

ANGUS COUNCIL – 6 SEPTEMBER 2018

COMMUNITY ASSET TRANSFER – DECISION REVIEW PROCEDURE

REPORT BY IAN LORIMER, HEAD OF FINANCE & LEGAL

ABSTRACT

This report seeks member approval of the formation of a CAT Decision Review Committee which will be used for any Community Asset Transfer applications where the applicant wishes an internal review of the Council's original decision.

1. RECOMMENDATIONS

1.1 It is recommended that the Council:-

- a. note the background to this matter and the recommendation from the Special Policy & Resources Committee of 19 June 2018;
- b. approve the establishment of a CAT Decision Review Committee as set out in Section 4.3 of this report;
- c. approve the CAT Decision Review Committee remit set out in Appendix A for incorporation into the Order of Reference of Committees;
- d. determine the membership of the CAT Decision Review Committee noting that this must be drawn from members not on the Policy & Resources Committee and have regard to the political balance of the Council.

2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN (LOIP) AND COUNCIL PLAN

2.1 This report contributes to the outcomes described in the Local Outcomes Improvement Plan, Locality Plans and Council Plan, which focus on the economy, people and place. Community Asset Transfer is a key part of Community Empowerment and it is important that the Council support community groups in a manner which delivers best value.

3. BACKGROUND

3.1 The Community Empowerment (Scotland) Act 2015 introduces a right for community bodies to make requests to all local authorities, Scottish Ministers and a wide-ranging list of public bodies, for any land or buildings they feel they could make better use of. Community bodies can request ownership, lease or other rights, as they wish through a process known as Community Asset Transfer (CAT). The Act requires those public authorities to assess requests transparently against specific criteria, and to agree the request unless there are reasonable grounds for refusal.

3.2 A community transfer body can ask for their asset transfer request to be re-examined in certain circumstances. This can either be in the form of a **review** (where the asset transfer request is considered again by the Council) or an **appeal** (where the asset transfer request is considered by the Scottish Ministers). This report seeks approval of the establishment of a CAT Decision Review Committee to meet the requirements of The Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016. The CAT Decision Review Committee will be used for any Community Asset Transfer applications where the applicant wishes an internal review of the Council's original decision

- 3.3 A community transfer body can seek an internal review of the Council's decision if:
- their request is refused;
 - the terms and conditions in the decision notice are significantly different from those in the request; or
 - no decision notice is issued within the required period (6 months).

4. REVIEW PROCEDURE

- 4.1 At its meeting of 19 June 2018 the Policy & Resources Committee approved Report 210/18 which set out the proposed guidance and process for reviews based largely on the national guidance and relevant Regulations.
- 4.2 In line with the legislation the Council must put in place an internal review mechanism so that CAT decisions made by the Policy & Resources Committee can if requested by applicants be reviewed. Applicants can appeal directly to Scottish Ministers without first going through the Council's review process.
- 4.3 To fulfil the Council's obligations under the legislation it is recommended that a new CAT Decision Review Committee of the Council be established. This would not be a Standing Committee of the Council but a Committee permitted under legislation to review decisions. This Committee's sole remit would be to review CAT application decisions by the Policy & Resources Committee and any terms and conditions applied to CAT applications where requested to undertake such a review by a CAT applicant. Decisions of this Committee would automatically be referred to full Council in the event of a division at the Committee but unanimous decisions would not be referable. It is recommended that the CAT Decision Review Committee have 5 members and be drawn from members not on the Policy & Resources Committee in such a manner as to reflect the political balance of the Council. Substitutes who are not members of the Policy & Resources Committee would be allowed. The Convener and Vice Convener to the Review Committee would be appointed at its first meeting. In conducting any review the CAT Decision Review Committee would require to follow the Council's CAT policies and assessment criteria.
- 4.4 Establishment of and appointments to the proposed CAT Decision Review Committee are matters which require decisions of the full Council so although the process and policy has been approved by Policy & Resources the establishment of the Committee and the appointment of members to it are matter for the Council to determine. A remit for the Committee for incorporating into the Order of Reference of Committees is attached at Appendix A for approval.

5. FINANCIAL IMPLICATIONS

- 5.1 There are no additional financial implications for the Council arising from the recommendations in this report. All CAT applications are processed in accordance with the Council's policy and assessment model and any financial implications are considered as part of that process.

NOTE: The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

- Report 105/18 – Community Asset Transfer Policy Development & Applications Update Report
- Report 210/18 – Community Asset Transfer – Decision Review Procedure

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Proposed Remit of the Community Asset Transfer Decision Review Committee

- (i) The determination of any request for review of any decision made by the Policy & Resources Committee on a Community Asset Transfer application in terms of the Community Empowerment (Scotland) Act 2015 and in particular the Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016.

- (ii) The Committee comprises five elected members of the Council not drawn from the Policy & Resources Committee.