

South Ayrshire Council

Report by Director – Place to Leadership Panel of 27 November 2018

Subject: Community Asset Transfer of Land and Property

1. Purpose

- 1.1 The purpose of this report is to seek approval from the Leadership Panel to implement the process that will enable community groups to request a Community Asset Transfer (CAT) of Council owned land and property in accordance with Part 5 of The Community Empowerment (Scotland) Act 2015.

2. Recommendation

2.1 It is recommended that the Panel :

- 2.1.1 **approves the recommended process in accordance with Part 5 of The Community Empowerment (Scotland) Act 2015;**
- 2.1.2 **delegates authority to the Director – Place to implement the process; and**
- 2.1.3 **requests that the Head of Regulatory Services arranges for the Scheme of Delegation to be updated to reflect the change of remit for the Audit and Governance Panel.**

3. Background

- 3.1 The Community Empowerment (Scotland) Act 2015, introduced by the Scottish Government, aims to empower communities by giving them the right to take control of publicly owned assets to better meet the needs of the community and help build better communities.
- 3.2 Part 5 of the Act covers Community Asset Transfer and moves asset transfer from a voluntary approach by public bodies to one which introduces a right for community bodies to make requests for ownership, lease, management or use of publicly owned buildings or land, including properties or land held within the Common Good. Community Asset Transfer also offers the Council a way for it to rationalise its non-core property portfolio thereby reducing the Council's financial burden on non-essential assets.
- 3.3 The Council is required to publish a register of the land that it owns or leases, to help communities identify suitable property. It is also obliged to publish an annual report detailing the number of CAT applications received, approved and reviewed or appealed in the preceding 12 month period. A copy of this report is attached as [Appendix 1](#).

- 3.4 Under this legislation South Ayrshire Council has a responsibility to assess requests transparently against specified criteria and to agree to the request unless there are reasonable grounds for refusal.
- 3.5 Community and voluntary groups, such as community associations, community trusts and user groups (applicants) can all apply for an asset transfer. In general, applicants must be formally constituted with sound, long-term management and governance arrangements in place. Applicants must also be non-political, involve volunteers, have charitable status and be not for private profit – ie it does not distribute any surplus to owners or members.
- 3.6 Applicants must demonstrate that they have the necessary expertise and experience to manage the asset and have a sound business plan for the long term future of the asset. There may be a degree of flexibility in terms of the information required in the business plan depending on the nature of the asset.

4. Proposals

- 4.1 The process will start with an applicant submitting the Community Asset Transfer Expression of Interest form for acquiring a particular asset ([Appendix 2](#)). Under the legislation, applicants are required to submit an expression of interest prior to submitting a formal asset transfer request. This helps to ensure that applicants have the appropriate information to be able to complete a valid asset transfer, before entering into the formal asset transfer process and the strict 6 month time limit for the Council to make a decision on an application.
- 4.2 The initial expression of interest will be assessed by the Council who will engage with applicants to provide useful information including advice on the title, condition of the property and running costs etc.
- 4.3 Once this initial stage has been cleared the applicant may submit a formal community asset transfer request by submitting the Community Asset Transfer form, shown in [Appendix 3](#). All required information ([Appendix 4](#)) must be provided before the request can be validated including:
- A copy of the applicant's constitution;
 - Details of the asset being requested and what type of transfer is being sought: ownership, a lease, management or use;
 - Details of the intended use for the asset;
 - A detailed business plan setting out how the applicant will fund the purchase/lease of the asset as well as how it will meet the ongoing revenue costs. The applicant must also provide an indicative price/rent that it would be willing to pay for the asset. It should be noted that there is still a duty for the Council to achieve 'best value' however in some instances this will not necessarily be the highest monetary value;
 - What benefits the applicant believe the transfer of this asset will bring to its community:- economic, regeneration, health, social wellbeing, environmental or whether it will tackle inequalities; and
 - The applicant must also outline and demonstrate community support for the asset transfer.

