

# Public Document Pack



## SCOTTISH BORDERS COUNCIL WEDNESDAY, 29TH JUNE, 2016

A MEETING of the SCOTTISH BORDERS COUNCIL will be held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST. BOSWELLS on WEDNESDAY, 29TH JUNE, 2016 at 10.00 AM

J. J. WILKINSON,  
Clerk to the Council,  
22 June 2016

<b>BUSINESS</b>																																						
1.	<b>Convener's Remarks.</b>																																					
2.	<b>Apologies for Absence.</b>																																					
3.	<b>Order of Business.</b>																																					
4.	<b>Declarations of Interest.</b>																																					
5.	<p><b>Minute (Pages 1 - 8)</b></p> <p>Consider Minute of Scottish Borders Council held on 19 May 2016 for approval and signing by the Convener. (Copy attached.)</p>	2 mins																																				
6.	<p><b>Committee Minutes</b></p> <p>Consider Minutes of the following Committees:-</p> <table style="width: 100%; border-collapse: collapse;"> <tbody> <tr><td>(a) Local Review Body</td><td style="text-align: right;">18 April 2016</td></tr> <tr><td>(b) Civic Government Licensing</td><td style="text-align: right;">22 April 2016</td></tr> <tr><td>(c) Scrutiny</td><td style="text-align: right;">28 April 2016</td></tr> <tr><td>(d) Audit &amp; Risk</td><td style="text-align: right;">9 May 2016</td></tr> <tr><td>(e) Executive</td><td style="text-align: right;">10 May 2016</td></tr> <tr><td>(f) Galashiels Common Good Fund</td><td style="text-align: right;">12 May 2016</td></tr> <tr><td>(g) Eildon Area Forum</td><td style="text-align: right;">12 May 2016</td></tr> <tr><td>(h) Local Review Body</td><td style="text-align: right;">16 May 2016</td></tr> <tr><td>(i) LLP Strategic Governance Group</td><td style="text-align: right;">17 May 2016</td></tr> <tr><td>(j) Hawick Common Good Fund</td><td style="text-align: right;">17 May 2016</td></tr> <tr><td>(k) Teviot &amp; Liddesdale Area Forum</td><td style="text-align: right;">17 May 2016</td></tr> <tr><td>(l) Civic Government Licensing</td><td style="text-align: right;">20 May 2016</td></tr> <tr><td>(m) Executive</td><td style="text-align: right;">24 May 2016</td></tr> <tr><td>(n) Planning &amp; Building Standards</td><td style="text-align: right;">30 May 2016</td></tr> <tr><td>(o) Petitions and Deputations</td><td style="text-align: right;">31 May 2016</td></tr> <tr><td>(p) Duns Common Good Fund</td><td style="text-align: right;">2 June 2016</td></tr> <tr><td>(q) Berwickshire Area Forum</td><td style="text-align: right;">2 June 2016</td></tr> <tr><td>(r) Local Review Body</td><td style="text-align: right;">6 June 2016</td></tr> </tbody> </table>	(a) Local Review Body	18 April 2016	(b) Civic Government Licensing	22 April 2016	(c) Scrutiny	28 April 2016	(d) Audit & Risk	9 May 2016	(e) Executive	10 May 2016	(f) Galashiels Common Good Fund	12 May 2016	(g) Eildon Area Forum	12 May 2016	(h) Local Review Body	16 May 2016	(i) LLP Strategic Governance Group	17 May 2016	(j) Hawick Common Good Fund	17 May 2016	(k) Teviot & Liddesdale Area Forum	17 May 2016	(l) Civic Government Licensing	20 May 2016	(m) Executive	24 May 2016	(n) Planning & Building Standards	30 May 2016	(o) Petitions and Deputations	31 May 2016	(p) Duns Common Good Fund	2 June 2016	(q) Berwickshire Area Forum	2 June 2016	(r) Local Review Body	6 June 2016	5 mins
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	<p>(s) Executive 7 June 2016  (t) Lauder Common Good Fund 8 June 2016  (u) William Hill Trust 8 June 2016  (v) Selkirk Common Good Fund 8 June 2016</p> <p>(Please see separate Supplement containing the public Committee Minutes.)</p>	
7.	<p><b>Committee Minute Recommendations</b> (Pages 9 - 10)</p> <p>Consider the recommendation made by the Executive Committee of 24 May 2016. (Copy attached.)</p>	5 mins
8.	<p><b>Open Questions</b></p>	15 mins
9.	<p><b>Responding to the Community Empowerment (Scotland) Act Consultations on Public Participation Requests and Asset Transfer</b> (Pages 11 - 162)</p> <p>Consider report by Chief Executive. (Copy attached.)</p>	15 mins
10.	<p><b>Response to the Fire and Rescue Framework for Scotland 2016 Consultation</b> (Pages 163 - 208)</p> <p>Consider report by the Chief Executive. (Copy attached.)</p>	10 mins
11.	<p><b>Changes to Procurement Legislation</b> (Pages 209 - 218)</p> <p>Consider report by Chief Financial Officer. (Copy attached.)</p>	10 mins
12.	<p><b>Financial Regulations</b> (Pages 219 - 250)</p> <p>Consider report by Chief Financial Officer. (Copy attached.)</p>	15 mins
13.	<p><b>Hawick Action Plan</b> (Pages 251 - 270)</p> <p>Consider report by Director of Corporate Transformation and Services. (Copy attached.)</p>	15 mins
14.	<p><b>Household Waste Charter</b> (Pages 271 - 292)</p> <p>Consider report by Service Director Neighbourhood Services (Copy attached.)</p>	15 mins
15.	<p><b>On-Street Parking and Traffic Management</b> (Pages 293 - 306)</p> <p>Consider report by Chief Roads Officer. (Copy attached.)</p>	15 mins
16.	<p><b>Bellwin Claim 2015/16 - Update</b> (Pages 307 - 312)</p> <p>Consider report by Chief Financial Officer. (Copy attached)</p>	15 mins
17.	<p><b>SESplan: Ratification of Proposed Strategic Development Plan</b> (Pages 313 - 414)</p> <p>Consider report by Service Director Regulatory Services. (Copy attached.)</p>	15 mins
18.	<p><b>Local Government Boundary Commission - Proposals</b> (Pages 415 - 426)</p> <p>Consider report by Chief Executive. (Copy attached.)</p>	15 mins
19.	<p><b>Early Retirement/Voluntary Severance</b> (Pages 427 - 430)</p>	5 mins

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20.	<b>Any Other Items Previously Circulated</b>																			
21.	<b>Any Other Items Which the Convener Decides Are Urgent</b>																			
22.	<p><b>Private Business</b></p> <p>Before proceeding with the private business, the following motion should be approved:-</p> <p>“That under Section 50A(4) of the Local Government (Scotland) Act 1973 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in the relevant paragraphs of Part 1 of Schedule 7A to the aforementioned Act.”</p>																			
23.	<p><b>Minute</b> (Pages 431 - 432)</p> <p>Consider private Section of Minute of Scottish Borders Council held on 19 May 2016. (Copy attached.)</p>	1 mins																		
24.	<p><b>Committee Minutes</b></p> <p>Consider private Sections of the Minutes of the following Committees:-</p> <table border="0"> <tr> <td>(a)</td> <td>Civic Government Licensing</td> <td>22 April 2016</td> </tr> <tr> <td>(b)</td> <td>LLP Strategic Governance Group</td> <td>17 May 2016</td> </tr> <tr> <td>(c)</td> <td>Hawick Common Good Fund</td> <td>17 May 2016</td> </tr> <tr> <td>(d)</td> <td>Civic Government Licensing</td> <td>20 May 2016</td> </tr> <tr> <td>(e)</td> <td>Planning &amp; Building Standards</td> <td>30 May 2016</td> </tr> <tr> <td>(f)</td> <td>Selkirk Common Good Fund</td> <td>8 June 2016</td> </tr> </table> <p>(Please see separate Supplement containing private Committee Minutes.)</p>	(a)	Civic Government Licensing	22 April 2016	(b)	LLP Strategic Governance Group	17 May 2016	(c)	Hawick Common Good Fund	17 May 2016	(d)	Civic Government Licensing	20 May 2016	(e)	Planning & Building Standards	30 May 2016	(f)	Selkirk Common Good Fund	8 June 2016	2 mins
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25.	<p><b>Great Tapestry of Scotland Update</b> (Pages 433 - 442)</p> <p>Consider report by Corporate Transformation and Services Director. (Copy attached.)</p>	5 mins																		
26.	<p><b>Development Opportunity at Tweedbank</b></p> <p>Consider joint report by Corporate Transformation &amp; Services Director and Service Director Regulatory Services.</p>	15 mins																		
27.	<p><b>City Region Deal</b> (Pages 443 - 452)</p> <p>Consider report by Chief Executive. (Copy attached.)</p>	15 mins																		

## NOTES

1. Timings given above are only indicative and not intended to inhibit Members' discussions.
2. Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.

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Please direct any enquiries to Louise McGeoch Tel 01835 825005  
email [lmcgeoch@scotborders.gov.uk](mailto:lmcgeoch@scotborders.gov.uk)

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**SCOTTISH BORDERS COUNCIL**

MINUTE of MEETING of the SCOTTISH BORDERS COUNCIL held in Council Headquarters, Newtown St. Boswells on 19 May 2016 at 10.00 a.m.

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Present:- Councillors G. Garvie (Convener), S. Aitchison, W. Archibald, M. Ballantyne (from para 5), S. Bell, C. Bhatia, J. Brown, J. Campbell, K. Cockburn, M. Cook, A. Cranston, J. Fullarton, I. Gillespie, J. Greenwell, B. Herd, G. Logan, W. McAteer, S. Marshall, J. Mitchell, D. Moffat, S. Mountford, A. Nicol, D. Paterson, S. Scott, R. Smith, J. Torrance, G. Turnbull, T. Weatherston.

Apologies:- Councillors G. Edgar, V. Davidson, D. Parker, F. Renton, R. Stewart, B. White.

In Attendance:- Depute Chief Executive (Place), Corporate Transformation and Services Director, Service Director Regulatory Services, Service Director Assets and Infrastructure, Chief Roads Officer, Chief Legal Officer, Clerk to the Council.

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1. **CONVENER'S REMARKS**

The Convener paid tribute to all those involved in the visit of the Flying Scotsman to the Borders on Sunday.

**DECISION NOTED.**

2. **MINUTE**

The Minute of the Meeting held on 31 March 2016 was considered.

**DECISION AGREED that the Minute be approved and signed by the Convener.**

3. **COMMITTEE MINUTES**

The Minutes of the following Committees had been circulated:-

Tweeddale Area Forum	2 March 2016
Civic Government Licensing	18 March 2016
Executive	22 March 2016
Pension Fund	23 March 2016
Pension Board	23 March 2016
Scrutiny	24 March 2016
Planning & Building Standards	28 March 2016
Audit & Risk Committee	21 March 2016
Peebles Common Good Fund	31 March 2016
Executive	19 April 2016
Teviot & Liddesdale Area Forum	19 April 2016
Planning & Building Standards	25 April 2016

**DECISION**

**APPROVED the Minutes listed above subject to paragraph 4 below**

4. **COMMITTEE RECOMMENDATIONS**

With reference to paragraph 3 of the Minute of the Civic Government Licensing Committee of 18 March 2016, it was recommended that the remit of the Committee be amended to include making decisions on cases where officers recommended that a private sector landlord be refused registration or that they be removed from the Private Landlord Register and that this addition be incorporated into the Scheme of Administration.

**DECISION**

**AGREED to amend the Scheme of Administration in respect of the remit of the Civic Government Licensing Committee as detailed above.**

**5. OPEN QUESTIONS**

The questions submitted by Councillors Logan, Bhatia, Marshall and Greenwell were answered.

**DECISION**

**NOTED the replies as detailed in Appendix I to this Minute.**

**MEMBER**

Councillor Ballantyne joined the meeting during the above item.

**6. LOCAL CODE OF CORPORATE GOVERNANCE**

With reference to paragraph 12 of the Minute of 23 February 2012, there had been circulated copies of a report by the Chief Executive seeking approval of the revised Local Code of Corporate Governance of Scottish Borders Council. The report explained that Scottish Borders Council was responsible for ensuring that its business was conducted in accordance with the law and proper standards, and that public money was safeguarded and properly accounted for, and used economically, efficiently and effectively. Fundamentally Corporate Governance was about openness, integrity and accountability. It comprised the systems and processes, and cultures and values by which the authority was directed and controlled and through which it was accountable to, engaged with and, where appropriate, led its communities. The development of a revised Local Code of Corporate Governance for the Council, consistent with the principles and requirements of the Framework 'Delivering Good Governance in Local Government', would help to ensure proper arrangements continued to be in place to meet the Council's responsibilities. Reference was made to the use of the word "adequate" and it was agreed that this be amended. It was also noted that the reference to Chief Executive in the Appendix should be Head of Paid Service.

**DECISION**

**AGREED to:-**

- (a) approve the revisions to the Local Code of Corporate Governance of Scottish Borders Council as contained in the Appendix to the report:**
- (b) instruct that the Local Code of Corporate Governance be re-launched to ensure greater awareness across the Council; and**
- (c) request that the Chief Executive, Depute Chief Executives and Service Directors consider compliance with the Code as part of their annual assurance statements on internal control and governance and implement actions to ensure full compliance to the elements of the Code.**

**7. FLOOD RISK MANAGEMENT (SCOTLAND) ACT 2009 - APPROVAL OF LOCAL FLOOD RISK MANAGEMENT PLANS**

With reference to paragraph 7 of the Minute of 27 August 2015, there had been circulated copies of a report by the Chief Roads Officer seeking approval of the Local Flood Risk Management Plans for the Forth Estuary Local Plan District, the Tweed Local Plan District and the Solway Local Plan District. This approval was required to allow for publication of the Local Flood Risk Management Plans in Scotland on 22 June 2016. The report explained that the Flood Risk Management Strategies and Local Flood Risk Management Plans had been developed through collaborative partnerships between Local Authorities, SEPA and Scottish Water and provided a framework for co-ordinating actions across catchments to deal with all sources of flooding. These plans ensured long term planning around flooding and under

Section 41(2) of the Flood Risk Management (Scotland) Act 2009, Scottish Ministers must take them into account when allocating funding. This approach helped target investment to areas where there was the greatest risk of flooding and where communities could receive the greatest benefit. This would help to maximise the benefit of public investment. The Plans set out who would be responsible for delivering the action, how the action would be funded, a timetable for delivery and how it would be coordinated within a six-year cycle. Council approval of the Forth Estuary Local Flood Risk Management Plan, the Tweed Local Flood Risk Management Plan and the Solway Local Flood Risk Management Plan was required prior to the national publication date of 22 June 2016. Although the Council had an interest in only one Potentially Vulnerable Area (PVA) in both the Forth Estuary (PVA10/26 – Berwickshire Coast) and Solway (PVA14/03 – Newcastleton) Local Plan Districts there was a requirement through legislation for both plans in their entirety to be approved. Members congratulated officers on the work carried out and welcomed the Plan. Members discussed flood prevention studies for Peebles, Innerleithen and Walkerburn and noted that the Scottish Government was providing funding of £278k for studies during 2016/17. The management of reservoirs was also mentioned and the Chief Officer agreed to investigate this.

#### **DECISION**

**AGREED to approve, for delivery by the Council as part of the Flood Risk Management Planning Cycle 2016 -2022, the:-**

- (a) Forth Estuary Local Flood Risk Management Plan;**
- (b) Tweed Local Flood Risk Management Plan; and**
- (c) Solway Local Flood Risk Management Plan;**

**for delivery by the Council as part of the Flood Risk Management Planning Cycle 2016 – 2022.**

#### **8. LOCAL DEVELOPMENT PLAN SCHEME 2016**

There had been circulated copies of a report by the Service Director Regulatory Services seeking approval of the annual update of the Development Plan Scheme. The report explained that publishing a Development Plan Scheme at least annually was a statutory duty and it must include a participation statement setting out how, when and with whom the Council would consult on the various Local Development Plan stages. The proposed Development Plan Scheme 2016 was appended to the report and had been prepared to provide information on the development plan process. It set out the latest position on the Council's development plans. It was noted that the outcome of the planning review was expected soon and that this might have implications for future plans.

#### **DECISION**

**AGREED:-**

- (a) to approve the proposed Development Plan Scheme 2016, as detailed in Appendix 1 to the report, for publication, deposit and copying to Scottish Ministers;**
- (b) that the Development Plan Scheme be reviewed and published at least annually; and**
- (c) to authorise the Service Director Regulatory Services to make any necessary minor editing and design changes to the Development Plan Scheme prior to publishing it.**

#### **9. ALLOWANCES PAID TO MEMBERS DURING 2015/16**

There had been circulated copies of a report by the Chief Executive on the allowances paid to Members during 2015/16 and seeking approval for this information to be published on the

Council's website to meet the publicity requirements of the Local Government (Allowances and Expenses)(Scotland) Regulations 2007. The Total remuneration and expenses paid to Members in 2015/16 amounted to £778,149.99, compared with a total of £757,172.75 in 2014/15. Travel expenses total £56,452.83 in 2015/16, compared to the 2014/15 figure of £54,835.65. The cost of Telephone and ICT Expenses in 2015/16 amounted to £49,639.29 compared to £37,067.17 in 2014/15. Details in respect of the amounts for each Councillor were contained in the appendices to the report. The Clerk to the Council explained that some of the variations in amounts per Councillor for telephone/IT costs were due to not all the costs being received yet for the changeover to the SWAN network for each Councillor.

#### **DECISION**

**AGREED that the information in the Appendices to the report be published on the Council's website, in order to meet the publicity requirements of the Local Government (Allowances and Expenses)(Scotland) Regulations 2007.**

#### **MEMBERS**

Councillors Marshall and McAteer left the meeting.

#### **10. PRIVATE BUSINESS**

##### **DECISION**

**AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in Appendix II to this Minute on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 1, 6, 8 and 9 of Part I of Schedule 7A to the Act.**

#### **SUMMARY OF PRIVATE BUSINESS**

#### **11. Minute**

The private section of the Council Minute of 31 March 2016 was approved.

#### **12. Committee Minutes**

The private sections of the Committee Minutes as detailed in paragraph 3 of this Minute were approved.

#### **13. Urgent Business**

Under Section 50B(4)(b) of the Local Government (Scotland) Act 1973, the Convener was of the opinion that the item dealt with in the following paragraph should be considered at the meeting as a matter of urgency, in view of the need to make an early decision.

#### **14. Tweedbank Future Development Opportunities**

Members approved a joint report by the Corporate Transformation and Services Director and Service Director Regulatory Services.

*The meeting concluded at 12 noon.*



**SCOTTISH BORDERS COUNCIL**  
**19 MAY 2016**  
**APPENDIX I**

**Question from Councillor Logan**

To the Executive Member for Economic Development

When will the report on the structure, membership and the proposed operation of the Great Tapestry of Scotland project be brought to Council for debate?

Reply from Councillor Bell

Officers currently anticipate that a report will be brought to Council in August.

Supplementary

Councillor Logan asked for confirmation of the commitment not to commence construction before the report was considered. Councillor Bell did not recall any such commitment being given but advised that, although the necessary permissions were in place, there were still a number of matters to resolve so he did not anticipate construction commencing before August.

**Question from Councillor Mountford**

To the Leader

What progress has been made on developing a fit-for-purpose sound amplification system for the Council Chamber?

Reply by Councillor Cook in the absence of Councillor Parker

The replacement and or refresh of the Council Chamber audio and video equipment is included within the scope of the CGI contract that commences on 1 October 2016. The final detailed specification of the equipment will be agreed with CGI to meet the required outcomes for the Chamber. Work on the Audio equipment in the Chamber is currently scheduled to commence planning in September 2016 and complete delivery by the end of the year.

**Question from Councillor Bhatia**

To the Executive Member for Economic Development

What effect would Britain leaving the European Union have the Borders' economy?

Reply by Councillor Bell

The Scottish Borders economy is linked to that of the wider European economy in a number of ways.

1. Borders firms export goods to the EU. Although export figures are not available at local authority level, the latest official figures for Scotland show that the annual value of exports to the EU was £7.1bn in 2014-15 while the value of imports was £5bn, a surplus of £2.1bn.

The UK as a whole has a trade deficit with the EU. To put that in context: Scottish exports to the rest of the world were worth £11.1bn and imports were worth £8.8 bn, a surplus of £2.3bn.

Leaving the EU would potentially affect the ability of exporters to trade with the Single Market and much would depend on the outcome of the UK Government's negotiations with the EU regarding trading arrangements going forward.

2. Foreign Direct Investment (FDI) is a key component of overall investment in the Scottish economy. Of the top 10 nations that were the origin of such projects in Scotland in 2014, 40% were from the US and 19.7% from the EU. Again, there is no equivalent information at local authority level.

If the UK was to leave the EU, there is a significant risk that the level of FDI would fall as businesses became unable to use the UK as a 'launch pad' into the larger EU market. This could

have an adverse impact on the ambition for inward investment in the Scottish Borders. There may also be a potential impact on the area if businesses that are currently located in the Borders decide to relocate to an EU country in order to more easily trade with the larger market area.

3 The Scottish Borders has received around £11m in EU funding during the past decade which has been used to help fund infrastructure projects, business development, and regeneration. This figure does not include payments to farmers from the Common Agricultural Policy (CAP) which amount to around €600m across Scotland.

Although it is likely that the UK as a whole would benefit from leaving CAP without the introduction of new government subsidies, the farming sector would not, particularly in less favoured areas such as the Borders. In terms of EU Structural Funds, there is uncertainty as to whether these could be replaced by a new form of regional policy that would support those areas facing the most significant economic challenges.

4. Tourism is a key sector for the Scottish Borders economy. VisitScotland reports that in 2014 overseas visitors to the Borders spent £12m of which £8m was spent by visitors from Germany, France, Netherlands, Poland, Ireland, and Spain. Clearly, the EU provides the largest market of overseas visitors to the area. It is not clear if these numbers would be maintained if we left the EU.

Finally, 5. There is free movement of people across EU member states and this has had an impact on the labour market, with a number of local businesses employing considerable numbers of EU nationals. Of the Scottish Borders population at the time of the 2011 Census, 2.5% were identified as coming from EU nations excluding Ireland; slightly above the figure for Scotland of 2.6%.

#### Supplementary

Councillor Bhatia asked if the Executive Member agreed that it would benefit the Borders to remain in the EU and that Councillors should support this. Councillor Bell advised that the response had been formulated by officers but confirmed that he personally considered that the evidence was clear that the Borders benefited from being in the EU and that all Councillors should make their position on the matter clear.

#### **Question from Councillor Marshall**

##### To the Executive Member for Planning and Environment

I am aware of a number of derelict buildings within the Scottish Borders that have been subject to emergency repairs, some of these on numerous occasions. How much has this cost the Council over the past 12 months?

##### Reply from Councillor Smith

Over the past 12 months the Council has pursued 80 cases involving dangerous buildings. The Council has been required to undertake emergency works in 13 of those cases at a total cost of £6,058. Respective owners have been invoiced for those works. It is anticipated a further 7 of the outstanding cases are likely to require direct action works by the Council. The cost of these works has not yet been quantified.

Councillor Marshall may wish to note that a number of premises in Hawick have required to be re-visited multiple times during this period including:

Former Armstrongs premises – 3 visits  
Former N Peal building – 3 visits  
Former Woodcocks building – 3 visits  
Former Glenmac factory – 2 visits.

Councillor Marshall may also wish to note that the total outstanding costs for works undertaken by the Council for these 4 premises in the past 5 years is £39,338.

#### Supplementary

Councillor Marshall asked what the success rate was in terms of collecting money spent on these properties from the owners. Councillor Smith advised that he could obtain this information and further advised there were three methods of recovery, namely issuing invoices to the owners, placing charging orders on the buildings or using debt recovery. He also advised that the Council had limited powers in terms of which aspects of buildings they could deal with. This mainly covered the external fabric of the building but that no action could be taken in respect of fixtures and fittings. The Council could only intervene if there was a risk to the building structure.

#### **Question from Councillor Greenwell**

##### To the Executive Member for Roads and Infrastructure

Can the Executive Member update us on what progress the roads review is making and when we can expect a report to come to Council?

##### Reply from Councillor Brown in the absence of Councillor Edgar

In line with the recommendations agreed at the Executive Committee on the 8<sup>th</sup> March 2016, the business case is currently being prepared and it is anticipated that officers will bring a report to Council on the 29<sup>th</sup> June 2016.

#### Supplementary

Councillor Greenwell asked if it was agreed that the current regime of road repairs including potholes was not sustainable and that a more permanent solution was required and this was accepted by Councillor Brown.

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**SCOTTISH BORDERS COUNCIL 29 JUNE 2016****STARRED ITEMS FROM COMMITTEE MINUTES****EXECUTIVE COMMITTEE 24 MAY 2016****3. ECCLES/LEITHOLM PRIMARY SCHOOL**

There had been circulated copies of a report by the Service Director Children and Young People proposing changes to the status of Eccles/Leitholm Primary School in that it was proposed that the school be mothballed for a temporary period and that the decision to do so be reviewed within 12 months. The report outlined the background to the falling pupil roll at Eccles/Leitholm Primary School, leaving 3 pupils at the school for school session 2016/17. Arrangements for accommodating the pupils within other Scottish Borders schools were described and included transport, staffing and the educational and social benefits to be achieved through the process. The Service Director drew Members' attention to the section of the report which referred to the School Estates Review. During the pre-consultation for the Review the Council had engaged with school communities which currently had a pupil roll of less than 20 pupils regarding future sustainability. The intention was for the Council to intervene at an early stage, should there be a prediction of falling rolls. These ongoing discussions would be represented within the report going to Council in June 2016. In the ensuing discussion Members recognised that the situation at Eccles/Leitholm was a sad reflection of the changing age profiles in many rural areas. Parent representative, Mrs Aitchison, urged the Council to undertake early engagement with schools which had rolls of less than 50 pupils as she believed there could be other schools under threat in that size category. Members recognised that school rolls could fall at an alarming rate creating a downward spiral, if parents felt their children's learning experiences started to be affected by the size of the school. The Service Director stressed that there would be further engagement during the Summer on proposals relating to the School Estates Review when all comments would be picked up about provision within a locality. She had noted in responses to the pre-consultation that the public commented on the need to rationalise provision in terms of the number of schools whilst recognising the importance of rural schools.

**DECISION****AGREED:-**

- \* (a) **to recommend to Council that Eccles/Leitholm Primary School be mothballed with immediate effect for a temporary period;**
- (b) **to review the status of the school within the next 12 months; and**
- (c) **in the interim to provide transport to Coldstream Primary School for any new pupils who moved into the existing catchment of Eccles/Leitholm area.**

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## **REPORT ON RESPONDING TO THE COMMUNITY EMPOWERMENT (SCOTLAND) ACT CONSULTATIONS ON PUBLIC PARTICIPATION REQUESTS AND ASSET TRANSFER**

**Report by Chief Executive**

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### **SCOTTISH BORDERS COUNCIL**

**29 June 2016**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 The purpose of this report is to agree the responses to the two Scottish Government Consultation Papers on Participation Requests and Asset Transfer linked to the Community Empowerment (Scotland) Act 2015.**
- 1.2 At the time the Community Empowerment (Scotland) Act 2015 was passed it was recognised that many parts of the legislation would come into force at different times and that this would involve secondary legislation (orders and regulations) and guidance. A briefing session will be organised for Council members to explain these various parts of the Act. In March 2016 the previous Scottish Government issued a series of consultation papers on aspects of this secondary legislation and guidance including those on Participation Requests and Asset Transfer. The deadline for responses has been extended until the end of June 2016 to enable the Council's response to be submitted.

#### **2 RECOMMENDATIONS**

- 2.1 It is recommended that the Council:**
- (a) Agree the response to Community Empowerment (Scotland) Act 2015 Participation Requests Consultation on Draft Regulations as set out in Appendix 3.**
  - (b) Agree the response to the Asset Transfer under the Community Empowerment (Scotland) Act 2015 Consultation on Draft Regulations as set out in Appendix 5.**
  - (c) Note that a briefing session will be organised for Council members explaining the various aspects of the Community Empowerment (Scotland) Act.**

### **3 BACKGROUND**

- 3.1 The Community Empowerment (Scotland) Act 2015 received Royal Assent on 24 July 2015. The aim of the legislation is to involve and to give greater say to communities in the delivery of public services and to give more power to communities to assist them in improving the well-being of their local areas. The Act consists of a range of varied topics including some which were added to during the legislative phases of the Bill.
- 3.2 There are eleven parts to the legislation which are as follows:
1. National Outcomes
  2. Community Planning
  3. Participation Requests
  4. Community Rights to Buy Land
  5. Asset Transfer Requests
  6. Delegation of Forestry Commissioners' Functions
  7. Football Clubs
  8. Common Good Property
  9. Allotments
  10. Participation in Public Decision-Making
  11. Non-Domestic Rates
- 3.3 At the time the Act was passed in July 2015 it was recognised that many parts of the legislation would come into force at different times and that this would involve secondary legislation (orders and regulations) and guidance. The position on the various parts of the legislation is shown in Appendix 1. It is intended that all the legislation will come into force by October 2016. A briefing session will be organised for Council members explaining the various aspects of the Act.
- 3.4 In March 2016 the previous Scottish Government issued a series of consultation papers on aspects of this secondary legislation and guidance including those on Participation Requests and Asset Transfer. The deadline for responses to these two consultation papers has been extended until the end of June 2016 to enable the Council's response to be submitted.
- 3.5 There is also a consultation paper on the community right to buy abandoned, neglected or detrimental land. The deadline for this paper was 15th June 2016 and an officer response has been submitted because of the technical nature of the consultation and a copy of this is to be lodged in the members' library.

### **4 PARTICIPATION REQUESTS**

- 4.1 The Community Empowerment (Scotland) Act 2015 introduces a participation process for local authorities and public bodies. This enables a community body to put forward a participation request to a public service authority asking them to take part in a process that will improve the outcome set out by the community body. The public service authority must agree to the request and set up a process unless there are reasonable grounds for refusal. If it refuses the request, it must explain the reasons. At the end of the process the public service authority must publish a report on whether the outcomes were improved and how the community body



- contributed to that improvement.
- 4.2 The Scottish Government has now produced a consultation paper entitled Community Empowerment (Scotland) Act 2015 Participation Requests Consultation on Draft Regulations (see Appendix 2). This sets out the proposed methodology in terms of timescales, the expectation on public bodies in dealing with requests and the involvement of communities in the process. The draft response is shown in Appendix 3. The main themes in the response are the need for: a consistent and coherent approach to responding to requests with the provision of a common request form; more flexibility in the timescales for making responses to requests and decision making; and the importance of supporting community groups as part of the process.
- 4.3 Following the end of the consultation the Scottish Government will ask the Scottish Parliament to agree the final Regulations, which are expected to come into force in September 2016. Once this part of the Act comes in to force community bodies will be able to start making participation requests under the Act. Guidance on using the Act will be published once Ministers have decided what will be included in the final Regulations.

## **5 ASSET TRANSFER**

- 5.1 Part 5 of the Community Empowerment (Scotland) Act 2015 provides a framework for the asset transfer process for public bodies including local authorities. It also requires each relevant authority to publish a register of land (including buildings and other structures) which it owns or leases, 'to the best of its knowledge and belief'. This will help community bodies to know what might be available for asset transfer.
- 5.2 The Act gives the Scottish Government powers to make regulations to provide more detail of the procedures to be followed. The Scottish Government's consultation paper entitled 'Asset Transfer under the Community Empowerment (Scotland) Act 2015 Consultation on Draft Regulations' was published in March 2016 (see Appendix 4). This asks for views on the detailed procedures for making and dealing with asset transfer requests. Guidance for community bodies on using the Act will be published when the final regulations are produced. The consultation paper also explains the requirements of the Act and gives advice on good practice. The Scottish Government is encouraging relevant authorities to use this information to start developing their asset transfer schemes, or amending existing schemes, in advance of the regulations being finalised.
- 5.3 The draft response is shown in Appendix 5. The main aspects of the response are the need for: land registers to exclude land and buildings required for the operational requirements of local authorities and other public bodies; community controlled bodies to be genuinely representative of communities of place; effective business plans to be provided by community controlled bodies; and more flexibility in timescales for the notification and decision making processes.

## **6 IMPLICATIONS**

### **6.1 Financial**

There are no direct financial implications arising from this report.



**6.2 Risk and Mitigations**

There are legislative and reputational risks that could occur if the Council does not have appropriate arrangements in place to fulfil its responsibilities arising from the implementation of the Community Empowerment (Scotland) Act.

**6.3 Equalities**

It is too early yet to carry out an equality impact assessment on this work but any new Council schemes/policies associated with the various sections of the Community Empowerment (Scotland) Act 2015 will need to be equality impact assessed.

**6.4 Acting Sustainably**

No decision is required as yet that will have economic, social, or environmental implications.

**6.5 Carbon Management**

There are no effects on carbon emissions.

**6.6 Rural Proofing**

Rural areas are treated similarly to urban areas in the implementation of the Community Empowerment (Scotland) Act 2015.

**6.7 Changes to Scheme of Administration or Scheme of Delegation**

There are no changes to be made.

**7 CONSULTATION**

7.1 The Council’s Management Team, Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR and the Clerk to the Council have been consulted on this report and any comments received have been incorporated into the final report.

**Approved by**

**Tracey Logan  
Chief Executive**

**Signature .....**

**Author(s)**

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**Background Papers:** None

**Previous Minute Reference:** None

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Douglas Scott can also give information on other language translations as well as providing additional copies.

Contact us at: Douglas Scott [dscott@scotborders.gov.uk](mailto:dscott@scotborders.gov.uk) tel: 01835 825155

## Appendix 1 – Position on the Community Empowerment Legislation

The National Outcomes (**Part 1**) came into force on the 15 April 2016. Some of the Community Rights to Buy Land section (**Part 4**) came into force on 15 April 2016 at the same time as Amendments to Part 2 of the Land Reform Act.

In March 2016 consultation papers were launched by the previous Scottish Government on:

- Draft Guidance and Regulations on **Part 2** Community Planning <https://consult.scotland.gov.uk/community-empowerment-unit/community-planning-guidance> A response to this consultation paper was discussed at the meeting of the Scottish Borders Community Planning Partnership.
- Draft Regulations on **Part 3** Participation Requests. <https://consult.scotland.gov.uk/community-empowerment-unit/participation-request-regulations> .
- **Part 4** - the community right to buy abandoned, neglected or detrimental land, <https://consult.scotland.gov.uk/community-land-team/abandoned-land> and the Crofting Community Right to Buy <https://consult.scotland.gov.uk/community-land-team/right-to-buy>  
An officer response has been submitted to the former paper because of its technical nature.
- Draft regulations on **Part 5** Asset Transfer <https://consult.scotland.gov.uk/community-empowerment-unit/asset-transfer-procedures>

The position of the Scottish Government on **Part 6**, the Delegation of Forestry Commissioners' Functions which allows for different types of community bodies to be involved in forestry leasing, is that this will be covered in a revised National Forest Land Scheme which will be published after the Asset Transfer Requests provisions come into force.

In relation to **Part 7**, Football Clubs, the Act provides powers for Ministers to make regulations to facilitate supporter involvement and give fans rights in these areas. A consultation on this issue closed in January 2016, and the Scottish Government is currently considering the responses.

The position on further guidance in relation to **Part 8** Common Good Property is still awaited on. In relation to **Part 9** Allotments, the Scottish Government "Consultation on Allotments Compensation: Secondary Legislation under the Community Empowerment (Scotland) Act 2015" ran from 20 August 2015 to 16 October 2015. A separate consultation will be taken forward in early to mid-2016 that will seek to determine the Guidance that local authorities must adhere to in relation to Part 9.

**Part 10** reserves the powers for Ministers to make Regulations that require public authorities to promote and facilitate the participation of members of the public in the decisions and activities of the authority, including the allocation of resources. There is no indication that Ministers will use these reserve powers.

Finally in relation to **Part 11**: the Non Domestic Rates (Part 11) element of the Act came into force on the 31 October 2015. This allowed local authorities to develop

schemes for the reduction and remission of domestic rates.

# **Community Empowerment (Scotland) Act 2015**

## **Participation Requests**

### **Consultation on Draft Regulations**

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## 1. PARTICIPATION REQUESTS

The Christie Commission recommended that Government and should seek to strengthen communities' voices in shaping the services which affect them. Evidence shows that involving people more regularly and more effectively in the decisions that affect them leads to better outcomes, making the most of the knowledge and talent that lies in communities. It also increases confidence and fosters more positive relationships between communities and the public sector.

With the National Standards for Community Engagement in place the Government sets clear expectations that all public sector organisations must engage with communities and support their participation in setting priorities and in the design and delivery of services.

Participation requests should not be viewed as a replacement for engagement and participation processes where they already function well, but as an opportunity to establish dialogue where communities find it difficult to be recognised or heard. It is an important new feature in the ways in which public bodies will now be expected to work constructively with communities. This includes communities of place (neighbourhoods or other defined geographical areas) or communities of interest (groups of people having common interest or identity).

Where a community body believes it could help to improve an outcome it will be able to request that a public body, which is a public service authority, takes part in a process to improve that outcome. Outcomes are the changes that result from what organisations provide or deliver e.g. improved environment and increase in physical activity levels arising from the development of a community park.

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.

Part 3 of the Community Empowerment (Scotland) Act 2015 sets out the process for how Participation requests will work. In simplified terms:

- A community body puts forward a participation request to a public service authority asking them to take part in a process that will improve the outcome set out by the community body.
- The public service authority must agree to the request and set up a process unless there are reasonable grounds for refusal. If it refuses the request, it must explain the reasons.
- At the end of the process the public service authority must publish a report on whether the outcomes were improved and how the community body contributed to that improvement.

This consultation will take you through the process as outlined in the Act and ask questions and seek your opinion regarding the draft regulations and the prospective guidance. There is a general question at the end of the questionnaire which allows you to put forward any other thoughts you might have on the regulations. More details on the Act can be found at <http://www.gov.scot/Topics/People/engage/CommEmpowerBill>

### *Participation Requests – Regulations and Guidance*

The legal framework for Participation Requests is set out in Part 3 of the Act which is not yet “in force”, so it cannot be used. The regulations and guidance need to be agreed and published before the procedure can be used. This paper is a consultation on draft regulations and other aspects for participation requests. This paper explains what the Act says and what the draft regulations say. Please send us your response by **15 June 2016**. For more information about responding, please see the ‘How to Respond’ section at the end of the consultation.

After the closing date, we will look at all the responses along with any other comments or evidence make changes to the draft Regulations. Then the Scottish Ministers will ask the Scottish Parliament to agree the final Regulations. Soon after the Regulations have been agreed by Parliament, community bodies will be able to start making participation requests under the Act.

Guidance on using the Act will be published once Ministers have decided what the final Regulations will say. But this paper will give you a good idea of how the system will work and what you should prepare for.

**Regulations** are a type of “secondary legislation”. The Act (“primary legislation”), which has been agreed by the Scottish Parliament, says that Scottish Ministers may make regulations about certain things. Those regulations also have to be considered by the Parliament before they can come into effect. Regulations are used to set out detail and technical issues, because they can be updated more quickly than an Act if changes are needed. They are law and everyone has to comply with them.

