms of Section 95 of the Community Empowerment (Scotland) Act 2015 (“**the Act**”) for the period from 23/1/2017 to 31/3/2018 (“**the Reporting Period**”) in relation to asset transfer requests under Part 5 of the Act (a “**Request**” or “**Requests**”) from community transfer bodies (a “**CTB**” or “**CTBs**”).

- (a). During the Reporting Period, the Council published detailed guidance for CTBs on Community Asset Transfer process and on how to submit requests, which both promotes the use of Requests and assists CTBs in the making of a Request. This guidance includes a style of Request form, detail of what should be included with a Request, and who should be contacted in the Council to discuss making a Request. This is published on the Council website at [www.inverclyde.gov.uk/assettransfer](http://www.inverclyde.gov.uk/assettransfer).
- (b). During the Reporting Period, Council officers have pursued discussions with a number of community groups with a view to progressing asset transfers. These are detailed in Part 1 of the Schedule to this report. Whilst in many cases, the use of a formal Request in terms of the Act is not expected as it is anticipated the transfer will be completed by agreement, the end goal remains the transfer of an asset to community body. This reflects the Council’s support for the principle of community asset transfer in appropriate circumstances, without the need for a formal Request.
- (c). During the Reporting Period, the Council has received no Requests. As this covers the period from commencement of the Act, a number of the additional items this report is required to cover in terms of Section 95 of the Act are also nil responses. These are dealt with more fully in Part 2 of the Schedule.

## SCHEDULE PART 1 - ASSET TRANSFER UPDATE

	Community Body	Land/Property	Date Interest Received	Comments
1	Details not yet in public domain.	Community Centre	Ongoing project	<p>A group who have been in occupation of their present site for a number of years (under a short term lease on going year to year on tacit relocation) have intimated their desire to acquire their building and surrounding ground and have appointed a project manager to drive this project forward.</p> <p>The project would involve demolition of the present building and construction of a new facility on a larger footprint with external space. The group will require substantial funding and they have confirmed their intention to submit an application to the external funders currently open to applications.</p> <p>The Environment &amp; Regeneration Committee granted authority in 2014 for the issue of a Letter of Intent to the group confirming the Council's commitment to the project and confirming that the site will be made available to CRC subject to a number of a variety of conditions being fulfilled.</p> <p>This letter was updated in March 2018 and provided the various conditions in that letter are purified to the satisfaction of Inverclyde Council then officers will progress discussions with the group and seek the necessary further Committee Authority to proceed with the transfer of the site discussed.</p>
2	Inverkip Community Initiative	Kip Park Main Street Inverkip	Ongoing project	<p>The original community centre at Inverkip suffered severe storm damage in 2010 and was subsequently demolished. Following which it was agreed to build a new community facility at Kip Park Inverkip and the local community group, the Inverkip Community Initiative (ICI) would manage and run the facility on the basis of a 25year lease. It was also agreed that ICI would then sub-lease part of the new facility back to the Council for the Inverkip library, following its departure from the Inverkip Primary School.</p> <p>The building work was completed in Dec 2016 at which time ICI took occupation on the basis of a short term missive of let. This was done to give</p>

## SCHEDULE PART 1 - ASSET TRANSFER UPDATE

				early access and discussions are ongoing between the group and Council Officers to deal with snagging issues and to complete a longer term lease.
3	Auchmountain Volunteer Group	Auchmountain Glen	Sept 2017	<p>The Auchmountain Glen path travels from the start at Kilmacolm Road and follows the Glen to culminate at the Whinhill Golf Course. It was once a spectacular civic walkway with public architecture but is now neglected and suffers from vandalism.</p> <p>The Auchmountain Volunteer Group (AVG) has been active in clearing debris from the Burn and generally tidying the paths at the bottom of the Glen. They have expressed interest in exploring options for community transfer. At the Education and Communities Committee on 5<sup>th</sup> September 2017 approval was given for an allocation of £15,000 from the Grants to Voluntary Organisation budget to fund a feasibility study to establish the ownership position and the extent of work required in order to provide a 'vision' for the Glen with the potential to attract external funding.</p> <p>This study is presently ongoing.</p>
4	Inverclyde Pollinator Corridor	Site of the former Hector McNeil swimming pool, Brachelston St Greenock	Sept 2017	<p>The Inverclyde Pollinator Corridor Group (IPC) approached Inverclyde Council with a view to including the site of the former Hector McNeil baths in their portfolio. The group has been active in the Inverclyde area over recent years, notably on derelict sites. The group wish to promote biodiversity of the sites which they obtain access to, along with improving the visual amenity, providing training for local people in techniques such as dry stone walling and other countryside skills and educating Inverclyde residents about the importance of pollinators and biodiversity.</p> <p>The site itself is inalienable common good and has lain been unused for a considerable number of years. It is thought that the group could help bring the site back into some kind of beneficial use until such time as a more definite decision on the site's future is taken.</p>

