



AGENDA ITEM

6

Community Empowerment (Scotland) Act 2015

Falkirk Council

Title: Community Empowerment (Scotland) Act 2015

Meeting: Executive

Date: 10 January 2017

Submitted By: Chief Executive

1. Purpose of Report

- 1.1 The purpose of this report is to present some of the processes that have been developed to help the Council, and our partners where relevant, meet our new obligations under the Community Empowerment (Scotland) Act 2015.

2. Recommendations

- 2.1 It is recommended that the Executive:

- Approves the proposed Locality Planning Framework and the proposed split of the Council area into 3 localities based on multi member wards;
- Asks that officers report back on the outcomes of the first Community Action Plan process in Bo'ness and the Participatory Budgeting exercise in due course;
- Asks the Chief Executive in conjunction with relevant community planning partners to establish the necessary officer groups to facilitate the locality planning process outlined in this report.
- Approve the Asset Transfer Request Process set out in section 6 of this report.

3. Background

- 3.1 Over the last number of months Officers have been updating Members on the implications and requirements arising from the Community Empowerment (Scotland) Act 2015. The latest update was provided at a seminar for Members in late August 2016 when information on the following topics was disseminated:
- Community planning, including locality planning and participatory budgeting;
 - Participation requests; and
 - Asset transfer requests.

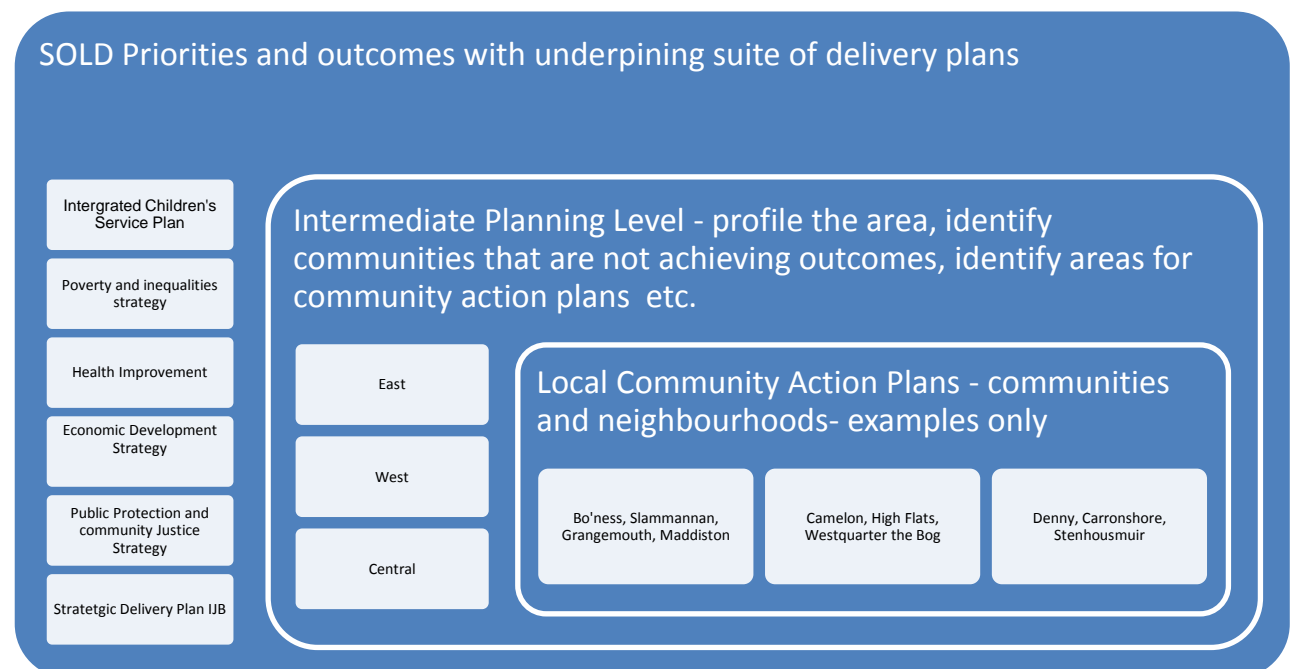
- 3.2 Following the submission of comments on a number of draft regulations and guidance, it was hoped that the government might publish final guidance by the end of the summer. However, to date, the only 'near final guidance and regulations' that have been published deal with community planning and asset transfers. This guidance was published on 11 November 2016.
- 3.3 This report sets out initial proposals which need to be flexible enough to take account of final published guidance and regulations on community planning and asset transfer.