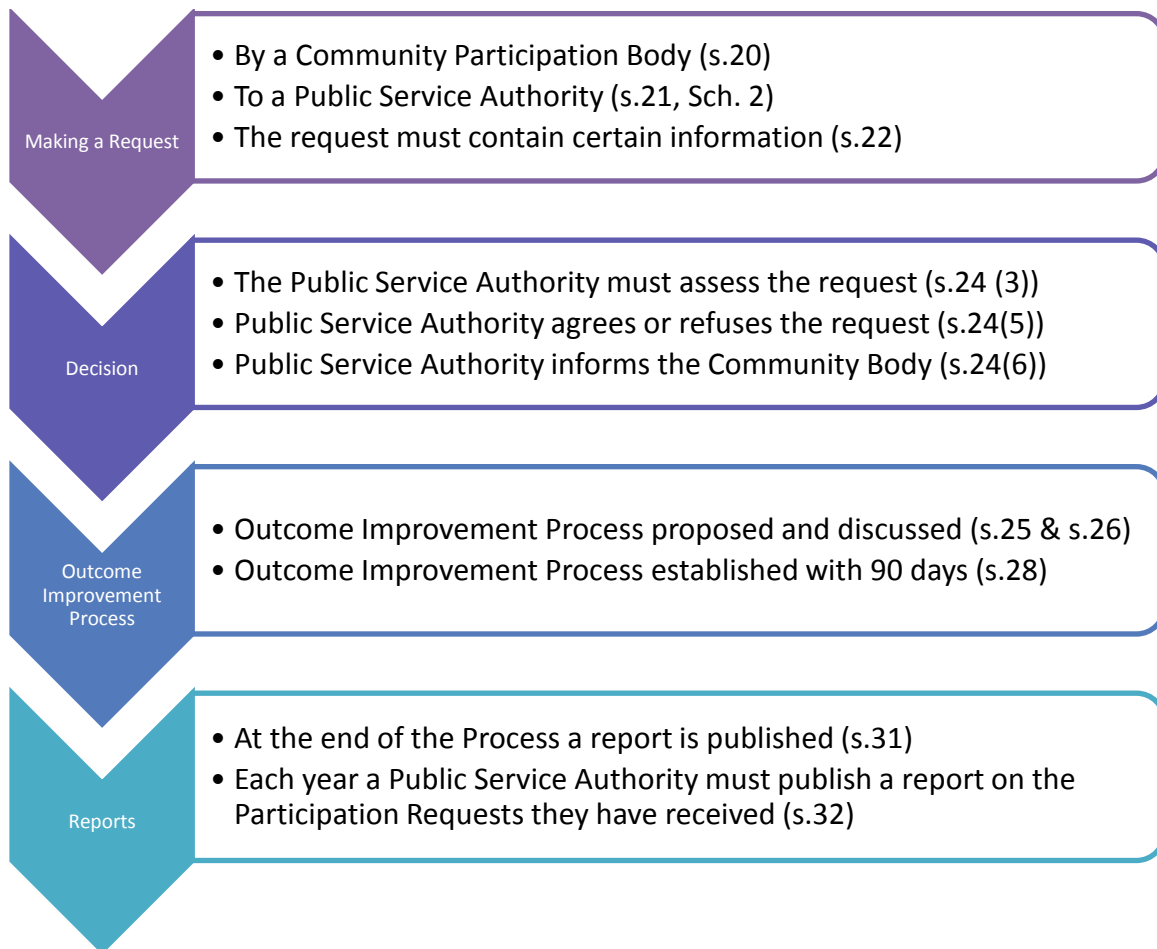
**Guidance** gives advice about how to do what the Act and regulations require. Guidance can give examples and suggestions about best practice and can be flexible to allow for different circumstances. It can also provide links to other helpful information and organisations, and can be updated at any time.

#### Numbering of legislation

This paper refers to various different pieces of the Act and the draft regulations. Acts are divided into sections, written as, for example “s.22”. These can be divided into subsections, eg “s.22(2)”, and paragraphs, eg “s.22(2)(a)”.

Each piece within a set of regulations is a regulation, for example “regulation 2 of The Participation Request (Procedure) (Scotland) Regulations”. Regulations are divided into paragraphs, for example “reg.4(3)(a)”.

## 2. PARTICIPATION REQUESTS – THE PROCESS



### 3. MAKING A REQUEST

#### Making a Request

- By a Community Participation Body (s.20)
- To a Public Service Authority (s.21, Sch. 2)
- The request must contain certain information (s.22)

#### Who can make a participation request?

A community participation body is defined in section 20. It can be either a community- controlled body as defined in section 19, a community body or group (with or without a written constitution), a community council, or a body designated by the Scottish Ministers.

A community controlled body does not have to be incorporated. It can have a written constitution that includes:

- a definition of the community to which the community body relates
- a provision that the majority of members of the body are members of that community
- a provision that the body is open to and controlled by members of that community
- the aims and purposes of the body, including the promotion of a benefit for that community
- a provision that the funds and assets of the body are to be used for the benefit of that community

A community participation body could also be a more loosely associated group without a written constitution but which has similar features to a community controlled body described above. This is set out in section 20(4). It will be for the public service authority to determine whether a group meets the requirements and the group must provide such information as the authority needs to be satisfied of that.

Having a written constitution is a simple way of showing that the group is open, inclusive and representative and making sure that all members know how the group will operate. It is intended that a template for written constitutions will be included in the guidance.

## **Public Service Authorities**

Section 21 sets out the meaning of 'public service authority'. These are the public authorities who can receive a participation request. It can be a body listed in Schedule 2 of the Act, these are:

- a local authority
- a Health Board
- The board of management of a college of further education
- Highlands and Islands Enterprise
- a National Park Authority
- Police Scotland
- Scottish Enterprise
- The Scottish Environment Protection Agency
- The Scottish Fire and Rescue Service
- Scottish Natural Heritage
- a Regional Transport Partnership

The Scottish Ministers can also add to this list or designate a body by Order.

## **What a Participation Request must contain**

Section 22 makes it clear that when putting forward a participation request the Community Participation Body must:

- specify an outcome that results from (or is contributed to by virtue of) the provision of a service provided to the public by or on behalf of the authority
- set out the reasons why the community participation body considers it should participate in the outcome improvement process
- provide details of any knowledge, expertise or experience the community participation body has in relation to the specified outcome
- provide an explanation of the improvement in the specified outcome which the community participation body anticipates may arise as a result of its participation

The community participation body may include more information to support the participation request should it wish to do so but it must contain the information described above.

## **Regulations - the manner in which requests are to be made**

Section 23(2)(a) provide that regulations can specify the manner in which participation requests are to be made.

The use of a statutory form can be a part of legislative processes where a request or application is made. It may help to ensure that participation bodies capture the information as required in section 22(2). It could also make it more straightforward for public service authorities to process a request. However, we would not want to

limit the opportunities for community participation bodies to make a participation request.

An example of how the form could look is attached in Annex B.

Q1: Should the use of a statutory form be required in the regulations? Please give reasons for your response.

Q2: Should it be possible for a community body to put in a participation request without using a form? Please give reasons for your response.

Q3: What else might a statutory form usefully cover beyond the example set out in Annex B?

The guidance will provide more details and examples on how to fill in the form.

### **Regulations – the procedure to be followed by public service authorities in relation to requests**

The majority of the procedure and the associated timescales are set out in the Act but this regulation provides an opportunity to pick out other aspects of procedure that may require more detail.

#### *Acknowledgment and Receipt*

The draft regulations under regulation 4 provide that if the community participation body does not provide all the information required under section 22(2) and (4) then the public service authority must notify the body identifying the information which is missing in order to comply with these requirements.

Once a request is made and the information required under section 22(2) and (4) is received the public service authority must acknowledge receipt of the request to the community participation body.

The acknowledgment must include a 'validation date' – the date on which all the information required has been provided (regulation 5 in the draft regulations) – and the timescales for decision.

#### *Involvement of multiple public service authorities*

Should the community participation body include a request that more than one public service authority should participate in the outcome improvement process then regulation 6 provides that the lead authority (to whom the request was made) should:

- notify the additional public service authorities of the request
- inform the additional public service authorities of the validation date

- send a copy of the participation request and the information provided by the community participation body to each additional public service authority

Within a period of time upon of receiving notification the additional public service authorities must inform the lead public service authority whether it wishes to participate and if it does not, the reasons for that decision. The current draft suggests that this time should be 14 days.

Q4: Is 14 days a reasonable amount of time for additional public service authorities to respond? If not, please suggest an alternative timescale and explain reasons for the change.

#### *The involvement of other public service authorities*

Where a participation request has been received that would, in the opinion of the public service authority in receipt of the request, require the involvement and input of other public service authorities they can be included within an established or proposed outcome improvement process.

The public service authority to whom the request was originally made is in the lead in terms of the decision notice and the other public service authorities are expected to contribute as required. It would be the responsibility of the public service authority in receipt of the request to secure the agreement of the other public service authority to contribute to the participation request as required.

#### **Promoting the use of participation requests and the support that should be made available to community bodies**

During the development of the legislation and during the Parliamentary process the importance of the promotion of the new rights for communities under the Act and the support to enable the participation of all communities were often highlighted as a key factor for the success of the Act in practice.

Section 23 enables regulations to be made in relation to promotion of participation requests by public service authorities and the support that is made available to community participation bodies.

#### *Promotion*

Section 23(2)(e) allows for the regulations to specify the ways in which public service authorities must promote the use of participation requests.

Q5: What, if any, are the particular/specific ways that public service authorities should promote the use of participation request?

## *Support*

Section 23(2)(f) allows for the regulations to specify the support that public service authorities are to make available to community participation bodies to enable such bodies to make a participation request and participate in any outcome improvement process resulting from such a request.

Q6: What are the ways that public service authorities should support community participation bodies to make a participation request and participate in an outcome improvement process that should be set out in the regulations?

## *Additional support for communities*

Section 23(2)(g) allows for regulations to specify the types of community that may need additional support to form community participation bodies, make participation requests and participate in the outcome improvement process.

Q7: What types of communities could the regulations specify that may need additional support? Please give reasons for your response.



## 4. MAKING THE DECISION

### Decision

- The Public Service Authority must assess the request (s.24 (3))
- Public Service Authority agrees or refuses the request (s.24(5))
- Public Service Authority informs the Community Body (s.24(6))

The public service authority must then consider the request and make a decision within the time set out from the validation date.

### Section 24 – Participation Requests: Decisions

Section 24 requires a public service authority to agree to or refuse any participation request it receives, and sets out how the authority must make that decision.

As well as considering the reasons set out in the participation request put forward by the community participation body the public service authority must consider a number of other factors as set out in Section 24 including:

- whether agreeing to the request would be likely to promote or improve:
  - economic development
  - regeneration
  - public health
  - social wellbeing
  - environment wellbeing
- whether agreeing to the request would be likely to
  - reduce inequalities of outcome which result from socio-economic disadvantage
  - lead to an increase in participation
- any other benefits that might arise

The authority must agree to the request unless there are reasonable grounds for refusing it.

Should the public service authority refuse the request then they must set out the reasons for their decision.

The Act does not set out how the public service authority will assess the participation request in relation to the reasons provided by the community participation body and the factors set out in Section 24. It will be for each authority to decide how to do this. The provisions will ensure that the assessment must be done on a broad range of factors with an emphasis on improvement and reducing inequalities.

We would not expect that any assessment process to be overly complex as a participation request is a means to open a dialogue on the matter the community participation body wants to discuss and improve. We would anticipate that the guidance will identify helpful approaches to an assessment process. The guidance

will also need to be accessible to community bodies, so that they can clearly set out the benefits of their proposals.

*Section 24(7) – A period prescribed in regulations*

The public service authority should have a period of time to give notice to the community participation body of its decision to agree or refuse the request. And if it refuses the request, the reasons for the decision. the regulations allow us to set out how long that period of time should be. The current draft suggests 30 days.

Q8: How long should the public service authority have to assess the participation request and give notice to the community participation body? Is 30 days a reasonable amount of time? If not, how long should the period for making a decision be? Please give reasons for your response.

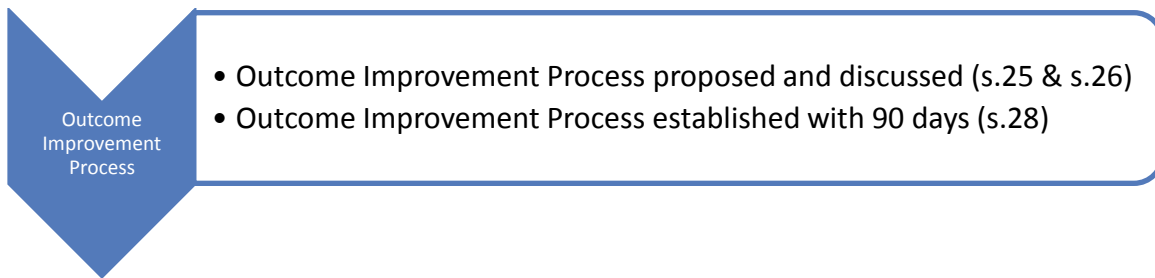
*Section 24(8) – Participation requests: decisions*

The Scottish Ministers can set out the information that a decision notice is to contain and the manner in which it is given.

The decision notice must be provided to the nominated contact in the community participation body as provided by the community participation body. The decision notice must be published on a website.

Q9: Are there any additional information requirements that should be included in connection with a decision notice? Please give reasons for your response.

## 5. THE OUTCOME IMPROVEMENT PROCESS



### Section 25 – Information about the outcome improvement process

Once a decision notice has been given agreeing to a participation request then if the public service authority has already established an outcome improvement process the decision notice will:

- describe the outcome improvement process
- specify what stage it has already reached
- set out how the community participation body will participate in the process
- identify others that are part of the process and how they will participate

This will allow a community participation body to join a relevant outcome improvement process and participate in that process.

If an outcome improvement process has not been established then the decision notice will:

- describe how the outcome improvement process will operate
- explain how the community participation body is expected to participate
- describe how any other persons are expected to participate in the process

### Section 26 – proposed outcome improvement process

Section 26 sets out the process which happens if an outcome improvement process is to be established. It provides that the community participation body can, within 28 days, propose changes to the outcome improvement process to the public service authority who must take account of any proposals.

The public service authority must then provide the details of the outcome improvement process to the community participation body.

The public service authority must publish on a website (or by other electronic means) information about the outcome improvement process.

Draft Regulation 9 provides that the public service authority must publish information relating to the decision notice:

- the names of the community participation bodies and public service authorities which are involved in the outcome improvement process
- the outcome to which the outcome improvement process relates
- how the outcome improvement process is to operate

Q10: What other information, if any, should the regulations specify should be published in relation to the proposed outcome improvement process? Please give reasons for your response.

### **Section 28 – Duty to establish and maintain an outcome improvement process**

Section 28 provides that the public service authority must start a new outcome improvement process within 90 days from when notice was given under section 26. They must also maintain the process once it is underway.

### **Section 29(3) – where the outcome improvement process is modified the authority must publish such information as may be specified**

Section 29 provides that the public service authority may modify the process, following consultation with the community participation body. The public service authority must publish the new modified outcome improvement process and must make clear what the modification is in relation to the original (or already modified) outcome improvement process. Draft Regulation 10 requires the public service authority to publish information regarding the modification:

- the names of the community participation bodies and public service authorities involved in the modified outcome improvement process
- the outcome to which the modified outcome improvement process relates
- identify the outcome improvement process which has been modified
- how that outcome improvement process has been modified
- how the modified outcome improvement process is to operate

Q11: What other information, if any, should the regulations specify should be published in relation to the modified outcome improvement process? Please give reasons for your response.

## 6. REPORTING

### Reports

- At the end of the Outcome Improvement Process a report is published (s.31)
- Each year a Public Service Authority must publish a report on Participation Requests (s.32)

### **Section 31(6) – make provision about reports published, including the information that reports are to contain**

Section 31 requires that when an outcome improvement process has been completed the public service authority must publish a report on the process.

The report must summarise the outcome of the process, including whether the outcome to which it related has been improved, and describe how the community participation body that made the request influenced the process and outcomes. It must also explain how the authority will keep the community participation body and others informed about changes in the outcomes of the process and any other matters relating to the outcomes.

In preparing the report, the public service authority must seek the views of the community participation body that made the request and any other community participation bodies involved.

Q12: Section 31 sets out the aspects that the report of the outcome improvement process must contain. What other information, if any, should the regulations require the report include? Please give reasons for your response.

Section 32 requires that each public service authority must publish a report each year setting out:

- the number of requests received
- the number of requests agreed and refused
- the number of requests which resulted in changes to a public service provided by, or on behalf of, the public service authority
- any action taken by the public service authority to promote and support the use of participation requests

## 7. APPEALS AND REVIEWS

Section 30 of the Act puts in place a regulation making power so that Scottish Ministers can if required make provisions in relation to appeals against decision notices and reviews of decisions of public service authorities relating to participation requests.

The Minister for Local Government and Community Empowerment made it clear during the passage of the legislation through Parliament that the Government did not consider that a mechanism for appeals and reviews of participation requests needed to be in place when the Act comes into force. In speaking during the debate at Stage 3 of the Bill the Minister outlined the reasons for not creating an appeal or review mechanism:

“Everything in the bill is about empowering communities. The bill does that by conferring new rights and by signalling that the approach across the public sector must be one of welcoming and facilitating communities in decision making.

“Participation requests are a way of generating that partnership. They are the embodiment of the new culture that we want to see in the public sector, in which community participation in decision making is the norm, and in which we create positive relationships and make the most of all the knowledge and ideas that communities have to offer. That depends on mutual respect.

“Indeed, a minister can make provision for many things, but we cannot, by legislation, order or instruction create that respect. Although we could force people to come to any table, it is unlikely that anything positive would come out of dialogue held in such adversarial circumstances.”<sup>1</sup>

However, should practice and experience show that an appeal or review mechanism is necessary then Section 30 would allow a system to be created that is tailored to deal with the issues arising at the time. As part of that process, Section 33 of the Act provides that within 3 years of Section 22 of the Act (allowing community participation bodies to make participation requests) coming into force the Scottish Ministers must prepare, and lay before Parliament, a report on the operation of participation requests.

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<sup>1</sup> Scottish Parliament, 17 June 2016, Stage 3, Community Empowerment (Scotland) Bill <http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=10020&i=91980>

## Draft Regulations

## SCOTTISH STATUTORY INSTRUMENTS

2015 No.

## COMMUNITY EMPOWERMENT

## The Participation Request (Procedure) (Scotland) Regulations 2016

<i>Made</i> - - - -	2016
<i>Laid before the Scottish Parliament</i>	2016
<i>Coming into force</i> - -	2016

The Scottish Ministers make the following Regulations in exercise of the power conferred by sections 23, 24(7)(a), 26(6) and 29(3) of the Community Empowerment (Scotland) Act 2015(2).

**Citation and commencement**

1. These Regulations may be cited as the Participation Request (Procedure) (Scotland) Regulation 2016 and come into force on [ ] 2016.

**Interpretation**

2. In these Regulations—

“the Act” means the Community Empowerment (Scotland) Act 2015; and

“validation date” has the meaning given in regulation 5.

**Form of participation request**

3. A participation request must be made in writing and must (in addition to the information required in accordance with section 22(2) of the Act) contain the name and contact address of the community participation body.

**Acknowledgment of participation requests**

4.—(1) Where when making a participation request the community participation body does not provide all the information to be submitted to the public services authority in accordance with section 22(2) and (4), the public service authority must send to the community participation body a notice identifying the information which the community transfer body still requires to submit in order to comply with section 22(2) or (4), as the case may be

(2) When a public service authority is in receipt of a participation request made and the information to be provided under section 22(2) and (4), the public service authority must send an acknowledgement of the participation request to the community transfer body making the request.

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(2) 2015 asp 6.

- (3) The acknowledgement sent under paragraph (2) is to—
- (a) include the validation date for the participation request; and
  - (b) include an explanation of the timescales within which the relevant authority are to give notice to the applicant of their decision on the participation request.

### **Validation date**

5. The validation date is the date on which the last of the information required to be provided in connection the participation request in accordance with by section 22(2) and (4) of the Act is received by the public service authority.

### **Section 22(6) request**

6.—(1) Where a participation request includes a request that one or more public service authority (“an additional authority”) other than the public service authority to which the request is made (“the lead authority”) participate in the outcome improvement process, the lead authority must as soon as practicable after the validation date—

- (a) notify every additional authority that a participation request including a request under section 22(6) of the Act has been made,
  - (b) inform every additional authority of the validation date for that participation request; and
  - (c) send a copy of the participation request and the information provided by the community participation body to the lead authority in accordance with section 22(2) to every additional authority.
- (2) Within [14] days of receiving notification under paragraph (1) an additional authority must—
- (a) inform the lead authority [and the community participation body] whether or not the additional authority wishes to participate in the outcome improvement process, should the lead authority decide to agree to the participation request; and
  - (b) if the additional authority does not wish to participate in the outcome improvement process, inform the lead authority [and the community participation body] of its reasons for reaching that view.

### **Time for periods for decision**

7. The period prescribed for the purposes of section 24(7)(a) of the Act is the period of [30 days] after the validation date.

### **Publication of the decision notice**

8. The public service authority must—
- (a) publish a copy of the decision notice on a website or by other electronic means; and
  - (b) [inform every person who made written representations in respect of the participation request (and provided an address) of their decision on the request and where a copy of the decision notice is available for inspection.]

### **Information about an outcome improvement process**

9. The information to be published in accordance with section 26(7) of the Act is—
- (a) the names of the community participation bodies and public service authorities to be involved in the outcome improvement process;
  - (b) the outcome to which the outcome improvement process relates; and
  - (c) how the outcome improvement process is to operate.



### **Information about modification of an outcome improvement process**

**10.** The information to be published in accordance with section 29(3) of the Act following modification of an outcome improvement process is—

- (a) the names of the community participation bodies and public service authorities involved in the modified outcome improvement process;
- (b) the outcome to which the modified outcome improvement process relates;
- (c) identify the outcome improvement process which has been modified;
- (d) how that outcome improvement process has been modified; and
- (e) how the modified outcome improvement process is to operate.

### **Electronic communications**

**11.—**(1) Where the criteria in paragraph (2) are met, any document required or authorised to be sent by these Regulations may be sent by electronic communications and any requirement in these Regulations that any document is to be in writing is fulfilled.

(2) The criteria are—

- (a) the recipient consents, or is deemed to have agreed under paragraph (3), to receive it electronically; and
- (b) that document transmitted by the electronic communication is—
  - (i) capable of being accessed by the recipient;
  - (ii) legible in all material respects; and
  - (iii) sufficiently permanent to be used for subsequent reference.

(3) Any person sending a document using electronic communications is to be taken to have agreed—

- (a) to the use of such communications for all purposes relating to the application which are capable of being carried out electronically; and
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, that communication.

(4) Deemed agreement under paragraph (3) subsists until that person gives notice to revoke the agreement.

(5) Notice of withdrawal of consent to the use of electronic communications or of revocation of agreement under paragraph (4) takes effect on a date specified by the person in the notice, but not less than seven days after the date on which the notice is given.

(6) In this regulation—

“address” includes any number or address used for the purpose of such communications or storage;

“document” includes any notice, consent, decision, representation, statement, list, report, form, plan, certificate or other information or communication; and

“electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000 (general interpretation);

“legible in all material respects” means that the information contained in the document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form; and “sent” includes served, submitted or given and cognate expressions are to be construed accordingly.

St Andrew’s House,  
Edinburgh  
2016

Authorised to sign by the Scottish Ministers

**COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015**

**PARTICIPATION REQUEST**

**APPLICATION FORM**

**1 Details of Community Body**

Name of Community Body:

Contact address:

Telephone number:

Email:

Website:

**2 Public service**

Note 1

**3 Outcome**

Note 2

**3 Why community participation body should be permitted to participate**

Note 3

**4 Knowledge, expertise and experience the community participation body has in relation to the specified outcome:**

Note 4

**5 Outcome improvement**

Note 5

### Application Form Notes

1. here specify the public service or services the provision of which results in or contributes to outcome specified under paragraph 3
2. here specify the outcome that results from, or is contributed to by virtue of, the provision of a service provided to the public by or on behalf of the authority.
3. Here set of the reasons why the community body believes it should participate in the outcome improvement process.
4. Provide details of any knowledge, expertise and experience the community body has in relation to the outcome specified in paragraph 3.
5. Provide an explanation of the improvement in the outcome specified in paragraph 3 which the community body anticipates may arise as a result of its participation in an outcome improvement process.

## HOW TO RESPOND

### Responding to this Consultation

We are inviting responses to this consultation by **15 June 2016**.

Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You view and respond to this consultation online at:

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

You can save and return to your responses while the consultation is still open.

If you are unable to respond online, please complete the Respondent Information Form (see "Handling your Response" below) and send it to:

[ParticipationRequestsGuidance@gov.scot](mailto:ParticipationRequestsGuidance@gov.scot)

Handwritten responses will be accepted, although the previous methods are preferable. Again, you should use the Consultation Questionnaire provided as this will aid our analysis of the responses received. Please send your response, along with your completed Respondent Information Form, to:

Community Empowerment Unit  
The Scottish Government  
Area 3-J South  
Victoria Quay  
Edinburgh  
EH6 6QQ

### Handling your response

If you respond using Citizen Space, you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

## **Next steps in the process**

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.scotland.gov.uk>. If you use Citizen Space to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so.

## **Comments and complaints**

If you have any queries please email [ParticipationRequestsGuidance@gov.scot](mailto:ParticipationRequestsGuidance@gov.scot) or telephone Ian Turner on 0131 244 0790.

## **Scottish Government consultation process**

Consultation is an essential part the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.scotland.gov.uk>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Consultations may involve seeking views in a number of different ways, such as public meetings, focus groups, or other online methods such as Dialogue (<http://ideas.scotland.gov.uk>)

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

# Consultation on the Draft Participation Request (Procedure)(Scotland) Regulations 2016



## RESPONDENT INFORMATION FORM

**Please Note** this form **must** be returned with your response.

Are you responding as an individual or an organization?

- Individual  
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name  
 Publish response only (anonymous)  
 Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes  
 No

# Participation Requests under the Community Empowerment (Scotland) Act 2015: Consultation on Draft Regulations

## Questionnaire

Q1: Should the use of a statutory form be required in the regulations?

Yes  No

Please give reasons for your response.

Q2: Should it be possible for a community body to put in a participation request without using a form?

Yes  No

Please give reasons for your response.

Q3: What else might a statutory form usefully cover beyond the example set out in Annex B?



Q4: Is 14 days a reasonable amount of time for additional public service authorities to respond?

Yes  No

If not, please suggest an alternative timescale and explain reasons for the change.

Q5: What, if any, are the particular/specific ways that public service authorities should promote the use of participation request?

Q6: What are the ways that public service authorities should support community participation bodies to make a participation request and participate in an outcome improvement process that should be set out in the regulations?

Q7: What types of communities could the regulations specify that may need additional support? Please give reasons for your response.

Q8: How long should the public service authority have to assess the participation request and give notice to the community participation body? Is 30 days a reasonable amount of time?

Yes  No

If not, how long should the period for making a decision be? Please give reasons for your response.

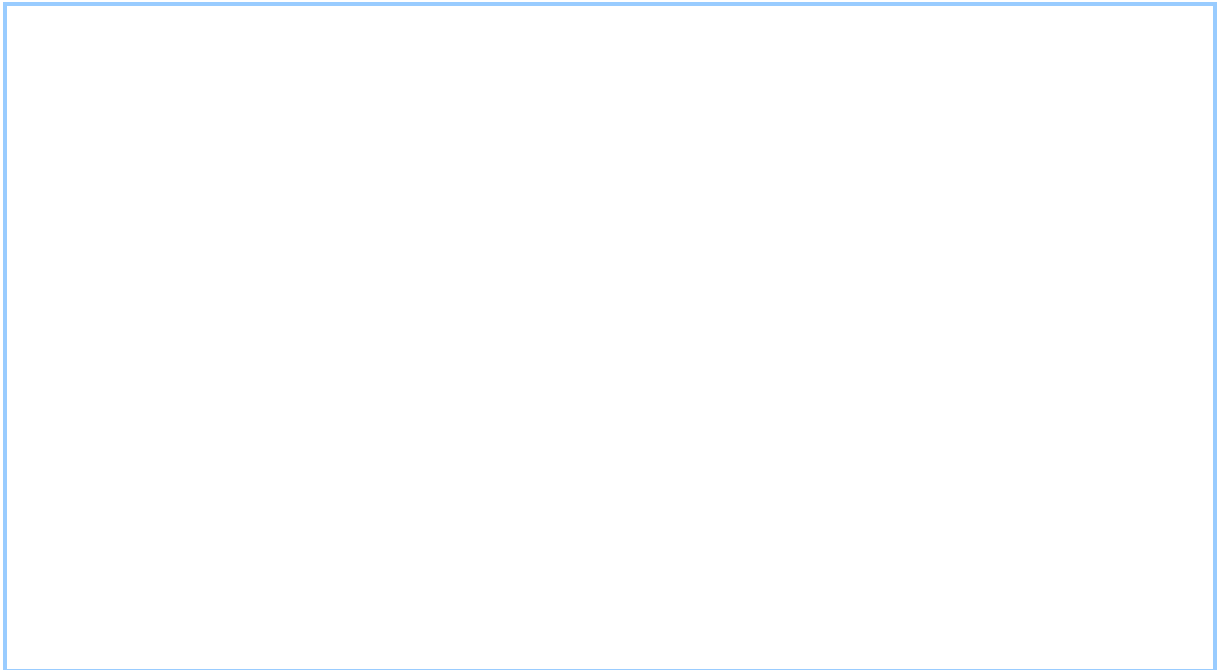
Q9: Are there any additional information requirements that should be included in connection with a decision notice? Please give reasons for your response.

Q10: What other information, if any, should the regulations specify should be published in relation to the proposed outcome improvement process? Please give reasons for your response.

Q11: What other information, if any, should the regulations specify should be published in relation to the modified outcome improvement process? Please give reasons for your response.

Q12: Section 31 sets out the aspects that the report of the outcome improvement process must contain. What other information, if any, should the regulations require the report include? Please give reasons for your response.

Q13: : Do you have any other comments on the draft Participation Request (Procedure)(Scotland) Regulations 2016?





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# Consultation on the Draft Participation Request (Procedure)(Scotland) Regulations 2016



## RESPONDENT INFORMATION FORM

**Please Note** this form **must** be returned with your response.  
Are you responding as an individual or an organization?

- Individual  
 Organisation

Full name or organisation's name

Scottish Borders Council	01835 825155
--------------------------	--------------

Phone number

Address

Council Headquarters Newtown St Boswells Melrose Roxburghshire
---

Postcode

TD6 0SA

Email

c/o dscott@scotborders.gov.uk

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name  
 Publish response only (anonymous)  
 Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes  
 No

## Participation Requests under the Community Empowerment (Scotland) Act 2015: Consultation on Draft Regulations

### Questionnaire

Q1: Should the use of a statutory form be required in the regulations?

Yes X No

Please give reasons for your response.

Yes, as it will give a consistent and coherent approach for communities to promote their public participation requests and for local authorities and public bodies to process them. It will also assist in discussing requests between organisations where outcomes will depend on close co-operation.

Q2: Should it be possible for a community body to put in a participation request without using a form?

Yes X No

Please give reasons for your response.

Yes, but this should only be in cases where there are issues for the community body or group in completing the form electronically. This maybe is because they don't have the capacity or access to computers to complete the form.

Q3: What else might a statutory form usefully cover beyond the example set out in Annex B?

None as it is important to keep the form as simple as possible. The form needs to be seen as the opening of a conversation between the community group and the local authority and/or other public bodies.



Q4: Is 14 days a reasonable amount of time for additional public service authorities to respond?

Yes  No

If not, please suggest an alternative timescale and explain reasons for the change.

There needs to be realistic amount of time for other public services to respond to the participation request. This might involve approval by another public body' management team, committee or Board. For this reason it is considered that 30 days is a more practicable time-scale. It is recognised this will have a knock on impact on the proposed 30 days period of time to agree or refuse the request set out in Question 8. For this reason the period of time for considering the request should be at least 60 days.

Q5: What, if any, are the particular/specific ways that public service authorities should promote the use of participation request?

It is considered that the promotion of public participation requests would be via normal channels of communication used by the local authority or public body such as web sites, social media, organisational newspapers/newsletters and public, local networks and community engagement meetings and events.

Q6: What are the ways that public service authorities should support community participation bodies to make a participation request and participate in an outcome improvement process that should be set out in the regulations?

Encourage officers to work more with community and voluntary groups.

Q7: What types of communities could the regulations specify that may need additional support? Please give reasons for your response.

The regulations could make reference to the need for additional support for community bodies that comprise the statutory equality groups, including those covering disability, race, young and older people, and disadvantaged communities in both urban and rural areas.

Q8: How long should the public service authority have to assess the participation request and give notice to the community participation body? Is 30 days a reasonable amount of time?

Yes  No

If not, how long should the period for making a decision be? Please give reasons for your response.

The timescale for decisions should be at least 60 days. This reasons for this are that:

- It is anticipated that a significant number of public participation requests will require service outcomes that involve a range of public organisations. Time will be required to allow these organisations to make decisions whether to get involved in the request, and
- Local authorities and other public bodies have political or managerial governance approval processes in place for decision making. It is envisaged that many participation request decisions will have to be agreed using these processes - meeting 'cycles' normally take place within a two month period.

Q9: Are there any additional information requirements that should be included in connection with a decision notice? Please give reasons for your response.

It is considered no additional information is required.

Q10: What other information, if any, should the regulations specify should be published in relation to the proposed outcome improvement process? Please give reasons for your response.

It is considered no other information is required.

Q11: What other information, if any, should the regulations specify should be published in relation to the modified outcome improvement process? Please give reasons for your response.

It is considered no other information is required.

Q12: Section 31 sets out the aspects that the report of the outcome improvement process must contain. What other information, if any, should the regulations require the report include? Please give reasons for your response.

It is considered no other information is required.



Q13: : Do you have any other comments on the draft Participation Request (Procedure)(Scotland) Regulations 2016?

There are no other comments.

# **Asset Transfer**

## **under the Community Empowerment (Scotland) Act 2015**

### **Consultation on Draft Regulations**

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## 1. Introduction

Empowering communities is key to creating a more prosperous and fairer Scotland. It is the role of central and local government to work in partnership with communities and support them to lead change for themselves, to create thriving and sustainable places to live.

Community ownership or control of land and buildings can make a major contribution towards strengthening communities in this way. In the first place it provides a base for activities and services that might not otherwise be accessible to local residents, and can provide jobs, training and bring income to the local area. More widely, it can provide stability and sustainability for the community organisation, allowing them to develop new initiatives and support other developing groups, and it can create a stronger sense of community identity, cohesion and involvement.

The Scottish Government has supported and promoted transfer of public sector assets to communities over several years. The Scottish Community Empowerment Action Plan published jointly with COSLA in 2009 highlighted the significant role of asset transfer within the range of different ways that communities can be supported to become empowered. Subsequently the Development Trusts Association Scotland was funded by the Scottish Government to deliver the Promoting Asset Transfer programme and then to create the Community Ownership Support Service (COSS). COSS provides advice and support to local authorities and other public sector bodies in establishing asset transfer schemes, and to community bodies seeking to take control of assets.

The Community Empowerment (Scotland) Act 2015 moves forward from this approach of support and encouragement and takes asset transfer to another level. Many local authorities, and some public bodies, have operated successful asset transfer schemes in relation to property they have identified for disposal. The Act 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. It requires those public authorities to assess requests transparently against a specified list of criteria, and to agree the request unless there are reasonable grounds for refusal. This shifts the balance of power clearly towards the community body, and ensures that, at minimum, asset transfer is available, through a standard process, throughout Scotland.

The text of the Act is available at <http://www.legislation.gov.uk/asp/2015/6/part/5> . More information about the development of the Act and its implementation can be found on the Scottish Government website at <http://www.gov.scot/Topics/People/engage/CommEmpowerBill>

## 1.1. Consultation on Draft Regulations

Part 5 of the Community Empowerment (Scotland) Act 2015 sets out the key rights and duties and provides a framework for the asset transfer process. It gives the Scottish Ministers powers to make regulations to fill in more detail of the procedures to be followed. Ministers can also publish guidance to explain further how the process should work.

This paper is a consultation on draft regulations for asset transfer, along with an indication of guidance and best practice in certain areas. The proposals have been developed with a steering group of stakeholders with experience of asset transfer, from public authorities and community organisations. Membership of the group is listed in Annex A, with a link to papers from its meetings. We are now seeking wider views on the proposed procedures from relevant authorities, who will be required to implement them, and community bodies who may wish to use them.

**The draft regulations and questions on them appear in chapters 6, 7, 8 and 10.** The other chapters explain the requirements of the Act, which cannot now be changed, to help give an overview of the whole process.

Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You can view and respond to this consultation online at <https://consult.scotland.gov.uk/community-empowerment-unit/asset-transfer-procedures> . You can save and return to your responses while the consultation is still open. **Please ensure that your response is submitted before the closing date of 20 June 2016.**

Further information on responding to the consultation and what happens next is provided in Annex D.

## Some terms used in this paper

**Regulations** are a type of “secondary legislation”. An Act (“primary legislation”), which has been agreed by the Scottish Parliament, may say that the Scottish Ministers may make regulations about certain things. Those regulations also have to be considered by the Parliament before they can come into effect. Regulations are used to set out detail and technical issues, because they can be updated more quickly than an Act if changes are needed. They are law and everyone has to comply with them.

**Orders** are another type of secondary legislation, very similar to regulations. The Scottish Ministers have powers to make orders to do various things under the Community Empowerment Act, for example to make changes to the list of relevant authorities and to designate organisations and community transfer bodies. We do not plan to make any orders at the moment, so there are no draft orders in this consultation.

**Guidance** gives advice about how to do what the Act and regulations require. Guidance can give examples and suggestions about best practice and can be flexible to allow for different circumstances. It can also provide links to other helpful information and organisations, and can be updated at any time.

Some parts of the Act allow Ministers to give **Directions**. A Direction is a piece of legislation that tells certain people or organisations that they must do or not do something. It only applies to the person/people or organisation(s) it is addressed to.

### Numbering of legislation

This paper refers to the Community Empowerment (Scotland) Act 2015 (referred to as “the Act”) and the various draft regulations.

- Acts are divided into sections. These can be divided into subsections, eg “section 81(2)”, and paragraphs, eg “section 82(6)(a)”.
- Each piece within a set of regulations is a regulation, for example “regulation 2”, and these are divided into paragraphs, eg “regulation 5(4)”.

## **1.2. What do we mean by “asset transfer”?**

An asset is something that has value to someone. In relation to “asset transfer” under the Community Empowerment Act it means land and any buildings or other structures on the land, like bridges, walls or piers. It does not include vehicles or equipment.

“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.

## **1.3. I want to take over a public building or piece of public land – what do I need to do?**

This paper is not a practical guide to asset transfer. It is a consultation paper on how the new legislation will work. It asks what should be in the detailed regulations that have to be produced before asset transfer under the Community Empowerment Act comes into force and is ready to use. Guidance for community bodies on using the Act will be published when the final regulations are produced.

Even though the Act is not yet in force, community bodies can still take action on developing their ideas and approaching authorities. It takes time to work up a proposal, find funding and assess whether the property you have in mind is suitable.

There is lots of advice available for community bodies thinking of taking over assets. A list of websites is provided at Annex C.

If you know what you want to do in your community and have found a property or land you think will be suitable, contact the authority that owns it and start the conversation about your proposals, any other plans for the property, and whether they have an asset transfer scheme already in place.

