



Inverclyde Alliance

AGENDA ITEM NO: 12

Report To:	Inverclyde Alliance Board	Date:	13 June 2016
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Subject:	Community Empowerment Act		

1.0 PURPOSE

- 1.1 The purpose of this report is to highlight for the Alliance Board the main elements of the Community Empowerment Act and outline some of the possible implications for the Community Planning Partnership and individual partners.

2.0 SUMMARY

- 2.1 The Community Empowerment (Scotland) Act 2015 was enacted in July 2015. Guidance and regulations are now out for consultation on a number of the elements of the Act, and an outline of these are set out in the paragraphs below.
- 2.2 As highlighted at the last Alliance Board Improvement Workshop, guidance for consultation has been published in regard to Community Planning, Participation Requests, Asset Transfer and Community Right to Buy Land. Partners need to consider the guidance and regulations which have recently been published for consultation, assessing their services against the new information. They may wish to prepare responses to the consultation for their organisation.
- 2.3 There are a number of areas which will have implications for the partnership in regard to resources, capacity, training and partnership working.
- 2.4 Whilst community engagement, community capacity building, asset based approaches and co-production have been discussed and developed locally, further work is required to ensure the Community Planning Partnership (CPP) is carrying out engagement in a resourced, co-ordinated and effective way.
- 2.5 The Act requires community planning partners to contribute such funds, staff and other resources as the CPP agrees in order to secure the participation of community bodies in community planning, having regard in particular to those representing the interests of persons experiencing inequalities.
- 2.6 The guidance sets out that, as a general expectation, partners should contribute resource for each CPP priority in line with the extent to which their organisation has responsibility for improving outcomes covered by that priority. This should include investment in prevention wherever this is appropriate. The guidance also suggests that partners should be willing to invest in the preventative activity of others partners in order to moderate future demand for their own services, when service users might reach crisis point.

3.0 RECOMMENDATIONS

It is recommended that the Alliance Board:

- a. Consider the implications of the Community Empowerment Act.
- b. Agree that the Chair of the SOA Programme Board write to each CPP partner to ask how they might contribute to resourcing the work to ensure the participation of community bodies in community planning, as well as contributing resources for improving outcomes.
- c. Identify possible resource to develop the partnership's approach to delivering on these implications.

John Mundell
Chief Executive, Inverclyde Council
Chair of the SOA Programme

4.0 BACKGROUND

- 4.1 The Community Empowerment (Scotland) Act 2015 came from a Scottish Government manifesto to:

‘make it easier for communities to take over unused and underused public sector assets and to introduce measures to help communities deal more effectively with vacant and unused property in their areas’;

and the Christie Commission recommendation to ‘strengthen the community voice in planning and delivering services’.

- 4.2 The Community Empowerment Bill received Royal Assent and became an Act on 24 July 2015. The text of the Act can be found on the Legislation.gov.uk website at <http://www.legislation.gov.uk/asp/2015/6/contents/enacted>.

- 4.3 The aim of the act is to strengthen the voices of communities in the decisions that matter to them and it creates new rights for community bodies and places new duties on public authorities.

- 4.4 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.’

- 4.5 In summary, the main provisions of the act are:

- National Outcomes
- Community Planning
 - Socio-economic inequalities
 - Localities: comparison of outcomes
 - Locality plan
 - Locality plan review
 - Locality plan progress report
- Participation Requests
- Taking over assets
 - Extension of community right to buy
 - Abandoned, neglected or detrimental land
 - Asset transfer requests
 - Common good property
- Participation in Public Decision-Making
- Allotments
- Delegation of Forestry Commissioners’ functions
- Supporter Involvement in Football clubs
- Non Domestic Rates

- 4.6 Guidance has now been issued by the Scottish Government on specific areas of the Act, namely Community Planning, participation requests, asset transfer and the community right to buy abandoned, neglected or detrimental land.