4. Community Planning Including Locality Planning

- 4.1 The Act requires that each community planning partnership (CPP) divides its area into smaller areas known as localities. There must be either a council ward or have a population no bigger than 30,000. The guidance from the government makes it clear that localities are expected to have a population smaller than the maximum 30,000 with small communities of fewer than 10,000 ordinarily being identified. After the area has been divided in to localities, the CPP must identify each locality in which people living there experience significantly poorer outcomes resulting from socio-economic disadvantage, than people living in other localities in the council area or Scotland more generally. Where a locality is identified as having significantly poorer outcomes, the CPP must prepare and publish a locality plan for that locality and may do so for any other locality. The guidance indicates an expectation that locality plans will be in place by October 2017.
- 4.2 In order to implement this duty it is proposed that a further, intermediate level of planning is introduced based on larger geographies formed of three council wards. It is suggested that these areas are know as localities and the smaller areas referred to above as communities. In the same way the statutory locality plans would be known as community action plans.
- 4.3 Members will recall that the proposal for locality planning proposed the following three-tier planning structure and that approval was given in June 2016 to take forward the principle of the overall framework including 3 tiered approach. The 3 levels of planning are :
- i. Strategic level:
This is underpinned by a Strategic Outcomes and Local Delivery (SOLD) Plan covering the period 2016-2020 which sets out a strategic vision for the area;

- ii. Locality level:
This contemplates the division of the Council area into 3 localities - West, Central and East – each comprised of 3 Multi-member Wards. It is within these three areas that smaller communities that have outcome deficits, challenges or indeed opportunities which require either a local Community Action Plan or other intervention will be identified; and
- iii. Community Level:
 - iv. Local Community Action Plans (CAPs) will be co-produced with local people, interest-based communities and Community Planning partners. The plans will focus on bespoke solutions to the specific inequalities and outcome deficits of those communities. Local Community Action Plans will feed back up into the review of Locality Plans to reflect changing community circumstances.

Locality Planning Model



- 4.4. The local community action plan tier is the most critical as it is where community engagement will happen, and where solutions to issues will be co-produced and delivered. Section 10(1) of the Act stipulates that the community planning partnership must prepare and publish a locality plan for each locality identified under section 9(3) of the Act as areas where people experience acute socio-economic disadvantage, or other areas as the community planning partnership sees fit. For the purpose of ensuring we conform to the legislation we will be developing locality plans called Community Action Plans (CAPs).
- 4.5 These CAPs will focus on specific areas where there are identified outcome deficits, challenges or opportunities, and spatially defined community areas that meet the requirements of the Act, i.e. under 10,000 people etc. CAPS will not be prepared for every Council settlement or neighbourhood.

Within each of the three larger spatial areas it is anticipated that three or four CAPs may be prepared, pending the evidence and analysis of the arising outcomes and inequalities.

- 4.6 This also takes account of the resources needed to support these CAPs being developed. Support will be provided by CLD in conjunction with Corporate and Housing Services along with other services and partners as appropriate.
- 4.7 Whilst the focal issues within each plan will be unique to that particular community, the process underpinning their development will be applied homogeneously and coherently across the partnership. This will ensure a consistency of output, experience and capacity building across the partnership, and ensure that plans are aligned with community planning priorities and resources.
- 4.8 The Community Action Plan development process we have developed takes an action research approach and can be used to inform, consult, engage or co-produce with communities. It can be applied to local communities, communities of interest or both. There are two principles for this process: i) the meaningful engagement of communities and ii) the co-production of solutions. A nine step process across four stages is contemplated, some of which will run concurrently, as follows:
- Stage One – pre-engagement work:
 - establish a Community Action Plan (CAP) Group;
 - undertake stakeholder analysis;
 - complete an audit and mapping of assets; and
 - develop a community profile.
 - Stage Two – Action planning:
 - engage primary stakeholders; and
 - inform local people about the exercise and parameters.
 - Stage Three – Engagement:
 - consult local communities; and
 - prepare local community action plans.
 - Stage Four – Action:
 - co-deliver actions to achieve solutions including applying participatory budgeting.
- 4.9 Whilst the process is largely pre-determined, it must be flexible enough to capture a myriad of complex issues, respond to the diverse needs of local people, and ensure the agreed plans are deliverable. The first exercise to test the framework was in Bo'ness, where the focus of the community action plan is the provision of outreach services to support the new advice services 'hub and spoke' model, in addition to looking more broadly at how services are delivered in that area.
- 4.10 To support this, a community profile was developed that not only explored the demography, health and other socio-economic indicators of the area but also contains vital information on service availability, accessibility and gaps in provision within the area. It also looks at how people use those and includes a survey of council and strategic partners' assets within the local area.