## 1.4. Best Practice in Asset Transfer

Many communities in Scotland have already taken on ownership or control of assets. A baseline study carried out by the Community Ownership Support Service (COSS) in 2012<sup>1</sup> identified 2740 community assets owned by community bodies, and there has been increased interest in recent years. COSS has developed advice for both community bodies and public sector authorities, based on experience of supporting organisations through the existing, voluntary schemes. A range of other organisations can also provide support to community bodies in developing their proposals, depending on their location and the type of project they have in mind. Links to some helpful websites are in Annex C.

Much of this best practice will still be relevant to asset transfer under the Community Empowerment Act. Community bodies will still need to have a clear plan for how they will use the asset and how it will be funded; authorities will still need to provide support and information to community bodies and have clear procedures in place for decision making. Above all, honest and constructive dialogue from the earliest stages is the best way to ensure a successful outcome for everyone.

There is no requirement for all sales, leases or other arrangements with community bodies to go through the system provided for by the Act. If both parties are happy to make arrangements by negotiation, they can continue to do so. Authorities should also make sure that procedures are proportionate and should not, for example, require community bodies to go through an asset transfer process for short term lets or use of facilities which have routinely been available for community use in the past. Community bodies should not be required to meet a higher standard than a private company would in similar circumstances, for example where they are the sole bidder and no discount is sought.

All relevant authorities must, however, 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. Community bodies should be aware that they will only be able to rely on the protections provided by the Act, and access the statutory review and appeal procedures, in relation to a request made under the Act.

As well as setting out the requirements of the Act and proposals for draft regulations, this paper highlights what would be good practice at various points in the process. This will help relevant authorities in developing their procedures. Where existing schemes are in place, we expect authorities will review these, in discussion with stakeholders, to take account of the Act and ensure they continue to deliver best practice.

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<sup>1</sup> <http://www.dtascommunityownership.org.uk/resources/policy-and-research/community-ownership-scotland-baseline-study>

## 2. Valuation, Price and Discount

The Act does not say how much should be paid to purchase an asset or in rent, whether it should be at market value or at a discount. There are therefore no regulations to be made on this issue. However it is clear that issues about valuation and price are of great concern for both relevant authorities and community bodies, and we intend to provide guidance in this area. The Scottish Government has established a Short-Life Working Group on Valuation and Assessment of Non-Financial Benefits to help develop the guidance. Details of the group's membership and a link to its papers are provided in Annex B.

All relevant authorities have a duty to secure best value when disposing of property. However, it has long been recognised that best value does not always mean the highest possible price, and all authorities have the ability to dispose of property at less than market value where there are wider public benefits to be gained. This is set out in the Disposal of Land by Local Authorities (Scotland) Regulations 2010, and in the Scottish Public Finance Manual for other relevant authorities.

Community organisations can access a range of grant funding and have various options for income generation, including initiatives such as community renewables and community shares, as well as more traditional business like hire of premises and retail. In some circumstances it may be appropriate for them to offer market value for a property. On the other hand, relevant authorities should take into account the benefits that may be gained from the community body's proposals, and whether a discount may be justified in order to enable the asset transfer to go ahead and to realise those benefits to the community. It is also the case, particularly in the current financial climate, that public authorities need capital returns or rental income to fund new building or other services, so there is a need to assess what will provide the greatest overall benefit.

The Short-Life Working Group will seek to identify the most helpful approaches to assessing the non-financial benefits of proposals and give decision-makers confidence in dealing with offers at less than market value. This guidance will also need to be accessible to community bodies, so that they can clearly set out the benefits of their proposals.

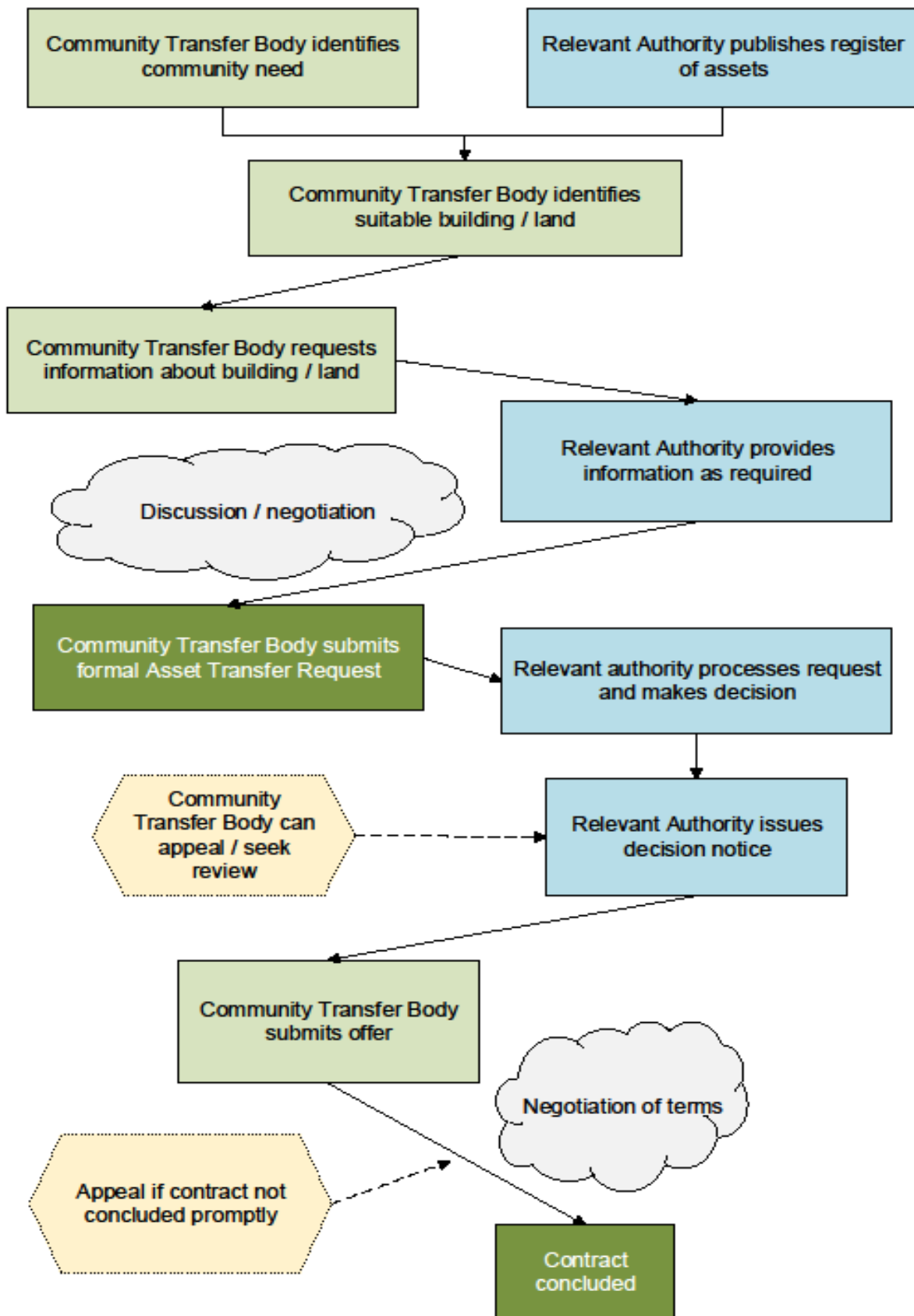
Setting the initial value can also be a matter of contention, and the group will consider who should produce a valuation, how it should be commissioned and at what stage of the process.

Where a discount is granted in recognition of other benefits to be achieved from the transfer, relevant authorities may wish to protect that funding, in case the expected benefits are not delivered. Mechanisms such as "clawback" may be used, requiring a percentage of the discount to be repaid if the property is sold, usually reducing

over a number of years. The group will address how protection of discount can be implemented in a proportionate way, that is acceptable to funders and to regulators.



### 3. Summary of Asset Transfer under the Act



## **Summary of Asset Transfer under the Act**

Under the Act, an asset transfer request is a request made by a community transfer body to a relevant authority (these terms are explained in chapters 4 and 5). The community transfer body can ask to buy, lease, manage or use any land or buildings which belong to or are leased to the relevant authority. They have to set out what they plan to do with the property, and how much they are prepared to pay.

The relevant authority has to decide whether to agree to the request or not, taking into account whether the community transfer body's proposals (including the price) provide more benefit than the current use, or any other proposals that have been made. Equalities and the relevant authority's functions and obligations are also considered. The request must be agreed to unless there are reasonable grounds for refusal. Then the community transfer body makes an offer, and a final contract is negotiated.

If the request is refused, or no answer is given, or the community transfer body does not agree with conditions set by the relevant authority, the community transfer body can ask for the decision to be reviewed or can appeal to the Scottish Ministers. They can also appeal if the request is agreed and an offer made but no contract is completed within 6 months of the date of the offer.

#### **4. Relevant Authorities – who can an asset transfer request be made to?**

Asset transfer requests can be made to any “relevant authority”. Relevant authorities are listed in schedule 3 to the Act. They are:

- Local authorities
- Scottish Ministers (including agencies such as Forest Enterprise Scotland and Transport Scotland)
- Crofting Commission
- Further Education colleges which are “incorporated colleges”
- Health Boards, both regional and Special Health Boards
- Highlands and Islands Enterprise
- National Park Authorities (Cairngorms and Loch Lomond and Trossachs)
- Regional Transport Partnerships
- Scottish Canals
- Scottish Courts and Tribunals Service
- Scottish Enterprise
- Scottish Environment Protection Agency
- Scottish Fire and Rescue Service
- Scottish Natural Heritage
- Scottish Police Authority (who own all land and buildings used by Police Scotland)
- Scottish Water

Section 78 of the Act says that the Scottish Ministers can add new relevant authorities or can remove relevant authorities or amend the list, for example if an organisation changes its name. Organisations which are not already on the list in Schedule 3 can only be designated as a relevant authority if they are:

- a part of the Scottish Administration
- a Scottish public authority with mixed functions or no reserved functions, or
- a publicly-owned company – this means any corporate body which is wholly owned by one or more relevant authorities already on the list.

This covers most public bodies and officers who deal with matters which are devolved to the Scottish Parliament.

UK Government departments and agencies cannot be listed as relevant authorities, nor can private or voluntary sector organisations. For example, people have asked whether the Ministry of Defence, Network Rail or the National Trust for Scotland could be included. The Act does not allow any of these to be listed as relevant authorities.

“Publicly owned companies” would include many organisations set up as ALEOs – Arm’s Length External Organisations – by local authorities and other public bodies. The Scottish Government is looking into how different ALEOs are structured and whether it would be helpful to include some or all of them as relevant authorities, but none are included at the moment. In many cases ALEOs manage property which is still owned by the local authority which set it up, so any asset transfer request would be made to the local authority.

## 5. Community Transfer Bodies – who can make a request?

A community transfer body is defined in section 77 of the Act. It can be either a community controlled body or a body designated by the Scottish Ministers.

A **community controlled body** is defined in section 19, because the term is used for participation requests as well as asset transfer requests.

A community controlled body does not have to be incorporated, but It does have to have a written constitution.

A **constitution** is a document which sets out what a group is for and how it is organised. It lets everyone know who can join the group, what the rules are and how decisions will be made. A group will usually need to have a constitution if it wants to open a bank account or apply for grants.

The constitution of a community-controlled body must define the community the body represents, and the aims and purposes of the body, which must include action to benefit that community. It must allow any member of that community to be a member of the body. The majority of members of the body must be members of the defined community, and they must have control of the body. This is likely to be arranged by restricting who can take part in the body's decisions or be on any managing committee. The constitution must also make sure that any surplus funds or assets of the body (after covering its running costs) are used for the benefit of the defined community.

Model constitutions will be provided to help community-controlled bodies make sure they meet these requirements.

If a group is **incorporated** it is legally a single body rather than just a group of individuals. This means the body can enter into contracts or leases itself, which continue even if the membership changes. Being incorporated may protect the members from liabilities, otherwise they could be required to pay for any debts or damages incurred by the body. Community-controlled bodies should consider becoming incorporated if they plan to take on any responsibilities for property or for providing services.

### 5.1. Asset transfer request for ownership

If a community transfer body wants to buy a property, rather than lease it or have other rights, it must meet additional requirements. It must be a community controlled body, and it must also be a company, a Scottish Charitable Incorporated Organisation (SCIO) or a Community Benefit Society (BenCom), and its constitution must require that it has at least 20 members. This is set out in section 80. If it is a company, its memorandum and articles of association must set out required arrangements about what happens to the body's assets if it is wound up, to make

sure they are passed on to another community or charitable organisation. (Similar arrangements are an automatic requirement for all SCIOs and BenComs.)

Model documents will be provided for the different types of body.

## **5.2. Designation**

The Scottish Ministers can also designate a body to be a community transfer body. They will do this by making an order. Ministers can either designate an individual body, or could designate a class of bodies, if they decided in future that all organisations of a particular type should be able to make asset transfer requests.

Designation of individual bodies is intended to be used where a community organisation does not meet the criteria for a community controlled body, but should still be allowed to make an asset transfer request. This may be because for some reason it cannot change its constitution to meet the criteria; for example, some benevolent trusts might lose access to their founder's bequest if they change their management structure. Designation may also be used for very small communities where it is not reasonable to get 20 members.

If a designated community transfer body wants to make a request for ownership, the designation order must state that it is allowed to do that.

Ministers will issue guidance on how to apply to be designated as a community transfer body.

## **5.3. Leasing**

The Act does not say what sort of structure a community transfer body must have to be able to make a request for lease or other rights over any land or building. This will be part of the relevant authority's decision-making, and will depend on the community transfer body's proposals, such as the length of lease and the responsibilities involved. If the community transfer body is taking on responsibilities for maintaining the property or providing services, it may be reasonable for the relevant authority to require that it is incorporated. Organisations providing funding to community transfer bodies may also have requirements about their legal structure.

Part 6 of the Act deals with leases of land from Forestry Commission Scotland for forestry purposes. It amends the Forestry Act 1967 so that any incorporated organisation, whose constitution meets the requirements, can apply for a lease for forestry purposes.

## **6. Registers of Land**

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.

It is important for any community body to start by thinking about what they want their project to achieve – for example, to provide training for young people, a place for people to meet and hold events, or access to the natural environment. Then they can consider whether they need an asset to deliver their aims, and look for somewhere that will be suitable. Community projects which focus on “saving” a building threatened with closure or demolition often run into difficulties later if they have not fully thought through what they will do with it and the costs involved.

The Scottish Government encourages public sector bodies to work together to make best use of their assets as a whole. Where discussions are taking place about sharing space and transferring or disposing of property, communities should be involved at the earliest stages and the needs of community bodies that may be looking for assets should be included in the mix.

Section 94 of the Act requires each relevant authority to publish a register of land which it owns or leases, “to the best of its knowledge and belief”. This will help community bodies to know what might be available through asset transfer and who owns any property they might be interested in.

It is not always clear exactly who owns a building or piece of land, especially where public bodies have been reorganised over time. Sale or transfer documents in the past might not have been clear about the boundaries of the land that changed hands, or there may be gaps in the chain of information. The Scottish Government has committed to ensuring that all public sector land is included on the Land Register by 2019, which will ensure that more accurate information is available. In the meantime, relevant authorities are required to publish the information they have at present “to the best of their knowledge and belief”, which should cover the majority of their property.

An asset transfer request can still be made for land or buildings that are not on a relevant authority’s register. If a community transfer body believes something belongs to a particular authority, but it is not on their register, the community body can still ask about it, and the ownership can be investigated at that point.

### **6.1. What land need not be included in the register?**

The Scottish Ministers can make regulations to list types of land that need not be included in the register, under section 94(4). A draft of the Community

Empowerment (Registers of Land) (Scotland) Regulations 2016 is on page 18. The following types of land are proposed to be covered by the regulations:

- Public roads. These are owned and managed by local authorities (for local roads) and the Scottish Ministers, through Transport Scotland (for trunk roads). Listing all roads in registers of land would make the register very big. We think it is unlikely that a community transfer body would want to take over a public road, and if they did, it is usually clear who it belongs to. Therefore we propose that they need not be included in registers.
- Underground railways. Strathclyde Partnership for Transport (SPT), which is a Regional Transport Partnership as listed in schedule 3, owns and operates the Glasgow Subway. It would not be possible for a community transfer body to take over operational parts of the Subway, and it is well known who owns it, so we propose that the tunnels and stations need not be included in the register. SPT will need to list all other property that it owns or leases.
- Canals. Scottish Canals owns and operates the five main canals in Scotland. As with the Subway, it would not be possible for a community transfer body to take over a section of the canal, as the whole network operates together, and it is clear who owns it. We propose that the canal itself and towpaths, locks, reservoirs etc which are essential to its operation need not be included in the register. However, Scottish Canals will need to list the other land and buildings it owns.
- Bus stations. Bus stations may be operated by local authorities or Regional Transport Partnerships. We propose they need not be included in registers of land, along with roads and other parts of the transport network.
- Houses, hostels and lodging-houses. If houses owned by relevant authorities were listed in the register, it would show that the people living at a particular address are tenants of that authority, which could be considered personal information. Community bodies do not often want to take over houses that are occupied, and special arrangements would apply if they wanted to transfer social housing to a new landlord. We propose that houses should not be included in the register unless they are surplus, which will usually mean they are empty and available for sale. The definition of a house in this case includes flats, and any garden, garage or other things that go with the house. Hostels and lodging houses are included to address concerns about revealing the location of accommodation such as women's refuges and drug rehabilitation centres.
- Controlled reservoirs subject to a non-disclosure notice. The Reservoirs (Scotland) Act 2011 requires SEPA to maintain a register of "controlled reservoirs", which may be publicly or privately owned. The UK Government can serve a notice preventing the publication of any information about a



controlled reservoir, if releasing such information is considered to be contrary to the interests of national security. Any reservoir subject to such a notice should also be excluded from the registers of land for asset transfer.

Q1: Do you agree that the types of land set out in the draft Community Empowerment (Registers of Land) (Scotland) Regulations 2016 need not be included in relevant authorities' registers? If not, please explain what you would change and why.

Q2: Are there any other types of land that relevant authorities should not have to include in their register? Please explain what should not be included and why.

## 6.2. What should the register look like?

Guidance will set out what information about the land should be on the register, and how it should be published.

We suggest that the register should simply include the location of the property, its name if it has one, and a basic description, such as “offices”, “clinic”, “depot”, “park”. The location would normally be a street address; where there is no street address it should include a grid reference (point at the centre of the site) and any description it is known by locally.

Users should be able to search the register for particular properties, and also to search for land in particular areas. National public bodies should identify at least the local authority area for each property; local authorities and other authorities with a lot of property might want to list them by smaller districts or neighbourhoods.

We do not propose to be prescriptive about the format of the register. Some relevant authorities may have the information in a form which allows them to publish a database for public use, others might just provide a text document or spreadsheet in PDF. The register must be made available online, and arrangements must also be made for members of the public to inspect it in person. This could, for example, be by a member of staff helping someone to use the register on a computer at the authority’s offices, or printing out extracts. We do not intend to create a central online system to hold the registers of different authorities, although there could be a central website with links to the individual registers.

The Act requires relevant authorities to “establish and maintain” their register of land, which means it must be updated regularly. How frequently updates should be made will depend on how often the authority acquires or disposes of property, but keeping it as accurate as possible will avoid wasted time in dealing with enquiries about properties they no longer own.

Q3: Do you have any comments on the proposals for guidance on what information registers should contain and how they should be published?

**2016 No.**

**COMMUNITY EMPOWERMENT**

**The Community Empowerment (Registers of Land) (Scotland)  
Regulations 2016**

<i>Made</i> - - - -	***
<i>Laid before the Scottish Parliament</i>	***
<i>Coming into force</i> - -	***

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 94(1) of the Community Empowerment (Scotland) Act 2015(a) and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the Community Empowerment (Registers of Land) (Scotland) Regulations 2016 and come into force on [ ] September 2016.

**Land not included in registers of land**

2. For the purposes of section 94(4) of the Community Empowerment (Scotland) Act 2015, the land that a relevant authority need not include in the register of land established and maintained under subsection (1) of that section are—

- (a) any public road within the meaning of section 151(1) of the Roads (Scotland) Act 1984(b);
- (b) (i) any subway tunnel forming part of an underground tunnelled railway system;  
(ii) any chamber, station platform or building forming part of, or ancillary to the operation of, such a railway system which is at or above the level of the subway tunnel, including the stations, station entrances, kiosks, stairs and escalators;
- (c) any operational canal, including—
  - (i) any associated embankment, towpath or dock (which includes a pier, harbour, quay, wharf or jetty);
  - (ii) any associated cuttings, tunnels, aqueducts or bridges;
  - (iii) any associated reservoirs, feeders, sluices or weirs; and
  - (iv) any other land essential to the operation of the canal;
- (d) any bus station or associated facilities within the meaning of section 83(5) of the Transport Act 1985(c);

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(a) 2015 asp 6.  
(b) 1984 c.54.  
(c) 1985 c.67,

## Registers Regulations - Draft for Consultation

- (e) any—
  - (i) house within the meaning of section 165 of the Housing (Scotland) Act 2010<sup>(d)</sup>; and
  - (ii) lodging-house or hostel,but that does not include a house, lodging-house or hostel which is surplus to the requirements of a relevant authority; and
- (f) any controlled reservoir in respect of which a non-disclosure notice has been served under article 3 of the Reservoirs (Scotland) Act 2011 (Restrictions on Disclosure of Information in relation to National Security etc.) Order 2015<sup>(e)</sup>.

Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh  
[            ] 2016

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(d) 2010 asp 17.  
(e) S.I. 2015/48.

## Registers Regulations - Draft for Consultation

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations specify land, or descriptions of land, that need not be included in the register of land to be established and maintained by certain public authorities under section 94(1) of the Community Empowerment (Scotland) Act 2015.

## 7. Information to be provided on request

Once they have identified one or more properties that may be suitable for their project, a community body will need further information about them. They will need to decide whether the land or building is suitable for their planned activities, what the running costs will be, and how much to offer for it. If they intend to request ownership or a lease with repairing responsibilities, they will need information about the structural condition of any building, other rights on the land, and so on.

Section 81(3) of the Act allows the Scottish Ministers to make regulations to enable community transfer bodies to request information about land for which they intend to make an asset transfer request, and to specify how the relevant authority is to respond to such requests and what information they must or need not provide in different circumstances.

Community transfer bodies already have the same rights as anyone else to request information from public authorities under the Freedom of Information (Scotland) Act 2002 (FOISA) and the Environmental Information (Scotland) Regulations 2004 (the EIRs). Further information on these rights is available on the Scottish Information Commissioner's website,

<http://www.itspublicknowledge.info/home/ScottishInformationCommissioner.aspx>

These rights cover a very wide range of information, and are backed by a right to a review and appeal to the Information Commissioner if information is withheld without good reason.

We have considered the types of information that a community transfer body might want to obtain about a property before making an asset transfer request. We have not identified any information that it would be reasonable to expect the relevant authority to provide, that would not be available under FOISA or the EIRs. For that reason we do not propose to make any regulations under section 81(3) at this stage.

Community transfer bodies are very likely to need information on the current condition of the land or building and the costs that will be involved in managing it and developing their project. For buildings this may include information on the structural condition and maintenance requirements, for land it may include what has been planted and when. Information on title burdens or servitudes and any environmental or cultural designations will also be important.

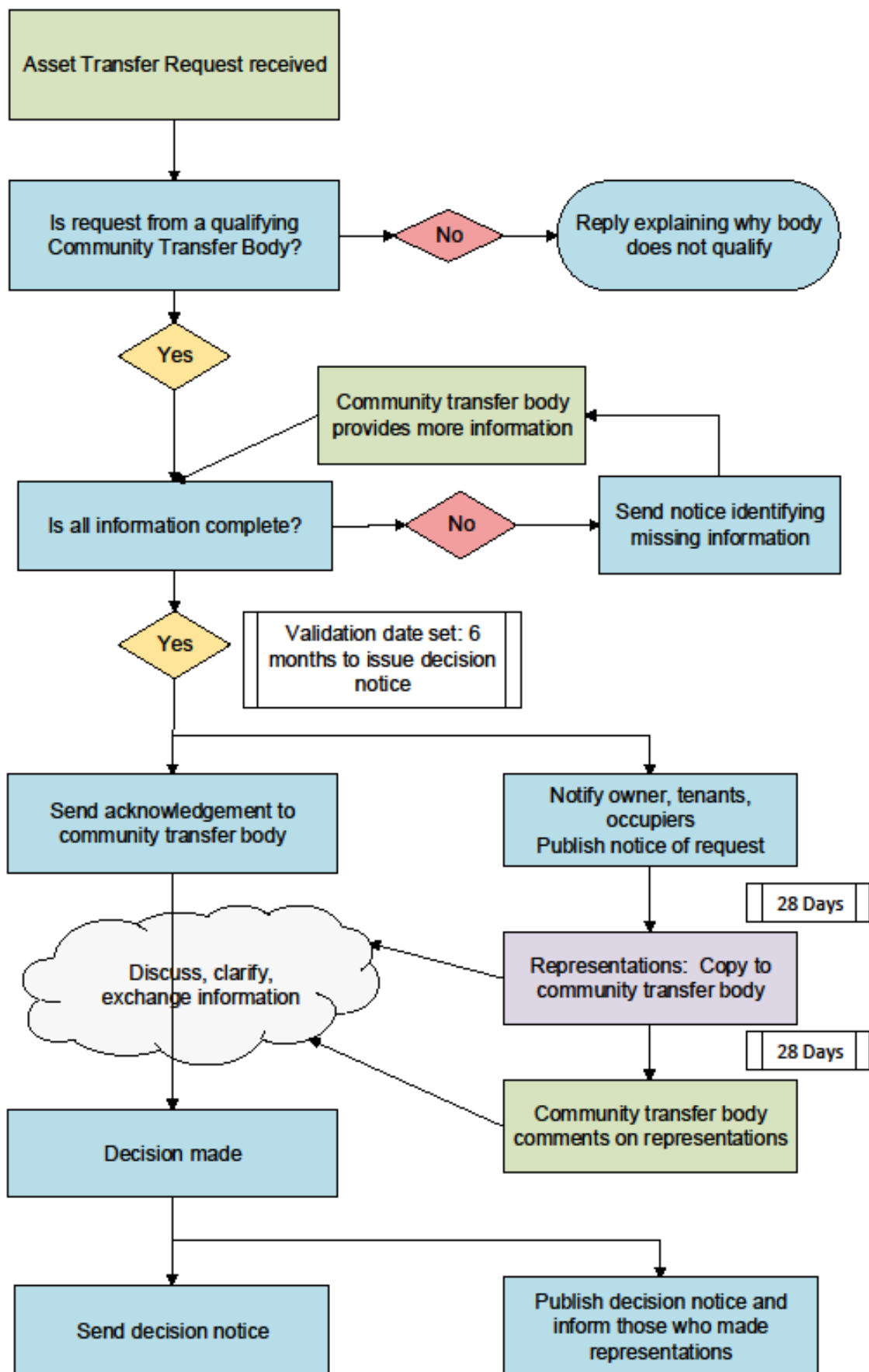
Authorities may not have current information for many of their properties, and where they do it will have been produced for the authority in relation to their use of the building, and may not be appropriate for the community transfer body to rely on. Professional surveys produced for the authority may also be confidential to them. The community transfer body would need to commission its own surveys for its own use. Funding for this kind of project development work may be available where the

community body is applying for a grant for acquisition of the property. It is less likely to be available for proposals for lease.

Ideally a community body should make contact with the relevant authority as early as possible and there should be an open discussion about the community's objectives and property that may be suitable. The relevant authority should be open about the information it has, including practical knowledge about managing the property, and how other information might be obtained. Most importantly, the authority should ensure that the community transfer body is aware of any information that is likely to be a significant factor in the authority's decision on the request.

Q4: Is there any information you think a community transfer body should be able to request from a relevant authority, that it would not be able to obtain under FOISA or the EIRs?

## 8. Procedure for Making and Dealing with Requests





## Procedure for Making and Dealing with Requests

The Asset Transfer Request (Procedure) (Scotland) Regulations 2016 will set out what a community transfer body has to do to make a valid asset transfer request, and what a relevant authority has to do when it receives a request. These regulations (“the Procedure Regulations”) will be made under section 81(2) of the Act, and a draft is at page 33. They will operate alongside section 79 of the Act, on making a request, section 82 on how the relevant authority makes its decision, and section 83 on next steps after a request is agreed.

Relevant authorities should make sure that community bodies can easily identify the appropriate contact for enquiries about asset transfer, and any community transfer body working towards making a request should have a single point of contact to support them and guide them through the process. All relevant staff should be made aware of arrangements for dealing with asset transfer enquiries, particularly those who support community organisations or who manage buildings and land. There are deadlines throughout the process for taking action, so it is in the authority’s interest to make sure any requests or representations are passed to the appropriate team promptly.

### 8.1. How to make a request

An asset transfer request is a request made by a community transfer body, as described in chapter 5, to a relevant authority, as listed in chapter 4. Under section 79(2) of the Act, a request can be made:

- (a) for ownership of the land to be transferred to the community transfer body, if the request relates to land owned by the relevant authority (these requests can only be made by a community transfer body eligible to request a transfer of ownership under section 80); or
- (b) if the request relates to land owned or leased by the relevant authority:
  - (i) for the land to be leased to the community transfer body, or
  - (ii) for the authority to confer rights in respect of the land to the community transfer body.

Section 79(4) requires the following information to be specified in the request:

- (a) the land to which the request relates
- (b) whether the request falls within section 79(2)(a), (b)(i) or (b)(ii), ie, is it a request for transfer of ownership, grant of a lease or other rights
- (c) the reasons for making the request
- (d) the benefits which the community transfer body considers will arise if the authority were to agree to the request

- (e) if the request is for ownership, the price the community transfer body is prepared to pay
- (f) if the request is for lease, the amount of rent the community transfer body is prepared to pay, the duration of the lease and any other terms and conditions the community transfer body considers should be included in the lease
- (g) if the request is for other rights, the nature and extent of the rights requested, and
- (h) any other terms and conditions applicable to the request.

Ministers may also make regulations about the manner in which requests are to be made, and additional information to be included in requests. Our proposals are set out in regulation 3 of the Procedure Regulations.

We propose that a request must be made in writing (regulation 12 allows for communication by email or other electronic means to be treated as “in writing”). It must include the name and contact address of the community transfer body, and state that it is an asset transfer request made under Part 5 of the Act. It must also be accompanied by:

- a copy of the constitution of the community transfer body
- information outlining how the community transfer body proposes to fund both the transfer of the land and its proposed use of the land, and
- information detailing the level and nature of support for the asset transfer request.

Some of this is basic practical information; clearly a request needs to identify the land the request relates to, the community transfer body making the request, and the rights being requested. We propose that a copy of the constitution of the community transfer body should be provided so that the relevant authority can check that the body is eligible to make the request.

The other information to be included is needed by the relevant authority to make its decision, assessing the benefits of the community transfer body’s proposals, comparing them to any other proposal (including current use) and looking at the potential impact on the authority’s own functions or other relevant issues. The community transfer body needs to explain what it plans to do with the land or building and what benefits will result from these proposals. It will be helpful to frame these in terms of the issues the relevant authority is required to consider (see chapter 8.6): economic development, regeneration, public health, social wellbeing, environmental wellbeing, socio-economic inequalities and equal opportunities.

We propose that the community transfer body should also outline how it proposes to fund any purchase or lease and the ongoing costs of the project. The relevant authority needs to be satisfied that the project will be financially viable, so that it can actually deliver the benefits it promises. Where possible community organisations should aim to avoid depending on grants in the long term. The information expected in relation to funding should be proportionate to the scale of the request, but should demonstrate that the community body has understood all the costs involved (drawing on information obtained as discussed in chapter 7) and their likely income.

We also propose that the community transfer body should provide information on the level and nature of support for the request. Unlike community right to buy under the Land Reform (Scotland) Act 2003, asset transfer does not require a ballot of people in the local area, but the community transfer body should be able to show that it has engaged with the wider community and has support for its proposals among those who may be affected. If a request is made by a body representing a community of interest it would be expected to engage with people in the area where the land or building is located, and take steps to try to address any concerns.

Q5: Do you think the proposed additional requirements for making an asset transfer request are reasonable? If not, please explain what you would change and why.

Q6: Is there any other information that should be required to make a valid request?

## **8.2. Acknowledgement of request**

When a relevant authority receives a request, the first thing to do is to check it contains all the required information, and that the body making the request qualifies as a community transfer body (and is eligible to make a request for ownership, if appropriate).

If the body making the request is not eligible to do so, technically it is not an asset transfer request and no further action is required under the legislation. The relevant authority should reply explaining the criteria for a community transfer body and, if appropriate, highlighting any specific failings in the body's constitution.

In regulation 4(1) of the Procedure Regulations we propose that if all the information required to be included in or to accompany an asset transfer request is not provided, the relevant authority should send the community transfer body a notice saying what is missing. No further action needs to be taken until all the required information is received.

If the request is complete, or when the last of the required information has been received, the relevant authority must send an acknowledgement under regulation 4(2). We propose that the acknowledgement should include:

- the validation date – regulation 5 states that this is the date on which the last of the required information was received (the date the request was received if it was complete). This is the date from which other time limits will be calculated
- an explanation of the time period for the relevant authority to make its decision, and
- information about the right to appeal to the Scottish Ministers or request a review, as appropriate. This is required at the outset because of the option to appeal if no decision is made within the time limit.

Q7: Do you have any comments on the proposals for acknowledgement of requests?

### **8.3. Power to decline repeat requests**

Section 93 of the Act allows a relevant authority to choose not to consider a request which is the same or very similar to a previous request which was refused. This applies if the new request relates to the same land or building, and seeks the same type of transfer, as a request made in the previous two years. It does not matter if the new request is made by the same body or a different one. For example, if one community transfer body requests to lease a particular building, and is refused, and another body requests to lease the same building for the same purposes within two years, the relevant authority may decline to consider that second request. On the other hand, if the second request was for transfer of ownership instead of a lease, the relevant authority would have to consider it. Declining to consider a request under these circumstances does not count as a refusal of the request and therefore is not eligible for appeal or review.

This is intended to help relevant authorities deal with repeated, vexatious requests which are unlikely to have a different outcome. They can still choose to consider a repeated request if they wish. If the community transfer body has worked to improve its proposal, or other circumstances have changed, or the new request is from a genuinely different organisation, it may well be appropriate to consider it.

### **8.4. Prohibition on disposal of land**

Once an asset transfer request has been made, the relevant authority is not allowed to sell, lease or otherwise dispose of the land it relates to, to anyone other than the community transfer body that made the request, until the whole process is

completed. This is set out in section 84 of the Act. Subsection (11) provides that if the relevant authority tries to dispose of the property to anyone else, the contract to do so will have no effect.

Relevant authorities should make sure that anyone dealing with property management will be aware of the fact that an asset transfer request has been made for a particular property, in case another approach made for the same property while the process is underway. This might be done, for example, by putting a note on the property management system.

Subsections (4) to (10) of section 84 set out all the possible ways in which the asset transfer request process can come to an end. In summary, the process is completed when:

- a contract for the transfer is concluded
- the request is refused and the community transfer body has followed all routes of appeal without success, or
- the community transfer body fails to take the next action in the process within the time required. For example, if it does not make an offer, or does not request a review or appeal if the request is refused.

Under subsection (12), the prohibition on disposal does not apply if, before the asset transfer request is made, the land has already been advertised for sale or lease, or the relevant authority has entered into negotiations or begun proceedings to transfer or lease the land to another person. The Scottish Ministers can also make a direction to say that the prohibition does not apply. In these cases, an asset transfer request can still be made, but it will not override any other bid being made.

## **8.5. Notification and publication**

Regulations 6 and 7 of the Procedure Regulations set out arrangements for other people to be made aware that an asset transfer request has been made, and for them to comment on it.

“As soon as practicable” after the validation date (the date the completed request was received) the relevant authority must notify any tenant or occupier of the land the request relates to, and the owner if the relevant authority leases the land. It must also publish a notice online, and put up a physical notice at the site. We suggest that a physical notice should not be required if the site is not regularly visited except by staff of the relevant authority. This is to avoid staff having to make a special journey to put up a notice at a remote site such as a nature reserve or water monitoring station.

The notices must state that an asset transfer request has been made, and identify the community transfer body making the request and the land to which the request

relates. They must give a brief description of the nature of the rights requested and how the community transfer body propose to use the land. The asset transfer request and associated documents must be published online, under regulation 9, and the notices must state how they can be inspected. Finally they must say how representations about the request may be made, and by what date. Regulation 8 proposes that at least 28 days must be allowed from the date of the notice being given or published.

If any representations are received in response to these notices, the relevant authority must send copies to the community transfer body and give the body at least 28 days to comment on them.

Q8: Do you have any comments on the proposed requirements for notification and publication of information about a request?

## **8.6. Making the decision**

Section 82(2) of the Act states that, when an asset transfer request is made by a community transfer body to a relevant authority, “the relevant authority must decide whether to agree to or refuse the request”. Under subsection (5), “the authority must agree to the request unless there are reasonable grounds for refusal”.

Reasonable grounds will depend on the individual circumstances of each case, but are likely to include cases where the benefits of the asset transfer request are judged to be less than the benefits of an alternative proposal, or where agreeing to the request would restrict the relevant authority’s ability to carry out its functions.

There are no powers for Ministers to make regulations about the process of making the decision, all the requirements are set out in the Act.

In reaching its decision the authority must consider the reasons for the request and the information provided in the request and in support of the request, and compare the benefits of the community transfer body’s proposals with the benefits that might arise from any alternative proposal. Alternative proposals may be another asset transfer request, or another proposal made by the authority, or by any other person. If the relevant authority does not consider the property to be surplus, continuing the existing use would be treated as an alternative proposal; if the property has been identified for disposal, disposal on the open market could be an alternative.

In assessing the benefits of the request the relevant authority must consider whether agreeing to it would be likely to:

- promote or improve
  - economic development

- regeneration
- public health
- social wellbeing
- environmental wellbeing, or
- reduce inequalities of outcome which result from socio-economic disadvantage

The authority must also make the decision in a manner which encourages equal opportunities and the observance of the equal opportunities requirements.

The relevant authority must also consider any obligations that affect its ability to agree to the request, whether these arise from legislation or otherwise. For example, legislation may say that a public body is not allowed to dispose of certain property, or title conditions or planning restrictions may say that it cannot be used for certain purposes. The authority may also consider any other matters it believes are relevant, including how the benefits of any proposals relate to its functions and purposes. Public bodies, in particular, are set up to carry out particular functions and they are unlikely to be able to agree to a request which would interfere with carrying out their functions.

As noted in chapter 8.1, the community transfer body's proposals for funding the transfer and ongoing use of the asset will form part of the assessment, in order to satisfy the relevant authority that the project will be viable and able to deliver the benefits it promises. The price offered will also be included, particularly if a discount on market value is proposed – see chapter 2.

Other matters that are likely to be relevant will include community support for the proposals and how the community transfer body has engaged with the wider community. In particular, if the request is from a body representing a community of interest it should show how it has engaged with the community in the area where the asset is located.

The dialogue that should take place before the request is made should continue throughout the process. Relevant authorities can request clarification or more detail on any issues they feel are necessary for their decision. This will help to avoid situations where a request is refused on the basis of a lack of information which the community transfer body could have provided if they had been asked.