- 4.4 Once the Council is satisfied that the necessary information has been provided it will then have 6 months to decide whether to accept or reject the application. Validated applications will be published on a dedicated Community Asset Transfer webpage maintained by the Council and members of the local community and wider public will be able to submit supporting statements or objections in relation to the published application. The application will be assessed against the following criteria:
- The ability of the Council to transfer and the potential impact on Council assets;
 - The viability and sustainability of the applicant's business plan;
 - The governance of the organisation;
 - Implications for Council staff; and
 - Assess the level of community benefit and the level of community support for the CAT.
- 4.5 Applications will be assessed by the Community Asset Transfer Advisory Group (CATAG) which will be established to assess applications before making a recommendation to either:
- Refuse the CAT;
 - Approve the CAT; or
 - Request further information from the applicant.
- 4.6 Membership of the CATAG will consist of the:
- Head of Regulatory Services;
 - Head of Finance and ICT;
 - Service Lead – Asset Manager and Community Asset Transfer;
 - Service Lead – Corporate Planning and Improvement;
 - Service Lead – Economic Development; and
 - Service Lead – HR Policy and Operations.
- 4.7 The CATAG will consider all Community Asset Transfer requests received by the Council before making its recommendation in relation to the application to the Leadership Panel for approval. A Decision Notice will be published following the decision by the Leadership Panel. If the decision is to approve, the Decision Notice will also set out any conditions of the transfer of the requested asset to the applicant.
- 4.8 Applicants have the right to apply to the Council to have the decision reviewed if:
- The request has been refused;
 - There was no decision given within the 6 month timescale; and/ or
 - The applicant disagrees with the conditions set out in the Decision Notice to approve.

4.9 Should an application for review be submitted, the application will be referred to the Audit and Governance Panel and processed in a similar fashion to call-ins. The proposed review process is as outlined below:

4.9.1 Applications for review will be dealt with as follows:

- where the Audit and Governance Panel agrees on a majority vote with the decision of the Leadership Panel, it can be implemented without further delay;
- where the Audit and Governance Panel does not agree on a majority vote with the decision of the Leadership Panel, it will be referred back to the Leadership Panel with recommendations from the Audit and Governance Panel for alternative action proposed;
- the application can be continued to the next meeting of the Audit and Governance Panel if additional information would assist in the decision-making process. If no decision is taken at that next meeting, the matter will be referred back to the Leadership Panel; and
- where there continues to be a failure to agree after a referral back to the Leadership Panel, the matter will be referred to the Council for determination.

4.9.2 For the avoidance of doubt, where any item was considered by the Leadership Panel with the public excluded (in accordance with Standing Order 10.1 (1) or (2)), then the public shall also be excluded during consideration of the item at the Audit and Governance Panel and/or Council (where appropriate), and Standing Order 32.5 shall apply.

4.9.3 The applicant will be advised of the outcome of the review by the Audit and Governance Panel within two days of the matter being determined in accordance with the procedure set down in this paragraph.

4.10 Once a CAT has been approved, the Council will engage with the applicant to agree contractual terms including legal, financial and any legacy elements. Any financial arrangements will have to be finalised during this stage of the process.

4.11 This stage of the process should be concluded within a further 6 months from the date of the decision, although it can be extended by mutual agreement. This does not mean the transfer has to take place within this timeframe but the date for the transfer, the price or rent and any other terms and conditions must be agreed. The contract may be conditional on other factors that are needed to allow the community proposals to go ahead, such as confirmation of funding or planning permission. If the contract has not been agreed within 6 months and there has been no mutual agreement to extend the period, the applicant has a right to appeal to Scottish Ministers.

5. Legal and Procurement Implications

5.1 The recommendations within this report are consistent with legal requirements. The Head of Regulatory Services will be part of the multi-disciplinary group that will assess applications before submitting a report and recommendation to the Leadership Panel.

5.2 There are no procurement implications arising from this report.

6. *Financial*

6.1 As well as enabling communities to take control of assets to better serve the need of that community, Community Asset Transfer offers the Council an opportunity to reduce the financial burden of non-essential assets by transferring the operation of properties to applicants who are based in the community and who will then be responsible for the day to day operation of the property including its running costs.

6.2 This legislation does not affect the Council's duty to secure 'best value' when disposing of a property, however, it is recognised that best value does not always mean the highest price.

6.3 In making a case for the transfer of an asset, the 'best value' themes will be evident to a greater or lesser extent in the Community Asset Transfer application and the Council must consider whether these benefits justify any reduction in the Market Value sought by the applicant. The 7 'best value' themes are shown in [Appendix 5](#).

6.4 Asset transfer at less than market value is justified when these additional benefits empower communities and align with local and national priorities to enable the delivery of best value across the public sector as a whole. Such benefits are likely to align with one or more of the Scottish Government's national outcomes, which all Scottish public authorities are required to have regard to in carrying out their functions under Part 1 of the Act.