Intermediate Planning Level

- 4.11 As previously mentioned, in order to support the development of community action plans and the planning and delivery of services, it is proposed that the council area be divided into three areas in the east, west and centre. The main purpose of this arrangement is to allow services individually and collectively within a defined geography to review, plan, manage and organise how and what they are delivering for local communities. We know outcomes are not equally achieved across the Council area. This intermediate level of planning will seek to identify those inequalities and ensure they are addressed.
- 4.12 Whilst the three areas could be defined in a number of ways, it is proposed that they align with the future Multi Member ward boundaries. As such, Grangemouth, Bo'ness and Blackness and Upper Braes collectively make up the East area. The central area will include Lower Braes, Falkirk North and Falkirk South. Bonnybridge and Larbert, Denny and Banknock, Carse, Kinnaird and Tryst will together form the West area.
- 4.13 The use of multi member wards as the basis for this level of planning also recognises that some partners use wards for planning and engagement purposes e.g. the Integrated Joint Board, Police Scotland and Scottish Fire and Rescue Service.
- 4.14 Notwithstanding the proposal to contrive measurable output areas, we recognise that people move between each of the localities to acquire services, either through choice or service availability. This approach to locality planning does not intentionally set out to restructure the way we deliver our services or coerce service users to respect the newly established locality boundaries.
- 4.15 To support the process below the SOLD and its delivery plans, an officer group will be established within each of the three areas with the following remit:
- to identify a schedule for community action plans to be prepared and delivered including identifying those areas where plans will be developed;
 - to ensure the community action plans are delivered and implemented; and
 - to report to individual organisations and the community planning partnership on the delivery of community action plans and indeed outcomes.
- 4.16 It is proposed that the officer groups would be chaired by a senior chief officer from the community planning partnership and would consist of a range of key services and partners including Police Scotland, Scottish Fire & Rescue Service, Falkirk Health & Social Care partnership, Falkirk Community Trust and, of course, Falkirk Council.

- 4.17 These groups will play a crucial role in co-ordinating, where appropriate, 'joining up' service delivery where that makes sense locally and ensures feasible and viable economies of scale for services. The group will also have a role in monitoring the delivery of strategic priorities within each area, thereby ensuring outcomes are being achieved consistently. This means that as well as identifying where communities differ in terms of outcomes, these groups will seek to ensure that identified priorities are delivered in each area, identify areas that will have community action plans developed, report back to individual agencies etc. on progress and then report to the community planning leadership board on an annual basis. Essentially the locality groups will provide a planning and monitoring role to ensure the SOLD and CAPs deliver on priorities, outcomes and delivery plans within a local context. Local Community Action Plans will feed back up to reflect changing community circumstances. Ultimately, the aim is to have a cascading policy environment wherein local community planning outcomes reflect strategic priorities.
- 4.18 It is not proposed that locality groups will have direct management responsibility for services; rather, they will guide and support service change within a locality.
- 4.19 The 3 officer groups will be supported by an evidence support group who will be responsible for developing community profiles, preparing performance profiles, and undertaking research and data analysis in support of the work in each area.
- 4.20 While the focus will be on identifying where, and why, outcomes differ in local areas, these will be informed by the priorities contained within the new Strategic Outcomes and Local Delivery (SOLD) plan.
- 4.21 These proposals will ensure a single and flexible framework to inform a co-ordinated approach to the planning and delivery of services, where identified outcomes are pursued. This will fulfil a statutory requirement and provide a key vehicle for change. It will also stimulate a collaborative to locality planning involving CPP partners, elected members, and local communities, with the key aims of addressing inequalities where they are most prevalent and improving the quality of life within local communities.