## **8.7. Decision-making process**

To provide a robust decision-making process it is essential to bring together officers with key responsibilities within the authority, including property, legal, finance, community development and, where relevant, economic regeneration. Relevant authorities with a remit focused on particular issues may find it helpful to seek advice from others, for example through the community planning partnership. This may be

general advice or in relation to particular benefits included in a community body's proposals. For example, Scottish Water might seek help on assessing outcomes for mental health, or the Scottish Police Authority might need advice on environmental issues.

Each relevant authority will need to establish its own procedures for obtaining approval of decisions at an appropriate level, within the time limit required.

### **8.8. Lease restrictions**

If the request is for land which is leased to the relevant authority by another relevant authority, in certain circumstances restrictions in the lease do not apply, as set out in section 92 of the Act. The circumstances are that:

- the land is leased by one relevant authority, or a company wholly owned by a relevant authority, to another relevant authority
- the request is for lease or a right of occupancy of the land, and
- no other person is entitled to occupy the land.

In this case, any restrictions in the lease which restrict the ability of the relevant authority to sub-let or share occupancy of the land, or restrict how the land may be used, do not prevent the relevant authority agreeing to lease the land to the community transfer body or allow them to occupy the land. This does not affect any restrictions on the power of the relevant authority to assign or transfer rights and liabilities under the lease, and the relevant authority continues to be subject to any obligations under the lease. For example, if the lease said sub-letting was not allowed, the relevant authority could agree to an asset transfer request for a sub-let, but would still be responsible to the landlord for any maintenance requirements include in the lease between them.

### **8.9. Decision notice**

Having made its decision, the relevant authority must issue a decision notice to the community transfer body, under section 82(7) of the Act, setting out its decision and the reasons for it. This must be done within a period prescribed in regulations, or a longer period if agreed between the relevant authority and the community transfer body.

We propose in regulation 10 of the Procedure Regulations that the standard period for giving a decision notice should be 6 months from the validation date (when the request was received).

The information to be provided in a decision notice is set out in various parts of the legislation:



- section 82(7) requires the relevant authority to give notice of its decision and the reasons for it.
- section 83(2) requires that the decision notice must
  - specify the terms and conditions on which the authority is prepared to transfer ownership, lease the land or confer the rights requested
  - state that, to proceed with the process, the community transfer body must submit an offer, and
  - specify the period within which the offer must be submitted. Under section 83(3) this must be at least 6 months from the date of the decision notice
- in regulation 11 of the Procedure Regulations we propose that the decision notice must also set out:
  - the date on which the asset transfer request was made
  - the community transfer body which made the request
  - the land to which the request relates, and
  - notification of the right of appeal or review, how an appeal or application for review may be made, and the date by which it must be made.

The requirement for the relevant authority to give reasons for its decision is a key part of the legislation. An asset transfer request must be agreed unless there are reasonable grounds for refusal: it is the decision notice that will set out those grounds, and if the community transfer body does not believe they are reasonable they are likely to appeal or seek review of the decision. In particular, if a request is refused because an alternative proposal is preferred, the decision notice would need to describe the alternative proposal and how it was considered to provide greater benefits.

The terms and conditions (including price or rent) on which the relevant authority would be prepared to agree to the transfer may be the same or different from, or in addition to, any terms and conditions set out in the request. However, if they are significantly different the community transfer body may apply for a review or appeal against them.

Q9: Is 6 months a reasonable length of time for the relevant authority to make a decision on an asset transfer request? (This time may be extended if agreed with the community transfer body.) If not, how long should the period for making a decision be?

Q10: Do you agree with the proposals for additional information to be included in a decision notice? If not, please explain what you would change and why.

**2016 No.**

**COMMUNITY EMPOWERMENT**

**The Asset Transfer Request (Procedure) (Scotland) Regulations 2016**

<i>Made</i> - - - -	2016
<i>Laid before the Scottish Parliament</i>	2016
<i>Coming into force</i> - -	2016

The Scottish Ministers make the following Regulations in exercise of the power conferred by sections 81(1) and 82(8)(a) and (9) of the Community Empowerment (Scotland) Act 2015(a).

**Citation and commencement**

1. These Regulations may be cited as the Asset Transfer Request (Procedure) (Scotland) Regulations 2016 and come into force on [ ] 2016.

**Interpretation**

2. In these Regulations—

“the Act” means the Community Empowerment (Scotland) Act 2015; and

“validation date” in respect of an asset transfer request, is the date on which the asset transfer request is taken to have been made in terms of regulation 5.

**Form and content of an asset transfer request**

3.—(1) An asset transfer request is to be made in accordance with this regulation.

(2) An asset transfer request must be made in writing and must (in addition to the information required in accordance with section 79(4) of the Act)—

- (a) state that it is an asset transfer request made under Part 5 of the Act; and
- (b) contain the name and contact address of the community transfer body.

(3) The asset transfer request must be accompanied—

- (a) a copy the constitution of the community transfer body;
- (b) information outlining asset transfer request how the community transfer body proposes to fund both the transfer of the land and its proposed use of the land, should the request be agreed to by the relevant authority; and
- (c) information detailing the level and nature of support for the asset transfer request.

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(a) 2015 asp 6.

## Procedure Regulations - Draft for Consultation

### Acknowledgment of requests

4.—(1) Where the asset transfer request is not made in accordance with regulation 3, the relevant authority must send to the community transfer body a notice identifying the information or documentation which the community transfer body still requires to submit in order to comply with regulation 3.

(2) When a relevant authority is in receipt of an asset transfer request made in accordance with regulation 3 and the information and documents referred to in regulation 3(3), the relevant authority must send an acknowledgement thereof to the community transfer body making the request.

(3) The acknowledgement sent under paragraph (2) is to—

- (a) include the validation date for the asset transfer request;
- (b) include an explanation of the timescales within which the relevant authority are to give notice to the applicant of their decision on the application; and
- (c) inform the community transfer body of the right to appeal to the Scottish Ministers under section 85 of the Act or to require a review under section 86 of the Act, as the case may be.

### Validation date

5. An asset transfer request is taken to have been made on the date on which the last of the items or information required to be contained in or accompany the asset transfer request in accordance with regulation 3 is received by the relevant authority.

### Notification of asset transfer request

6.—(1) As soon as practicable after the validation date the relevant authority must in accordance with this regulation give notice of the making of the asset transfer request to any person other than the relevant authority who is—

- (a) an owner of the land which is the subject of the asset transfer request; or
- (b) a tenant or occupier of that land.

(2) The notice under paragraph (1) must—

- (a) state that an asset transfer request has been made to the relevant authority for the transfer of land;
- (b) identify the community transfer body making the asset transfer request;
- (c) identify the land to which the asset transfer request relates;
- (d) give a brief description of—
  - (i) the nature of the rights in land sought by the asset transfer request; and
  - (ii) how the community transfer body propose the land should be used;
- (e) state how the asset transfer request and any other documents submitted in connection with it may be inspected; and
- (f) state that representations may be made to the relevant authority and include information as to how any representations may be made and by which date they must be made (being a date not earlier than 28 days after the date on which the notice given).

### Publication of asset transfer request

7.—(1) As soon as practicable after the validation date the relevant authority must publish a notice in accordance with this regulation.

(2) Notice under paragraph (1) must—

- (a) be published on a website or by other electronic means;
- (b) be affixed to a conspicuous object or objects on or near the land to which the asset transfer request relates.

(3) Notice under paragraph (1) must—

- (a) state that an asset transfer request has been made to the relevant authority for the transfer of land;

## Procedure Regulations - Draft for Consultation

- (b) identify the community transfer body making the asset transfer request;
- (c) identify the land to which the asset transfer request relates;
- (d) give a brief description of—
  - (i) the nature of the rights in land sought by the asset transfer request; and
  - (ii) how the community transfer body propose the land should be used;
- (e) state how the asset transfer request and any other documents submitted in connection with it may be inspected; and
- (f) state that representations may be made to the relevant authority and include information as to how any representations may be made and by which date they must be made (being a date not earlier than 28 days after the date on which the notice is first published).

(4) Paragraph (2)(b) does not apply where the land to which the asset transfer request relates is not regularly frequented by persons other than persons in the employment or service of the relevant authority.

### **Opportunity for the community transfer body to comment on representations**

**8.** The relevant authority must send a copy of any representations received in response to a notice given under regulation 6 or published under regulation 7 to the community transfer body and are to inform the community transfer body how and by what date (being a date not less than 28 days after the date on which such copy is sent under this regulation) it may make comments to the relevant authority on such representations.

### **Publication of request documents**

- 9.** The relevant authority must, in relation to an asset transfer request, make copies of—
- (a) the asset transfer request;
  - (b) documents or information accompanying the asset transfer request; and
  - (c) any representations or comments made by virtue of regulations 6, 7 or 8,

available for inspection on a website or by other electronic means until such time as the asset transfer request is determined.

### **Time periods for decision**

**10.** The period prescribed for the purposes of section 82(8)(a) of the Act is the period of six months after the validation date.

### **Decision notice**

**11.—(1)** The decision notice must (in addition to any information required by sections 82(7) and 83(2))—

- (a) state the date on which the asset transfer request was made;
- (b) identify the community transfer body which made the asset transfer request;
- (c) identify the land to which the asset transfer request relates; and
- (d) contain notification of the right of appeal under section 85 of the Act or the right of review under section 86 of the Act, as the case may be, including—
  - (i) the circumstances in which an appeal may be made or an application for review may be made;
  - (ii) how an appeal or application for review may be made; and
  - (iii) the date by which an appeal or an application for review must be made

(2) The relevant authority must—

- (a) publish a copy of the decision notice on a website or by other electronic means; and

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- (b) inform every person who made written representations in respect of the asset transfer request (and provided an address) of their decision on the request and where a copy of the decision notice is available for inspection.

### Electronic communications

**12.**—(1) Where the criteria in paragraph (2) are met, any document required or authorised to be sent by these Regulations may be sent by electronic communications and any requirement in these Regulations that any document is to be in writing is fulfilled.

(2) The criteria are—

- (a) the recipient consents, or is deemed to have agreed under paragraph (3), to receive it electronically; and
- (b) that document transmitted by the electronic communication is—
  - (i) capable of being accessed by the recipient;
  - (ii) legible in all material respects; and
  - (iii) sufficiently permanent to be used for subsequent reference.

(3) Any person sending a document using electronic communications is to be taken to have agreed—

- (a) to the use of such communications for all purposes relating to the application which are capable of being carried out electronically; and
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, that communication.

(4) Deemed agreement under paragraph (3) subsists until that person gives notice to revoke the agreement.

(5) Notice of withdrawal of consent to the use of electronic communications or of revocation of agreement under paragraph (4) takes effect on a date specified by the person in the notice, but not less than seven days after the date on which the notice is given.

(6) In this regulation—

“address” includes any number or address used for the purpose of such communications or storage;

“document” includes any notice, consent, decision, representation, statement, list, report, form, plan, certificate or other information or communication; and

“electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000**(b)** (general interpretation);

“legible in all material respects” means that the information contained in the document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form; and

“sent” includes served, submitted or given and cognate expressions are to be construed accordingly.

Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh

2016

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(b)

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

## 9. After Agreement

Section 83 of the Act sets out the next steps after a relevant authority has issued a decision notice agreeing to an asset transfer request. The same process applies whether the request was agreed to initially or following a review or appeal.

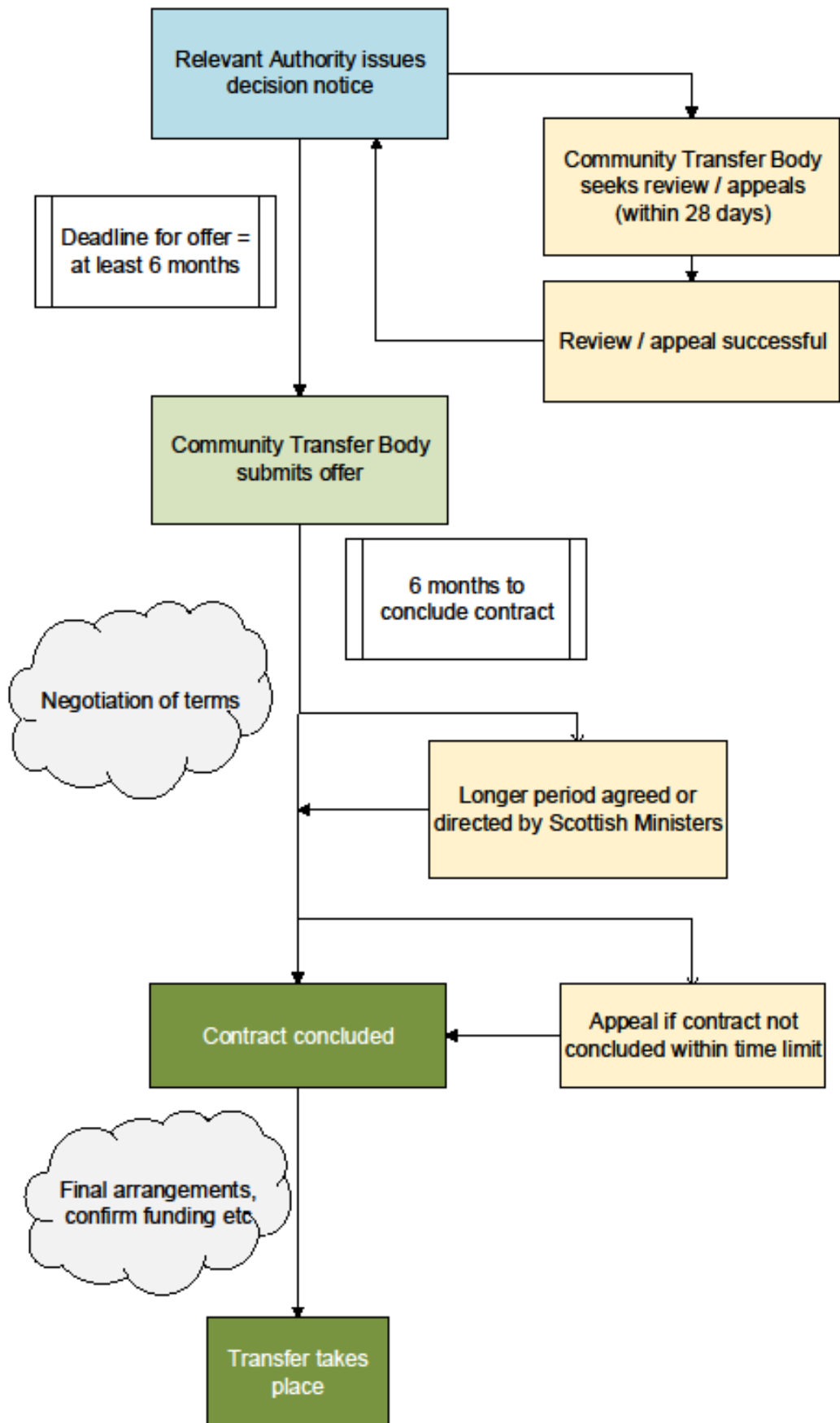
In response to the decision notice, the community transfer body must submit an offer to take ownership of the land, lease it or take up the rights covered by the request. That offer must reflect the terms and conditions set out in the decision notice; if those terms and conditions are significantly different from those included in the request, and are not acceptable to the community transfer body, it can appeal or request a review. The offer can also include other reasonable terms and conditions that may be needed to make sure the transfer goes ahead within a reasonable time.

The offer must be submitted to the relevant authority within the period stated in the decision notice, which must be at least 6 months. If no offer is made within that time (and the community transfer body does not appeal or request a review) the process comes to an end. The agreement to transfer the property to the community transfer body has no further effect, and the relevant authority is free to keep it or dispose of it as it wishes.

Once the community transfer body has submitted an offer, there can be further negotiations with the relevant authority to conclude the contract. If the request is for ownership or a long-term lease this will be like any other property transaction, with exchanges between lawyers to agree the final wording, although for other rights the process may be much simpler.

The contract must normally be concluded within 6 months of the community transfer body's offer. This does not mean the transfer has to take place within that time, 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 receipt of funding or planning permission.

The period for concluding a contract can be extended by agreement between the two parties. If the community transfer body wants to extend the period but the relevant authority does not agree, the community transfer body can apply to the Scottish Ministers for a direction to extend it. This can be done more than once. If a contract is not agreed within the required period, the community transfer body can appeal to the Scottish Ministers (see chapter 11).





## **10. Reviews and Appeals**

A community transfer body can seek a review or appeal 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.

The process depends on which relevant authority the request was made to. These are set out in 10.1, 10.2 and 10.3 below. In each case, Ministers can make regulations about the procedures to be followed in the review or appeal. The proposed procedures are outlined in chapter 10.4.

Section 91 of the Act provides that a community transfer body cannot seek a review or appeal in relation to the terms and conditions in the decision notice if it has already made an offer, unless it first withdraws that offer. If the community transfer body makes an offer after submitting an appeal or application for review, the appeal or review is treated as having been withdrawn.

A community transfer body can also appeal to the Scottish Ministers if a request is agreed, but no contract is concluded within the required time limit – see chapter 11.

In all cases the final decision lies with the Scottish Ministers. There is no further route of appeal beyond them (except by judicial review).

### **10.1. Review of a request made to a local authority**

If the request is made to a local authority, the community transfer body can apply for an internal review by the authority, as set out in section 86 of the Act.

Section 89 allows Ministers to designate additional relevant authorities to which this route of review will apply. This could be the case, for example, if ALEOs are designated as relevant authorities in future.

Section 86(8) refers back to section 82. This means that, in carrying out a review, the local authority must consider the request in the same way as the original process, taking into account the same factors and benefits of the request and alternative proposals. Subsection (10) amends the Local Government (Scotland) Act 1973 so that a review of an asset transfer decision must be carried out by Councillors, it cannot be delegated to officers.

Proposed procedures for local authority review are set out in the draft Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016 (“the Review Regulations”) at page 45.

Having carried out the review, the local authority may confirm the original decision, modify it or any part of it (including the terms and conditions set out in the decision notice) or substitute a different decision. They must issue a new decision notice, which replaces the previous decision notice. If the request is agreed following the review, the process continues as set out in chapter 9.

If the outcome of the review does not resolve the issue, or if no decision is made within the required period, the community transfer body can then appeal to the Scottish Ministers under section 88. Regulation 9 of the Review Regulations proposes that the required period for decision should be 6 months from the date of the application for review.

## **10.2. Review of requests made to the Scottish Ministers**

If the request is made to the Scottish Ministers, the community transfer body can apply for a review by the Scottish Ministers under section 87. Under subsection (3), regulations may allow Ministers to appoint people to carry out parts of the process of a review and report back to Ministers.

Subsection (8) refers back to section 82. This means that, in carrying out a review, the Scottish Ministers must consider the request in the same way as the original process, taking into account the same factors and benefits of the request and alternative proposals.

Proposed procedures for review by the Scottish Ministers are set out in the draft Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016 at page 45. These regulations generally refer to local authorities; Part 4 (regulations 11-14) shows how they work for a review by the Scottish Ministers.

After the review is carried out, and having regard to any report provided by the appointed people, the Scottish Ministers may confirm the original decision, modify it or any part of it (including the terms and conditions set out in the decision notice) or substitute a different decision. They must issue a new decision notice, which replaces the previous decision notice. If the request is agreed following the review, the process continues as in chapter 9. If the request is refused following the review, the asset transfer process comes to an end.

## **10.3. Appeal to the Scottish Ministers**

If the request is made to any other relevant authority, the community transfer body can appeal to the Scottish Ministers under section 85 of the Act. The same procedures apply to this and to appeals from local authority reviews under section 88.

On appeal, the Scottish Ministers can consider any aspect of the previous decision, whether it is mentioned in the appeal or not. They can “allow” the appeal, meaning

that they agree with the community transfer body's case and the decision is to be changed, or they can "dismiss" it, meaning that the community transfer body loses the case and the original decision stands. If the appeal is allowed, the Scottish Ministers can overturn or change any part of the decision made by the relevant authority, including any of the terms and conditions attached to it, even if that part of the decision was not challenged in the appeal documents.

Proposed procedures for appeal to the Scottish Ministers are set out in the draft Asset Transfer Request (Appeals) (Scotland) Regulations 2016 (the Appeal Regulations) at page 55. These regulations generally refer to appeals of decisions made by other relevant authorities; Part 4 (regulation 11) sets out how they apply in relation to appeal of a decision made on review by a local authority.

If the appeal is allowed and the relevant authority is required to agree the transfer of the land or rights requested, or is required to agree to specified terms and conditions, the Scottish Ministers must give a direction to the relevant authority, requiring it to issue a new decision notice. This replaces the original decision notice. The direction must set out the terms and conditions which the Scottish Ministers require to be included in the decision notice, any other steps which the relevant authority is required to take, and the deadline by which these things must be done. Once the new decision notice is issued, the process continues as in chapter 9.

If the request is refused following an appeal, the asset transfer process comes to an end.

#### **10.4. Regulations on reviews and appeals**

The draft regulations set out the detailed procedures for reviews and appeals. These are all very similar; this section provides an overview of the general approach and specific differences.

A review is a relevant authority reconsidering its own decision on an asset transfer request made to it. The main evidence is the community transfer body's application for review.

To be fair, a review should be considered by people who were not involved in the original decision. The Act requires local authorities to have reviews carried out by Councillors, not delegated to officers. We propose that the Scottish Ministers should be required to appoint a panel of 3 people, of whom no more than one is a member of Scottish Government staff, to consider the review and make recommendations to Ministers. In these paragraphs we use the word "examiner" for the person or people carrying out any part of a review or appeal.

An appeal is the Scottish Ministers making a judgement on a dispute between a community transfer body and the relevant authority to which the request was made.

The initial evidence consists of the community transfer body's notice of appeal and the relevant authority's response to it.

We propose that any application for review or appeal should be made within 28 days of the decision notice, or within 28 days of the date the decision notice should have been given, if no decision has been made.

The community transfer body's application for review or notice of appeal must set out the reasons for the application or appeal, and be accompanied by a list of documents and other evidence supporting the case. The community transfer body must provide copies of all their documentation to the Scottish Ministers for an appeal. They must also provide copies to the relevant authority of any documents or evidence the relevant authority does not already have.

All parties will be required to set out all their arguments and provide all their evidence at the first stage. They will not be allowed to raise new issues or evidence later unless they are specifically asked to by the examiner.

Representations made on the original asset transfer request will be taken into account in the review or appeal. People who made representations ("interested parties") will also be notified of the review or appeal and given 14 days to make further representations; the community transfer body (and relevant authority for appeals) will have at least 14 days to comment on any representations.

At each stage, arrangements will be made to allow everyone involved to see all the arguments, evidence and representations submitted, and to comment on them. All papers will also be required to be published online. The examiner will be able to ask anyone who has submitted information to provide additional copies so that they can be made available to other people.

Once they have the initial evidence, any representations from interested parties and comments on those representations, the examiner may consider they have enough information to determine the appeal. If not, they will be able to decide what further procedure to use to get more information. This could be by written submissions, a hearing session, or other procedures such as a visit to the land to which the asset transfer request relates or to another relevant site (for example the community transfer body's existing premises or another similar community project). The community transfer body and relevant authority can say in their initial evidence what procedures they think should be used, but the final decision is with the examiner.

The examiner will be able to ask anyone to provide further information by written submissions, or by attending a hearing session, including people not previously involved in the case. The request or invitation must set out the matters on which the examiner wants further information.

If the examiner decides they should hold a hearing session to get more information on particular matters, they must send a notice to the community transfer body, the relevant authority (for appeals), any interested parties, and any other person the examiner wants to provide further information. The people invited must confirm within 14 days if they plan to attend the hearing session. Anyone who does not do so will not be entitled to be involved in the procedures that follow.

The examiner may (but will not have to) ask people who plan to attend the hearing session to submit a written statement of the case they plan to make, with supporting documents. These statements will be copied to everyone attending the hearing.

The hearing session is intended to be a discussion, led by the examiner, on the particular matters set out in the notice. The people attending will not normally be allowed to question each other on their statements, and the examiner will be able to stop anything being raised if they consider it is not relevant or is repeating previous points.

Q11: Do you agree that the Scottish Ministers should be required to appoint a panel of 3 people to consider reviews of Ministers' own decisions? If not, how do you think these reviews should be carried out?

Q12: Do you agree that a local authority should be required to make a decision on a review within 6 months? If not, how long should the period for making a decision be?

Q13: Do you have any other comments about the draft Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016 or draft Asset Transfer Request (Appeals) (Scotland) Regulations 2016?

**2016 No.**

**COMMUNITY EMPOWERMENT**

**The Asset Transfer Request (Review Procedure) (Scotland)  
Regulations 2016**

<i>Made</i> - - - -	2016
<i>Laid before the Scottish Parliament</i>	2016
<i>Coming into force</i> - -	2016

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 86(3) and 87(3) of the Community Empowerment (Scotland) Act 2015(a) and all other powers enabling them to do so.

**PART 1**

**Preliminary**

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016 and come into force on [ ] 2016.

(2) These Regulations (other than Part 4) apply to applications for review made under section 86(2) of the Act (review by local authority).

(3) These Regulations apply as specified in Part 4 to applications for review made under section 87(2) of the Act (review of decisions by the Scottish Ministers).

**Interpretation**

2. In these Regulations—

“the Act” means the Community Empowerment (Scotland) Act 2015;

“asset transfer request” means the asset transfer request to which the application for review relates;

“community transfer body” means the community transfer body which made the asset transfer request;

“decision notice” means the notice given by the relevant authority of its decision on the asset transfer request;

“hearing session” means a hearing held or to be held into matters specified in a notice given under rule 1(1) of the Hearing Session Rules;

“Hearing Session Rules” means the rules set out in the Schedule;

“interested party” means any person from whom the relevant authority received representations (which were not subsequently withdrawn) in connection with the asset transfer request;

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(a) 2015 asp 6.

## Review Regulations - Draft for Consultation

“period allowed for determination of the request” means—

- (a) the period of six months after the validation date; or
- (b) such longer period as may be agreed between the community transfer body and the local authority under section 82(8)(b) of the Act; and

“review documents” means the decision notice in respect of which the application for review is made, the application for review, all documents accompanying the application for review in accordance with regulation 3 and any representations or comments made under regulation 4(4) or (6);

“review panel” means the persons appointed by the Scottish Ministers under regulation 11(3) to consider the asset transfer request and to report to them on it;

“rule” means a rule set out in the Schedule;

“specified matters” are in relation to a request for further written representations or information under regulation 8 or to a particular hearing session, those matters which are set out in the notice given under regulation 8(1) or rule 1(1) of the Hearing Session rules, as the case may be; and

“validation date” has the same meaning as in the Asset Transfer Request (Procedure) (Scotland) Regulations 2016**(b)**.

## PART 2

### Application for review under section 86(2) of the Act

#### Application for review

**3.—**(1) An application for review to the local authority under section 86(2) of the Act is to be made in writing in accordance with this regulation.

(2) The application for review must be served on the local authority within the period of 28 days beginning with, in the case of an application for review made by virtue of—

- (a) section 86(1)(b)(i) or (ii) of the Act, the date of the decision notice; and
- (b) section 86(1)(b)(iii) of the Act, the date of expiry of the period allowed for determination of the request.

(3) The application for review must—

- (a) include the name and contact address of the community transfer body;
- (b) specify the land to which the asset transfer request relates;
- (c) include a statement setting out the community transfer body’s reasons for requiring a review of the case and by what, if any, procedure (or combination of procedures) the community transfer body considers the review should be conducted; and
- (d) be accompanied by a list of all documents, materials and evidence which the community transfer body intends to rely on in the review.

(4) Subject to paragraph (5)—

- (a) all matters which the community transfer body intends to raise in the review must be set out in the application for review or in the documents materials and evidence referred to on the list submitted in accordance with paragraph (3)(d); and
- (b) the application for review must be accompanied by a copy of all documents, materials and evidence specified on such list other than any documents, materials or evidence which—
  - (i) the community transfer body has already provided to the local authority in connection with the asset transfer request; or
  - (ii) the local authority otherwise already hold.

## Review Regulations - Draft for Consultation

(5) In addition to matters set out in the application for review and in the documents, materials and evidence referred to the list submitted in accordance with paragraph (3)(d), the community transfer body may raise matters and submit further documents, materials or evidence only in accordance with and to the extent permitted by regulation 4(6) or where the local authority make a request (under regulation 8(1), rule 1 of the Hearing Session Rules or otherwise) for further representations to be made or further information to be provided to them by the community transfer body.

### **Notification to interested parties and publication**

**4.**—(1) The local authority must not later than 14 days following receipt of the application for review—

- (a) send an acknowledgement of the application for review to the community transfer body stating the date on which the application for review was made and inform the community transfer body how documents related to the review may be inspected; and
- (b) give notice of the review to each interested party.

(2) Notice under paragraph (1)(b) is to be given—

- (a) by post to an interested party who is an owner, tenant or occupier of the land to which the asset transfer request relates; and
- (b) by post or by advertisement in a newspaper circulating in the locality where the land is situated, to any other interested party.

(3) Notice under paragraph (1)(b) is to—

- (a) state the name of the community transfer body;
- (b) specify the land to which the asset transfer request relates;
- (c) state that copies of any representations previously made with respect to the asset transfer request, will be considered by the local authority when determining the review;
- (d) state that further representations may be made to the local authority and include information as to how any representations may be made, by what date they must be made and that a copy of the representation will be sent to the community transfer body for comment; and
- (e) state how a copy of the application for review and other documents related to the review may be inspected.

(4) An interested party may, within 14 days beginning with the date on which notice is given under paragraph (1)(b) make representations in respect of the review to the local authority.

(5) The local authority must send a copy of any representations received under paragraph (4) to the community transfer body and must inform the community transfer body how and by what date (being a date not less than 14 days after the date on which such copy is sent under this paragraph) the community transfer body may make comments to the local authority on such representations.

(6) The community transfer body may, on or before that date, make comments on such representations to the local authority.

(7) An interested party may, in addition to any representations made by virtue of paragraph (4), raise matters and submit further documents, materials or evidence only in accordance with and to the extent that the local authority make a request (under regulation 8(1), rule 1 of the Hearing Session Rules or otherwise) for further representations to be made or further information to be provided to them by such interested party.

### **Publication of review documents**

**5.** The local authority must, in relation to a review, make a copy of—

- (a) the review documents; and
- (b) any notice given under regulation 4(1)(b),

available for inspection on a website or by other electronic means until such time as the review is determined.



# Review Regulations - Draft for Consultation

## PART 3

### Procedure for Determination

#### **Determination without further procedure**

6. Where the local authority considers that the review documents provide sufficient information to enable it to determine the review, it may determine the review without further procedure.

#### **Decision as to further procedure**

7.—(1) Where the local authority does not determine the review without further procedure, the local authority may determine the manner in which the review is to be conducted.

(2) The local authority may determine at any stage of the review—

- (a) that further representations should be made or further information should be made available or provided to enable the review to be determined; and
- (b) how such further representations or further information should be made available or provided.

(3) Where the local authority considers that further representations should be made or further information should be made available or provided by means of—

- (a) written submissions, regulation 8 applies; and
- (b) a hearing session, the Hearing Session Rules apply.

(4) Notices given under regulation 8(1), rule 1(1) of the Hearing Session Rules may be given separately or combined into a single notice.

#### **Written submissions**

8.—(1) Where the local authority has determined that further representations should be made or further information should be provided by means of written submissions, the local authority may request such further representations or information and is to do so by giving written notice to that effect to—

- (a) the community transfer body; and
- (b) any other person from whom the local authority wishes to receive further representations or information.

(2) The notice given under paragraph (1) is to—

- (a) set out the matters on which such further representations or information is requested;
- (b) specify the date by which such further representations or information are to be sent to the local authority; and
- (c) provide the name and address of any person to whom the notice is given.

(3) Any further representations made or information provided in response to the notice given under paragraph (1) (“additional material”) are to be sent to the local authority on or before the date specified for that purpose in the notice and a copy of any additional material is to be sent on or before that date to any other person to whom the notice was given.

(4) Within a period of 14 days from receipt of a copy of the additional material, any person to whom the notice under paragraph (1) was given—

- (a) may send comments to the local authority in respect of the additional material; and
- (b) must, when doing so, send a copy of such comments to any other person to whom the notice was given under paragraph (1).

(5) A copy of any additional material or any comments required to be sent to a person under this regulation is to be sent to the person at the address stated for that person in the notice given under paragraph (1).

(6) In this regulation “additional material” has the meaning given in paragraph (3).

## Review Regulations - Draft for Consultation

### Time period for decision

9. The period prescribed for the purposes of section 86(7)(b)(i) of the Act is the period of 6 months beginning with the date on which the application for review under section 86(2) of the Act is made.

### New evidence

10.—(1) If, after the conclusion of any further procedure conducted by virtue of regulation 8, the local authority proposes to take into consideration any new evidence which is material to the determination of the review, the local authority must not reach a decision on the review without first affording the community transfer body and any other relevant party an opportunity of making representations on such new evidence.

(2) In this regulation “relevant party” means—

- (a) where the new evidence relates to a specified matter considered at a hearing session, any person entitled to appear at that hearing session;
- (b) where the new evidence relates to matters in respect of which further written representations or information was sought by a notice under regulation 8(1), any person to whom such notice was sent.

## PART 4

### Reviews under section 87(2) of the Act

#### Reviews under section 87(2) of the Act

11.—(1) An application for review under section 87(2) of the Act is to be made in writing in accordance with this regulation.

(2) The application for review must be served on the Scottish Ministers within the period of 28 days beginning with, in the case of an application for review made by virtue of—

- (a) section 87(1)(b)(i) or (ii) of the Act, the date of the decision notice; and
- (b) section 87(1)(b)(iii) of the Act, the date of expiry of the period allowed for determination of the request.

#### Review panel

12.—(1) Where an application for review is made the Scottish Ministers must appoint 3 persons, no more than one of whom is member of the staff of the Scottish Ministers, to consider the asset transfer request and report to them on it (“the review panel”).

(2) Following such consideration the review panel must report—

- (a) their findings in fact and conclusions in respect of the asset transfer request; and
- (b) their recommendations as to the determination of the asset transfer request,

to the Scottish Ministers.

#### Application of regulations

13. These Regulations, other than the regulations 3(1), (2) and (6), 9 and 10, apply to a review under section 87(2) of the Act as they apply to a review under section 86(2) of the Act as if—

- (a) in regulation 3(4), in regulation 4 (other than in paragraph (7)) and in regulation 5, references to the local authority were references to the Scottish Ministers; and
- (b) in regulations 3(5) and 4(7), in Part 3 and in the Hearing Session Rules references to the local authority were references to the review panel.

## Review Regulations - Draft for Consultation

### New evidence

**14.**—(1) If, after the consideration of the review panel’s report, the Scottish Ministers propose to take into consideration any new evidence which is material to the determination of the review, the Scottish Ministers must not reach a decision on the review without affording the community transfer body and any other relevant party an opportunity of making representations on such new evidence.

(2) In this regulation—

“relevant party” means—

- (a) where the new evidence relates to a specified matter considered at a hearing session, any person entitled to appear at that hearing session;
- (b) where the new evidence relates to matters in respect of which further written representations or information was sought by a notice under regulation 9, any person to whom such notice was sent.

## PART 5

### General

#### Further copies of documents etc.

**15.**—(1) The relevant authority may require any person who has submitted documents, materials or evidence under these Regulations in connection with the review to—

- (a) provide to the relevant authority such number of additional copies of such of those documents, materials or evidence as they may specify; and
- (b) provide to such other persons as they may specify such copies or additional copies of any documents, materials or evidence as they may specify.

(2) The relevant authority must, until such time as the review is determined, make copies of such documents, materials or evidence provided under paragraph (1)(a) available for inspection at an office of the relevant authority and, where practicable, must afford any person who so requests a reasonable opportunity of taking copies of such documents (or any part thereof).

#### Compliance with notification and consultation procedures

**16.**—(1) The relevant authority must, to the extent not already done so, comply with regulation 6 (notification of asset transfer request) and 7 (publication of asset transfer request) of the Asset Transfer Request (Procedure) (Scotland) Regulations 2016(c) before determining the review.

(2) Where the relevant authority notify any person in accordance with paragraph (1) references in these Regulations (other than regulation 4) to an interested party includes any such person from whom the relevant authority received representations (which are not subsequently withdrawn) in connection with the asset transfer request.

#### Decision Notice

**17.** The relevant authority must—

- (a) give notice of the decision to the community transfer body; and
- (b) notify every person who has made (and did not subsequently withdraw) representations in respect of the review that a decision on the review has been made and where a copy of the notice of the decision is available for inspection

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(c) S.S.I. 2013/155.

## Review Regulations - Draft for Consultation

### Electronic communications

**18.**—(1) Where the criteria in paragraph (2) are met, any document required or authorised to be sent by these Regulations may be sent by electronic communications and any requirement in these Regulations that any document is to be in writing is fulfilled.

(2) The criteria are—

- (a) the recipient consents, or is deemed to have agreed under paragraph (3), to receive it electronically; and
- (b) the document transmitted by the electronic communication is—
  - (i) capable of being accessed by the recipient;
  - (ii) legible in all material respects; and
  - (iii) sufficiently permanent to be used for subsequent reference.

(3) Any person sending a document using electronic communications is to be taken to have agreed—

- (a) to the use of such communications for all purposes relating to the review which are capable of being carried out electronically; and
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, that communication.

(4) Deemed agreement under paragraph (3) subsists until that person gives notice to revoke the agreement.

(5) Notice of withdrawal of consent to the use of electronic communications or of revocation of agreement under paragraph (4) takes effect on a date specified by the person in the notice, but not less than seven days after the date on which the notice is given.

(6) In this regulation—

“address” includes any number or address used for the purpose of such communications or storage;

“document” includes any notice, consent, agreement, decision, representation, statement, report or other information or communication;

“electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(d);

“legible in all material respects” means that the information contained in the document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form; and

“sent” includes served, submitted or given and cognate expressions are to be construed accordingly.

Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh

2016

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(d) 2000 c.7. Section 15 was amended by the Communications Act 2003 (c.21), Schedule 17, paragraph 158.

## SCHEDULE

Regulation 2

### Hearing Session Rules

#### **Notice of hearing session and specified matters**

**1.**—(1) Where the local authority has determined that a hearing session should be held it is to give written notice to that effect to—

- (a) the community transfer body;
- (b) any interested party who made representations in relation to specified matters; and
- (c) any person who the local authority wish to make further representations or to provide further information on specified matters at the hearing session.

(2) The notice given under paragraph (1) is to specify the matters to be considered at the hearing session.

(3) Only specified matters are to be considered at the hearing session.

(4) A person given notice under paragraph (1) and who intends to appear at the hearing session must within 14 days of the date of such notice inform the local authority in writing of that intention.

#### **Appearances at hearing session**

**2.** The persons entitled to appear at a hearing session are—

- (a) the community transfer body; and
- (b) any other person who, in response to a notice given under paragraph (1), has informed the local authority of their intention to appear at the hearing session in accordance with rule 1(4).

#### **Date and notification of hearing session**

**3.**—(1) The date, time and place at which the hearing session is to be held is to be determined (and may subsequently be varied) by the local authority.

(2) The local authority is to give to those persons entitled to appear at the hearing session such notice of the date, time and place fixed for the holding of a hearing session (and any subsequent variation thereof) as may appear to the local authority to be reasonable in the circumstances.