7. *Human Resources*

7.1 If a Council owned property is transferred to a voluntary or community organisation, there may be implications for employees of South Ayrshire Council. Work should be undertaken in advance to identify employees who may be affected by asset transfer to enable the Council to understand the implications for them and undertake necessary consultations.

8. *Risk*

8.1 *Risk Implication of Adopting the Recommendations*

8.1.1 There may have to be some redeployment of staff involved in the operation of assets which are transferred to a third party

8.2 *Risk Implications of Rejecting the Recommendations*

8.2.1 The Council would be unable to progress the Community Transfer requests that it has now received in accordance with the requirements of The Community Empowerment (Scotland) Act 2015 and it would also miss out on an opportunity to make significant financial savings by transferring non-core assets to a third party.

9. *Equalities*

9.1 The proposals in this report have been assessed through the Equalities Impact Assessment Scoping process, and there are no significant positive or negative

equality impacts of agreeing the recommendations, therefore an Equalities Impact Assessment is not required. A copy of the Equalities Scoping Assessment is attached as [Appendix 6](#).

10. Sustainable Development Implications

- 10.1 **Considering Strategic Environmental Assessment (SEA)** – This report does not propose or seek approval for a plan, policy, programme or strategy or document otherwise described which could be considered to constitute a plan, programme, policy or strategy.

11. Link to Council Plan

- 11.1 The matters referred to in this report contribute to the Council strategic objectives set out in the Council Plan, in particular the strategic objective of ‘Working in partnership to make the most of our local economy’, as well as ‘Helping to create strong, successful, sustainable and effective communities’.

12. Options Appraisal

- 12.1 An options appraisal has not been carried out in relation to the subject matter of this report.

13. Results of Consultation

- 13.1 There has been no public consultation on the contents of this report.
- 13.2 Consultation has taken place with Councillor Ian Cochrane, Portfolio Holder for Environment, and Councillor Peter Henderson, Portfolio Holder for Resources and Performance, and the contents of this report reflect any feedback provided.

14. Next Steps for Decision Tracking Purposes

- 14.1 If the recommendations above are approved by Members, the Director – Place will ensure that all necessary steps are taken to ensure full implementation of the decision within the following timescales, with the completion status reported to the Leadership Panel in the ‘Council and Leadership Panel Decision Log’ at each of its meetings until such time as the decision is fully implemented:

<i>Implementation</i>	<i>Due date</i>	<i>Managed by</i>
Arrange implementation of the Community Asset Transfer process	1 December 2018	Service Lead – Asset Management and Community Asset Transfer
Arrange updating and publication of the revised Scheme of Delegation	30 November 2018	Head of Regulatory Services

Background Papers [Community Empowerment \(Scotland\) Act 2015](#)

Person to Contact **Tom Burns, Service Lead – Asset Management and
Community Asset Transfer**
Newton House, Green Street Lane, Ayr, KA8 8BH
Phone 01292 612 845
E-mail: tom.burns@south-ayrshire.gov.uk

Date: 20 November 2018

Community Asset Transfer Applications

Annual Report

During 1 April 2017 to 31 March 2018 South Ayrshire Council's Asset Management and Community Asset Transfer Team has been working to make the information on the asset transfer process as simple and accessible as possible. The Council website has been updated to include the asset register, a simple expression of interest form and the Statutory Guidance for Part 5 of the Community Empowerment (Scotland) Act 2015. A package of bespoke support is provided to community groups who wish to pursue an asset transfer.

During the reporting period no formal requests have been submitted but 24 notes of interest have been considered and encouraged to apply through the formal asset transfer route.

Stage	No	Status Description
Expressions of interest	24	A note of the Community Group, its contact details, the property they are interested in and information on whether they would be seeking ownership or lease
Full Asset Transfer Requests	-	Formal requests with proposals and supporting documents from Community Group
Assessment Stage	-	Formal requests that have been assessed and are to be considered by the Council; or are currently under assessment
Transfer Agreed	-	Community Asset Transfer Agreed
Rejections	-	Requests that have been considered and rejected
Withdrawals	3	Expressions of interest or full requests that have been withdrawn by Community Groups

Community Asset Transfer Expression of Interest Form

The expression of interest stage is to open dialogue between the community transfer body and South Ayrshire Council. It will identify a named contact that will be able to provide the community transfer body (CTB) with support and information in relation to the asset transfer request process as well as to signpost to organisations that will be able to support the organisation develop their asset transfer request.