Blackness and Bo'ness Update

- 4.22 A Community Planning Action Group was established in September 2016 to progress locality planning in Bo'ness and Blackness. The exercise focused on supporting the implementation of a new service delivery model for advice services. This has particularly focused on ensuring that the most vulnerable local people have access to these services in a way which suits them. This includes the introduction of new technology and improving choice in the way in which people can access services.

- 4.23 A Stakeholder Group was formed in October 2016 involving community representatives, local Elected Members and service providers, to ensure that the implementation of the new service delivery model is shaped to the needs of local people. This group has provided feedback on potential solutions as they have emerged. Solutions have focused on short and medium term location options, from which face to face advice services will be available, as well as outreach appointments. In the short term a solution has been developed and agreed to host services on a part time basis at the WESLO Housing Association Office in Bo'ness, supplemented by part time provision in the library.
- 4.24 In addition to this solutions have focused on how local people can better develop and support those who face the greatest challenge in accessing services. A number of these potential solutions, together with others still to be identified will be co-developed with community representatives through participatory budgeting. This includes such things as IT support and the future use of key public spaces including the library etc.
- 4.25 A draft Local Community Action Plan for Bo'ness and Blackness, together with a report on the lessons learned from the pilot will prepared for the Community Planning Board and reported to Members in due course.

5 Participatory Budgeting (PB)

- 5.1 In July 2016, the Council made a successful bid to the Scottish Government Community Choices Fund. The application set out a participatory budget process under which communities were obliged to allocate specific funds to take forward projects that underpin CAPs. We were awarded approximately £40k that would sit alongside a similar amount provided by the Council, amounting to a total of approximately £80k. This money will be allocated by the community and stakeholders in a participation event at the end of a community action planning process. For example, if there is an issue about service accessibility or service output capacity, then the funding – following community engagement – would be allocated to resolve that issue.
- 5.2 The project we outlined in our bid, titled 'Community Changes', identified 3 broad outcomes:
1. Embedding principles of community engagement (including PB) within our communities and public authorities: the number of community representatives, staff trained.
 2. Increasing the capacity of local communities and local services to deliver innovation and changes to services: number of community groups applying for PB funding, number of successful applications and the number of funded projects who achieved their intended outcomes. Over the longer term we hope to see a reduction in outcome deficits.

3. Increasing participation within Local Community Planning: e.g. the number of people consulted, the number of people engaged and the number of people involved in co-producing services.
- 5.3 In the bid we stressed that PB was a key approach we would utilise within our new Locality Planning framework, alongside co-production and more traditional forms of community engagement and consultation. Three areas for initial PB work were identified in the application: Bo'ness, Grangemouth and Maddiston.
- 5.4 The reasons these three areas were chosen were pragmatic in that they had already had participated in previous community planning exercises and thus had plans that funding can be allocated to. In addition and taking account of the purpose of funding to address outcome deficits, these areas have to some extent small areas of deprivation.
- 5.5 As per the application, and indeed conditions of funding, money will be allocated to the CAP in Bo'ness to support the outcomes of the work currently underway in order to develop a plan to achieve the changes in frontline services and the other actions in the CAP. It is anticipated that the amount to be allocated to Bo'ness for service delivery solutions will be £40,000. Having examined population, deprivation, readiness and the need to allocate the money by the end of March 2017, it is proposed that £27,000 is allocated to Grangemouth and £11,000 to Maddiston.
- 5.6 In line the PB framework, the process for allocating the £40,000 will be determined by the Bo'ness stakeholders group. It is anticipated this will be an event, or events, that will allow the public to vote on various initiatives with amounts being allocated to each in proportion to the number of votes cast. This funding can be allocated to community organisations and public services, but not to individuals. A process for monitoring funding will need to be established to ensure that public money is properly accounted for and that funding is not allocated to groups or initiatives with significant risks.
- 5.7 Similar groups and events will be organised in Maddiston and Grangemouth over the coming weeks.