#### **Service of hearing statements and documents**

**4.**—(1) Where required to do so by notice given by the local authority, a person entitled to appear at the hearing session must, by such date as is specified in the notice, send to—

- (a) the local authority—
  - (i) a hearing statement; and
  - (ii) where that person intends to refer to or rely on any documents when presenting their case a copy of every document (or the relevant part of a document) on the list of such documents comprised in that hearing statement; and
- (b) the community transfer body and to such other persons entitled to appear at the hearing session as the local authority may specify in such notice—
  - (i) a hearing statement; and
  - (ii) where that person intends to refer to or rely on any documents when presenting their case a copy of every document (or the relevant part of a document) on the list comprised in that hearing statement which is not already available for inspection under regulation 5, 15(2), or paragraph (2) of this rule.

## Review Regulations - Draft for Consultation

(2) The local authority must make a copy of any hearing statement or other document (or any part thereof) which, or a copy of which, has been sent to it in accordance with this rule, available for inspection on a website or by other electronic means until such time as the review is determined.

(3) Any person who has served a hearing statement in accordance with this rule must—

- (a) when required by notice in writing from the local authority provide such further information about the matters contained in the statement as the local authority may specify; and
- (b) at the same time send a copy of such further information to any other person on whom the hearing statement has been served.

(4) Different dates and different persons may be specified for the purposes of paragraph (1).

(5) In this rule, “hearing statement” means, and is comprised of—

- (a) a written statement which fully sets out the case relating to the specified matters which a person proposes to put forward to a hearing session;
- (b) a list of documents (if any) which the person putting forward such case intends to refer to or rely on; and
- (c) a list of any other persons who are to speak at the hearing session in respect of such case, any matters which such persons are particularly to address and any relevant qualifications of such persons to do so.

### **Procedure at hearing**

**5.—**(1) Except as otherwise provided in these Hearing Session Rules, the procedure at a hearing session shall be as the local authority determines.

(2) The local authority is, having considered any submission by the persons entitled to appear at the hearing session, to state at the commencement of the hearing session the procedure the local authority proposes to adopt.

(3) Any person entitled to appear may do so on that person’s own behalf or be represented by another person.

(4) Where there are two or more persons having a similar interest in the issues being considered at the hearing session, the local authority may allow one or more persons to appear on behalf of some or all of any persons so interested.

(5) A hearing shall take the form of a discussion led by the local authority and cross examination is not permitted unless the local authority considers that cross examination is required to ensure a thorough examination of the issues.

(6) Subject to paragraph (7) a person entitled to appear at a hearing session is entitled to call evidence.

(7) The local authority may refuse to permit—

- (a) the giving or production of evidence;
- (b) the cross examination of persons giving evidence; or
- (c) the presentation of any other matter,

which the local authority considers to be irrelevant or repetitious.

(8) The local authority may proceed with a hearing session in the absence of any person entitled to appear at the hearing session.

(9) The local authority may from time to time adjourn the hearing session and, if the date, time and place of the adjourned hearing session are announced before the adjournment, no further notice is required otherwise rule 3 applies as it applies to the variation of the date, time or place at which a hearing session is to be held.

## Review Regulations - Draft for Consultation

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision in connection with applications for review made to a local authority to the Scottish Ministers under section 86 of the Community Empowerment (Scotland) Act 2015 (“the Act”).

Part 1 of the Regulations sets out how the Regulations apply and are to be interpreted

Part 2 of the Regulations makes provision in relation to the time period within which and how an application for review must be made.

Part 3 of the Regulations relates to the process of determination of the review.

Part 4 of the Regulations makes provision in respect of reviews under section 87(2) of the Act.

Part 5 of the Regulations contains general provisions.

**2016 No.**

**COMMUNITY EMPOWERMENT**

**The Asset Transfer Request (Appeals) (Scotland) Regulations 2016**

<i>Made</i>	- - - -	2016
<i>Laid before the Scottish Parliament</i>		2016
<i>Coming into force</i>	- -	2016

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 85(3) of the Community Empowerment (Scotland) Act 2015(a) and all other powers enabling them to do so.

**PART 1**

**Preliminary**

**Citation, commencement and application**

**1.**—(1) These Regulations may be cited as the Asset Transfer Request (Appeals) (Scotland) Regulations 2016 and come into force on [ ] 2016.

(2) These Regulations (other than Part 4) apply to appeals under section 85(2) of the Act (appeals).

(3) These Regulations apply as specified in Part 4 to appeals under section 88(2) of the Act (appeals from reviews under section 86).

**Interpretation**

**2.** In these Regulations—

“the Act” means the Community Empowerment (Scotland) Act 2015;

“asset transfer request” means the asset transfer request to which the appeal relates;

“community transfer body” means the community transfer body which made the asset transfer request;

“decision notice” means the notice given by the relevant authority of its decision on the asset transfer request;

“hearing session” means a hearing held or to be held into matters specified in a notice given under rule 1(1) of the Hearing Session Rules;

“Hearing Session Rules” means the rules set out in the Schedule;

“interested party” means any person from whom the relevant authority received representations (which were not subsequently withdrawn) in connection with the asset transfer request;

“relevant authority’s response” has the meaning given in regulation 4(2)(a);

“rule” means a rule set out in the Schedule;

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(a) 2015 asp 6.



## Appeals Regulations - Draft for Consultation

“specified matters” are in relation to a request for further written representations or information under regulation 9 or to a particular hearing session, those matters which are set out in the notice given under regulation 9(1) or rule 1(1) of the Hearing Session Rules, as the case may be.

### PART 2

#### Appeals under section 85(2) of the Act

##### Notice of appeal

**3.—**(1) An appeal to the Scottish Ministers under section 85(2) of the Act is to be made by giving notice in writing in accordance with this regulation.

(2) The notice of appeal must be served on the Scottish Ministers within the period of 28 days beginning with, in the case of an appeal made by virtue of—

- (a) section 85(1)(a) or (b) of the Act, the date of the decision notice; and
- (b) section 85(1)(c) of the Act, the date of expiry of the period allowed for determination of the request.

(3) The notice of appeal must—

- (a) include the name and contact address of the community transfer body;
- (b) specify the land to which the asset transfer request relates; and
- (c) include a statement setting out full particulars of the appeal including a note of the matters which the community transfer body considers require to be taken into account in determining the appeal and by what, if any, procedure (or combination of procedures) the community transfer body considers the appeal should be conducted.

(4) The notice of appeal must be accompanied by—

- (a) a copy of the asset transfer request;
- (b) a copy of documents provided by the community transfer body to the relevant authority in connection with the asset transfer request; and
- (c) where the appeal is made by virtue of section 85(1)(a) or (b) of the Act, a copy of the decision notice.

(5) Subject to paragraph (6)—

- (a) all matters which the community transfer body intends to raise in the appeal must be set out in the notice of appeal or in the documents which accompany the notice of appeal; and
- (b) all documents, materials and evidence which the community transfer body intends to rely on in the appeal must accompany the notice of appeal.

(6) In addition to matters set out in the notice of appeal and documents which accompany the notice of appeal, the community transfer body may raise matters and submit further documents, materials or evidence only in accordance with and to the extent permitted by regulations 4 or 5 or where the Scottish Ministers make a request (under regulation 9(1), paragraph 1 of the Hearing Session Rules or otherwise) for further representations to be made or further information to be provided to them by the community transfer body.

(7) In this regulation—

“period allowed for determination of the request” means—

- (a) the period of six months after the validation date; or
- (b) such longer period as may be agreed between the community transfer body and the relevant authority under section 82(8)(b) of the Act; and

“validation date” has the same meaning as in the Asset Transfer Request (Procedure) (Scotland) Regulations 2016(b).

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(b)

## Appeals Regulations - Draft for Consultation

### **Intimation to relevant authority and relevant authority's response**

**4.—**(1) The community transfer body must at the same time as giving the notice of appeal to the Scottish Ministers send to the relevant authority—

- (a) a copy of the notice of appeal;
- (b) a list of all documents, materials and evidence which the community transfer body intends to rely on in the appeal and which accompanied the notice of appeal in accordance with regulation 3(4)(b); and
- (c) a copy of all documents, materials and evidence specified on such list other than any documents, materials or evidence which—
  - (i) the community transfer body has already provided to the relevant authority in connection with the asset transfer request; or
  - (ii) the relevant authority otherwise already hold.

(2) The relevant authority must, not later than 21 days beginning with the date of receipt of notification of an appeal under paragraph (1), send to the Scottish Ministers and the community transfer body—

- (a) a note (“the relevant authority’s response”) of the matters which the relevant authority considers require to be taken into account in determining the appeal and by what, if any, procedure (or combination of procedures) the relevant authority considers the appeal should be conducted;
- (b) a copy of the documents (other than those specified on the list mentioned in paragraph (1)(b)) which were before the relevant authority and which were taken into account in reaching its decision; and
- (c) the terms and conditions (if any) which the relevant authority presently considers should be imposed in the event that the Scottish Ministers decide that the asset transfer request be agreed to.

(3) The community transfer body may, within 14 days beginning with the date of receipt of the relevant authority’s response, send to the Scottish Ministers and the relevant authority—

- (a) comments on—
  - (i) any terms and conditions included in the relevant authority’s response by virtue of paragraph (2)(c); and
  - (ii) any matters raised in the relevant authority’s response which had not been raised in the decision notice; and
- (b) any documents, materials or evidence on which the community transfer body intends to rely in relation to such comments.

(4) In addition to matters set out in the relevant authority’s response and related documents, the relevant authority may raise matters and submit further documents, materials or evidence only in accordance with and to the extent permitted by regulation 5(6) or where the Scottish Ministers make a request (under regulation 9(1), paragraph 1 of the Hearing Session Rules or otherwise) for further representations to be made or further information to be provided to them by the relevant authority.

### **Notification to interested parties**

**5.—**(1) The relevant authority must not later than 14 days following notification of the appeal under regulation 4(1) give notice of the appeal to each interested party.

(2) Notice under paragraph (1) is to be given—

- (a) by post to an interested party who is an owner, tenant or occupier of the land to which the appeal relates; and
- (b) by post or by advertisement in a newspaper circulating in the locality where the land is situated, to any other interested party.

(3) Notice under paragraph (1) is to—

- (a) state the name of the community transfer body;
- (b) specify the land to which the asset transfer request relates;

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- (c) state that copies of any representations previously made to the relevant authority, will be sent to the Scottish Ministers and the community transfer body and will be taken into consideration in the determination of the appeal;
- (d) state that further representations may be made to the Scottish Ministers and include information as to how any representations may be made and by what date they must be made; and
- (e) state how a copy of the notice of appeal and other documents related to the appeal may be inspected.

(4) An interested party may, within 14 days beginning with the date on which notice is given under paragraph (1), make representations in respect of the appeal to the Scottish Ministers.

(5) The Scottish Ministers are to send a copy of any representations received under paragraph (4) to the community transfer body and to the relevant authority and are to inform them how and by what date (being a date not less than 14 days after the date on which such copy is sent under this paragraph) they may make comments to the Scottish Ministers on such representations.

(6) The community transfer body and the relevant authority may, on or before that date, make comments on such representations to the Scottish Ministers.

(7) An interested party may, in addition to any representations made by virtue of paragraph (4), raise matters and submit further documents, materials or evidence only in accordance with and to the extent that the Scottish Ministers make a request (under regulation 9(1), paragraph 1 of the Hearing Session Rules or otherwise) for further representations to be made or further information to be provided to them by such interested party.

### **Publication of appeal documents**

6. The Scottish Ministers must, in relation to an appeal, make copies of—

- (a) the notice of appeal;
- (b) the relevant authority's response and any comments sent under regulation 4(3)(a);
- (c) the documents—
  - (i) specified on the list mentioned in regulation 4(1)(b);
  - (ii) sent in accordance with regulation 4(2)(b) and (3)(b);
- (d) any notice given under regulation 5(1); and
- (e) any representations or comments made under regulation 5(4) or (6),

available for inspection on a website or by other electronic means until such time as the appeal is determined.

## PART 3

### Procedure for determination

#### **Determination without further procedure**

7. Where the Scottish Ministers consider that no further representations are or information is required to enable the appeal to be determined, the Scottish Ministers may determine the appeal without further procedure.

#### **Decision as to further procedure**

8.—(1) Where the Scottish Ministers do not determine the appeal without further procedure, the Scottish Ministers may determine the manner in which the appeal is to be conducted.

(2) The Scottish Ministers may determine at any stage of the appeal—

- (a) that further representations should be made or further information should be made available or provided to enable the appeal to be determined; and

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- (b) how such further representations or further information should be made available or provided.
- (3) Where the Scottish Ministers consider that further representations should be made or further information should be made available or provided by means of—
  - (a) written submissions, regulation 9 applies; and
  - (b) a hearing session, the Hearing Session Rules apply.
- (4) Notices given under regulation 9(1), rule 1(1) of the Hearing Session Rules may be given separately or combined into a single notice.

### Written submissions

- 9.**—(1) Where the Scottish Ministers have determined that further representations should be made or further information should be provided by means of written submissions, the Scottish Ministers may request such further representations or information and are to do so by giving written notice to that effect to—
- (a) both the community transfer body and the relevant authority; and
  - (b) any other person from whom the Scottish Ministers wish to receive further representations or information.
- (2) The notice given under paragraph (1) is to—
- (a) set out the matters on which such further representations or information is requested;
  - (b) specify the date by which such further representations or information are to be sent to the Scottish Ministers; and
  - (c) state the name and address of any person to whom the notice is given.
- (3) Any further representations made or information provided in response to the notice given under paragraph (1) (“additional material”) are to be sent to the Scottish Ministers on or before the date specified for that purpose in the notice and a copy of any additional material is to be sent on or before that date to any other person to whom the notice was given.
- (4) Within a period of 14 days from receipt of a copy of the additional material, any person to whom the notice under paragraph (1) was given—
- (a) may send comments to the Scottish Ministers in respect of the additional material; and
  - (b) must, when doing so, send a copy of such comments to any other person to whom the notice was given under paragraph (1).
- (5) A copy of any additional material or any comments required to be sent to a person under this regulation is to be sent to the person at the address stated for that person in the notice given under paragraph (1).
- (6) In this regulation “additional material” has the meaning given in paragraph (3).

### New evidence

- 10.**—(1) If, after the conclusion of any further procedure conducted by virtue of regulation 8, the Scottish Ministers propose to take into consideration any new evidence which is material to the determination of the appeal, the Scottish Ministers must not reach a decision on the appeal without affording the community transfer body, the relevant authority and any other relevant party an opportunity of making representations on such new evidence.
- (2) In this regulation—
- “relevant party” means—
- (a) where the new evidence relates to a specified matter considered at a hearing session, any person entitled to appear at that hearing session;
  - (b) where the new evidence relates to matters in respect of which further written representations or information was sought by a notice under regulation 9, any person to whom such notice was sent.

## PART 4

### Appeals under section 88(2) of the Act

#### Appeals under section 88(2) of the Act

**11.**—(1) An appeal to the Scottish Ministers under section 88(2) of the Act is to be made by giving notice in writing in accordance with this regulation.

(2) The notice of appeal must be served on the Scottish Ministers within the period of 28 days beginning with, in the case of an appeal made by virtue of—

- (a) section 88(1)(a) or (b) of the Act, the date of the decision notice; and
- (b) section 88(1)(c) of the Act, the date of expiry of the period allowed for determination of the review.

(3) In relation to an appeal under section 88(2) of the Act—

- (a) this Part, Parts 1, 3 and 5 and the Hearing Session Rules apply; and
- (b) the following provisions of Part 2 apply as they apply to an appeal under section 85(2) of the Act with the modifications specified in paragraph (4)—
  - (i) regulation 3(3) to (5);
  - (ii) regulation 4;
  - (iii) regulation 5; and
  - (iv) regulation 6.

(4) The modifications are—

- (a) regulation 3(4)(e) applies as if the reference to section 85(1)(a) or (b) of the Act is a reference to section 88(1)(a) or (b) of the Act.

(5) In this regulation, “period allowed for determination of the review” means—

- (a) the period specified in regulation 9 of the Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016(c); or
- (b) such longer period as may be agreed between the community transfer body and the relevant authority under section 86(7)(b) of the Act.

## PART 5

### General

#### Further copies of documents etc.

**12.**—(1) The Scottish Ministers may require any person who has submitted documents, materials or evidence under these Regulations in connection with the appeal to—

- (a) provide to the Scottish Ministers such number of additional copies of such of those documents, materials or evidence as the Scottish Ministers may specify;
- (b) provide to such other persons as the Scottish Ministers may specify such copies or additional copies of any document, materials or evidence as the Scottish Ministers may specify.

(2) The Scottish Ministers may require the relevant authority to make copies of such documents, materials or evidence as the Scottish Ministers may specify available for inspection at an office of that relevant authority until such time as the appeal is determined and to afford to any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of any such documents, materials or evidence (or any part thereof) which, or a copy of which, has been sent to the relevant authority in accordance with this regulation.

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(c) S.S.I. 2016/ .

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## Compliance with notification and consultation procedures

**13.**—(1) The Scottish Ministers must before determining the appeal—

- (a) in the case of an appeal under section 85(2) of the Act and to the extent not already done so by the relevant authority; and
- (b) in the case of an appeal under section 88(2) of the Act and to the extent that they have not already done so,

comply with regulation 6 (notification of asset transfer request) and regulation 7 (publication of asset transfer request) of the Asset Transfer Request (Procedure) (Scotland) Regulations 2016.

(2) Where the Scottish Ministers notify any person in accordance with paragraph (1) references in these Regulations (other than regulation 5) to an interested party includes any such person from whom the Scottish Ministers received representations (which are not subsequently withdrawn) in connection with the asset transfer request.

## Decision notice

**14.** The Scottish Ministers must—

- (a) give notice of the decision to the community transfer body and to the relevant authority;
- (b) give a copy of any direction issued under section 85(5)(c) or (d) of the Act to the community transfer body; and
- (c) notify every person who has made (and did not subsequently withdraw) representations in respect of the appeal that a decision on the appeal has been made and where a copy of the notice of the decision and any direction issued under section 85(5)(c) or (d) of the Act is available for inspection.

## Electronic communications

**15.**—(1) Where the criteria in paragraph (2) are met, any document required or authorised to be sent by these Regulations may be sent by electronic communications and any requirement in these Regulations that any document is to be in writing is fulfilled.

(2) The criteria are—

- (a) the recipient consents, or is deemed to have agreed under paragraph (3), to receive it electronically; and
- (b) the document transmitted by the electronic communication is—
  - (i) capable of being accessed by the recipient;
  - (ii) legible in all material respects; and
  - (iii) sufficiently permanent to be used for subsequent reference.

(3) Any person sending a document using electronic communications is to be taken to have agreed—

- (a) to the use of such communications for all purposes relating to the appeal which are capable of being carried out electronically; and
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, that communication.

(4) Deemed agreement under paragraph (3) subsists until that person gives notice to revoke the agreement.

(5) Notice of withdrawal of consent to the use of electronic communications or of revocation of agreement under paragraph (4) takes effect on a date specified by the person in the notice, but not less than seven days after the date on which the notice is given.

(6) In this regulation—

“address” includes any number or address used for the purpose of such communications or storage;

“document” includes any notice, consent, agreement, decision, representation, statement, report or other information or communication;

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“electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000<sup>(d)</sup>;

“legible in all material respects” means that the information contained in the document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form; and

“sent” includes served, submitted or given and cognate expressions are to be construed accordingly.

Authorised to sign by the Scottish Ministers

St Andrew’s House,  
Edinburgh

2016

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(d) 2000 c.7. Section 15 was amended by the Communications Act 2003 (c.21), Schedule 17, paragraph 158.

## SCHEDULE

Regulation 2

### Hearing Session Rules

#### **Notice of hearing session and specified matters**

1.—(1) Where the Scottish Ministers have determined that a hearing session should be held they are to give written notice to that effect to—

- (a) the community transfer body;
- (b) the relevant authority;
- (c) any interested party who made representations in relation to specified matters; and
- (d) any person who the Scottish Ministers wish to make further representations or to provide further information on specified matters at the hearing session.

(2) The notice given under paragraph (1) is to specify the matters to be considered at the hearing session.

(3) Only specified matters are to be considered at the hearing session.

(4) A person given notice under paragraph (1) and who intends to appear at the hearing session must within 14 days of the date of such notice inform the Scottish Ministers in writing of that intention.

#### **Appearances at hearing session**

2. The persons entitled to appear at a hearing session are—

- (a) the community transfer body;
- (b) the relevant authority; and
- (c) any other person who, in response to a notice given under paragraph (1), has informed the Scottish Ministers of their intention to appear at the hearing session in accordance with rule 1(4).

#### **Date and notification of hearing session**

3.—(1) The date, time and place at which the hearing session is to be held is to be determined (and may subsequently be varied) by the Scottish Ministers.

(2) The Scottish Ministers are to give to those persons entitled to appear at the hearing session such notice of the date, time and place fixed for the holding of a hearing session (and any subsequent variation thereof) as may appear to the Scottish Ministers to be reasonable in the circumstances.

#### **Service of hearing statements and documents**

4.—(1) Where required to do so by notice given by the Scottish Ministers, a person entitled to appear at the hearing session must, by such date as is specified in the notice, send to—

- (a) the Scottish Ministers—
  - (i) a hearing statement; and
  - (ii) where that person intends to refer to or rely on any documents when presenting their case a copy of every document (or the relevant part of a document) on the list of such documents comprised in that hearing statement; and
- (b) the community transfer body the relevant authority and to such other persons entitled to appear at the hearing session as the Scottish Ministers may specify in such notice—
  - (i) a hearing statement; and
  - (ii) where that person intends to refer to or rely on any documents when presenting their case a copy of every document (or the relevant part of a document) on the list comprised in that



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hearing statement which is not already available for inspection under regulation 6 or paragraph (2) of this rule.

(2) The Scottish Ministers must make a copy of any hearing statement or other document (or any part thereof) which, or a copy of which, has been sent to them in accordance with this rule, available for inspection on a website or by other electronic means until such time as the appeal is determined.

(3) Any person who has served a hearing statement in accordance with this rule must—

- (a) when required by notice in writing from the Scottish Ministers person provide such further information about the matters contained in the statement as the Scottish Ministers may specify; and
- (b) at the same time send a copy of such further information to any other person on whom the hearing statement has been served.

(4) Different dates and different persons may be specified for the purposes of paragraph (1).

(5) In this rule, “hearing statement” means, and is comprised of—

- (a) a written statement which fully sets out the case relating to the specified matters which a person proposes to put forward to a hearing session;
- (b) a list of documents (if any) which the person putting forward such case intends to refer to or rely on; and
- (c) a list of any other persons who are to speak at the hearing session in respect of such case, any matters which such persons are particularly to address and any relevant qualifications of such persons to do so.

### **Procedure at hearing**

**5.**—(1) Except as otherwise provided in these Hearing Session Rules, the procedure at a hearing session shall be as the Scottish Ministers determine.

(2) The Scottish Ministers are, having considered any submission by the persons entitled to appear at the hearing session, to state at the commencement of the hearing session the procedure the Scottish Ministers propose to adopt.

(3) Any person entitled to appear may do so on that person’s own behalf or be represented by another person.

(4) Where there are two or more persons having a similar interest in the issues being considered at the hearing session, the Scottish Ministers may allow one or more persons to appear on behalf of some or all of any persons so interested.

(5) A hearing shall take the form of a discussion led by the Scottish Ministers and cross examination is not permitted unless the Scottish Ministers consider that cross examination is required to ensure a thorough examination of the issues.

(6) Subject to paragraph (7) a person entitled to appear at a hearing session is entitled to call evidence.

(7) The Scottish Ministers may refuse to permit—

- (a) the giving or production of evidence;
- (b) the cross examination of persons giving evidence; or
- (c) the presentation of any other matter,

which the Scottish Ministers consider to be irrelevant or repetitious.

(8) The Scottish Ministers may proceed with a hearing session in the absence of any person entitled to appear at the hearing session.

(9) The Scottish Ministers may from time to time adjourn the hearing session and, if the date, time and place of the adjourned hearing session are announced before the adjournment, no further notice is required otherwise rule 3 applies as it applies to the variation of the date, time or place at which a hearing session is to be held.

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## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision in connection with appeals to the Scottish Ministers under sections 85 and 88 of the Community Empowerment (Scotland) Act (“the Act”).

Part 1 of the Regulations sets out how the Regulations apply to these various appeals and applications.

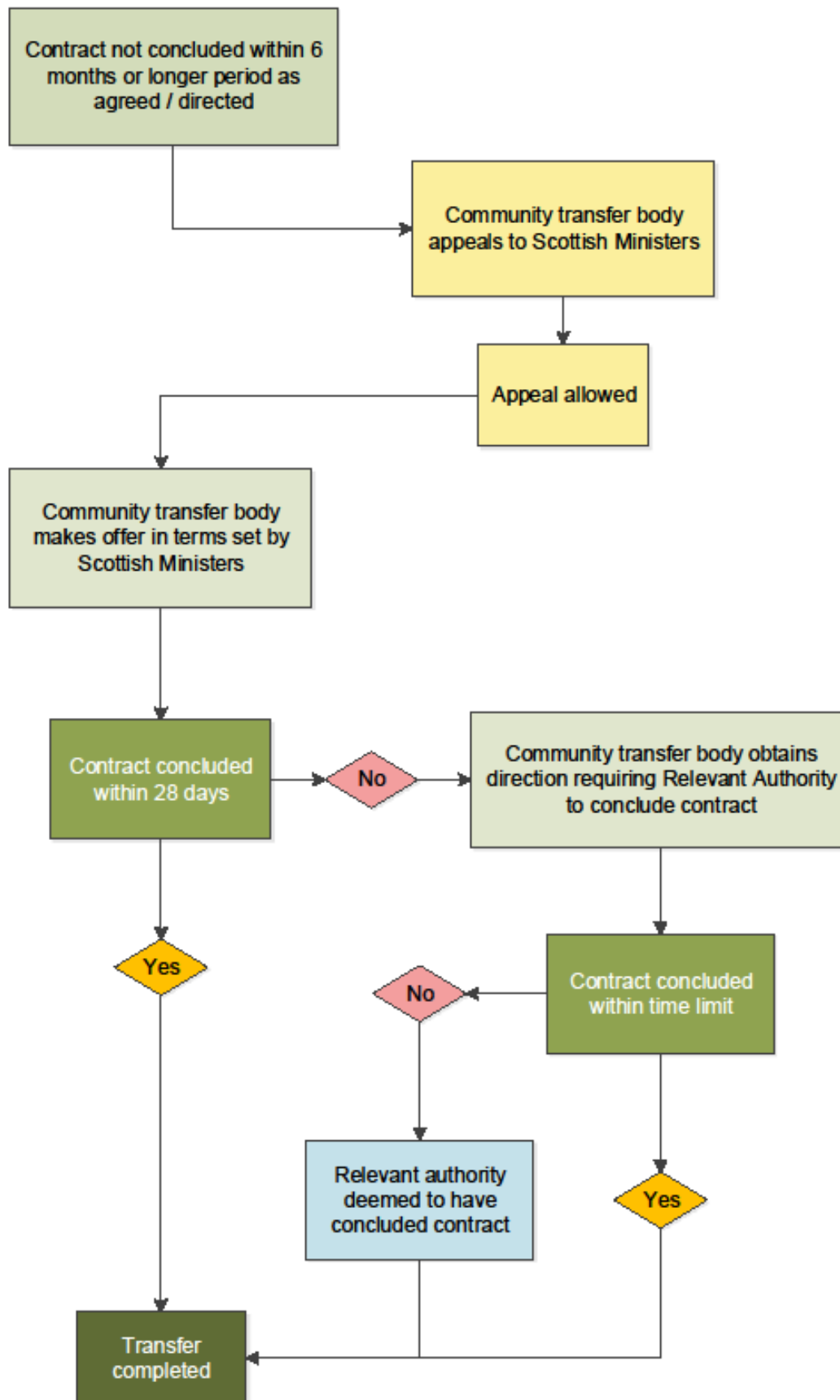
Part 2 of the Regulations makes provision in relation to the time period within which and how an appeal under section 85 must be made.

Part 3 of the Regulations relates to the process of determination of the appeal.

Part 4 of the Regulations makes provision relating to how an appeal under section 88 of the Act is made.

Part 5 of the Regulations contains general provisions.

## 11. Failure to conclude a contract



## **Failure to conclude a contract**

If a contract for the transfer has not been concluded within 6 months of the community transfer body making an offer, the asset transfer request comes to an end and the agreement to transfer has no further effect. To prevent this happening, if they feel progress is being made, the community transfer body and the relevant authority can agree to extend the period for concluding a contract, or the community transfer body can apply to the Scottish Ministers for a direction to extend the period. This can be done more than once.

If the contract has not been concluded within the period allowed, the community transfer body can also appeal to the Scottish Ministers. (This does not apply if the Scottish Ministers are the relevant authority to which the request was made.)

The right to make such appeals is given in section 83(6) of the Act; further arrangements are set out in section 90.

If the appeal is successful (“allowed”), the Scottish Ministers must issue a notice setting out “sufficient and precise details of the terms and conditions of an offer” to be made by the community transfer body to the relevant authority, and the period within which the offer is to be submitted. In effect, the Scottish Ministers will write the contract which the two parties are required to agree.

If the community transfer body wants to go ahead, it must submit the offer in the terms set out in the notice, within the period specified in the notice. If the contract is not concluded within 28 days of the offer being made, the community transfer body may apply to the Scottish Ministers for a direction to require the relevant authority to conclude the contract within a set period, which may be further extended. If the authority does not voluntarily conclude the contract within that period, it will be deemed to have accepted the offer (treated as if it has accepted it) and concluded the contract.

Proposed procedures for appeal where no contract has been concluded are set out in the draft Asset Transfer Request (Appeal Where No Contract Concluded) (Scotland) Regulations 2016 at page 70. These regulations also include procedures for the community transfer body to apply for a direction to extend the period to conclude a contract, under section 83(8) (Part 5, regulations 12-13) or a direction to require the relevant authority to conclude a contract (Part 4, regulations 10 -11).

The proposed procedures are slightly different from other review and appeal regulations because, for an appeal or a direction to extend the period to conclude a contract, the Scottish Ministers will need to understand the progress of negotiations up to that point, and it does not seem appropriate to publish the details or allow other people to make representations. We propose that the Scottish Ministers may

appoint a single person to consider the issues and make recommendations on what the terms of the contract should be.

An application for a direction to extend the period to conclude a contract needs to be made before the period comes to an end. We propose it should be made at least 4 weeks (28 days) before the end of the period, to allow Ministers to make a decision, but no more than 6 weeks (42 days) before the end of the period.

We propose that an appeal should be made within 14 days of the end of the period to conclude a contract.

The procedure to apply for a direction to require the relevant authority to conclude a contract, following an appeal, is very straightforward. This additional step simply confirms that the community transfer body still wants to go ahead with the terms and conditions set by the Scottish Ministers, and the direction, if granted, enforces Ministers' earlier decision. The application should be made within 14 days of the period previously set by Ministers.

If the community transfer body:

- does not submit an offer based on the terms set out by Ministers within the required period
- withdraws its offer before the end of the period in which a contract is to be concluded, or
- does not apply for the Scottish Ministers to direct the relevant authority to agree the contract, or such an application is refused,

the asset transfer process comes to an end and the outcome of the appeal has no further effect.

Alternatively, the community transfer body and the relevant authority may agree a contract on different terms and conditions from those directed by the Scottish Ministers. If this is the case, the terms and conditions set by Ministers are no longer relevant.

Q14: Do you agree that the Scottish Ministers should appoint a single person to consider an appeal where no contract has been concluded? If not, how do you think these reviews should be carried out?

Q15: Do you agree that the documents should not be published in relation to appeals where no contract has been concluded? Please explain your reasons.

Q16: Do you agree that no third party representations should be allowed in relation to appeals where no contract has been concluded? Please explain your reasons.

Q17: Do you have any comments on the proposed procedures for appeals where no contract is concluded?

Q18: Do you have any comments on the proposed procedures for applications to Ministers for Directions?

**2016 No.**

**COMMUNITY EMPOWERMENT**

**The Asset Transfer Request (Appeal Where No Contract Concluded)  
(Scotland) Regulations 2016**

<i>Made</i> - - - -	2016
<i>Laid before the Scottish Parliament</i>	2016
<i>Coming into force</i> - -	2016

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 83(10) and 90(12) and (14) of the Community Empowerment (Scotland) Act 2015(a) and all other powers enabling them to do so.

**PART 1**

**Preliminary**

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Asset Transfer Request (Appeal Where No Contract Concluded) (Scotland) Regulations 2016 and come into force on [ ] 2016.

(2) These Regulations (other than Parts 4 and 5) apply to appeals under section 83(6) of the Act (appeal where no contract concluded).

(3) These Regulations apply as specified in Part 4 to applications under section 90(5) of the Act (application for direction).

(4) These Regulations apply as specified in Part 5 to applications under section 83(8) of the Act (application for direction).

**Interpretation**

2. In these Regulations—

“the Act” means the Community Empowerment (Scotland) Act 2015;

“appointed person” means the person appointed by the Scottish Ministers under regulation 5(1) to consider the appeal and report to them on it;

“asset transfer request” means the asset transfer request to which the appeal relates;

“community transfer body” means the community transfer body which made the asset transfer request;

“decision notice” means the notice given by the relevant authority of its decision on the asset transfer request;

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(a) 2015 asp 6.

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“hearing session” means a hearing held or to be held into matters specified in a notice given under rule 1(1) of the Hearing Session Rules;

“Hearing Session Rules” means the rules set out in the Schedule;

“relevant authority’s response” has the meaning given in regulation 4(2)(a);

“rule” means a rule set out in the Schedule;

“specified matters” are in relation to a request for further written representations or information under regulation 8 or to a particular hearing session, those matters which are set out in the notice given under regulation 8(1) or rule 1(1) of the Hearing Session Rules, as the case may be.

### PART 2

#### Appeals under section 83(6) of the Act

##### Appeals under section 83(6) of the Act

**3.—**(1) An appeal to the Scottish Ministers under section 83(6) of the Act is to be made by giving notice in writing in accordance with this regulation.

(2) The notice of appeal must be served on the Scottish Ministers within the period of 14 days beginning with the end of the period specified in section 83(7) of the Act.

(3) The notice of appeal must—

- (a) include the name and contact address of the community transfer body;
- (b) specify the land to which the asset transfer request relates; and
- (c) include a statement setting out full particulars of the appeal including a note of the matters which the community transfer body considers require to be taken into account in determining the appeal and by what, if any, procedure (or combination of procedures) the community transfer body considers the appeal should be conducted.

(4) The notice of appeal must be accompanied by—

- (a) a copy of the offer submitted to the relevant authority by the community transfer body;
- (b) a copy of the decision notice pursuant to which such offer was submitted;
- (c) a copy of all correspondence between the community transfer body and the relevant authority relating to the negotiation of terms and conditions for the transfer of the land to which the asset transfer request relates;
- (d) a statement specifying—
  - (i) the terms on which, and any conditions subject to which, the community transfer body considers the transfer of land should be made; and
  - (ii) how such terms and conditions differ from any terms and conditions specified in the decision notice.

(5) Subject to paragraph (6)—

- (a) all matters which the community transfer body intends to raise in the appeal must be set out in the notice of appeal or in the documents which accompany the notice of appeal; and
- (b) all documents, materials and evidence which the community transfer body intends to rely on in the appeal must accompany the notice of appeal.

(6) In addition to matters set out in the notice of appeal and documents which accompany the notice of appeal, the community transfer body may raise matters and submit further documents, materials or evidence only in accordance with and to the extent permitted by regulation 4(3) or where the appointed person makes a request for further representations to be made or further information to be provided by the community transfer body (whether under regulation 8(1), rule 1 of the Hearing Session Rules or otherwise).



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### **Intimation to relevant authority and relevant authority's response**

**4.**—(1) The community transfer body must at the same time as giving the notice of appeal to the Scottish Ministers send to the relevant authority—

- (a) a copy of the notice of appeal;
- (b) a list of all documents, materials and evidence which the community transfer body intends to rely on in the appeal and which accompanied the notice of appeal in accordance with regulation 1(4) or (5)(b); and
- (c) a copy of all documents, materials and evidence specified on such list other than any documents, materials or evidence which—
  - (i) the community transfer body has already provided to the relevant authority in connection with the asset transfer request; or
  - (ii) the relevant authority otherwise already hold.

(2) The relevant authority must, not later than 21 days beginning with the date of receipt of notification of an appeal under paragraph (1), send to the Scottish Ministers and the community transfer body—

- (a) a note (“the relevant authority’s response”) of the matters which the relevant authority considers require to be taken into account in determining the appeal and by what, if any, procedure (or combination of procedures) the relevant authority considers the appeal should be conducted;
- (b) a copy of the documents (other than those specified on the list mentioned in paragraph (1)(b)) which the relevant authority intends to rely on in the appeal; and
- (c) the terms on which, and any conditions subject to which, the relevant authority considers the transfer of land should be made.

(3) The community transfer body may, within 14 days beginning with the date of receipt of the relevant authority’s response, send to the Scottish Ministers and the relevant authority—

- (a) comments on—
  - (i) any terms and conditions included in the relevant authority’s response by virtue of paragraph (2)(c); and
  - (ii) any other matters raised in the relevant authority’s response; and
- (b) any documents, materials or evidence on which the community transfer body intends to rely in relation to such comments.

(4) In addition to matters set out in the relevant authority’s response and related documents, the relevant authority may raise matters and submit further documents, materials or evidence only in accordance with and to the extent to which the Scottish Ministers make a request for further representations to be made or further information to be provided by the relevant authority (whether under regulation 8(1), rule 1 of the Hearing Session Rules or otherwise).

### **Appointed person**

**5.**—(1) Where an appeal is made under section 83(6) the Scottish Ministers may appoint a person, who may be a member of the staff of the Scottish Ministers, to consider the case and report to them on it (“the appointed person”).

(2) Following such consideration the appointed person must report—

- (a) the appointed person’s findings in fact and conclusions in respect of the case; and
- (b) the appointed person’s recommendations as to the determination of the appeal,

to the Scottish Ministers.

(3) Regulations 7 and 8 and the Hearing Session Rules apply to the appointed person as if references to the Scottish Ministers were references to the appointed person.

## PART 3

### Procedure for determination

#### **Determination without further procedure**

6. Where the Scottish Ministers consider that no further representations are or information is required to enable the appeal to be determined, the Scottish Ministers may determine the appeal without further procedure.

#### **Further procedure**

7.—(1) Where the Scottish Ministers do not determine the appeal without further procedure, the Scottish Ministers may determine the manner in which the appeal is to be conducted.

(2) The Scottish Ministers may determine at any stage of the appeal—

- (a) that further representations should be made or further information should be made available or provided to enable the appeal to be determined; and
- (b) how such further representations or further information should be made available or provided

(3) Where the Scottish Ministers request that further representations should be made or further information should be made available or provided to them by means of—

- (a) written submissions, regulation 8 applies; and
- (b) a hearing session, the Hearing Session Rules apply.

(4) Notices given under regulation 8(1), rule 1(1) of the Hearing Session Rules may be given separately or combined into a single notice.

#### **Written submissions**

8.—(1) Where the Scottish Ministers request that further representations should be made or further information should be provided by means of written submissions, the Scottish Ministers are to do so by giving written notice to that effect to—

- (a) both the community transfer body and the relevant authority; and
- (b) any other person from whom the Scottish Ministers wish to receive further representations or information.