1. Please provide details of the community transfer body making the application

Name of organisation	
Address of organisation	
Telephone Number	
E-mail Address	

2. Please provide your contact details

Your Name	
Contact Address	
Telephone Number	
E-mail Address	
Position in the CTB	

3. Eligibility of community transfer body

Only certain types of organisation can apply for an asset transfer. This will help us identify whether you are currently eligible or whether you may have to change the status of your organisation before submitting a formal asset transfer request.

What type of community transfer body? (please see guidance document to assist)

Do you have a formal constitution, governance document or set of rules?

Yes*

No

If yes, please send a copy with this form

4. Please tell us about the asset (building or land) you are interested in.

This will help us check that we own the asset that you are interested in and give you an informal indication of whether an asset transfer request is likely to be successful.

Name of Asset	
Address of Asset	

Type of transfer you are interested in: owning, using, managing or leasing. If leasing what length of lease is required?

5. Have you discussed your asset transfer proposal with anybody in South Ayrshire Council – a Councillor or an officer? Please provide any details.

Signed.....

Position

Name.....

Date.....

Please e-mail your completed form to: cat@south-ayrshire.gov.uk

We will confirm receipt of your expression of interest and provide you with a named contact for any communication.

Community Asset Transfer Asset Transfer Request Form

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:
Postcode:
E-mail:
Telephone:

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

You can ask the relevant authority to stop sending correspondence by e-mail, or change the e-mail address, by telling them at any time, as long as 5 working days' notice is given.

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 are	
	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.

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

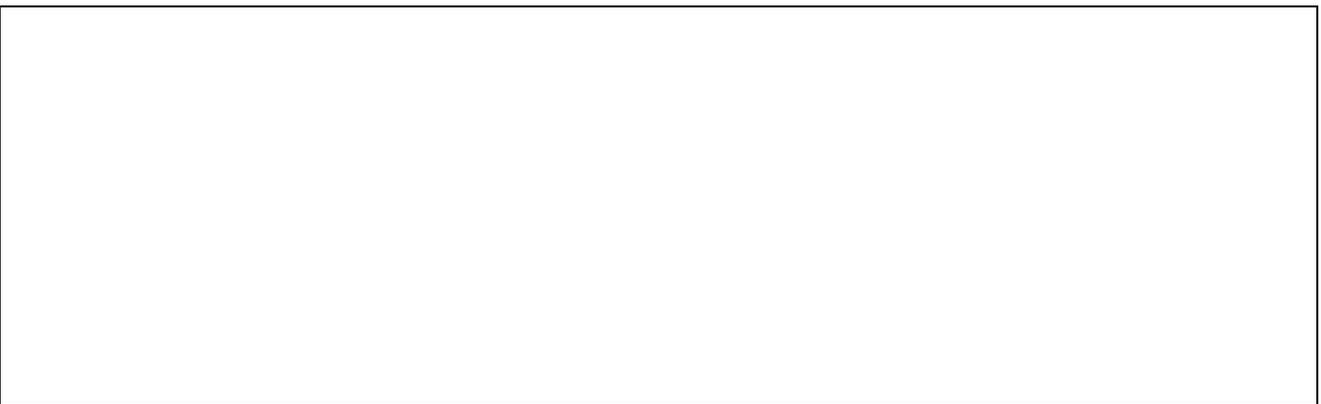
If yes what class of bodies does it fall within?

Section 2: Information about the asset requested

2.1 Please identify the asset – land or building(s) – 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 including the UPRN (Unique Property Reference Number), given in the relevant authority's register of land.

It may be helpful to provide one or more maps or drawings showing the boundaries of the land requested. If you are requesting part of a piece of land, you must attach a map and full description of the boundaries of the area to which your request relates.



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 asset 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 length of lease are you requesting?

How much rent are you willing 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.

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.

Benefits of the proposal

- 4.2 Please set out the benefits to the community that you consider will arise if the request is agreed to. This should include economic, regeneration, health, social wellbeing, environmental benefits; or how this will tackle inequalities.

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.

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 (SSSI), heritage designations such as listed building status, controls on contaminated land or planning restrictions.

Capacity to deliver

4.4 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: Business Plan

6.1 Please provide a copy of your Business Plan which will set out in detail how you propose to fund the operation of the asset. Please also outline how you propose to fund the price or rent you are prepared to pay for the asset, and your proposed use of the asset.

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.

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

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 asset or potential negative consequences and your organisation’s capacity to deliver.