Building Capacity for PB

- 5.8 The Scottish Government has offered training and support to councils who are developing participatory budgeting processes. Discussions have begun to determine how this support can best be provided in Falkirk. This training is not only for the Council but for all community planning partners and community organisations.
- 5.9 We have agreement for 4 days of training from PB Partners, with support from the Scottish Government. There will be sufficient knowledge transferred to local community representatives to enable them to co-develop solutions and express their preferences on funding allocations.

Community Planning partners will also be supported to successfully undertake PB for the three areas already committed to, as well as future activity. The training will focus on the following:

- Explaining how PB works;
- A summary of Locality Planning approach and PB's role within this;
- How the voting event will be run; and
- How Locality Planning will be rolled out across the area.

Future PB.

- 5.10 While participatory budgeting was not ultimately referred to in the Act, there is a clear intention that this should be taken forward as part of the suite of measures that will engage and empower communities. The Government has stated its intention that 1% of the Councils budgets should be subject to a process of participatory budgeting – something now being referred to as community choices. Work is currently underway nationally to develop a common methodology and supporting process for identifying and allocating funding to PB. At the moment there is no clear understanding of how the 1% will be achieved and if this relates to capital and/or revenue, in kind support or actual money.
- 5.11 The learning from running these 3 events, aligning PB with the development of the CAPs will inform future practice and proposals with regards PB. Further information on this will be brought to Members in the Autumn.

6 ASSET TRANSFER

- 6.1 The Asset Transfer provisions contained in Part 5 of the Act and associated Regulations are expected to come into force on 23 January 2017. Members will recall that this part of the Act sets out how a 'community transfer body' (CTB) can make a request to buy, lease, manage, or occupy land or buildings belonging to a wide range of Scottish public authorities, including councils. Various criteria apply to such requests, including a requirement for the CTB to set out its reasons and the community benefit for such a transfer.
- 6.2 Helpful Guidance for Authorities on Asset Transfer was published by the Scottish Government on 10 November 2016. The flowcharts at Appendices 1, 2 and 3 to the report usefully set out a summary of the overall process (Appendix 1), the procedure to be followed by the Council following receipt of an asset transfer request (Appendix 2) and the procedure to be followed once a decision has been made by the Council (Appendix 3).
- 6.3 It will be noted that the process is of a relatively complex nature and can take 18 months to reach the transfer date. Some key elements of the process and how it is proposed it will be implemented are as noted in the following paragraphs.

- 6.4 A broad range of functions within the Council will require to be involved. In order to co-ordinate the process, the Asset Management team within Development Services are proposed to take on the role of the Council's co-ordinating function.
- 6.5 Asset Management will publish the required Register of Land owned by the Council. They are also currently working on information for potential requesters and a request form that will be placed on the Council's website. They will form the first point of contact with potential applicants and will seek to supply them with information required.
- 6.6 Once a request has been received, Asset Management will organise a multi-disciplinary working group to consider the request comprising representatives from functions including the service that manages the property concerned, Legal, Finance, Policy, Business Development and community development. It may also be relevant to seek input from community planning partners. The first task to be undertaken will be to establish if the request can be validated. This will involve the group checking that the request complies with the statutory requirements. For instance, the CTB must meet certain statutory requirements in terms of its constitution, make up and community representation and the Council will clearly require to check that it does own the property concerned. It may be that further information is required from the CTB and a notice will be sent by Asset Management advising of the information required.
- 6.7 At the point of validation, Asset Management will require to send an acknowledgement to the CTB and publish a notice of request and also specifically notify tenants and occupiers of the request. Interested parties have at least 20 days to provide representations which are shared with the CTB which then has at least 20 days to respond. These representations will be taken into account in the consideration by the Council.
- 6.8 Following validation and when representations have been received, the working group will establish a response to the request and will, by way of Asset Management as the co-ordinating function, prepare a report with recommendations (and if there is a recommendation to sell it will include the proposed terms of such a sale) for consideration by the Executive. Factors to be considered include:-
- the reasons for the request -
 - information provided by the CTB
 - potential benefits for
 - economic development
 - regeneration
 - public health
 - social well-being
 - environmental well-being
 - reduction of socio-economic inequalities
 - any other benefits that might arise through alternative use of the property
 - how the request relates to the Council's equalities duties