(2) The notice given under paragraph (1) is to—

- (a) set out the matters on which such further representations or information is requested;
- (b) specify the date by which such further representations or information are to be sent to the Scottish Ministers; and
- (c) state the name and address of any person to whom the notice is given.

(3) Any further representations made or information provided in response to the notice given under paragraph (1) (“additional material”) are to be sent to the Scottish Ministers on or before the date specified for that purpose in the notice and a copy of any additional material is to be sent on or before that date to any other person to whom the notice was given.

(4) Within a period of 14 days from receipt of a copy of the additional material, any person to whom the notice under paragraph (1) was given—

- (a) may send comments to the Scottish Ministers in respect of the additional material; and
- (b) must, when doing so, send a copy of such comments to any other person to whom the notice was given under paragraph (1).

(5) A copy of any additional material or any comments required to be sent to a person under this regulation is to be sent to the person at the address stated for that person in the notice given under paragraph (1).

(6) In this regulation “additional material” has the meaning given in paragraph (3).

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## New evidence

9. If, after conclusion of any further procedure or after consideration of any report by an appointed person, the Scottish Ministers propose to take into consideration any new evidence which is material to the determination of the appeal, the Scottish Ministers must not reach a decision on the appeal without affording the community transfer body and the relevant authority an opportunity of making representations on such new evidence.

## PART 4

### Applications under section 90(5) of the Act

#### Application under section 90(5) of the Act

10.—(1) An application to the Scottish Ministers under section 90(5) of the Act is to be made in writing in accordance with this regulation.

(2) The application must be served on the Scottish Ministers within the period of 28 days beginning with the end of the period mentioned in section 90(4)(c) of the Act.

(3) The application must—

- (a) include the name and contact address of the community transfer body and the relevant authority to which the asset transfer request is made;
- (b) specify the land to which the asset transfer request relates;
- (c) include a statement setting out details of the steps taken by the community transfer body and the relevant authority to conclude a contract pursuant to the appeal decision notice
- (d) contain the community transfer body's reasons why a direction should be given under section 90(5) of the Act and state the community transfer body's view as to the period which should be specified in such a direction.

(4) The application must be accompanied by—

- (a) a copy of the appeal decision notice; and
- (b) a copy of the offer submitted to the relevant authority by the community transfer body by virtue of the appeal decision notice.

(5) This Part and Part 1, regulations 7(2) and (3) and 8 and Part 6 apply to an application under section 90(5) of the Act.

#### Intimation of application to relevant authority

11.—(1) The community transfer body must at the same time as making an application under section 90(5) of the Act to the Scottish Ministers send a copy of the application to the relevant authority.

(2) The relevant authority may, within 14 days beginning with the date of receipt of the copy of the application, send to the Scottish Ministers and the community transfer body comments on the application.

## PART 5

### Applications under section 83(8) of the Act

#### Application under section 83(8) of the Act

12.—(1) An application to the Scottish Ministers under section 83(8) of the Act is to be made in writing in accordance with this regulation.

(2) The application must be made to the Scottish Ministers within the relevant period.

(3) The application must—

## No Contract Appeal Regulations - Draft for Consultation

- (a) include the name and contact address of the community transfer body and the relevant authority to which the asset transfer request is made;
  - (b) specify the land to which the asset transfer request relates;
  - (c) include a statement setting out details of the steps taken by the community transfer body and the relevant authority —
    - (i) to conclude a contract in respect of the asset transfer request on the basis of an offer such as is mentioned in section 83(2)(b) of the Act; and
    - (ii) to agree, by virtue of section 83(7)(b)(i) of the Act, to a longer period;
  - (d) contain the community transfer body's reasons why a direction should be given under section 83(7)(b)(ii) of the Act and state the community transfer body's view as to the period which should be specified in such a direction.
- (4) The application must be accompanied by—
- (a) a copy of the decision notice in respect of the asset transfer request; and
  - (b) a copy of the offer submitted to the relevant authority by the community transfer body.
- (5) A direction under section 83(7)(b)(ii) of the Act, in addition to specifying the longer period in accordance with section 83(7)(b)(ii) of the Act, must specify—
- (a) the asset transfer request and the offer in respect of which the direction relates; and
  - (b) the land to which the asset transfer request relates;
- (6) This Part and Parts 1 and 6 of these Regulations apply to an application for a direction under section 83(8) of the Act.
- (7) In this regulation—
- “the relevant date” means the later of—
- (a) the date of expiry of the period of 6 months mentioned in section 83(7)(a) of the Act; or
  - (b) where a longer period—
    - (i) is agreed between the community transfer body and the relevant authority; or
    - (ii) is specified in a direction made under section 83(7)(b)(ii) of the Act,
- the date of expiry of such longer period.
- “the relevant period” means the period which begins 42 days before the relevant date and expires 28 days before the relevant date.

### **Intimation of application to relevant authority**

**13.**—(1) The community transfer body must at the same time as making an application under section 90(5) of the Act to the Scottish Ministers send a copy of the application to the relevant authority.

(2) The relevant authority may, within 14 days beginning with the date of receipt of the copy of the application, send to the Scottish Ministers and the community transfer body comments on the application.

## PART 6

### General

### **Further copies of documents etc.**

**14.**—(1) The Scottish Ministers may require any person who has submitted documents, materials or evidence under these Regulations in connection with the appeal or application, as the case may be to—

- (a) provide to the Scottish Ministers such number of additional copies of such of those documents, materials or evidence as the Scottish Ministers may specify;
- (b) provide to such other persons as the Scottish Ministers may specify such copies or additional copies of any document, materials or evidence as the Scottish Ministers may specify.

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## Decision notice

**15.**—(1) The Scottish Ministers must—

- (a) give notice of the decision to the community transfer body and to the relevant authority;
- (b) give a copy of any direction issued under section 90(5) of the Act to the community transfer body; and
- (c) give a copy of any direction made under section 83(7)(b)(ii) of the Act to the community transfer body and to the relevant authority.

## Electronic communications

**16.**—(1) Where the criteria in paragraph (2) are met, any document required or authorised to be sent by these Regulations may be sent by electronic communications and any requirement in these Regulations that any document is to be in writing is fulfilled.

(2) The criteria are—

- (a) the recipient consents, or is deemed to have agreed under paragraph (3), to receive it electronically; and
- (b) the document transmitted by the electronic communication is—
  - (i) capable of being accessed by the recipient;
  - (ii) legible in all material respects; and
  - (iii) sufficiently permanent to be used for subsequent reference.

(3) Any person sending a document using electronic communications is to be taken to have agreed—

- (a) to the use of such communications for all purposes relating to the appeal which are capable of being carried out electronically; and
- (b) that the address for the purpose of such communications is the address incorporated into, or otherwise logically associated with, that communication.

(4) Deemed agreement under paragraph (3) subsists until that person gives notice to revoke the agreement.

(5) Notice of withdrawal of consent to the use of electronic communications or of revocation of agreement under paragraph (4) takes effect on a date specified by the person in the notice, but not less than seven days after the date on which the notice is given.

(6) In this regulation—

“address” includes any number or address used for the purpose of such communications or storage;

“document” includes any notice, consent, agreement, decision, representation, statement, report or other information or communication;

“electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(b);

“legible in all material respects” means that the information contained in the document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form; and

“sent” includes served, submitted or given and cognate expressions are to be construed accordingly.

Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh

2016

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(b) 2000 c.7. Section 15 was amended by the Communications Act 2003 (c.21), Schedule 17, paragraph 158.

## SCHEDULE

Regulation 2

### Hearing Session Rules

**1.**—(1) Where the Scottish Ministers have determined that a hearing session should be held they are to give written notice to that effect to—

- (a) the community transfer body;
- (b) the relevant authority; and
- (c) any person who the Scottish Ministers wish to make further representations or to provide further information on specified matters at the hearing session.

(2) The notice given under paragraph (1) is to specify the matters to be considered at the hearing session.

(3) Only specified matters are to be considered at the hearing session.

(4) A person given notice under paragraph (1) and who intends to appear at the hearing session must within 14 days of the date of such notice inform the Scottish Ministers in writing of that intention.

#### **Appearances at hearing session**

**2.** The persons entitled to appear at a hearing session are—

- (a) the community transfer body;
- (b) the relevant authority; and
- (c) any other person who, in response to a notice given under paragraph (1), has informed the Scottish Ministers of their intention to appear at the hearing session in accordance with rule 1(4).

#### **Date and notification of hearing session**

**3.**—(1) The date, time and place at which the hearing session is to be held is to be determined (and may subsequently be varied) by the Scottish Ministers.

(2) The Scottish Ministers are to give to those persons entitled to appear at the hearing session such notice of the date, time and place fixed for the holding of a hearing session (and any subsequent variation thereof) as may appear to the Scottish Ministers to be reasonable in the circumstances.

#### **Service of hearing statements and documents**

**4.**—(1) Where required to do so by notice given by the Scottish Ministers, a person entitled to appear at the hearing session must, by such date as is specified in the notice, send to—

- (a) the Scottish Ministers—
  - (i) a hearing statement; and
  - (ii) where that person intends to refer to or rely on any documents when presenting their case a copy of every document (or the relevant part of a document) on the list of such documents comprised in that hearing statement; and
- (b) the community transfer body, the relevant authority and to such other persons entitled to appear at the hearing session as the Scottish Ministers may specify in such notice—
  - (i) a hearing statement; and
  - (ii) where that person intends to refer to or rely on any documents when presenting their case a copy of every document (or the relevant part of a document) on the list comprised in that hearing statement.

(2) Any person who has served a hearing statement in accordance with this rule must—

- (a) when required by notice in writing from the Scottish Ministers person provide such further information about the matters contained in the statement as the Scottish Ministers may specify; and

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- (b) at the same time send a copy of such further information to any other person on whom the hearing statement has been served.
- (3) Different dates and different persons may be specified for the purposes of paragraph (1).
- (4) In this rule, “hearing statement” means, and is comprised of—
  - (a) a written statement which fully sets out the case relating to the specified matters which a person proposes to put forward to a hearing session;
  - (b) a list of documents (if any) which the person putting forward such case intends to refer to or rely on; and
  - (c) a list of any other persons who are to speak at the hearing session in respect of such case, any matters which such persons are particularly to address and any relevant qualifications of such persons to do so.

### **Procedure at hearing**

5.—(1) Except as otherwise provided in these Hearing Session Rules, the procedure at a hearing session shall be as the Scottish Ministers determine.

(2) The Scottish Ministers are, having considered any submission by the persons entitled to appear at the hearing session, to state at the commencement of the hearing session the procedure the Scottish Ministers propose to adopt.

(3) Any person entitled to appear may do so on that person’s own behalf or be represented by another person.

(4) Where there are two or more persons having a similar interest in the issues being considered at the hearing session, the Scottish Ministers may allow one or more persons to appear on behalf of some or all of any persons so interested.

(5) A hearing shall take the form of a discussion led by the Scottish Ministers and cross examination is not permitted unless the Scottish Ministers consider that cross examination is required to ensure a thorough examination of the issues.

(6) Subject to paragraph (7) a person entitled to appear at a hearing session is entitled to call evidence.

(7) The Scottish Ministers may refuse to permit—

- (a) the giving or production of evidence;
- (b) the cross examination of persons giving evidence; or
- (c) the presentation of any other matter,

which the Scottish Ministers consider to be irrelevant or repetitious.

(8) The Scottish Ministers may proceed with a hearing session in the absence of any person entitled to appear at the hearing session.

(9) The Scottish Ministers may from time to time adjourn the hearing session and, if the date, time and place of the adjourned hearing session are announced before the adjournment, no further notice is required otherwise rule 3 applies as it applies to the variation of the date, time or place at which a hearing session is to be held.

## No Contract Appeal Regulations - Draft for Consultation

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision in connection with appeals to the Scottish Ministers under sections 83(6) of the Community Empowerment (Scotland) Act (“the Act”).

DRAFT



## 12. Annual Reports

Section 95 of the Act requires every relevant authority to publish an annual report setting out the numbers of asset transfer request received and their outcomes. The report must state:

- how many asset transfer requests were received
- how many requests were agreed to or refused
- for requests agreed to, whether they resulted in transfer of ownership, lease or conferral of other rights
- for appeals relating to requests made to the relevant authority, how many have been allowed, dismissed, or have resulted in any part of the authority's decision being reversed or changed
- where decisions made by the authority have been reviewed, how many have been confirmed, modified or substituted by a different decision.

The report must also describe anything the relevant authority has done to promote the use of asset transfer requests and support community transfer bodies to make requests.

Annual reports cover each year from 1 April to 31 March and must be published by 30 June. Note that the report will show the number of requests received in that year and the numbers agreed to or refused in that year – the figures will not be the same as many requests may be received in one year and decided the next year.

There is no power for Ministers to change the information to be included in annual reports on asset transfer. Guidance may be issued to provide a standard format, and may suggest additional information to be included. For example, it may be helpful for relevant authorities to show transfers completed by negotiation, without using the Act. The same report could also capture information required to measure progress towards the Scottish Government's target of 1 million acres in community ownership by 2020, and information on the outcomes delivered as a result of community asset transfer.

## **Annex A: Asset Transfer Implementation Steering Group**

### **Members:**

Joanne Forbes	ACES, South Lanarkshire Council
Alison Fraser	SOLAR, Glasgow City Council
Linda Gillespie	Community Ownership Support Service
Angus Hardie	Scottish Community Alliance
Shona Harper	Scottish Government Property Division
Jon Hollingdale	Community Woodlands Association
Peter Peacock	Community Land Scotland
Brian Taylor	Scottish Government Finance Division
Ian Turner	Scottish Government Community Empowerment Team
Jean Waddie	Scottish Government Community Empowerment Team
Malcolm Wield	Forestry Commission Scotland

Notes of the Steering Group's meetings can be found on the Scottish Government website at

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

## **Annex B: Short-Life Working Group on Valuation and Assessment of Non-Financial Benefits**

### **Members:**

Nick Allan	
Tim Bridle	Audit Scotland
Gareth Evans	NHS Grampian
Joanne Forbes	ACES, South Lanarkshire Council
Alison Fraser	SOLAR, Glasgow City Council
Paul Furbank	West Lothian Council
Linda Gillespie	Community Ownership Support Service
Angus Hardie	Scottish Community Alliance
Shona Harper	Scottish Government Property Division
Jon Hollingdale	Community Woodlands Association
Sandra Holmes	Highlands and Islands Enterprise
Robin Johnston	Historic Environment Scotland
Donald McLellan	Forest Enterprise Scotland
Pauline Megson	Historic Environment Scotland
Peter Peacock	Community Land Scotland
Susan Robinson	CIPFA
Eric Samuel	Big Lottery Fund / Scottish Funders' Forum
David Robertson	Director of Finance, Scottish Borders Council
Brian Taylor	Scottish Government Finance Division
Ian Turner	Scottish Government Community Empowerment Team
Jean Waddie	Scottish Government Community Empowerment Team
Malcolm Wield	Forestry Commission Scotland

Notes of the Working Group's meetings can be found on the Scottish Government website at

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

## **Annex C: Sources of Advice for Community Bodies**

Community Ownership Support Service <http://www.dtascommunityownership.org.uk/>

Highlands and Islands Enterprise (for bodies in the Highlands and Islands area)  
<http://www.hie.co.uk/community-support/community-assets/>

Community Woodlands Association [www.communitywoods.org](http://www.communitywoods.org)

Community Energy Scotland <http://www.communityenergyscotland.org.uk/>

Community Land Advisory Service Scotland <http://sc.communitylandadvice.org.uk/>

## **Annex D: How To Respond**

### **Responding to this Consultation**

We are inviting responses to this consultation by 20 June 2016

Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You can view and respond to this consultation online at <https://consult.scotland.gov.uk/community-empowerment-unit/asset-transfer-procedures> . You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 20 June.

If you are unable to respond online, please make sure you complete the Respondent Information Form on page 87 (see "Handling your Response" below) and send it with your response to:

[AssetTransferGuidance@gov.scot](mailto:AssetTransferGuidance@gov.scot)

or by post to:

Asset Transfer Consultation  
Community Empowerment Team  
The Scottish Government  
Area 3-J South  
Victoria Quay  
Edinburgh  
EH6 6QQ

If you have any queries please email [AssetTransferGuidance@gov.scot](mailto:AssetTransferGuidance@gov.scot) or telephone 0131 244 0688.

### **Handling your response**

If you respond using Citizen Space, you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document (page 87) with your response. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

### **Next steps in the process**

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.scotland.gov.uk>. If you use Citizen Space to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us develop the final regulations and guidance. We expect to issue a report on this consultation and introduce regulations to the Scottish Parliament in September 2016.

### **Comments and complaints**

If you have any comments about how this consultation exercise has been conducted, please send them to:

Ian Turner  
[Ian.Turner@scotland.gsi.gov.uk](mailto:Ian.Turner@scotland.gsi.gov.uk)

Community Empowerment Team  
The Scottish Government  
Victoria Quay  
Edinburgh  
EH6 6QQ

## **Scottish Government consultation process**

Consultation is an essential part the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.scotland.gov.uk>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Consultations may involve seeking views in a number of different ways, such as public meetings, focus groups, or other online methods such as Dialogue (<http://ideas.scotland.gov.uk>)

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

# Asset Transfer under the Community Empowerment (Scotland) Act 2015: Consultation on Draft Regulations



## RESPONDENT INFORMATION FORM

**Please Note** this form **must** be returned with your response.

Are you responding as an individual or an organisation? (required)

- Individual  
 Organisation

What is your name or your organisation's name? (required)

What is your phone number?

What is your address?

What is your postcode?

What is your email?

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference: (required)

- Publish response with name  
 Publish response only (anonymous)  
 Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Government to contact you again in relation to this consultation exercise?

- Yes  
 No



# Asset Transfer under the Community Empowerment (Scotland) Act 2015: Consultation on Draft Regulations

## Questionnaire

Q1: Do you agree that the types of land set out in the draft Community Empowerment (Registers of Land) (Scotland) Regulations 2016 need not be included in relevant authorities' registers?

Yes  No

If not, please explain what you would change and why.

Q2: Are there any other types of land that relevant authorities should not have to include in their register? Please explain what should not be included and why.

Q3: Do you have any comments on the proposals for guidance on what information registers should contain and how they should be published?

Q4: Is there any information you think a community transfer body should be able to request from a relevant authority, that it would not be able to obtain under FOISA or the EIRs?

Q5: Do you think the proposed additional requirements for making an asset transfer request are reasonable?

Yes  No

If not, please explain what you would change and why.

Q6: Is there any other information that should be required to make a valid request?

Q7: Do you have any comments on the proposals for acknowledgement of requests?

Q8: Do you have any comments on the proposed requirements for notification and publication of information about a request?

Q9: Do you think 6 months is a reasonable length of time for the relevant authority to make a decision on an asset transfer request? (This time may be extended if agreed with the community transfer body.)

Yes  No

If not, how long should the period for making a decision be?

Q10: Do you agree with the proposals for additional information to be included in a decision notice?

Yes  No

If not, please explain what you would change and why.

Q11: Do you agree that the Scottish Ministers should be required to appoint a panel of 3 people to consider reviews of Ministers' own decisions?

Yes  No

If not, how do you think these reviews should be carried out?

Q12: Do you agree that a local authority should be required to make a decision on a review within 6 months?

Yes  No

If not, how long should the period for making a decision be?

Q13: Do you have any other comments about the draft Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016 or draft Asset Transfer Request (Appeals) (Scotland) Regulations 2016?

Q14: Do you agree that the Scottish Ministers should appoint a single person to consider an appeal where no contract has been concluded?

Yes  No

If not, how do you think these reviews should be carried out?

Q15: Do you agree that the documents should not be published in relation to appeals where no contract has been concluded?

Yes  No

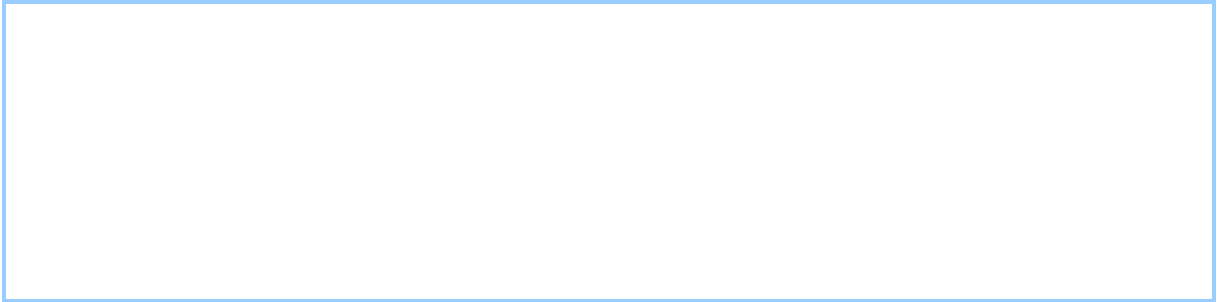
Please explain your reasons.

Q16: Do you agree that no third party representations should be allowed in relation to appeals where no contract has been concluded?

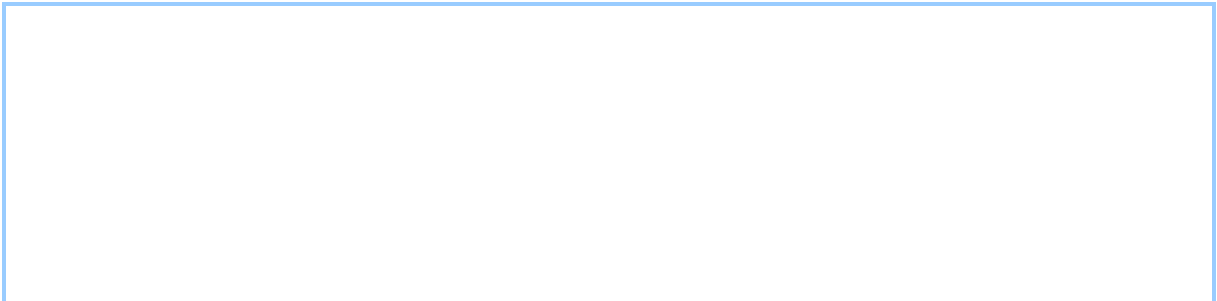
Yes  No

Please explain your reasons.

Q17: Do you have any comments on the proposed procedures for appeals where no contract is concluded?

A large, empty rectangular box with a thin blue border, intended for providing comments on the proposed procedures for appeals where no contract is concluded.

Q18: Do you have any comments on the proposed procedures for applications to Ministers for Directions?

A large, empty rectangular box with a thin blue border, intended for providing comments on the proposed procedures for applications to Ministers for Directions.



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# Asset Transfer under the Community Empowerment (Scotland) Act 2015: Consultation on Draft Regulations



Version 1

## RESPONDENT INFORMATION FORM

**Please Note** this form **must** be returned with your response.

Are you responding as an individual or an organisation? (required)

- Individual  
 Organisation

What is your name or your organisation's name? (required)

Scottish Borders Council	01835 825155
--------------------------	--------------

What is your phone number?

What is your address?

Council Headquarters Newtown St Boswells Melrose
--

What is your postcode?

TD6 0SA

What is your email?

dscott@scotborders.gov.uk

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference: (required)

- Publish response with name  
 Publish response only (anonymous)  
 Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Government to contact you again in relation to this consultation exercise?

- Yes  
 No

## Asset Transfer under the Community Empowerment (Scotland) Act 2015: Consultation on Draft Regulations

### Questionnaire

Q1: Do you agree that the types of land set out in the draft Community Empowerment (Registers of Land) (Scotland) Regulations 2016 need not be included in relevant authorities' registers?

Yes  No x

If not, please explain what you would change and why.

Registers should not include land and buildings used for the core operational needs requirements of local authorities and other public bodies. This is because they would affect the core delivery of public services and have a detrimental impact on the wider public and local communities.

Q2: Are there any other types of land that relevant authorities should not have to include in their register? Please explain what should not be included and why.

Following the response the Question 1 these would include buildings and land used for Council offices, schools, residential homes, operational depots/premises for road maintenance etc. Local authorities as democratically elected bodies should have the flexibility to define its own strategic list of land and buildings that are needed for core operational service delivery.

Q3: Do you have any comments on the proposals for guidance on what information registers should contain and how they should be published?

No

Q4: Is there any information you think a community transfer body should be able to request from a relevant authority, that it would not be able to obtain under FOISA or the EIRs?

No

Q5: Do you think the proposed additional requirements for making an asset transfer request are reasonable?

Yes x  No

If not, please explain what you would change and why.

The proposed additional requirements of information from community bodies are important. This is because it is important that any land and property transferred can be managed in a financially and operationally sustainable manner in the short, medium and long term by the community transfer body. This is vital for both for the local authority or public body which is transferring the land or buildings and for the community transfer body because it is in the interests of all to achieve a positive outcome for the wider public and local community.

Q6: Is there any other information that should be required to make a valid request?

It is considered that the community transfer body should also provide a 3-5 year business case to the local authority or public body on how it will use the land and buildings. The business case should set out what would happen to buildings and land if the proposed business outcomes are not achieved. Also the proposed arrangements for the future insurance of the land and buildings should be included in the business case.

It is also considered that it is very important that a pre-application interview and discussion stage takes place between the community transfer body and the local authority or public body before a request is made to discuss the proposed request and process for dealing with it.

Q7: Do you have any comments on the proposals for acknowledgement of requests?

The acknowledgement should also include information on the process the local authority or public body will use for deciding on the application. (see answer to question 9).

Q8: Do you have any comments on the proposed requirements for notification and publication of information about a request?

The timescale should be at least 28 working days for the date of notice being given and published; and at least 28 working days for the community transfer body to comment on responses to any notices.

Q9: Do you think 6 months is a reasonable length of time for the relevant authority to make a decision on an asset transfer request? (This time may be extended if agreed with the community transfer body.)

Yes  No X

If not, how long should the period for making a decision be?

Practical experience suggests that sometimes this process could take up to 3 years as it involves discussions between the community transfer body and local authority or public body to ensure a sustainable approach for the future of the land and buildings is achieved.

It is considered that the wording should be changed to say that normally the process should take place within a year but there can be extensions based on the mutual consent of both the local authority or public body and the community transfer body.

Q10: Do you agree with the proposals for additional information to be included in a decision notice?

Yes X  No

If not, please explain what you would change and why.

I

Q11: Do you agree that the Scottish Ministers should be required to appoint a panel of 3 people to consider reviews of Ministers' own decisions?

Yes x  No

If not, how do you think these reviews should be carried out?

Q12: Do you agree that a local authority should be required to make a decision on a review within 6 months?

Yes  No x

If not, how long should the period for making a decision be?

The wording should be normally 6 months but there may be exceptions due to complexity of the transfer request in relation to the understanding financial, operational and/or public interest impacts.

Q13: Do you have any other comments about the draft Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016 or draft Asset Transfer Request (Appeals) (Scotland) Regulations 2016?

No

Q14: Do you agree that the Scottish Ministers should appoint a single person to consider an appeal where no contract has been concluded?

Yes  No x

If not, how do you think these reviews should be carried out?

As mentioned in relation to question 11 it is considered that a panel of three people should consider appeal. It is considered that a panel of three people would maintain the fairness of the Appeal.

Q15: Do you agree that the documents should not be published in relation to appeals where no contract has been concluded?

Yes x  No

Please explain your reasons.

Yes, as there could be information in these documents that might be used for

commercial purposes by others.

Q16: Do you agree that no third party representations should be allowed in relation to appeals where no contract has been concluded?

Yes x  No

Please explain your reasons.

It could complicate the Appeal process significantly.

Q17: Do you have any comments on the proposed procedures for appeals where no contract is concluded?

No

Q18: Do you have any comments on the proposed procedures for applications to Ministers for Directions?

No



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## **REPORT ON THE RESPONSE TO FIRE AND RESCUE FRAMEWORK FOR SCOTLAND 2016 CONSULTATION**

**Report by Chief Executive**

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### **SCOTTISH BORDERS COUNCIL**

**29 June 2016**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 The purpose of this report is to agree the response to the Scottish Government's Fire and Rescue Framework for Scotland 2016 Consultation.**
- 1.2 The Scottish Fire and Rescue Framework 2016 (see Appendix 1) which is the subject of this consultation aims to set out the priorities, objectives and overall performance targets that the Scottish Fire and Rescue Service (SFRS) must meet to carry out its functions. These relate to public safety, efficiency and effectiveness of the service. The deadline for responses was the 15 June 2016 but this has been extended to enable the Council's response to be approved and submitted.
- 1.3 The proposed response from the Council is set out in Appendix 2. This response has been circulated to members of the Scottish Borders Police, Fire and Rescue and Safer Communities Board for their comments. The main aspect of the draft response is that supporting local accountability and flexibility should be brought out as a strategic priority within the Framework. In addition it is important that the needs of rural regions such as the Scottish Borders are fully taken account of in the assessment of national and local risks and that this is fully recognised in the allocation of operational and specialist resources.

#### **2 RECOMMENDATIONS**

- 2.1 It is recommended that the Council agree the response to the Scottish Government's Fire and Rescue Framework for Scotland 2016 Consultation as set out in Appendix 2.**

### **3 SCOTTISH FIRE AND RESCUE FRAMEWORK AND DRAFT RESPONSE**

- 3.1 The intention of the Fire and Rescue Framework for Scotland 2016(see Appendix 1) is to set out Scottish Ministers' expectations of the Scottish Fire and Rescue Service. The Framework provides the Scottish Fire and Rescue Services with strategic priorities and objectives, together with guidance on how the delivery of its functions should contribute to the Scottish Government's purpose for the service.
- 3.2 The context for the development of the Framework aligns with matters that are important to the Scottish Borders. These include: public service reform; realising efficiencies and improving productivity; the service's contribution to tackling social and economic inequalities; the changing population with the increasing numbers of people over 65; and building community resilience. The Framework emphasises the importance of prevention, protection, managing risk, partnership, responsiveness and performance. These aspects form the basis of the ten strategic objectives set out in the draft Framework and a context for performance targets.
- 3.3 The proposed response is set out in Appendix 2. On the whole the Framework is robust but it is considered that there needs to be more emphasis on the relationship between the national and local levels. For this reason the draft response indicates that supporting local accountability and flexibility should be brought out as a strategic priority within the Framework. Also in delivering fire and rescue services there can be a focus on the larger populated areas. The draft response points out that the needs of rural regions, such as the Scottish Borders, should be fully taken into account when assessing national and local risks and that this is fully recognised in the allocation of operational and specialist resources. It also recognised that the Fire and Rescue Service has a major contribution to partnership working and this is shown by its developing work in responding to cardiac arrests, community resilience and in supporting employability amongst young people. Finally reducing unwanted fire signals needs to be brought out as a performance indicator and added to those indicators used in the previous Framework.

### **4 IMPLICATIONS**

#### **4.1 Financial**

There are no direct financial implications arising from this report.

#### **4.2 Risk and Mitigations**

Fire and rescue services are a key emergency service in the Scottish Borders and it is important that the service's objectives and priorities align with the needs of the Scottish Borders.

#### **4.3 Equalities**

As this report is response to a consultation document there is no need for an equality impact assessment.

#### **4.4 Acting Sustainably**

There are no direct effects on sustainability arising from the contents of this report.



#### 4.5 **Carbon Management**

There are no effects on carbon emissions.

#### 4.6 **Rural Proofing**

The needs of rural areas have been considered in responding to the consultation paper

#### 4.7 **Changes to Scheme of Administration or Scheme of Delegation**

There are no changes to be made.

### 5 **CONSULTATION**

5.1 Members of the Scottish Borders Police, Fire and Rescue and Safer Communities Board have been consulted on the response. The Council's Management Team, Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR and the Clerk to the Council have been consulted on this report and any comments received have been incorporated into the final report.

#### **Approved by**

**Tracey Logan**  
**Chief Executive**

**Signature .....**

#### **Author(s)**

Name	Designation and Contact Number
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**Background Papers:** None

**Previous Minute Reference:** None

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Douglas Scott can also give information on other language translations as well as providing additional copies.

Contact us at: Douglas Scott [dscott@scotborders.gov.uk](mailto:dscott@scotborders.gov.uk) tel: 01835 825155

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# **Fire and Rescue Framework for Scotland 2016**

## Introduction and Context

The **Fire and Rescue Framework for Scotland 2016** ('the Framework') sets out Scottish Ministers' expectations of the Scottish Fire and Rescue Service. The Framework provides the SFRS with strategic priorities and objectives, together with guidance on how the delivery of its functions should contribute to the Scottish Government's purpose.

### Legislative basis

The Scottish Fire and Rescue Service (SFRS) was established as a single national organisation by the Police and Fire Reform (Scotland) Act 2012<sup>1</sup> ('the 2012 Act') to provide Fire and Rescue Services across Scotland. The 2012 Act also amended the Fire (Scotland) Act 2005<sup>2</sup> ('the 2005 Act') to take account of fire reform and further modernise and update the functions of the SFRS<sup>3</sup>.

Scottish Ministers have a statutory duty<sup>4</sup> to prepare a Fire and Rescue Framework for Scotland setting priorities and objectives and providing guidance to the SFRS on the execution of its functions. The SFRS has a statutory duty<sup>5</sup> to have regard to the Framework when preparing its Strategic Plan which sets out how it will deliver its functions as well as setting out the outcomes which will be used to measure its performance in doing so. The outcome measures set out in the SFRS's Strategic Plan will be accompanied by specific targets linked to the delivery of the strategic priorities and objectives specified in this Framework.

### Strategic Priority 1: Performance Measures

The SFRS must, in discussion with the Scottish Government, specify appropriate performance measures, to support its Strategic Plan, for the delivery of outcomes relating to the strategic priorities and objectives set out in this Framework.

### Contribution to the Scottish Government's Purpose and National Outcomes

The Scottish Government's purpose is "to focus public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth". The SFRS has a vital role in securing this priority and is expected to work together with other public services to contribute towards it.

<sup>1</sup> <http://www.legislation.gov.uk/asp/2012/8>

<sup>2</sup> <http://www.legislation.gov.uk/asp/2005/5>

<sup>3</sup> Further functions of SFRS are set out in the Fire (Additional Function) Scotland Order 2005  
<http://www.legislation.gov.uk/cy/ssi/2005/342/made>

<sup>4</sup> Section 40 of the 2005 Act –  
<http://www.legislation.gov.uk/asp/2005/5/part/2/chapter/8/crossheading/fire-and-rescue-framework-for-scotland>

<sup>5</sup> Section 41A of the 2005 Act, as amended by the 2012 Act –  
<http://www.legislation.gov.uk/asp/2012/8/section/114>

The SFRS's delivery of the priorities and objectives set out in this Framework will also help to achieve the Scottish Government's purpose by contributing to the delivery of the National Outcomes<sup>6</sup>, including:

- we live longer, healthier lives (National Outcome 6);
- we live our lives safe from crime, disorder and danger (National Outcome 9);
- we have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others (National Outcome 11); and
- our public services are high quality, continually improving, efficient and responsive to local people's needs (National Outcome 16).

### **SFRS purpose**

It is no longer the case that the SFRS simply responds to fires when they arise, although that remains a vital element in keeping people safe. Its role has expanded over time and that expansion is reflected in the purpose of the SFRS, which was set as part of the Police and Fire Reform process in 2013:

**The main purpose of the Scottish Fire and Rescue Service is to work in partnership with communities and with others in the public, private and third sectors, on prevention, protection and response, to improve the safety and well-being of people throughout Scotland<sup>7</sup>.**

The SFRS's purpose embodies the Scottish Government's aspirations for the Service to achieve better outcomes for the people of Scotland. In carrying out its purpose the SFRS should increasingly work with its partners to identify and focus on mitigating risks facing communities, including, but not exclusively, risks from fire, in order to keep communities and citizens safe and promote their well-being.

### **Embedding the benefits of reform and ensuring continuous improvement**

Audit Scotland's 2015 review of Fire Reform<sup>8</sup> concluded that the Scottish Government and the SFRS managed the merger of the eight fire and rescue services effectively. Audit Scotland also concluded that the performance of the SFRS is improving and that the move from eight local fire and rescue services to a national organisation has enhanced the scrutiny and challenge of the SFRS.

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<sup>6</sup> <http://www.gov.scot/About/Performance/scotPerforms/outcome>

<sup>7</sup> The Fire and Rescue Framework for Scotland 2013 – <http://www.gov.scot/Resource/0041/00416181.pdf>

<sup>8</sup> The Scottish Fire and Rescue Service (May 2015), Audit Scotland – [http://www.audit-scotland.gov.uk/docs/central/2015/nr\\_150521\\_fire\\_rescue.pdf](http://www.audit-scotland.gov.uk/docs/central/2015/nr_150521_fire_rescue.pdf)

The creation of a single national fire and rescue service was merely the start of a journey. The reform process and the improvement in outcomes that it is delivering is on-going. The SFRS has already achieved almost all of what was asked of it as a consequence of Fire Reform, and remains on track to deliver the remaining demands and savings expectations from the reform process. While continuing to embed those achievements in its internal operations, and in how it works with partners, the SFRS needs to continually evolve, adapt and transform in order to keep achieving success.

This on-going reform should build on the four pillars of Christie<sup>9</sup>:

- prioritising **Prevention**, building on the preventative focus of existing fire and rescue activities;
- grounding activity in **Partnership** working, strengthening connections with communities;
- focusing on **People**, ensuring workforce development, health and well-being, and harmonious industrial relations remain priorities; and
- emphasising continuous improvement, with ambitious targets and a robust **Performance** Framework.

The SFRS should increasingly adopt an evidence led approach and explore how it will continue to change what it does; how it operates; how it works with communities and partners in achieving success and in how it will further develop its people to fully engage in making further organisational changes that drive better outcomes for the people and communities of Scotland.

### **The changing context for the SFRS**

All organisations need to continually adapt to their operating context which continually shifts around them, creating new and ever more complex demands on them. The contribution which the SFRS and its legacy Services have made to improving safety across Scotland's communities is clear and stands in testimony to the people who have worked in all of the Services over the years.

This Framework advocates further evolution because the context in which the SFRS operates and the challenges that it faces are continuing to evolve. In particular Scotland is facing changes in our population, our climate and in the expectations the public holds for all public services. The result is that Scotland is facing ever more complex challenges, the consequences of which are having profound impacts at community level.

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<sup>9</sup> <http://www.gov.scot/resource/doc/352649/0118638.pdf>

We are confident that the SFRS will evolve and adapt to meet these challenges and requirements including:

- **Public service reform** – the Scottish Government has placed the joint planning and sharing of resources between public services, coupled with better engagement with communities at the core of public service reform. This includes the Community Empowerment (Scotland) Act 2015<sup>10</sup> together with reforms to Health and Social Care<sup>11</sup> and Community Justice<sup>12</sup>. The SFRS should continue to work with partners to ensure it continues to contribute to the progress of this agenda.
- **Realising efficiencies and improving productivity** – the current public sector financial climate further reinforces the need to reduce costs by preventing, rather than responding to fires and other emergency incidents. This will in turn call for maximum and sustained effort in generating efficiencies and working collaboratively with others, while maintaining the high standards of delivery, governance and transparency that the SFRS has already achieved.
- **Social and economic inequality** – the Scottish Government has made the reduction of inequality in our society a priority. Much of the operational demand facing the SFRS has its origins in the consequences and impacts of social and economic inequality. In responding to inequality, all public services, including the SFRS, will be expected to work together, share their resources and jointly target services and work with those communities who experience the highest levels of inequality.
- **Scotland's population is changing** – over the next 20 years we will see a significant rise in the proportion of over 65's within the Scottish population and a decline in the proportion of working age adults. This shift will generate new demands within our communities as we seek to keep an ageing population safe and healthy. The change in the population will be accompanied by a sustained shift towards home-based care, away from care in institutional settings. These trends will increase the number of people who are at risk of fire and other forms of preventable harm, such as trips and falls, within the home environment. This will increase the drive for the SFRS to work with partners to focus on prevention to minimise people's exposure to harm.
- **Building community resilience** – as our climate changes, more communities across Scotland will face greater risks from flooding than ever before. Moreover, our evidence indicates that the impact of such events has increased in financial terms as well as in human terms. There is therefore a need for the SFRS to have an increasing focus on building resilience in relation to flood risk as well as other threats, and major and potentially catastrophic events impacting on national infrastructure such as terrorism. A

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<sup>10</sup> <http://www.legislation.gov.uk/asp/2015/6/contents/enacted>

<sup>11</sup> <http://www.gov.scot/Topics/Health/Policy/Adult-Health-SocialCare-Integration>

<sup>12</sup> <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/89548.aspx>

key factor in managing such incidents and in keeping communities safer in general is the resilience of communities themselves. Resilient communities can better withstand risks and the SFRS should work together with other public services to enable and support communities to develop and enhance their own resilience.