5.0 COMMUNITY PLANNING

- 5.1 The act places Community Planning Partnerships on a statutory footing and imposes duties on them around the planning and delivery of local outcomes, and the involvement of community bodies at all stages of community planning. Tackling inequalities will be a specific focus, and CPPs will have to produce “locality plans” at a more local level for areas experiencing particular disadvantage.
- 5.2 The guidance outlines expectations of Community Planning Partnerships in regard to:
- Strong shared leadership
 - Governance and accountability
 - Community participation & co-production
 - Understanding of local communities’ needs, circumstances and opportunities
 - Focus on key priorities
 - Focus on prevention
 - Tackling inequalities
 - Resourcing improvement
 - Effective performance management

An outline of the summary of expectations for each of these areas is set out in Appendix One.

- 5.3 Community planning is not expected to be a place from where all public sector activity for a local area is co-ordinated and steered. Its focus should be on where the collective efforts of community planning partners and communities can add most value in improving local outcomes and tackling inequalities and where problems that need addressed are cross-cutting.
- 5.4 The Act requires community planning partners to contribute such funds, staff and other resources as the CPP agrees in order to secure the participation of community bodies in community planning, having regard in particular to those representing the interests of persons experiencing inequalities.
- 5.5 The guidance sets out that, as a general expectation, partners should contribute resource for each CPP priority in line with the extent to which their organisation has responsibility for improving outcomes covered by that priority. This should include investment in prevention wherever this is appropriate. The guidance also suggests that partners should be willing to invest in the preventative activity of others partners in order to moderate future demand for its own services, when service users might reach crisis point.
- 5.6 If a CPPs current Single Outcome Agreement (SOA) is deemed to meet the criteria set for Local Outcome Improvement Plans (LOIPs) then the SOA may be adopted by the CPP as its LOIP. The CPPs statutory partners will need to sign off the current SOA as the LOIP. The guidance sets out that LOIPs have to be in place and agreed by 1 October 2017. Inverclyde Alliance’s SOA comes to an end in March 2017, so a full review and refresh of the plan will be carried out over the course of the rest of 2016 with the aim to have a new plan in place for the start of the financial year 2017/18. The large majority of content and the way the SOA has been developed in the past, meets the requirements set out in the guidance. A similar approach is recommended to develop the new SOA/LOIP.
- 5.7 The Act introduces the requirement for CPPs to develop locality plans. The main reasons for this provision are to target work in regard to tackling inequalities for communities facing disadvantage and to make it easier for communities to engage at a locality or neighbourhood level, where it is of most relevance to them. Locality Plans require to be in place and signed off for 1 October 2017.
- 5.8 All plans must be kept under review and performance reported on, on a regular basis.
- 5.9 Implications for the Partnership in regard to Community Planning include:
- The need to resource support to secure participation of communities in community planning

- Investment in prevention
- Renew the Single Outcome Agreement to become Inverclyde's Local Outcomes Improvement Plan
- Creation of locality plans, including gathering and analysing data to clearly identify those areas experiencing greatest inequalities
- Investment in engagement with communities to develop locality plans.

5.10 Current elements of the act which are already in place or being considered by the partnership include:

- Community Planning well established in Inverclyde. Appropriate representation on the board.
- Locality planning being developed with localities agreed at SOA Programme Board.
- Pilot process in place to identify best way of developing locality planning, including taking an asset based, co-production approach so that communities are involved in both the planning and delivery of local outcomes.
- Inequalities presentations given to all outcome delivery groups and an inequalities focus being taken across the delivery of the SOA (this was always a consideration for the delivery of outcomes).
- New SOA to be developed for 2017 onwards. Engagement will begin on this in May.

6.0 PARTICIPATION REQUESTS

6.1 Participation requests provide 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. There is an assumption that the authority would accept the request and set up a process unless there are reasonable grounds for refusal, which it must explain.

6.2 The guidance on participation requests suggests that community bodies might use the Act to discuss with service providers how they could better meet the needs of users, to offer volunteers to support a service or even propose to take over the delivery of the service themselves. It will be for the public body, following the outcome improvement process, to decide whether to make any changes to existing service delivery arrangements.

6.3 The guidance does not make it clear what it expects an 'outcome improvement process' to look like. It sets out an outline process to be followed for managing and responding to participation requests.