- any obligations that may prevent, restrict or otherwise affect the Council's ability to agree to the request
- the value to the Council in the existing use
 - the feasibility and cost of relocation of services elsewhere
 - potential revenue savings from transfer
 - the value for alternative use or redevelopment
 - the value for proposed and other community purposes
- the level of community benefits
 - the extent of the community served
 - the nature of the benefits to be delivered
 - links to the Council's corporate priorities and outcomes
 - community need/demand
- the likelihood the benefits will be delivered over a 5 year period
 - the strength of the CTB,
 - suitability of the business plan
 - sources/levels of funding support
- impact of project failure

6.9 It should be noted that the general principle is that the Council is obliged to agree to the request unless there are reasonable grounds for refusing it.

6.10 The Act does not say how much should be paid to purchase a property or in rent, whether it should be at market value or at a discount. The CTB has to state in the request how much they are prepared to pay, alongside the benefits the project will deliver, and the Council has to decide whether to accept that price. The Council has a duty to secure Best Value in its operations. However, it is recognised that best value does not always mean the highest possible price and regard would require to be had to the Disposal of Land by Local Authorities (Scotland) Regulations 2010, the Scottish Public Finance Manual and State Aid rules if land was to be disposed of for less than market value. The Guidance encourages the relevant authority and the CTB to obtain a joint valuation and to agree that this will give the figure on which discussions will be based.

6.11 As noted above, it is proposed that the report go to the Executive for a decision to be taken on the request. Following the Executive's decision, a formal decision notice will be prepared, issued and published by Asset Management. The decision notice will contain reasons and, if the decision is to sell, must contain terms and conditions, the requirement for the applicant to submit an offer and the period within which an offer is to be submitted.

6.12 The CTB can appeal the decision to a Council committee for further consideration. A report will be prepared for consideration by Council on changes to Standing Orders to provide for the decision making and appeal process.

6.13 If the CTB still disagrees with the decision on appeal, there can be further appeal to the Scottish Ministers.

- 6.14 If there is a decision to sell, the CTB will require to submit an offer to acquire the property. This is within the period prescribed in the decision notice but not less than 6 months. There can be further discussions on the offer once submitted and the Council's Asset Management and Legal Services will work together to complete that process with the CTB and their agents. The contract must be concluded within six months of the CTB's offer or a longer period with agreement. If not concluded, the CTB can appeal to the Scottish Ministers.
- 6.15 Asset Management will create an annual report on the number of requests, the ones accepted and the ones refused.
- 6.16 Asset Management have recently been in contact with the Community Ownership Support Service (COSS) who are funded by the Scottish Government and have developed advice for both community bodies and public sector authorities. Asset Management are looking to arrange training sessions with COSS for both officers and members.

7 Consultation

- 7.1 Consultation was undertaken with Members on 30 August 2016 following previous reports to the Executive. A number of discussions have taken place with community planning partners over a number of months on this issue.

8 Implications

- 8.1 The development of participatory budgeting will inevitably have financial consequences. This will be further developed over the coming months and reported to Members.

Resources

- 8.2 The proposals outlined for locality planning will require community planning partners to adequately support and resource this work.
- 8.3 The role of Asset Management in the Asset Transfer process will potentially be time consuming and onerous depending on the number of requests received. It is likely that consideration will require to be given to the needs of resourcing the role to meet the requirements of the legislation.
- 8.4 This fulfils a statutory requirement within the Community Empowerment (Scotland) Act 2015.

Risk

- 8.5 If we fail to introduce a process for locality planning and produce locality plans the CPP will breach a core requirement of the Community Empowerment (Scotland) Act 2015.

Equalities
8.6 Nil

Sustainability / Environmental Impact
8.7 Nil

9 **Conclusions**

- 9.1 We now have 'near final' guidance on two parts of the Act. The arrangements noted above for locality planning and asset transfer will go a significant way to ensure the Council meets its obligations, as well as achieving better outcomes for local communities.
- 9.2 Over the coming weeks and months as more guidance is finalised reports will be presented to Members for consideration. It is hoped that something on participation requests will be presented in the near future.