Documents attached:

Section 5 – Evidence of community support

Documents attached:

Section 6 – Business Plan

Documents attached:

Summary of Asset Transfer Approach

Asset Transfer Request Stage	Community Transfer Body Role	South Ayrshire Council role
<p>Phase one – expression of interest</p>	<p>Complete Expression of Interest Form</p> <p>Submission to central point of contact</p> <p>Provide the constitution</p>	<p>Provide a named contact – to ensure appropriate CAT's are progressed, engagement with community organisation</p> <p>Determine ownership – needs to be determined re. ability to potentially transfer – indication not a formal judgement.</p> <p>Status of the organisation – is the body suitable as defined in the Act – ward manager role</p> <p>Guidance – named contact to signpost group to external supports e.g. COSS, HTSI who will support the organisation to develop their asset transfer request.</p>
<p>Stage 2 – Assessment and Consideration</p> <p>Asset Transfer Request Submitted</p> <p>Time period of 6 months from complete asset transfer request</p>	<p>Submit a completed Asset Transfer Request. This must include</p> <ul style="list-style-type: none"> • Constitution • What is being requested – ownership, management, leasing or use • What the organisation wants it for • Business Plan – How the organisation proposes to fund the purchase/lease and ongoing revenue costs and provide an indicative purchase price / rent • Outline and demonstrate community support for the CAT • Describe the benefits this will bring to the community:- economic, regeneration, health, social wellbeing, environmental; or tackle inequalities 	<ol style="list-style-type: none"> 1. CAT Validation – named contact check that CAT request is complete. If yes, confirm with Community Organisation 2. Internal Assessments <ul style="list-style-type: none"> • Property – on the ability for the Council to transfer and the potential impact on Council assets • Legal – to check the governance of the organisation and any legal title • HR – should the asset requested be currently in use and have staff members • Finance – financial assessment of the business plan and sustainability • Community Benefit – assessment of the level of community benefit and the level of community support for the CAT 3. Leadership Panel – to consider CAT and accompanying assessments and either: <ul style="list-style-type: none"> • refuse asset transfer request • approve asset transfer request 4. Asset Review Panel – right to seek review of decision if refused by Leadership Panel. Re-assessed on same grounds
<p>Phase 3 – Negotiation of Contract</p> <p>Time period – 6 months maximum, can be extended on agreement</p>	<p>Engage in agreement of contract terms – legal, terms, costs, legacy</p> <p>Group needs to finalise financial arrangements</p>	<p>Legal Services to conclude contract terms</p>

'Best Value' Themes

The 7 'best value' themes which the Council must consider if it is to sell or lease an asset at less than 'market value' are as follows:

- Economic development;
- Regeneration;
- Public health;
- Social wellbeing;
- Environmental wellbeing;
- Reducing inequalities of outcome from socio-economic disadvantage; and
- Any other benefits that might arise through the alternative use of the asset.

1. Proposal details

Proposal Title Community Asset Transfer of Land and Property	Lead Officer Tom Burns
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2. Which communities, groups of people, employees or thematic groups do you think will be, or potentially could be, impacted upon by the implementation of this proposal? Please indicate whether these would be positive or negative impacts

Community, Groups of People or Themes	Negative Impacts	Positive impacts
The whole community of South Ayrshire	No	No
People from different racial groups, ethnic or national origin.	No	No
Women and/ or men (boys and girls)	No	No
People with disabilities	No	No
People from particular age groups for example Older people, children and young people	No	No
Lesbian, gay, bisexual and heterosexual people	No	No
People who are proposing to undergo, are undergoing or have undergone a process to change sex	No	No
Pregnant women and new mothers	No	No
People who are married or in a civil partnership	No	No
People who share a particular religion or belief	No	No
Thematic Groups: Health, Human Rights, Rurality and Deprivation	No	No

3. Do you have evidence or reason to believe that the proposal will support the Council to:

General Duty and other Equality Themes	Level of Negative and/ or Positive Impact (high, medium or low)
Eliminate discrimination and harassment faced by particular communities or groups	-
Promote equality of opportunity between particular communities or groups	-
Foster good relations between particular communities or groups	-
Promote positive attitudes towards different communities or groups	-
Increase participation of particular communities or groups in public life	-
Improve the health and wellbeing of particular communities or groups	-
Promote the human rights of particular communities or groups	-
Tackle deprivation faced by particular communities or groups	-

4. Summary Assessment

Is a full Equality Impact Assessment (EQIA) required? (A full EQIA must be carried out on all high and medium impact proposals)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Rationale for decision: The proposal does not have a significant negative or positive impact on any particular group.		
Signed : Donald Gillies		Director
Date: 14 November 2018	Copy to	