6.4 Implications for the partnership in regard to Participation Requests include:

- Development of Community Engagement processes so that communities are already involved in improving services so that the formal participation request process is a 'last resort'
- Potential requirement for new officers to deal specifically with participation requests, or this to be added to the duties of existing officers
- Training for employees to handle participation requests
- Requirement to develop a process, following the guidance, for handling participation requests as well as setting out the process on the Council's website
- Opportunities to develop the process alongside other CPP partners to ensure a consistent approach.

6.5 In assessing the partnership's readiness to meet this aspect of the act officers identified the following:

- There is a need to develop guidance as to what a participation request would be and develop a webpage
- Clearly set out what we mean by an 'outcome improvement process' – what's within 'scope'?
- Gather examples of what already happens with communities being involved in outcome improvement processes

- Develop a 'How to' guide for community bodies.

6.6 Participation requests apply to public service authorities who are listed in the Act as:

- The board of management of a college of further education (those expressions having the same meanings as in section 36(1) of the Further and Higher Education (Scotland) Act 1992)
- A Health Board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978
- Highlands and Islands Enterprise
- A local authority
- A National Park authority established by virtue of a designation order under section 6 of the National Parks (Scotland) Act 2000
- The Police Service of Scotland
- Scottish Enterprise
- The Scottish Environment Protection Agency
- The Scottish Fire and Rescue Service
- Scottish Natural Heritage
- A regional Transport Partnership established by virtue of section 1(1)(b) of the Transport (Scotland) Act 2005.

7.0 ASSET TRANSFER

- 7.1 Asset Transfer Requests provides community bodies with a right to request to purchase, lease, manage or use land and buildings belonging to, or leased to local authorities, Scottish public bodies or Scottish Ministers. They have to set out what they plan to do with the property, and how much they are prepared to pay. 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 and relevant authorities will be required to create and maintain a register of land which they will make available to the public.
- 7.2 An asset in relation to 'asset transfer' under the Act means land and any buildings or other structures on the land, like bridges, walls or piers. It does not include vehicles or equipment. In the past, asset transfer has usually only been available for land or buildings which a public authority has decided to dispose of, and has decided is suitable for community use. The Act puts more power in the hands of communities by allowing them to request whatever property will best meet their needs.
- 7.3 'Asset transfer' is a process to allow a community organisation to take over publicly owned land or buildings, in a way that recognises the public benefits that the community use will bring. That may be a discounted price, a grant or other support or simply the agreement to transfer something the public authority did not plan to sell. If the land is put up for sale or lease and a community body offers the best (or the only) bid, that is just a commercial transaction.
- 7.4 All relevant authorities must have the necessary statutory procedures in place, and if an asset transfer request is made under the terms of the Act, it must be processed in accordance with the Act's requirements.
- 7.5 The Act does not specify how much should be paid for an asset or whether it should be at market value or at a discount. The guidance highlights that all relevant authorities have a duty to secure best value when disposing of property, but that best value does not always mean the highest possible price. All authorities have the ability to dispose of property at less than market value where there are wider public benefits to be gained.
- 7.6 Implications for the partnership in regard to Asset Transfer include:
- Requirement for asset registers to be published
 - A process needs to be developed on how Asset Transfer requests will be handled and published by partners

- Officers will need to be identified across partner organisations who will handle the requests
- Support for communities to access external funding
- Clear processes for community transfer bodies to outline exit strategies should groups cease to exist and regulations in place to prevent assets ending up in the sole ownership of individuals instead of the wider group
- Potential opportunities to work with each other to make best use of all relevant local assets.