CHIEF EXECUTIVE

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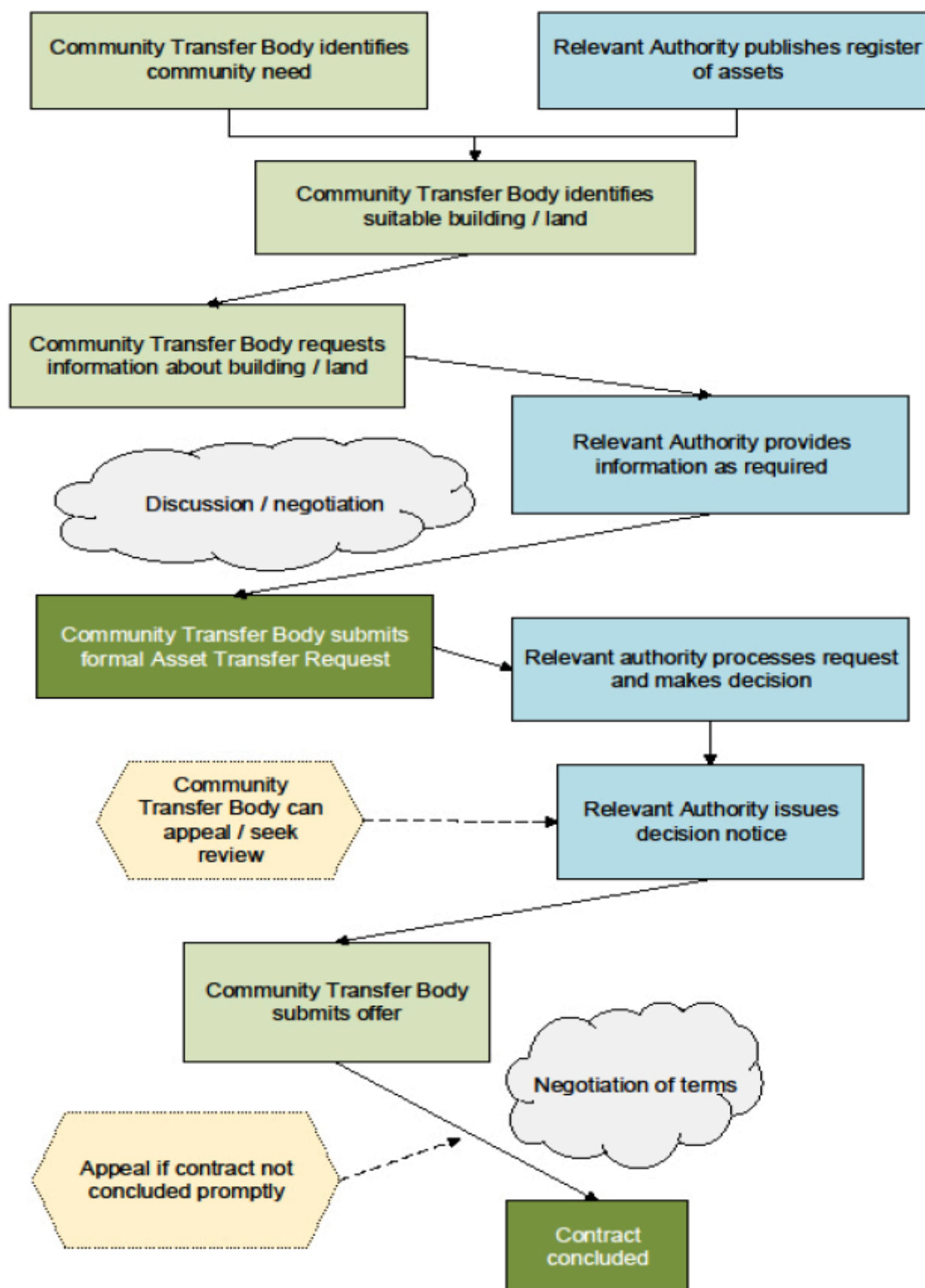
Date: 21 December 2016

Appendices

- Appendix 1- Asset Transfer under the Community Empowerment (Scotland) Act 2015 – Guidance for Relevant Authorities
- Appendix 2 - Asset Transfer Request Received
- Appendix 3 – After Agreements

List of Background Papers:

- Presentation to Members Seminar – August 2016





After Agreement