Many of these challenges are clearly interlinked. Collectively they present the SFRS with the need to continue with the change programme that began with Fire Reform in 2013. The past three years has largely focussed on the consolidation and integration of the legacy Fire Service organisations and their practices and processes. The next phase of change will focus on genuine transformation and will challenge the SFRS to consider further how it designs and delivers services, how it operates in partnership with other public services and with communities themselves and how it will meet the financial challenges that lie ahead.

The SFRS should also pursue its purpose by adopting new ways of working and embrace new technologies that help keep firefighters and communities safer. In so doing the SFRS will continue to be held in the highest regard by the public communities and by the Scottish Government. Meeting these challenges calls for clear and coherent leadership and action from the SFRS to ensure that it continues to deliver its functions effectively to keep communities safe.

## **Setting the Strategic Priorities**

This Framework sets out Strategic Priorities for the SFRS for the period starting from 2016. These priorities are outcome focused, set within the context of the Scottish Government's purpose, and the on-going need for public sector reform. These priorities form the basis for the narrative of the following chapters of the Framework. Many of these priorities are overarching and are relevant to several aspects of the SFRS's role. The Strategic Priorities for the SFRS are summarised at **Annex A** and appear in greater detail in the following chapters of the Framework.

- **Chapter 1 – Protecting Communities: Risk, Prevention and Response**

This chapter provides context on the current functions of the Service, which includes contributing to improving the safety and well-being of Scotland's communities and the delivery of functions such as; prevention and protection; response and resilience; community planning and partnership working. This chapter also explains how the Framework advocates further change in how the Service operates and the complex challenges that it faces.

- **Chapter 2 – Evolving Role of the Scottish Fire and Rescue Service**

This chapter looks at realising the benefits of fire reform and managing the change from the eight previous Services into a single organisation. The chapter also looks to the future role of the firefighter; modernising emergency response; and how the Service should utilise resources to deliver a more holistic, creative and preventative service to, and with, communities.



- **Chapter 3 – Governance, Accountability and Performance**

This chapter focuses on the SFRS's role as a public body and how it should have systems in place to ensure an effective approach to performance management to support robust scrutiny of the Service at national and local levels. Areas such as Equality and Diversity; Human Rights; Climate Change; Building on our National Digital Public Service Strategy and how the SFRS should aim to be an employer of choice is also covered in this chapter.

## Chapter 1: Protecting Communities: Risk, Prevention and Response

### Protecting communities

The overriding purpose of the SFRS remains to work in partnership with communities and with others in the public, private and third sectors to improve the safety and well-being of communities.

The SFRS's delivery of its functions is focused on **prevention** (reducing the risk of and changing people's perception and behaviour towards fire and other risk factors within communities), **protection** (mitigating the effects of those risks) and developing a flexible **response** (dealing effectively with different types of incidents in different communities across Scotland).

Underpinning all the work the SFRS undertakes in relation to prevention, protection and response are overarching principles of **managing risk; evidence based decision making; working with others**, and **local flexibility** and this chapter also sets out key priorities for the SFRS in these areas.

### Prevention and protection

Keeping communities safe from harm is at the core of the SFRS's work. Fire prevention and protection activity over recent years has been key to reducing the number of fires, casualties and losses in Scotland, thus minimising loss of life and the economic and social impact of fire on communities. In 2014-15 there was an 11% drop in the total number of fires attended by the SFRS – the lowest annual total in the last decade. This focus on prevention, working collaboratively with other partners, must continue in order to deliver improved outcomes for the communities of Scotland.

The SFRS should build on the successes already achieved in community fire safety activity through partnership working, and should take into account the specific and unique risks facing Scotland, including those that are out with the SFRS's direct control. It must also ensure that there are clear processes and systems for working with partners to identify the most vulnerable communities, and most vulnerable individuals within communities, to target activity where it is most needed and to make an effective contribution to tackling inequalities.

The SFRS should continue to fulfil its statutory duty to promote fire safety, including providing advice, information, publicity and encouragement to prevent fires and death or injury from fires. In doing so, the SFRS should work with partners to ensure properly integrated public safety campaigns for raising awareness of fire safety and other relevant areas of activity, thereby maximising the effectiveness and targeting of the campaigns.

The SFRS also has a role in enforcing fire safety legislation in the majority of the non-domestic sector, including carrying out fire safety audits of premises, providing advice and carrying out enforcement action when necessary. These fire safety enforcement activities should be informed by risk and thus targeted at those premises where the risk to life is greatest.

The aim of enforcement is to offer support and check that employers and other duty holders are ensuring the safety of persons in the event of fire. Whilst the main focus of fire safety promotion is rightly targeted on activity to prevent dwelling fires and related casualties; work enabling duty holders to comply with fire safety legislation, along with enforcement, is also important and the SFRS should undertake promotion and education activities targeted at the non-domestic sector. By reducing the number, or severity, of fires in business premises the SFRS can contribute to the Scottish Government priority of growing the economy.

## **Strategic Priority 2: Safety, Well-being and Prevention**

The SFRS should fully contribute to improving the safety and well-being of Scotland's communities and embed a prevention focus within the Service. It should ensure that there is a clear process for working with partners to identify the risks faced by communities and individuals so that the SFRS can target activity where it can most effectively contribute to addressing inequalities within and between communities.

### **Responding to incidents**

Providing an effective emergency response to fires and other incidents is central to the purpose of the SFRS. An increasing focus on prevention and risk reduction does not change the need for the SFRS to ensure that it has the necessary resources able to respond appropriately to fires and other emergencies across Scotland.

The SFRS has a statutory duty, under the 2005 Act<sup>13</sup>, to make provisions in relation to fire fighting and a range of other emergencies including road traffic accidents, flooding, search and rescue, chemical, biological, radiological and nuclear incidents, as well as having the power to respond to other incidents at its discretion. The SFRS should plan its operational response to these incidents in a way which reflects national and local risk across Scotland and in doing so ensure that its arrangements for operational command are designed in the most efficient way. As part of this operational response, the SFRS must continue to make sure that specialist equipment, resources and skills will be made available where and when they are needed across Scotland.

The SFRS should continue to ensure that it has a robust IT system in place to accurately determine the availability of its appliances, retained and whole-time workforce, and other resources at all times. It is important that live information to Operations Control on whether an appliance is available or not prior to selection for mobilisation, is maintained. The SFRS should compile and maintain data on the availability/turn out of its appliances in order to inform evidence based decision making. Consideration should also be given as to whether this data should be captured within the organisational statistics which are published annually by the SFRS.

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<sup>13</sup> [And under the Fire \(Additional Function\) Scotland Order 2005 Order](#)

The SFRS will continue to play a key role in the wider resilience agenda. The Civil Contingencies Act 2004<sup>14</sup> requires the SFRS to work with the Government as well as other emergency services and responders in producing comprehensive plans for major and catastrophic incidents. This close partnership working is particularly important in planning for and responding to widespread threats and incidents involving, for example, environmental disasters and terrorism, as well as protecting critical infrastructure assets. The role of the SFRS within this is especially important in maintaining people's safety, rescuing them from harm and containing damage to Scotland's economic infrastructure. The SFRS will ensure that it continues to deliver these responsibilities to a high standard in order to enhance Scotland's resilience and ensure communities are protected.

### **Strategic Priority 3: Response and Resilience**

The SFRS should work with other public service partners to evolve a holistic and dynamic process of identification, evaluation and assessment of community risk and Best Value in order to prioritise and target its use of resources to ensure an appropriate response to incidents across Scotland and support improved outcomes for communities. As part of this approach, the SFRS should promote optimal command, control, communication and tri-service co-operation in response to incidents.

### **Managing risk**

The SFRS has a statutory duty to reduce the risks to our communities; assessing and managing risks with and on behalf of communities is at the core of what the SFRS does.

One of the major challenges facing the SFRS is managing the constantly changing risk profiles due to changes in our society, our built environment and our climate. The national approach to risk management should be to prioritise and target resources based on an on-going process of identification and evaluation of community risk and assessment of Best Value. This strategic management of risk will enable a consistent approach to achieving an optimal balance between prevention and response and should inform all the operational policies and decisions of the SFRS.

The continued evolution of public services in Scotland mean that how the SFRS is structured – for example, where its people, appliances and buildings are configured and located – needs to be kept under review to ensure it remains 'fit for purpose' now and into the future. The SFRS should make effective use of its risk assessments and other relevant data to inform the strategic distribution of all personnel, premises and equipment in order to ensure that the people and resources required to attend incidents are in the optimum locations to deploy to incidents

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<sup>14</sup> <http://www.legislation.gov.uk/ukpga/2004/36/contents>

across Scotland in anticipation of identified risks. Having an appropriate organisational design that is capable of responding to future demands as well as current priorities will be fundamentally important in ensuring that the Service is capable of continuing to meet its purpose and deliver its outcomes, objectives and goals.

The SFRS should also maintain close links with other agencies to ensure that analysis of its own and partner organisations' intelligence informs local and national risk management and responders are provided with appropriate, relevant and timely risk information and support. Risk information should be effectively managed and coordinated through all community partners including voluntary organisations, encouraging appropriate information/data sharing and joint analytical work in order to ensure community and firefighter safety.

Assessment of information on communities and individuals most at risk will also enable the SFRS to allocate community safety engagement resources where they are most needed. This will inform not only national awareness campaigns, but also the locations and/or target audience for local safety awareness activities. The principles of risk management should also be used to ensure that the SFRS's programme of home visits is specifically targeted at individuals who are at the most risk of fire in their homes. Similarly the SFRS enforcement activity should be informed by risk and targeted at those premises where risk to life is greatest.

#### **Strategic Priority 4: Response and Resilience**

The SFRS should support effective multi-agency emergency planning and response including contributing fully to the work of Regional Resilience Partnerships in assessing risk, preparing and planning for, responding to and recovering from major and catastrophic incidents and threats. When working with other emergency responders, the SFRS should play a key role in building community resilience and protecting both Scottish and UK critical infrastructure assets.

#### **Evidence based decision making**

The collection, production and analysis of data is vital to identify and assess risks and to improve safety, efficiency and performance. The SFRS should make use of intelligence from a range of sources to inform its own policies, to facilitate evidence based decision making, and to assist planning, evaluation and reporting of activity, both at a national level and of local activity.

The SFRS should ensure that data captured, including comprehensive incident data, is consistent and quality assured. As the SFRS now has responsibility for producing national fire statistics for Scotland it should work towards securing 'National Statistics' accreditation from the UK Statistics Authority.

The findings from fire investigations should continue to be used to enhance community and firefighter safety, to influence community safety engagement initiatives, fire safety enforcement strategies and to engage in criminal justice

processes where required. The collection and analysis of fire safety enforcement audit data should be used by the SFRS to gauge fire safety legislation compliance and inform robust fire safety enforcement policies.

Barriers to information and data sharing can be an obstacle to collaborative working and the SFRS should continue to work with partners to foster a common-sense approach to inter-agency data and information sharing, address any inconsistency in practice and actively seek to remove barriers to joint working and information sharing.

The SFRS should evaluate the effectiveness of its national and local policies, its community safety engagement and its fire safety enforcement strategies on an on-going basis, identifying where improvements and efficiencies might be made, and taking action to achieve this. The SFRS should also have in place its own process for considering operational intelligence from external sources, including relevant research, reports and examples of best practice from other Fire and Rescue Services. This intelligence should be utilised when developing the SFRS's own operational policies and procedures.

The SFRS should give priority to consideration of the findings and recommendations of the reports of Her Majesty's Fire Service Inspectorate (HMFSI) in accordance with Section 43E of the 2005 Act, and respond according to existing protocols.

### **Working with others**

The establishment, maintenance and development of engagement with partners including local authorities, emergency responders, other community planning agencies, voluntary organisations and businesses is key to the successful delivery of the SFRS's objectives and priorities.

Public service reform is founded on the benefits of working collaboratively, across organisational boundaries, towards shared outcomes to ensure that services are shaped around the needs and demands of individuals and communities – with a clear focus on prevention and early intervention. The SFRS has a statutory duty to work with others to participate in the community planning process under section 16 of the Local Government in Scotland Act 2003<sup>15</sup> (as amended by the 2012 Act). The SFRS also has a statutory duty to work with partners to prepare for and respond to and recover from emergencies under the Civil Contingencies Act 2004<sup>16</sup> and associated regulations. The SFRS is listed as a public authority in relation to the Community Empowerment Act 2015<sup>17</sup> and as such, will play its part in improving outcomes for communities by enhancing the process of community planning and ensuring that local service providers work together even more closely with communities to meet the needs of the people who use its services.

Partnership working towards shared outcomes can help drive down risks in the community, and tackle inequality by focusing on the vulnerable and most at risk, thus improving the outcomes for the communities of Scotland. The SFRS should

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<sup>15</sup> <http://www.legislation.gov.uk/asp/2003/1/section/16>

<sup>16</sup> <http://www.legislation.gov.uk/ukpga/2004/36/contents>

<sup>17</sup> <http://www.legislation.gov.uk/asp/2015/6/contents/enacted>

continue to build on the strong links it has developed with its partners in order to identify and tackle national and local risk-based priorities. The SFRS should also continue its collaborative work, including its participation in and contribution to the Scottish Government's Building Safer Communities<sup>18</sup> initiative – which is focused on reducing unintentional physical and psychological harm that could have been predicted or prevented. The SFRS should continue to investigate options for sharing premises, assets and services with partners, including Police Scotland and the Scottish Ambulance Service where it could help protect public service provision within a community or contribute to better local or national outcomes.

The SFRS should also seek to develop a shared understanding with both local and national partners of their relative roles, responsibilities and capabilities, to ensure that when emergencies do occur, they are responded to and concluded as effectively and efficiently as possible, and in an interoperable manner. Community Planning arrangements and local scrutiny Boards should be seen as the forum for such discussions and the process should ensure that decisions are informed by local engagement.

### **Strategic Priority 5: Partnership**

Community planning and partnership working with other services and communities should be embedded throughout the SFRS. Building on its existing Engagement Strategy, the SFRS should proactively seek collaborative opportunities and innovative ways of working in partnership with other blue light services/key stakeholders to improve outcomes for communities and should ensure effective stakeholder engagement in its approach to all its work including partnership working.

### **Local flexibility**

Whilst the SFRS is a national service, its delivery model must be flexible to reflect the differing needs of local communities.

The SFRS is under a statutory duty to ensure effective arrangements for Fire and Rescue Services in all 32 of Scotland's local authority areas, and in accordance with the 2012 Act, must produce a local fire and rescue plan for each local authority area. These local plans should present profiles which reflect the risks to the specific local authority area, as well as setting out local solutions to local issues and detail local activity.

Close engagement with local communities remains fundamental to service improvements in responding effectively to incidents, integrating risk management processes, building resilience, or enhancing prevention and protection activities. The

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<sup>18</sup> <http://www.safercommunitiesscotland.org/knowledge-hub/briefing-papers/bp18-project-a-bsc-programme.pdf>

SFRS must be transparent and accountable to communities for the services it delivers.

The SFRS should continue to maintain and develop good working relationships with the Convention of Scottish Local Authorities (COSLA) and all 32 local authorities in order to achieve better integration with community planning partnerships. This should build on the important role already played by Local Senior Officers in developing local plans and engaging with Local Scrutiny Committees to help ensure delivery of services which meet the needs of local people, and underpin more meaningful engagement with community issues.



## **Chapter 2: Evolving Role of the Scottish Fire and Rescue Service**

### **Improving Scotland's public services**

The Scottish Government is pursuing a comprehensive and transformative programme of reform to protect and improve public services. Services must be consistently well designed, based on the best available evidence and delivered by the right people to the right people at the right time. The SFRS is an integral part of the public sector landscape and the move to a single, national organisation in 2013 provided the opportunity to establish a greater synergy between the SFRS and an integrated public sector model of delivery.

As well as its traditional roles of tackling fires and responding to other major incidents – such as flooding and road traffic accidents – the SFRS also has a role in promoting the wider safety and well-being of communities in Scotland. The SFRS's capability and expertise has contributed to a significant and sustained reduction in the incidence of fires in Scotland and their severity in terms of deaths and injuries and that success has meant there is capacity for the role of the Service to change because the number of fire related incidences has declined. The capacity and the skills of the SFRS will be increasingly used to improve outcomes by promoting the broader safety and well-being of individuals and communities, as well as continuing to improve fire safety and promote fire prevention.

The SFRS is already utilising its capacity to deliver positive outcomes in areas not traditionally associated with the role of a firefighter. For example, the Service is delivering on its eight commitments within the Scottish Government's strategy on Out-of-Hospital Cardiac Arrest (OHCA). This strategy, which has been jointly produced by a broad coalition of stakeholders, sets out our commitment to improve outcomes after OHCA and an ambition that by 2020 Scotland will be an international leader in the management of OHCA. A pilot exercise is underway on a limited geographical basis, with the support of the Fire Brigades Union (FBU) and this will inform future work in this area.

Advances in technology mean that new and innovative solutions are being developed which greatly improve firefighting and rescue operations and help the whole Service pursue improved levels of efficiency and productivity. The SFRS should explore, and where feasible introduce new technology, that improves firefighter and public safety. This might include greater use of fire suppression systems, where the SFRS could work with communities to widen the appropriate installation of such systems.

## Driving improvement and realising the benefits of fire reform

### Strategic Priority 6: Service Transformation

The SFRS should continue to ensure that the benefits of Fire Reform are fully realised, evidenced and tracked, and it should explore through Service redesign new and innovative ways in which it can improve the safety and well-being of communities throughout Scotland by building on the traditional roles carried out by the Service.

The SFRS 'Transformation Programme', which was set up to manage the change from the eight previous services into a single organisation, was the driver for the SFRS to realise and maintain the benefits of Fire Reform. Some projects include efficiency initiatives to be taken forward up to 2020 and it is essential that the SFRS maintains momentum on those projects which have yet to be delivered. This includes the transition to future governance arrangements, the application of lessons learned and the continued realisation of benefits.

The principles and methodologies adopted by the 'Transformation Programme' should be utilised in setting the approach and standards for the SFRS to manage its on-going business and continuous improvement programme. Future business planning should continue to place emphasis on benefits realisation and consideration of whether it should become the rationale for investment or policy direction rather than just a dimension of a project.

#### **The future role of the firefighter: optimum use of capacity**

The success of the SFRS in delivering its traditional operational activity – for example, the total number of fires attended by the SFRS in 2014-15 was the lowest in a decade – provides an opportunity to explore where the SFRS can add further value to the broader public service outcomes that we are working to deliver across Scotland.

One of the SFRS's key attributes is that it has unique and well-established resources across the whole of Scotland. The SFRS should ensure that these resources are utilised effectively to deliver a more holistic, creative and preventative set of services to and with communities. Assets such as Community Fire Stations should be used by the SFRS and other public services as locations where the development of community skills (Cardiopulmonary resuscitation (CPR) training for example) and capacities can be supported in order to help those communities become more resilient and self-supporting in future. There are already some good examples of such work at a local level and the SFRS should explore with local partners, including those in the third sector, how its asset base could appropriately be utilised in support of better local outcomes.

The SFRS should be innovative in its thinking and should consider new approaches to improving the safety of communities and should work closely with individuals and communities to understand their needs, maximise talents and resources, support

self-reliance and build resilience. When considering how the role of the firefighter could evolve, the SFRS should maintain effective relationships with trade unions and a partnership approach with employees, negotiating bodies and the Scottish Government.

The SFRS should adopt an outcomes based approach when formulating proposals on the future role of the firefighter and should place particular emphasis on following the Christie principles of reform.

The SFRS should work with other public services to build community capacity to respond to the changing risk profiles of communities, drawing on the good work already underway for traditional safety purposes. It should further explore the support it already offers to local Health and Social Care Partners in addressing wider home safety issues such as reporting signs of potential physical or financial harm when undertaking home fire safety visits.

By focussing capacity, planning and the deployment of local resources and assets with partners, the Service can make a contribution to agendas such as the prevention of slips, trips and falls among vulnerable people in their own home – reducing both the burden on the NHS and incidences of unintentional harm. The reform agenda recognises the importance of working across boundaries to ensure there are no barriers between bodies that prevent more effective delivery of services to communities and the SFRS needs to work with partners in a constructive manner to achieve this.

The SFRS should also give consideration to integrating emergency response provision, including medical response, in a holistic way taking into account the broader aims and aspirations of the Scottish Government to integrate public service provision. As mentioned above the Service is already carrying out positive work in this regard and the changing role of the firefighter is exemplified by the commitment made by the SFRS to contribute to the delivery of the Scottish Government's strategy on OHCA by running four trials where the Service responds to cardiac arrest incidents in conjunction with the Scottish Ambulance Service.

The primary aims of the OHCA strategy, launched in 2015, are:

- to increase survival rates after OHCA by 10% across the country within five years; and
- to equip an additional 500,000 people with CPR skills by 2020.

The SFRS should evaluate the effectiveness of its contribution in this area with a view to identifying scope for wider implementation across Scotland. The SFRS should examine its own role in emergency response generally and determine whether this could be widened further in conjunction with supporting partner organisations such as Scottish Ambulance Service and Police Scotland.

## Modernising emergency response

### Strategic Priority 7: Modernising Response

The SFRS should develop and implement dynamic, innovative and sustainable operating systems throughout Scotland which are fit for purpose and meet local needs (covering both the Retained Duty System and whole-time firefighter work patterns).

The SFRS should ensure that future arrangements for responding to fires and other emergencies in terms of the siting of fire stations, the resources located within those stations and the crewing models at these stations are tailored to local risk and fit for purpose for the communities which it serves.

The SFRS should ensure it is operating crewing systems for firefighters that are flexible, cost effective and reflect local risk profiles and demand patterns. This should allow the Service to maximise efficiency in terms of how it deploys its resources to fully meet the different needs of communities across Scotland. These such systems must have firefighter and community safety at its core.

The SFRS should ensure that the current Retained Duty System (RDS) is on a stable and standardised platform in preparation for any future modifications to service delivery which emerge from the RDS Future Options Project. The recruitment and retention of volunteer and retained firefighters remains a significant challenge in some parts of Scotland and the SFRS should set out detailed plans about how it proposes to resolve relevant issues, including training, for the retained and volunteer Service. As part of this process, the SFRS should consider whether training for RDS and volunteer firefighters should be tailored to local risk and geography.

Changes to the way people live and work have been happening for some time; many more people now commute considerable distances from their homes to work, and many young people move from the communities they grew up in to find work in our cities. This presents a major challenge in the recruitment of RDS firefighters, and could also present a potential obstacle in the recruitment of younger whole-time firefighters. The SFRS should continue to develop its approach to recruitment to take account of this, and take steps to address these challenges working with employers and other stakeholders to promote the value to employers of releasing employees for RDS duties.

Any changes to the retained or volunteer services, including proposals to adopt alternative operating systems, should be progressed in conjunction with the communities which they impact. The approach should meet the requirements of the SFRS 'Engagement Framework', the National Standards for Community Engagement<sup>19</sup> and the Community Empowerment (Scotland) Act 2015<sup>20</sup> and deliver real opportunities to the communities of Scotland.

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<sup>19</sup> <http://www.scdc.org.uk/what/national-standards/>

## **Telecommunications systems: current and future use**

The ability to mobilise and communicate with resources effectively, in even the most remote areas of Scotland, is vital to keeping communities and firefighters safe from harm. Effective communications systems also allow firefighters dealing with an incident to call for additional support if needed.

The SFRS, in common with Fire Rescue Services in England and Wales, currently use the Firelink system (provided by Airwave). Police and Ambulance Services in Scotland, England and Wales also use Airwave systems, meaning that the three emergency Services can communicate easily with each other via radio.

Firelink is provided via a GB-wide contract between the UK Government (who act as agents for the Scottish Ministers in relation to Scotland) and Airwave. Although mainly managed at a GB level, it is vital that the SFRS has the appropriate skills, knowledge and relationships with Firelink Management Team and Airwave to ensure that Scotland-specific issues can be identified, managed and resolved without negatively impacting on Firelink and, therefore, the ability to mobilise appliances. The SFRS should continue to look to use Firelink in the most efficient way – both in terms of use of the network and in terms of mobilising appliances.

As the Firelink contract ends towards the end of this decade, along with other Airwave contracts, work is already underway to procure and implement future communications capacity through a GB-wide programme – the Emergency Services Mobile Communications Programme (ESMCP) – led by the Home Office. During the mobilisation and transition phases of the programme it is vital that the SFRS is fully engaged in the work that is on-going to understand how the new system will operate and is involved in the work necessary to implement the solution within the fire Service (e.g. control rooms, vehicle installations and training) to ensure it is used to best effect.

## **Unwanted Fire Alarm Signals**

### **Strategic Priority 8: Unwanted Fire Alarm Signals**

The SFRS should develop a process for recording the number of blue light journeys made in response to unwanted fire alarm signals (UFAS). The SFRS should also take steps to reduce the overall number of blue light vehicle journeys made in response to UFAS – including identifying the main sources of false alarms, and taking all reasonable and practical steps to reduce their incidence.

Responding to automatic fire alarms which turn out to be ‘false’ alarms (UFAS) incurs significant costs, both for the SFRS and building occupiers. In 2014-15 UFAS accounted for 58% of all incidents attended by the SFRS – more than all other incident types.

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<sup>20</sup> <http://www.legislation.gov.uk/asp/2015/6/contents/enacted>

Automatic Fire Alarm (AFA) systems offer potential benefits providing an early alarm of fire, but this needs to be balanced against the low probability that an AFA call is an actual emergency incident, and the risks and costs associated with responding. Emergency response under blue lights and sirens can heighten the risk to firefighter and public safety due to the increased likelihood of vehicle accidents occurring.

A report by HMFSI in 2015 noted the Service's ambitions to reduce the number of false alarms in Scotland, but that the rate of UFAS has been broadly constant in recent years. The SFRS will have to work in partnership with those who use, manage, install and maintain automatic fire systems to drive down the number of UFAS. While some of the responsibility for UFAS lies with building owners and occupiers, there is a clear role for the SFRS, in striving for continuous improvement, to reassess its approach to reducing UFAS and associated blue light vehicle journeys.

A marked reduction in UFAS could release significant resources to deploy on more productive and beneficial tasks, including the broader range of prevention and fire safety work noted in Chapter One, and the more innovative intervention work, such as OHCA, covered earlier in this Chapter.

## Chapter 3: Governance, Accountability and Performance

Effective governance, strong accountability and resilient performance are at the heart of good public services and contribute to the achievement of National Outcome 16 – ‘our public services are high quality, continually improving, efficient and responsive to local people’s needs’.

The SFRS must ensure that it meets the requirements of its governance and accountability arrangements and that it effectively monitors and evaluates its performance in delivering the strategic priorities set out in this Framework. A key factor in achieving that delivery will be continued investment in maintaining the health, safety and well-being and improving the capabilities, capacity and performance of its workforce.

### Managing performance

#### **Strategic Priority 9: Effective Governance and Performance**

The SFRS should ensure it has an effective approach to performance management to support robust scrutiny of the Service at national and local levels – this approach should be regularly reviewed and evaluated in pursuit of continuous improvement. It should also collect, produce and analyse data and other intelligence to promote the safety and well-being of communities, support operational efficiency and performance improvements (including its partnership contributions) and enable effective public reporting of performance.

Good service performance and effective accountability is reliant on the ability to demonstrate the delivery of continuous improvement through comprehensive, timely performance reporting arrangements and a robust approach to analysis and evaluation. The SFRS should continue to develop robust performance systems to enable it to report publicly on a regular basis. Reports should provide the Scottish Government and key stakeholders with accurate, timely and consistent data and information, from which they can assess whether the SFRS’s management arrangements are effective in ensuring it is performing well, providing value for money and delivering across Scotland as a whole.

Performance management systems should play a critical role in driving improvement across the organisation. The SFRS should continue to develop methodologies and systems to collate and analyse data in order to understand future trends and enable resources to be targeted where they are needed most and where they can add the greatest value. The SFRS should ensure that it makes appropriate use of comparable data from other sources to identify improvement opportunities.

Good performance management arrangements will ensure that the SFRS will support the attainment of the National Outcomes as well as operational and corporate service improvements including improved efficiency and productivity. The SFRS should be clear which data and evidence is being drawn upon for these purposes and ensure that its reports contain appropriate outcome measures and

performance indicators in relation to service delivery and quality, both locally and nationally.

## **Best Value**

The 2005 Act (as amended by the 2012 Act<sup>21</sup>) sets out the duties of the SFRS in securing Best Value for the people of Scotland. The delivery of an effective and efficient service is set within the context of establishing appropriate governance structures by which the organisation is directed and controlled to achieve objectives. The SFRS 'Governance and Accountability Framework'<sup>22</sup> sets out the governance structures within which the SFRS will operate and defines the key roles and responsibilities for the SFRS and the Scottish Government.

To respond effectively to the changing public sector environment in Scotland and to meet the expectations set out in this Framework the SFRS should maintain its strong commitment to strategic and financial planning to assure the long term sustainability of the functions it delivers. The SFRS should clearly communicate to internal and external stakeholders the outcomes it is working towards, what the intended objectives and goals of those outcomes are and how its resources will be used to achieve those outcomes.

## **The SFRS's role as a public body**

As a public body, there are expectations and requirements placed on the SFRS in a range of areas.

The SFRS Board will provide strategic leadership for the SFRS, which will include ensuring the highest standards of governance are complied, that the SFRS complies with all Ministerial guidance, its Framework document and legislation, and that a Framework of prudent and effective controls is in place to enable risks to be assessed and managed. The Chief Officer role is to provide operational leadership to the SFRS and ensure that the Board's aims and objectives are met and its objectives are delivered.

The SFRS's planning should ensure clear alignment of priorities and objectives while being flexible enough to respond to differing local needs across Scotland and the changing demands of its operating environment. The SFRS should ensure employees fully understand their contribution to objectives and know what is expected of them as part of its planning and operational delivery processes.

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<sup>21</sup> Section 39A of the 2005 Act; inserted by section 113 of the 2012 Act.

<http://www.legislation.gov.uk/asp/2012/8/section/113>

<sup>22</sup> Scottish Fire and Rescue Service Governance and Accountability Framework Document 2013  
<http://www.gov.scot/Publications/2013/03/2213>



## Developing capacity

### Strategic Priority 10: People

The SFRS should aim to be an employer of choice – maximising the effectiveness of its approach to workforce planning; promoting the safety, health and well-being of all staff; and being a learning organisation with opportunities for all. The SFRS should also seek to be an organisation that is more representative of the people and communities of Scotland that it serves.

The SFRS should aim to have in place an appropriate workforce structure as well as systems which will prepare its employees, through robust and tailored development programmes, to develop their capability to meet current and future needs. In order to do this, the SFRS must invest in its current workforce and plan for the type of workforce it will need in the future.

The SFRS must consider what skills its workforce may need to acquire or develop further in order to maximise their contribution to the Service's transformation and to meet the changing needs of local communities. The SFRS must ensure that the competence of the workforce to deliver core duties is maintained at the same time as developing skills to meet the changing requirements of the services it delivers, thus maximising its ability to contribute to improved outcomes for the communities and people of Scotland.

As a learning organisation, the SFRS must identify opportunities for learning from its past actions, including operational incidents, and ensure that lessons learned become embedded in future behaviour. The SFRS should also work with other organisations to maximise learning and sharing of best practice, including joint multi-agency training for responding to a range of incidents.

The SFRS should continue to give the highest priority to the safety, health and well-being of its staff and those they serve and protect by encouraging a culture of health and well-being; and providing and maintaining systems to support and enhance well-being and safety at work. The SFRS ensure that it takes a collaborative approach to participation and involvement of employees and their representatives is undertaken when identifying, resolving and improving policy and related practice. This should ensure that workforce development, promoting health and well-being and harmonious industrial relations remain priorities.

### Equalities and Human Rights

The SFRS must, in terms of its obligations under the Human Rights Act (1998)<sup>23</sup> act in accordance with the European Convention for Human Rights. The SFRS must also comply with the Equality Act 2010<sup>24</sup> and the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012<sup>25</sup>. Under the general duty within the 2010 Act, the

<sup>23</sup> <http://www.legislation.gov.uk/ukpga/1998/42/section/6>

<sup>24</sup> <http://www.legislation.gov.uk/ukpga/2010/15/part/11/chapter/1>

<sup>25</sup> <http://www.legislation.gov.uk/sdsi/2012/9780111016718/contents>

SFRS must have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between different groups. The regulations further specify the actions public bodies are expected to take in aiming to meet this duty. The SFRS will ensure that its decision making and reporting demonstrates how equality issues are considered, including as an element of the SFRS's improvement processes.

The SFRS must ensure that equality issues have been mainstreamed across all functions of the Service. The SFRS must set, review and report on progress against equality outcomes designed to meet these aims of workforce diversity and mainstreaming of equality issues. Information on the profile of personnel across the protected characteristics must be monitored and reported on, together with other relevant information such as the gender pay gap and adherence to equal pay legislation. The SFRS should also continue to develop systems and processes that will ensure that the equality performance of suppliers is assessed through the procurement process. As part of its work to address equality issues, the SFRS should demonstrate progress on becoming a recognised Living Wage Employer and encourage the uptake of Modern Apprentices across the organisation in recognition of wider Scottish Government aspirations.

Building on the SFRS Equality and Diversity Charter, the SFRS should work towards achieving the Scottish Government's ambition of a fairer society with a more gender balanced operational workforce. The SFRS should promote workforce diversity through inclusive recruitment and retention practices and initiatives, including those which support youth employment and address gender balance, particularly in terms of senior management and Board roles.

There is clear consensus that increasing diversity in the Boardroom and in senior leadership encourages new and innovative thinking, maximises use of talent and leads to better business decisions and governance. The Scottish Government encourages public, private and third sector organisations to sign up to the Partnership for Change<sup>26</sup> and to set a voluntary commitment for gender balance on its Boards of 50/50 by 2020.

Succession planning is critical to ensure that Boards have the skills and diversity of contribution they need to address future challenges and priorities. A key challenge for the SFRS is to identify its Board's skills and diversity requirements over the medium and long-term as part of its corporate planning process, and develop a strategy for meeting these. Aligning the profile of skills of the Board members with the Strategic Plan will ensure that the Board has the right skills to deal with planned business as the work of the Service evolves; and importantly how the Service plans to ensure that happens. This may be through establishing a Nominations Committee to drive the succession planning work, or through a range of initiatives including mentoring, outreach, and establishing diversity champions.

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<sup>26</sup> <http://onescotland.org/equality-themes/5050-by-2020/>

## **Community Empowerment and Community Planning**

The Community Empowerment (Scotland) Act 2015 promotes and encourages community empowerment and participation, by creating new rights for community bodies and placing new duties on public authorities.

The Act places specific duties on statutory partner bodies, including to:

- prepare and publish a local outcomes improvement plan which sets out the local outcomes prioritised for improvement. participate with each other in carrying out community planning;
- take account of local outcomes improvement plans when carrying out their own functions; and
- contribute such funds, staff and other resources as the Community Planning Partnership (CPP) considers appropriate to improve local outcomes in the plan and to secure the participation of community bodies in community planning.

Community planning is a key driver for public service reform at local level. It brings together local public services and the communities they serve. It provides a focus for joint working, driven by strong shared leadership, directed towards distinctive local circumstances. This focused joint working provides powerful potential both to improve the lives of local people and address often deep-rooted causes of inequalities, and to use preventative approaches to manage future demands on crisis intervention services. The voices of communities themselves are integral to successful community planning.

The SFRS should view community planning as an opportunity to engage with a range of partners and pool collective resources in order to drive improvements in outcomes in which it has interests which may be both shared and interdependent.

## **Climate Change**

Under section 44 of the Climate Change (Scotland) Act 2009, public bodies are required to: carry out their activities and operations in ways which help contribute to the Scottish Government's headline emissions reduction targets; contribute to climate change adaptation; and act sustainably.

More recently, under section 46 of the Act, the Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Order 2015, listed the SFRS as a public body major player. This Order came into force on 23 November 2015 following public consultation and parliamentary scrutiny.

As a result, the SFRS is required to submit a report on compliance with the climate change duties annually. The first mandatory SFRS's report for the period 1 April 2015 to 31 March 2016 should be submitted to Scottish Ministers by 30 November 2016, and each reporting year thereafter. Responsibility for enabling and reporting compliance with the climate change duties rests with the SFRS.

In this context, public bodies are expected to lead by example in combatting the impacts of climate change and contribute to Scotland's ambitious emission reduction targets. It is therefore important that responsibility for driving forward the SFRS climate change action is allocated to a senior Board member to deliver through specific objectives in the corporate business plan to effectively manage overall business performance and compliance with the climate change duties.

## **Digital Strategy**

Digital technology is a key enabler of improved, user-centric public services. Building on our national digital public services strategy<sup>27</sup>, the Scottish Government is committed to increasing the pace of digital transformation of public services. Central to this is the development of a national digital ecosystem of shared infrastructure, services and standards, which will enable service improvements and operating efficiencies, allowing the public sector to focus their resources on improving front-line services. The SFRS should consider the Scottish Government's national digital public service strategy when taking forward any digital transformation plans within the Service.

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<sup>27</sup> <http://www.gov.scot/Publications/2012/09/6272>

### STRATEGIC PRIORITIES

#### Performance Measures

1. The SFRS must, in discussion with the Scottish Government, specify appropriate performance measures, to support its Strategic Plan, for the delivery of outcomes relating to the strategic priorities and objectives set out in this Framework.

#### Safety, Well-being and Prevention

2. The SFRS should fully contribute to improving the safety and well-being of Scotland's communities and embed a prevention focus within the Service. It should ensure that there is a clear process for working with partners to identify the risks faced by communities and individuals so that the SFRS can target activity where it can most effectively contribute to addressing inequalities within and between communities.

#### Response and Resilience

3. The SFRS should work with other public service partners to evolve a holistic and dynamic process of identification, evaluation and assessment of community risk and Best Value in order to prioritise and target its use of resources to ensure an appropriate response to incidents across Scotland and support improved outcomes for communities. As part of this approach, the SFRS should promote optimal command, control, communication and tri-service co-operation in response to incidents.

4. The SFRS should support effective multi-agency emergency planning and response including contributing fully to the work of Regional Resilience Partnerships (RRPs) in assessing risk, preparing and planning for, responding to and recovering from major and catastrophic incidents and threats. When working with other emergency responders, the SFRS should play a key role in building community resilience and protecting both Scottish and UK critical infrastructure assets.