7.7 The relevant authorities to whom the asset transfer requirements apply are:

- The board of management of a college of further education (those expressions having the same meanings as in section 36(1) of the Further and Higher Education (Scotland) Act 1992)
- The British Waterways Board
- The Crofting Commission
- A Health Board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978
- Highlands and Islands Enterprise
- A local authority
- A National Park authority established by virtue of a designation order under section 6 of the National Parks (Scotland) Act 2000
- The Scottish Courts and Tribunals Service
- Scottish Enterprise
- The Scottish Environment Protection Agency
- The Scottish Fire and Rescue Service
- The Scottish Ministers
- Scottish Natural Heritage
- The Scottish Police Authority
- Scottish Water
- A Special Health Board constituted under section 2(1)(b) of the National Health Service (Scotland) Act 1978
- A regional Transport Partnership established by virtue of section 1(1)(b) of the Transport (Scotland) Act 2005

8.0 COMMUNITY RIGHT TO BUY ABANDONED, NEGLECTED OR DETRIMENTAL LAND

- 8.1 This part of the Community Empowerment Act gives community bodies the right, in certain circumstances, to buy land without a willing seller, when the land is wholly or mainly abandoned or neglected, or the use or management of the land is causing harm to the environmental wellbeing of the local community. The guidance which has been published for consultation on this part of the Act focusses mainly on what Ministers should have regard to when deciding if land is eligible land.

9.0 SUMMARY OF KEY ISSUES FOR INVERCLYDE ALLIANCE

- 9.1 In regard to the above aspects of the Community Empowerment Act the main issues for the partnership will be around:

- resourcing the requirements, particularly around officer capacity to take on additional roles or responsibilities
- joint training for officers, across the CPP, to enable them to respond in a co-ordinated way, to any requests made through the Community Empowerment Act
- a need to provide support for communities (in partnership) to build their capacity to be involved in Community Planning and to take advantage of the various aspects of the act around participation requests and asset transfer
- establishing resources to gather data and analyse this for progressing locality planning and evidencing that what partners are delivering via the LOIP and locality plans is tackling inequalities

- ensuring that community engagement is as effective as it can be across all services, in regard to all outcomes
- assisting community bodies to identify external funding sources they can apply to, to support asset transfer/community right to buy
- the development of a partnership participation request process.

9.2 Inverclyde Council contributes approximately £57,000, in respect of half of the time of two full time equivalent posts (Corporate Policy Officer and Corporate Policy and Partnership Manager). The Council's Community Learning and Development Service supports community capacity building and engagement (along with other partners such as CVS Inverclyde and Your Voice). Partners are asked to consider how they might support the resourcing of robust community participation in community planning as well as the running of the Community Planning Partnership.

10.0 IMPLICATIONS

10.1 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					

10.2 Human Resources: none at present

10.3 Legal: none at present

10.4 Equalities: none at present

10.5 Repopulation: none at present

11.0 CONSULTATIONS

11.1 A number of Council services have been consulted on the potential impact of the Community Empowerment Act on their services. Community Cluster events were held the week commencing the 9th of May to outline for attendees the main aspects of the Act and seek views from community representatives on how the legislation might affect them.

12.0 CONCLUSIONS

12.1 There are a wide number of requirements for the Community Planning Partnership to deliver on set out in the Community Empowerment Act. Resources will need to be identified to support both officers and communities in the delivery of the legislation.

13.0 LIST OF BACKGROUND PAPERS

13.1 Community Empowerment (Scotland) Act
2015 <http://www.gov.scot/Topics/People/engage/CommEmpowerBill>

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

Community Planning guidance and regulations consultation

<https://consult.scotland.gov.uk/community-empowerment-unit/community-planning-guidance>

Community Right to Buy abandoned, neglected or detrimental land consultation

<https://consult.scotland.gov.uk/community-land-team/abandoned-land>

Asset Transfer guidance and regulations consultation

<https://consult.scotland.gov.uk/community-empowerment-unit/asset-transfer-procedures>

Participation Request guidance and regulations consultation

<https://consult.scotland.gov.uk/community-empowerment-unit/participation-request-regulations>

Appendix One

Community Planning Draft Guidance and Regulations

Summary of Expectations

Shared Leadership

- Partners demonstrate collective ownership, leadership and strategic direction of community planning
- Partners use their shared leadership role to ensure the CPP sets an ambitious vision for local communities; the CPP involves all partners and resources that can contribute towards delivering on that vision; and that partners deliver on it
- The CPP is clear about how they work with public service reform programmes (including health and social care integration and community justice reforms).