## SCHEDULE PART 1 - ASSET TRANSFER UPDATE

				<p>Committee approval to enter into a management agreement with the group was received from the Environment and Regeneration Committee in Jan 2018 and this is being progressed.</p> <p>In the meantime council officers have instructed trial pits to be dug to assess ground conditions to ensure it is free from contaminants. Repairs are also due to be carried out to the brick pillars at the Inverkip Road entrance to the site and to the metal railings as necessary.</p>
5	<p>(a)Gourock Schools &amp; Churches Together</p> <p>(b)Cardwell Bay Association of Small Boat Owners</p> <p>(c) Group wishing to develop a maritime educational establishment, in conjunction with local college – no formal constitution.</p>	<p>McLeans Yard, Cove Road Gourock</p>	<p>August 2017</p>	<p>These three groups have all expressed their interest in acquiring this site and have provided details of their constitution and accounts, where appropriate. Various reports on the merits of each group have been discussed at Committee although no decision has yet been taken regarding the preferred use. The Committee is seeking the views of the Gourock Regeneration Forum on the proposals, and will consider the proposals further after the next meeting of the Forum.</p> <p>The site is alienable common good and whilst it is possible to sell, it is more likely that any future use will be via a lease but details of this have yet to be investigated.</p>
6	<p>Details not yet in public domain.</p>	<p>Bowling Club</p>	<p>Ongoing project.</p>	<p>Officers have pursued discussion with a local bowling club around their future occupation of the club building and plans for improvements. There are various improvement works that the group wish to undertake to the facility and which they have investigated external funding for. A requirement of such funding is that a lease with security of tenure is granted.</p> <p>There are legal complexities to this process because of the nature of the site.</p> <p>Funding was approved at the Education and Communities Committee on the 23 January 2018, a) to cover any costs incurred in relation to the complexities round the lease, and b) as a contribution to funding works to</p>

## SCHEDULE PART 1 - ASSET TRANSFER UPDATE

				<p>the club building.</p> <p>The intention is if the grant of a new lease with the required security of tenure is completed, the Club will be in a position to match fund any Council contribution to improvements through external funders.</p> <p>Officers are at present discussing outline heads of terms with the club for a lease renewal. Further reports to the Council's committees and a public consultation process will be required once the terms of a proposed lease are agreed.</p> <p>Whilst neither the bowling club nor the Council officers involved envisage a formal Asset Transfer Request being submitted, this is an example of the Council and a community group together working towards such a transfer</p>
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## SCHEDULE PART 2 – ADDITIONAL ITEMS.

The Reporting Period of this report covers the period from the Act coming into force to 31/3/18, and as no Requests were received in that period, the responses below are all nil responses.

- I. During the Reporting Period, the Council has neither refused nor agreed to any Requests.
- II. During the Reporting Period, there have been no transfers of ownership of land, grants of leases of land or grants of rights in respect of land, by the Council to a CTB resulting from a Request.
- III. During the Reporting Period, in relation to appeals under Section 88 of the Act there have been no appeals allowed, dismissed or which have resulted in any part of a decision of the Council being varied or reversed.

**Appeals under Section 88 of the Act may be brought by a CTB to the Scottish Ministers under Section 86 of the Act on the outcome of a review by the Council of a decision in respect of to a Request made by that CTB. As the Council is a local authority, it is not competent for an appeal to be brought under Section 85.**

- IV. During the Reporting Period, as a result of review under Section 86 of the Act by the Council of decisions on Requests, there have been no decisions which have been confirmed, modified or which have been substituted by a different decision.

**A CTB may under Section 86 of the Act seek a review by the Council of a decision made on a Request submitted by that CTB. As the Council is a local authority, it is not competent for such a review to be sought under Section 87.**