Governance and accountability

- The CPP understands what effective community planning requires, and the improvement needs for it and its partners
- The CPP and its partners apply effective challenge and scrutiny in community planning, built on mutual trust, a shared and ambitious commitment to continuous improvement, and a culture that promotes and accepts challenge among partners
- The CPP organises itself in an effective way, which provides platforms for strong strategic decision-making and action, and effective scrutiny and challenge
- The CPPs and partners can demonstrate, including to local communities through annual progress reports, how they are working effectively in partnership to improve outcomes as part of how they are held to account.

Community participation and co-production

- The CPP and community planning partners work with community bodies to ensure that all bodies which can contribute to community planning are able to do so in an effective way and to the extent that they wish to do so
- The CPP and community planning partners have a clear understanding of distinctive needs and aspirations of communities of place and interest within its area, as a result of effective participation with community bodies
- Effective community participation informs decisions about the CPP's priorities, how services are shaped and resources deployed; this includes working with community bodies on co-production where these bodies wish to do so
- Effective community participation informs how the CPP manages and scrutinises performance and progress, and how it revises its actions to meet its ambitions as a result of its performance management
- The CPP engages community bodies in on-going monitoring and evaluation of progress made towards ambitions in their LOIP and locality plans. It also actively engages community bodies in monitoring and evaluating the effectiveness of its community engagement and how it is acting to support effective community participation
- The CPP embraces the principles of effective co-production which is aimed at combining the mutual strengths and capacities of all partners (including community bodies) to achieve positive change.

Understanding of local communities' needs, circumstances and opportunities

- The CPP has a strong understanding of its local areas, including differing needs, circumstances and opportunities for communities (geographical and communities of interest) within its area
- This understanding is built on appropriate data and evidence from partners and community perspectives flowing from effective community engagement.

Focus on key priorities

- The CPP uses its understanding of local needs, circumstances and opportunities to establish a clear and ambitious vision for its area and identify local priorities for improvement
- The CPP is clear about the improvement it wishes to make locally in terms of better outcomes for specific communities, reducing the gap in outcomes between the most and least deprived groups and moderating future demand for crisis services
- The Local Outcome Improvement Plan (LOIP) places a clear emphasis on identifying local priorities which focus on how the CPP will add most value as a partnership to improve outcomes and tackle inequalities, and the CPP targets activities around these priorities.

Focus on prevention

- The CPP and partners plan prevention and early intervention approaches as core activities which help people and communities to thrive and contribute to addressing poor outcomes and moderating future demand for services
- The CPP places strong emphasis on preventative measures to achieve ambitious improvement goals on the local outcomes it priorities
- CPP partners provide resources required to support preventative measures to the scale required to fulfil these ambitions
- The CPP works with local communities and uses a close understanding of local needs, circumstances and opportunities to design services and focus resources to where it has greatest preventative benefit.

Tackling Inequalities

- The CPP has a strong understanding of which households and communities in its area experience inequalities of outcome which impact on their quality of life.
- The CPP focuses its collective energy on where its partners' efforts can add more value for its communities, with particular emphasis on reducing inequalities
- The CPP develops locality and thematic approaches as appropriate to address these, with participation from community bodies representing the interests of persons experiencing inequalities
- The CPP should build the capacity of communities, particularly those experiencing inequality, to enable those communities, both geographic and of interest, to identify their own needs and opportunities; and support their efforts to participate effectively in community planning, including in the co-production of services.

Resourcing improvement

- The CPP and its partners understand how their collective resources are supporting shared local priorities, and whether together these are sufficient and the right resources to enable the CPP to meet its improvement targets
- Partners demonstrate strong shared leadership by working with other bodies to use collective resources in more effective and efficient ways to improve outcomes and reduce inequalities
- Partners deploy sufficient resource to meet agreed ambitions for the CPP's local priorities
- Partners align their collective resources in ways which support its local priorities effectively and efficiently
- The CPP and its partners keep under review whether partners' deployment of resources remains appropriate for meeting its ambitions, and take corrective action where necessary.

Effective performance management

- The CPP has a deep-rooted commitment to continuous improvement
- The CPP has effective processes and skills to understand and scrutinise performance
- The CPP acts wherever appropriate to improve performance in light of this understanding and scrutiny.