#### Partnership

5. Community planning and partnership working with other services and communities should be embedded throughout the SFRS. Building on its existing 'Engagement Strategy', the SFRS should proactively seek collaborative opportunities and innovative ways of working in partnership with other blue light services/key stakeholders to improve outcomes for communities and should ensure effective stakeholder engagement in its approach to all its work including partnership working.

## **Service Transformation**

6. The SFRS should continue to ensure that the benefits of Fire Reform are fully realised, evidenced and tracked, and it should explore through service redesign new and innovative ways in which it can improve the safety and well-being of communities throughout Scotland by building on the traditional roles carried out by the Service.

## **Modernising Response**

7. The SFRS should develop and implement dynamic, innovative and sustainable operating systems throughout Scotland which are fit for purpose and meet local needs (covering both the RDS and whole-time firefighter work patterns).

## **Unwanted Fire Alarm Signals (UFAS)**

8. The SFRS should develop a process for recording the number of blue light journeys made in response to UFAS. The SFRS should also take steps to reduce the overall number of blue light vehicle journeys made in response to UFAS – including identifying the main sources of false alarms, and taking all reasonable and practical steps to reduce their incidence.

## **Effective Governance and Performance**

9. The SFRS should ensure it has an effective approach to performance management to support robust scrutiny of the service at national and local levels – this approach should be regularly reviewed and evaluated in pursuit of continuous improvement. It should also collect, produce and analyse data and other intelligence to promote the safety and well-being of communities, support operational efficiency and performance improvements (including its partnership contributions) and enable effective public reporting of performance.

## **People**

10. The SFRS should aim to be an employer of choice – maximising the effectiveness of its approach to workforce planning; promoting the safety, health and well-being of all staff; and being a learning organisation with opportunities for all. The SFRS should also seek to be an organisation that is more representative of the people and communities of Scotland that it serves.



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## Appendix 2

### Safer Communities Directorate

Fire and Rescue Division

John Nicholson

Head of Division

E:

fireframeworkconsultation@cov.scot

φκλμνοπθρ

Dear Consultee

### **FIRE AND RESCUE FRAMEWORK FOR SCOTLAND 2016 CONSULTATION**

This letter invites your views on the Fire and Rescue Framework for Scotland 2016 and its strategic key priorities. As part of this consultation exercise we are particularly interested in your views on the current Fire and Rescue Framework for Scotland 2013 Targets (Annex B) and if these targets should be amended or not.

The Fire and Rescue Framework for Scotland 2016 is the vehicle, established under the Fire (Scotland) Act 2005, as amended by the Police and Fire Reform (Scotland) Act 2012, through which Scottish Ministers set out priorities and objectives that the Scottish Fire and Rescue Service (SFRS) must have regard to in carrying out its functions, in terms of public safety, efficiency and effectiveness.

The 10 strategic key priorities within the 2016 Framework sets out Scottish Ministers' expectations of the SFRS and also seeks to provide guidance and support to the SFRS, setting in context the overarching purpose that the SFRS should adhere to in carrying out its functions.

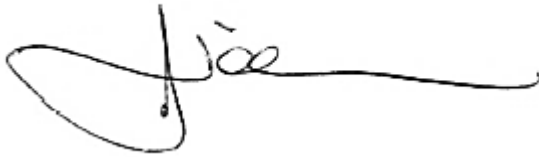
The respondent information form asks for your views concerning the following sections within the framework consultation document:

- Chapter 1 – Protecting Communities: Risk, Prevention and Response;
- Chapter 2 – The Evolving Role of the SFRS;
- Chapter 3 – Governance, Accountability and Performance; and
- The current Fire and Rescue Framework for Scotland 2013 targets (Annex B)

## Appendix 2

An Equality Impact Assessment and a Partial Business and Regulatory Impact Assessment are also available, and I welcome any comments you may have on each of these three documents.

Yours faithfully

A handwritten signature in black ink, appearing to read 'John Nicholson', with a long horizontal flourish extending to the right.

John Nicholson  
Head of Fire & Rescue Division  
Safer Communities Directorate

## Appendix 2

### Responding to this consultation paper

We are inviting written responses to this consultation paper by **15 June 2016**.  
**Please send your responses with the completed Respondent Information Form to:**

fireframeworkconsultation@gov.scot

or

Fire and Rescue Framework Scotland **2016** Consultation  
Fire and Rescue Division  
Area 1R  
St. Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

If you have any queries regarding the consultation please contact Richard Hastings on 0131 244 2388.

We would be grateful if you would use the consultation questionnaire provided or clearly indicate in your response which questions or part of the document that you are responding to as this will assist in our analysis of all the responses received.

This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at: <http://www.scotland.gov.uk/consultations>.

The Scottish Government has an email alert system for consultations, <http://register.scotland.gov.uk>. This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). It complements, but in no way replaces Scottish Government distribution lists, and is designed to allow stakeholders to keep up to date with all Scottish Government consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

### Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. **Please ensure you complete and return the Respondent Information Form which forms part of the consultation questionnaire.** This will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and treat it accordingly.

## **Appendix 2**

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

### **Next steps in the process**

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available to the public on the Scottish Government consultation web pages by **4 July 2016**.

### **What happens next?**

Following the closing date, all responses will be analysed and considered along with any other available evidence. We aim to issue a report on this consultation process by **15 August 2016**.

### **Comments and complaints**

If you have any comments about how this consultation exercise has been conducted, please send them to:

**Richard Hastings**  
Fire and Rescue Division  
Area 1R  
St. Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

**[Richard.Hastings@gov.scot](mailto:Richard.Hastings@gov.scot)**

# Appendix 2



## FIRE AND RESCUE FRAMEWORK FOR SCOTLAND 2016

### RESPONDENT INFORMATION FORM

**Please Note** this form **must** be returned with your response to ensure that we handle your response appropriately

#### 1. Name/Organisation

Scottish Borders Council

**Title** Mr  x Ms  Mrs  Miss  Dr  Please tick as appropriate

#### Surname

Scott

#### Forename

Douglas

#### 2. Postal Address

Scottish Borders Council

Newtown St Boswells

Roxburghshire

**Postcode** TD6 0SA

**Phone** 01835825155

**Email** dscott@scotborders.gov.uk

## Appendix 2

### 3. Permissions - I am responding as...

Individual / Group/Organisation	
<input type="checkbox"/>	<input type="checkbox"/>
Select appropriately	
<p><b>(a)</b> Do you agree to your response being made available to the public? (on the Scottish Government Consultation Hub)</p> <p><b>Please tick as appropriate</b></p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p><b>(c)</b> Do you agree to your organisation's <b>details</b> and <b>response</b> being made available to the public? (on the Scottish Government Consultation Hub)</p> <p><b>Please tick as appropriate</b></p> <p><input type="checkbox"/> Yes, publish my response and details</p> <p><input type="checkbox"/> No, do not publish my response</p>
<p><b>(b)</b> Please tick <b>ONE</b> of the following boxes</p> <p><input type="checkbox"/> Yes, make my response and name all available</p> <p><b>or</b></p> <p><input type="checkbox"/> Yes, make my response available without my name (anonymously)</p>	

## Appendix 2

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

**Please tick as appropriate**

**Yes**

**No**

## Appendix 2

### CONSULTATION QUESTIONS

1. Do you agree with the 10 strategic priorities attached in **Annex A** to the Fire and Rescue Framework for Scotland **2016**?

Yes  No  x

It is considered that there should be some prioritisation of the strategic priorities with the emphasis on outputs and outcomes related to those in Chapter One i.e. Protecting Communities: Risk, Prevention and Response.

Local Flexibility should be brought out as a strategic priority with the title of the priority extended to be called Supporting Local Accountability and Flexibility. This is because local relationships are absolutely crucial to the future of the Scottish Fire and Rescue service and the local service needs to be able to work and adapt to local needs and requirements with local authorities and other partners. The local service is accountable to the Local Scrutiny Board and this means that there needs to be a strong relationship between the local scrutiny and accountability arrangements and the national service. A Strategic Priority on Supporting Local Accountability and Flexibility would also recognise the role of the Scottish Fire and Rescue service as a statutory partner in community planning.

2. Do you agree with the text set out in the sections **Protecting Communities** and **Prevention and Protection**, in Chapter 1 of the Fire and Rescue Framework for Scotland **2016**?

Yes  x No

Prevention and protection are vital to the delivery of fire and rescue services.

3. Do you agree with the text set out in the section, **Responding to Incidents**, in Chapter 1 of the Fire and Rescue Framework for Scotland **2016**?

Yes  x No

It is important that the needs of rural regions such as the Scottish Borders are fully taken account of in the assessment of national and local risks and that this is fully recognised in the allocation of operational and specialist resources.

4. Do you agree with the text set out in the section **Managing Risk**, in Chapter 1 of the Fire and Rescue Framework for Scotland **2016**?

Yes  x No



## Appendix 2

See the response to Question 3

5. Do you agree with the text set out in the section, **Evidence Based Decision Making**, in Chapter 1 of the Fire and Rescue Framework for Scotland **2016**?

Yes  No

No further comments

6. Do you agree with the text set out in the section, **Working with Others**, in Chapter 1 of the Fire and Rescue Framework for Scotland **2016**?

Yes  No

More specific consideration should be given in this section on how the Scottish Fire and Rescue Service will respond to its leadership role as a statutory community planning partner in local areas. This would build on the section which referred to Community Planning in page 24.

7. Do you agree with the text set out in the section, **Local Flexibility**, in Chapter 1 of the Fire and Rescue Framework for Scotland **2016**?

Yes  No

As mentioned in answer to Question 1 Supporting Local Accountability and Flexibility needs to be recognised as a Strategic Priority. The need for a strong positive relationship between the delivery of national and local fire and rescue services together with effective scrutiny and accountability working arrangements related to this should be brought out in more detail in this Priority.

8. Do you agree with the text set out in the section, **Driving Improvement and Realising the Benefits of Fire Reform**, in Chapter 2 of the Fire and Rescue Framework for Scotland **2016**?

Yes  No

9. Do you agree with the text set out in the section, **The Future Role of the Firefighter: Productive use of Capacity**, in Chapter 2 of the Fire and Rescue Framework for Scotland **2016**?

Yes  No

There are significant opportunities to develop the wider role of firefighters as exemplified in the Scottish Borders with the trial to respond to cardiac arrests.

## Appendix 2

10. Do you agree with the text set out in the section, **Modernising Emergency Response**, in Chapter 2 of the Fire and Rescue Framework for Scotland **2016**?

Yes  x No

The needs and challenges of delivering services in rural areas and small towns should be fully recognised in terms of recruitment, training, staffing and resource allocations.

11. Do you agree with the text set out in the section, **Telecommunications Systems: Current and Future Use**, in Chapter 2 of the Fire and Rescue Framework for Scotland **2016**?

Yes  x No

It is important that the service supports the work going on to achieve comprehensive digital connectivity not just for emergency services but for the wider public to assist in the communication about emergency incidents.

12. Do you agree with the text set out in the section, **Unwanted Fire Alarm Signals**, in Chapter 2 of the Fire and Rescue Framework for Scotland **2016**?

Yes  x No

It is good to see recognition of this issue which has been discussed at various meetings of the Scottish Borders Police, Fire and Rescue and Safer Communities Board.

13. Do you agree with the text set out in the section, **Managing Performance**, in Chapter 3 of the Fire and Rescue Framework for Scotland **2016**?

Yes  x No

14. Do you agree with the text set out in the section, **Developing Capacity**, in Chapter 3 of the Fire and Rescue Framework for Scotland **2016**?

Yes  x No

It is considered the Developing the Young Workforce agenda presents opportunities for the Scottish Fire and Rescue service to develop relationships with secondary schools and colleges to attract young people to the service, particularly in rural regions such as the Scottish Borders.

## Appendix 2

15. Do you agree with the text set out in the section, **Equalities and Human Rights**, in Chapter 3 of the Fire and Rescue Framework for Scotland **2016**?

Yes x No

No comments

16. Do you agree with the text set out in the section, **Community Empowerment and Community Planning** in Chapter 3 of the Fire and Rescue Framework for Scotland **2016**?

Yes x No

This section needs to relate to Working with Others above in Question 6. It is considered that greater guidance needs to be given to local fire and rescue services about the role that they are expected to play as statutory partners in community planning i.e. clarification of the range of resources that might be 'pooled' including financial resources.

17. **Annex B** includes the 2013 Framework Targets and we would like to hear your views on whether these should be kept, dropped or amended. We would also like to hear if you think that any new targets should be added for example reduction of unwanted fire alarm signals or how better to measure the economic impact of non-domestic fires?

The targets remain reasonable. It is considered that a target for unwanted signals could be added.

### ANNEX B

#### FIRE FRAMEWORK FOR SCOTLAND 2013 – TARGETS

##### **1. Fire casualties**

Reduce the rate of fire fatalities and casualties (excluding precautionary checks) per million population by 5% a year based on the previous 3 year rolling average.

##### **2. Reducing special services casualties**

Based on a 3 year rolling average, reduce the rate of casualties and fatalities per million population, each year.

## Appendix 2

Special services to be included:

- Road Traffic Collision;
- other transport incident;
- flooding;
- rescue or evacuation from water; and
- other rescue/release of persons

### **3. Reducing the number of accidental dwelling fires by 10% each year**

Comparing a three year rolling average against the previous 3 year average, reduce the rate of accidental dwelling fires per 1,000 households by 10% each year.

Support the target with a measure of 'life risk accidental dwelling fires' – i.e. accidental dwelling fires where there was a casualty or fatality to show how the SFRS impacts the fires that matter.

### **4. Reducing the number of non-domestic fires**

Reduce the rate of non-domestic fires per 1,000 in other buildings from the previous year.

### **5. Reducing firefighter injuries**

Reduce the rate of injuries per staff member (headcount, including volunteers) each year.

Increase attendance – reduce the days lost to sickness so that SFRS at least matches the average of the best 4 pre-2013 fire and rescue services.

### **6. Improving attendance**

Reduce the rate of injuries per staff member (headcount, including volunteers) each year.

Increase attendance – reduce the days lost to sickness so that the SFRS at least matches the average of the best four pre-2013 fire and rescue services.



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## **CHANGES TO PROCUREMENT LEGISLATION – THE COUNCIL'S RESPONSE**

**Report by Chief Financial Officer**

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### **SCOTTISH BORDERS COUNCIL**

**29 June 2016**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 This report informs Members of the requirements and impact of the new Procurement Reform (Scotland) Act 2014 and the updated European Union Procurement Directives. The new legislation came into force on 18 April 2016, with some elements of the changes being phased during 2016.**
- 1.2 The overall ambition of the changes is to drive further procurement reform by establishing a national legislative framework for sustainable procurement, supporting economic growth by delivering economic, social and environmental benefits, supporting innovation and promoting processes and systems which are transparent, streamlined, standardised, proportionate, fair and business friendly.
- 1.3 In a number of these areas, the Council already operates in line with or beyond the practice proposed therefore existing governance achieves some of the requirements contained within the legislation.
- 1.4 However, the changes to the regulatory framework are complex and will require a significant amount of work, stakeholder engagement and training throughout 2016 to achieve full compliance by the end of the phased parts (December 2016).
- 1.5 This work creates a positive opportunity to dovetail with other governance changes required through the development of the new ERP system and, specifically, Internal Audit recommendations relating to Contract Management and associated new Standing Orders for Procurement.

#### **2 RECOMMENDATIONS**

- 2.1 It is recommended that Council;**
  - (a) Notes the update on the changes to procurement and the work underway to deliver a compliant service to the organisation;**

- (b) Approves the content of the general policy statements relating to Fair Working Practices and the Provision of Food;**
- (c) Approves the new Sustainable Procurement Charter and agrees for it to be published on the Council website and further distributed as appropriate; and**
- (d) Notes the development of a Corporate Contract Management approach which, in due course, will form part of new Procurement & Contract Standing Orders.**

### **3 BACKGROUND**

- 3.1 The main elements of new legislation relating to the new Procurement Reform (Scotland) Act 2014 (the Act) and the new European Union Procurement Directives 2014 come into force on 18 April 2016.
- 3.2 The new and complex legal framework for procurement comprises the Public Contracts (Scotland) Regulations 2015 (which bring the EU directives into Scottish legislation), the Reform Act (as noted above) and the Procurement (Scotland) Regulations 2016.
- 3.3 The Scottish Government policy basis sets the reform of procurement legislation in the context of delivering sustainable economic growth, using the power of public spending to deliver greater public value, driving efficiencies and helping public bodies achieve their overarching purpose and strategic objectives.

### **4 THE EUROPEAN UNION PUBLIC CONTRACT DIRECTIVE 2014**

- 4.1 The new rules brought in through the new Directives support making public procurement faster, less costly and more effective for businesses and procurers alike.
- 4.2 Directive 2014/24/EU is brought into Scottish legislation through The Public Contracts (Scotland) Regulations 2015.
- 4.3 There are a number of new requirements and other key changes including:
  - (a) The introduction of supplier self-declaration through the ESPD (European Single Procurement Document);
  - (b) Preliminary market consultation to shorten the process and to improve specifications and associated outcomes;
  - (c) A relaxation of the constraints around the negotiated procedure;
  - (d) Removal of the distinction between Part A & Part B, with the introduction of a new light touch regime for Social Care, Health and some other services;
  - (e) A new procedure – the Innovation Partnership, to allow scope for more innovative ideas to be considered through a partnership with the authority to, for instance, develop a new service;
  - (f) A reduction in minimum timescales – to speed up simple procurements;
  - (g) Full electronic communication mandatory by October 2018;
  - (h) Full life cycle costs can be taken into account when awarding contracts;
  - (i) Price cannot be the sole basis for the award of a contract.

### **5 THE PROCUREMENT REFORM (SCOTLAND) ACT 2014**

- 5.1 This new Act enhances the delivery of sustainable public procurement in support of Scotland and the local areas economic growth, through statutory

consideration of social and environmental benefits, innovation and the promotion of public procurement processes that are transparent, streamlined, fair and business friendly.

5.2 The Act introduces a second layer of legislation into Scottish procurement beyond the EU Directives and this means new rules on lower value contracts. These thresholds will result in a greater proportion of Council contracts coming under regulation.

5.3 The Act includes two new statutory duties for procurement activities – a general duty and a sustainable procurement duty. A new defined term of “regulated contract” will be used to describe those contracts where the provisions of the Act apply. A “regulated” contract is created when the estimated value exceeds thresholds set by the Scottish Government.

5.4 The current thresholds are:

Type of Contract	Total Estimated Value of Contract
Good and Services	£50,000
Works	£2,000,000

5.5 The duties are:

- (a) A “general duty” (echoing fundamental EU Treaty principles) to treat economic operators equally and without discrimination, and to act in a transparent and proportionate manner;
- (b) A “sustainable procurement duty”, aimed at improving economic, social and environmental wellbeing, while boosting small/medium enterprises (SMEs), third sector and supported business involvement, and promoting innovation.

5.6 The Act creates other new obligations for contracting authorities. These include:

- (a) A requirement to maintain and publish online a contracts register for all regulated contracts;
- (b) The preparation and publishing of an annual procurement strategy setting out how the Council intends to carry out its regulated procurements and including various statements of policy across a range of matters including:
  - (i) Community benefits;
  - (ii) Fair Work Practices including the Living Wage;
  - (iii) Consulting and engaging with those affected by its procurements;
  - (iv) Compliance with Health and Safety legislation;
  - (v) Fairly and ethically traded goods and services.
- (c) The preparation and publishing of an annual procurement report, to include a summary of contracts awarded, a review of how these contracts have complied with the procurement strategy, a summary of any community benefit requirements imposed, a summary of steps taken to facilitate the involvement of supported businesses and a summary of the regulated procurements the Council expects to commence in the next two financial years.



- (d) Compliance with specific rules relating to community benefits. These rules apply to all regulated procurements with an estimated contract value in excess of £4 million.
- 5.7 A number of commencement orders relating to the Reform Act have already come into force. The first created statutory guidance to "*Address Fair Work Practices, including the Living Wage, in Procurement*" was issued in October 2015. This guidance requires consideration of a bidder's approach to Fair Work Practices where those practices may have a direct impact on the quality of the service or performance of the contract.
- 5.8 A full suite of statutory guidance covering the full Act has now been published by the Scottish Government describing what is required of contracting authorities when undertaking regulated procurement activities. This extensive guidance will be fully reviewed as part of the work required over the coming months.

## **6 THE PROCUREMENT (SCOTLAND) REGULATIONS 2016**

- 6.1 The final set of new regulations makes further provisions for regulated contracts under the Reform Act.
- 6.2 The aim of this third piece of legislation is to mirror some of the requirements of the EU Directives with "regulated" contracts created through the Reform Act.
- 6.3 The main areas include:
- (a) The calculation of the estimated value of a contract and the circumstances in which such a contract can be awarded without seeking offers;
  - (b) What constitutes a health or social care service;
  - (c) The requirements for the publication of notices on the Public Contracts Scotland advertising portal;
  - (d) Requirements for mandatory exclusion relating to criminal activity, as well as in cases of blacklisting.

## **7 TRAINING & DEVELOPMENT**

- 7.1 For procurement professionals, the Scottish Government has developed a comprehensive e-learning reference pack which has been designed with a dual purpose: it provides detailed information on the key changes to Procurement Legislation in Scotland and is a reference pack for on-going use. Each member of the Procurement team has completed this training.
- 7.2 In addition, face-to-face seminars are taking place for public sector purchasers. These seminars are targeted at professional procurement officers within Scottish public bodies. Again, the team are all booked onto one of the available courses.
- 7.3 Once the formal training is fully delivered, the Procurement Service will arrange to develop and deliver workshops to those colleagues across the organisation that have responsibility for purchasing goods, services or

works on behalf of the organisation.

- 7.4 Consideration will be given to keeping the Council's suppliers informed about the changes to legislation particularly around any subsequent impact on the Councils processes.

## **8 THE IMPACT OF THE CHANGES**

- 8.1 As previously noted, more contracts will come into the scope of the regulation. The wide ranging nature of the new legislative framework means that there is significant amount of work to do to adopt the changes into the organisation. An action plan is being developed to bring together the various strands of work required.
- 8.2 This plan will comprise:
- (a) A full review of the legislation and supporting statutory guidance;
  - (b) Consideration of the associated changes to existing internal procedures and processes;
  - (c) Reporting and approval of any proposed changes to governance, including procurement threshold levels (see 8.3);
  - (d) Publishing a new contract register (by 18 April 2016);
  - (e) Provision of information and training to colleagues;
  - (f) Internal and external stakeholder consultation on a new Procurement Strategy;
  - (g) Reporting mechanism to produce a new annual procurement report – based on compliance with the content and ambitions of the Procurement Strategy.
- 8.3 All changes will require to be reflected in the overarching governance across the Scheme of Delegation, Council Standing Orders (including procurement thresholds) and Financial Regulations.
- 8.4 While the main date for adoption is 18 April 2016, two requirements of the Reform Act are being phased. The Sustainable Procurement Duty is to commence from 1 June 2016 and the new approach to the Council's Procurement Strategy is due for December 2016.
- 8.5 The external procedural changes will be adopted by the Procurement Service and applied to all new procurement projects after 18 April.
- 8.6 There is an opportunity to consider the governance changes alongside the development of the new ERP system. This approach will allow one set of updates to the overarching documents including the Scheme of Delegation, Standing Orders and Financial Regulations.
- 8.7 The new procurement landscape also creates an opportunity to move forward a new corporate approach to contract management within the context of these new regulations, the new ERP system and the Transformation Programme projects.

## **9 SUSTAINABLE PROCUREMENT CHARTER**

- 9.1 The Council has an existing and strong commitment to sustainable procurement with a clear policy introduced in 2012. There are further policies and standards in place to make sure the Council works in an ethical, responsible and sustainable way.
- 9.2 A new Sustainable Procurement Charter, building upon the clear benefits of such an approach, has been developed to play a key role in the promotion of social, economic and environmental best practice. It is intended that this charter will be an important part of a new Procurement Strategy as it will lay out the Council's position for a number of the areas required by the Act.
- 9.3 The charter will become an integral part of the Council's procurement approach and will support compliance with the new sustainable procurement duty required from June 2016. It will outline the Council's commitment to suppliers in terms of its own practices – such as payment terms and the principles and standards that are sought from suppliers – such as Health & Safety, Equalities and Data Protection considerations.
- 9.4 With the exception of two areas all content is drawn from existing policy statements. No policy position currently exists for the headings "Fair Working Practices" and "The Provision of Food".
- 9.5 Following discussion with colleagues across the organisation, a position statement for Fair Working Practices (including the Living Wage) has been developed and is included in the Charter (provided as separate document) for consideration. A similar approach, through engagement directly with the Catering Manager, has resulted in the development of the statement relating to the strategy underpinning food procurement.
- 9.6 While Procurement legislation does not allow for the mandating of the Scottish Living Wage, public bodies can encourage it. This includes exploring ways in which the Council might encourage contractors to commit to the Living Wage as part of a procurement process, while remaining within the rules.
- 9.7 The Council has previously agreed a position of encouraging payment of the Living Wage by partners and suppliers alike, subject to overall affordability and value for money considerations.

## **10 CORPORATE CONTRACT MANAGEMENT**

- 10.1 The potential benefits of improving contract management arrangements have been identified as part of the wider Transformation Programme.
- 10.2 A recent Internal Audit Report contains recommendations relating to the production of a business case for Corporate Contract Management and for any new arrangements to be brought into corporate governance through the development of a new set of Procurement and Contract Standing Orders.

- 10.3 Undertaking the work required to review contract management arrangements during the development of the ERP system will have the benefit of bringing into force a single new set of local rules around procurement and contract management in line with new ways of working.
- 10.4 Effective contract management can deliver many benefits; not least ensuring suppliers meet their contractual obligations, identify and so manage risks, achieve savings and create a cycle of continuous improvement during the lifetime of a contract.

## **11 CHANGES TO THE PROCUREMENT ASSESSMENT FRAMEWORK**

- 11.1 A new procurement assessment framework has been developed by the Scottish Government. The new framework (replacing the Procurement Capability Assessment – PCA) is the Procurement and Commercial Improvement Programme (PCIP).
- 11.2 Historically, the Council has performed well under the PCA, achieving 65% for the final assessment in 2014. The main areas identified for improvement were contract management and performance reporting.
- 11.3 The new PCIP focuses more on the policies and procedures driving procurement performance and the results they deliver. Key points to note are:
- (a) Organisations will be assessed every two years;
  - (b) New question set will be used across four themes;
  - (c) New scoring and Performance Bandings;
  - (d) The assessment results will not be comparable in any way to the previous Procurement Capability Assessment (2009-2014);
  - (e) New Assessment methodology, including information being submitted and assessed in advance of the assessment day.
- 11.4 The Council's assessment date is scheduled for 20 September 2016.

## **12 IMPLICATIONS**

### **12.1 Financial**

There are no direct costs attached to any of the recommendations contained in this report.

### **12.2 Risk and Mitigations**

- (a) Delivering the changes noted in this report will ensure the Council remains compliant with the new procurement legislation and the associated statutory guidance.
- (b) Delivering sustainable contracts will reduce service delivery risk.
- (c) Developing and adopting a corporate contract management approach will ensure the appropriate monitoring of contracts.

### **12.3 Equalities**

An Equalities Impact Assessment has been carried out by the Scottish

Government on the changes to Procurement. A separate assessment will be undertaken on the Sustainable Procurement Charter and it is anticipated that there will be no adverse equality implications.

**12.4 Acting Sustainably**

The proposal contained in this report will generate greater social, environmental and economic benefits, through effective, efficient and sustainable procurement.

**12.5 Carbon Management**

The proposal contained in this report should have a positive impact on carbon management through effective, efficient and sustainable procurement.

**12.6 Rural Proofing**

There is no impact on rural areas contained in the recommendations in this report.

**12.7 Changes to Scheme of Administration or Scheme of Delegation**

Not at this time.

**13 CONSULTATION**

13.1 The Corporate Transformation and Services Director, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR and the Clerk to the Council have been consulted and any comments received have been incorporated into the final report.

**Approved by**

**David Robertson**  
**Chief Financial Officer**

**Signature .....**

**Author(s)**

Name	Designation and Contact Number
Kathryn Dickson	Procurement & Payment Services Manager 01835 826646

**Background Papers:**  
**Previous Minute Reference:**

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Kathryn Dickson can also give information on other language translations as well as providing additional copies.

Contact us at 01835 826646, [kathryn.dickson@scotborders.gov.uk](mailto:kathryn.dickson@scotborders.gov.uk)

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## **FINANCIAL REGULATIONS**

### **Report by the Chief Financial Officer**

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## **SCOTTISH BORDERS COUNCIL**

**29 JUNE 2016**

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### **1 PURPOSE AND SUMMARY**

- 1.1 **This report seeks members' approval for an updated version of the Council's Financial Regulations.**
- 1.2 Financial Regulations are a key element in the governance arrangements for the Council. They focus primarily on the financial control, management and administration of the Council's financial affairs. The Regulations were last comprehensively reviewed in March 2012.
- 1.3 Updates to the Financial Regulations reflect:
- Corporate restructuring
  - Amendments to the Council's Scheme of Administration
  - Recognition of the Council's subsidiary organisations
  - Reference to the HR People Planning process
  - The inclusion of an "Employee Responsibilities" section
- 1.4 Generally the Regulations have been brought up to date to reflect changes in management responsibilities and procedures. There are no substantial changes in terms of the principles behind the Regulations or the control arrangements currently in place. Changes to systems, business processes and procedures and ways of working following the implementation of the new ERP system will require a further update of financial regulations to ensure these remain fit for purpose in the new operating environment.

### **2 RECOMMENDATIONS**

- 2.1 **It is recommended that Scottish Borders Council approves the revised Financial Regulations shown at Appendix 1 for immediate implementation.**

### **3 BACKGROUND**

- 3.1 Section 95 of the Local Government (Scotland) Act 1973 places a duty on every Local Authority to "make arrangements for the proper administration of their financial affairs". One of the key ways in which the Council discharges that duty is to establish a framework for the financial control, management and administration of the Council's affairs; this is done through the Financial Regulations. The Council's Procedural Standing Orders require these to be approved by Council.
- 3.2 For the purpose of completeness the other main documents which identify the Council's overall governance arrangements are:
- Procedural Standing Orders
  - Scheme of Administration
  - Scheme of Delegation
  - Local Code of Corporate Governance

### **4 AMENDMENTS TO FINANCIAL REGULATIONS**

- 4.1 The last comprehensive review of Financial Regulations took place in March 2012. Since then there has been some significant restructuring within the Council and an associated need to reflect this in the Financial Regulations, along with a more general need to update certain elements of the Regulations. The main changes are highlighted below.
- 4.2 **Corporate Restructuring**  
The revised Corporate Management team structure including the Executive Team and Service Directors has been reflected in the Financial Regulations.
- 4.3 **Amendments to the Council's Scheme of Delegation**  
Changes made to the Council's Scheme of Delegation have been reflected in the Financial Regulations.
- 4.4 **Recognition of the Council's Subsidiary Organisations**  
Clarity is provided that compliance with the Council's Financial Regulations is mandatory for employees of the Council's subsidiary organisations.
- 4.5 **Reference to the HR People Planning process**  
HR team has implemented a People Planning process which is referred to in the Financial Regulations. The People Planning process aims to support managers to consider the current workforce make-up, think about where they will be in the coming years and plan ahead to manage changes effectively.
- 4.6 **The inclusion of an "Employee Responsibilities" section**  
A new section on "Employee Responsibilities" has been added at Section 29 of the Financial Regulations. This section provides clarity on what action an employee must take if they become aware of any breach of the Council's Financial Regulations.
- 4.7 Generally the Regulations have been brought up to date to reflect changes in management responsibilities and procedures. There are no substantial



changes in terms of the principles behind the Regulations or the control arrangements currently in place.

- 4.8 The Council is currently implementing a new Enterprise Resource Planning (ERP) System, "Business World", with CGI. This will go live on 1 April 2017 and will require substantive change to the way in which financial and business administration is conducted across the Council. The new system will see a very significant change in officer responsibilities, business processes, methods of working and the way in which the Council's business support function is organised. The new ERP system will consequently require a further comprehensive update of financial regulations to ensure these remain fit for purpose in the new operating environment.

## **5 IMPLICATIONS**

### **5.1 Financial**

There are no direct financial implications attached to any of the recommendations contained in this report.

### **5.2 Risk and Mitigations**

Financial Regulations provide the framework for the control, management and administration of the Council's financial affairs. As such, assuming compliance, they mitigate against a number of financial risks via a series of control measures, most of which are vested in the Chief Financial Officer (and by implication the staff and systems deployed by him).

### **5.3 Equalities**

It is anticipated there will be no adverse impact due to race, disability, gender, age, sexual orientation or religion/belief arising from the proposals contained in this report.

### **5.4 Acting Sustainably**

There are no economic, social or environmental effects.

### **5.5 Carbon Management**

There are no effects on carbon emissions.

### **5.6 Rural Proofing**

There are no direct effects.

### **5.7 Changes Scheme of Administration or Scheme of Delegation**

No changes are required as a result of this report. The Financial Regulations in the appendix to this report have been updated in part to align with the current approved Scheme of Administration and Scheme of Delegation.

## **6 CONSULTATION**

- 6.1 The Corporate Management team considered this report on the 11<sup>th</sup> May 2016.
- 6.2 The Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit & Risk, the Chief Officer HR and the Clerk to the Council are being consulted and any comments will be reflected in the report.

**Approved by**

**David Robertson**  
**Chief Financial Officer**

**Signature .....**

**Author(s)**

Name	Designation and Contact Number
Suzy Douglas	Financial Services Manager

**Background Papers:** - Scottish Borders Council, 29 March 2012

**Previous Minute Reference:** N/A

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Finance can also give information on other language translations as well as providing additional copies.

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# APPENDIX 1

## Scottish Borders Council

# FINANCIAL REGULATIONS

January 2016

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## 1. INTRODUCTION

1.1 Section 95 of the Local Government (Scotland) Act 1973 states that:-

*“every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that the proper officer of the authority has responsibility for the administration of those affairs.”*

These Financial Regulations (hereinafter referred to as the “Regulations”) fulfil this requirement by setting out the responsibilities of the Chief Financial Officer as the proper officer with responsibility for the administration of the Council’s Financial Affairs, known as the Section 95 Officer, along with the responsibilities of members of the Executive Team, Service Directors and staff and by providing a mandatory framework for financial administration in Scottish Borders Council.

The Chief Financial officer carries out this role with regard to the CIPFA guidance contained in “The Role of the Chief Financial Officer in Local Government”

1.2 Compliance with these Regulations is mandatory for all employees of the Council, employees of its subsidiary organisations and, where referred to, Elected Members. The Executive Team and Service Directors are responsible for ensuring that:-

- (a) all employees are aware of their respective duties and responsibilities under these Regulations;
- (b) where appropriate, job descriptions reflect the requirements of these Regulations; and
- (c) where appropriate, staff receive copies of or extracts from these Regulations.

**The Chief Executive is responsible for ensuring that Elected Members are aware of their duties and responsibilities under these Regulations.**

1.3 Failure to comply with any requirement of these Regulations may result in the matter being dealt with under the Council’s disciplinary procedures.

## 2. PRINCIPLES

2.1 The financial affairs of the Council shall at all times be conducted in accordance with the three principles of corporate governance set out in The Cadbury Report and CIPFA/SOLACE Guidance on Corporate Governance, namely:-

Openness – in terms of approach and disclosure of information;  
Integrity – straightforward dealing and completeness;  
Accountability – whereby individuals accept responsibility for their actions.

2.2 It is also a requirement of these Regulations that financial transactions do not take place unless they fall within the legal powers of the Council. Where new service developments or contributions to other organisations arise or in cases of doubt, clarification as to legality must be obtained from the Chief Legal Officer or his representative before any liability or expenditure is incurred.

### **3. ROLE OF THE CHIEF FINANCIAL OFFICER**

- 3.1 The Council's Corporate Management Team has to ensure that, as custodians of public money, the Council performs and accounts for its financial activities in an honest, legal and trustworthy manner in accordance with best accounting practice.
- 3.2 The Council has designated the Chief Financial Officer as the officer responsible for the administration of the Council's financial affairs in terms of Section 95 of the Local Government (Scotland) Act 1973. This means he is entitled to issue, and require compliance with, instructions on any aspect of financial management or administration. He, or anyone so delegated by him, may examine administration and control systems within Services and secure any improvements which he considers necessary. He also has the authority to instigate investigations and comment on matters of economy, efficiency or effectiveness of any practices or procedures, existing or proposed.
- 3.3 The Local Authority Accounts (Scotland) Regulations 1985 specify that the system of accounting control and the form of the accounts and supporting records are to be determined by the Chief Financial Officer and that he is to ensure accounting controls are observed and the accounts and supporting records are kept up to date. This includes all of the financial systems which support this process. He is responsible for publishing the Annual Accounts of the Council and attendant information, and for making the arrangements for the statutory audit required by Section 96 of the Local Government (Scotland) Act 1973.
- 3.4 CIPFA guidance 'Delivering Good Governance in Local Government' recommends that the review of effectiveness of internal control should be reported in an Annual Governance Statement, and the Council's Annual Accounts will include a Statement on the System of Internal Control and Governance. In order to inform that statement, The Executive Team will be required to provide certain assurances regarding the internal financial controls operating in their departments. The Executive Team in turn may require similar assurances from Service Directors.
- 3.5 In terms of a management role, the Chief Financial Officer is responsible for advising the Council, its Committees, the Chief Executive, Depute Chief Executives and Service Directors on all financial matters and for monitoring and reporting on financial performance and the Council's overall financial position. It is a requirement of these Regulations that his views are canvassed and he is given the opportunity to express these in any report to the Council or any of its Committees which affects the Council's finances. He must also be granted access to any information and be given such explanations as required to assist him to comply with his responsibilities.

### **4. DEFINITIONS**

- 4.1 In these Regulations:-

"Executive Team" means the Chief Executive and the Depute Chief Executive for People, Depute Chief Executive for Place and the Corporate Transformation & Services Director.

“Service Directors means:-

Chief Executive’s

Joint Director of Public Health  
Chief Financial Officer (Section 95 Officer)  
Chief Officer Human Resources

People

Chief Social Work Officer  
Service Director Children & Young People  
Chief Officer Health and Social Care Integration

Place

Service Director Neighbourhood Services  
Service Director Assets and Infrastructure  
Service Director Regulatory Services (Monitoring Officer)  
Chief Officer - Roads

“Management Team” means the Council’s Corporate Management Team comprising the Executive Team and Service Directors.

“CIPFA” means the Chartered Institute of Public Finance and Accountancy.

“Employees” means all staff directly employed by the Council (including teaching staff) and agency and similarly contracted persons.

“Budget Head” means each line in the Revenue or Capital Financial Plan as appropriate approved by the Council each year. In addition, “Budget Head” means each line within a block allocation, where appropriate, within the Capital Financial Plan.

“Capital Expenditure” is defined in Appendix 1. Where there are areas of doubt, the Chief Financial Officer shall determine whether an item of expenditure is to be classed as capital or revenue, with reference to proper accounting practice.

“Executive Committee” means the Executive Committee of the Council established under the Council’s Scheme of Administration.

“He”, “Him” or “His” should be construed as “She”, “Her” or “Hers” where the postholder referred to is female.

“Executive Member” means the Elected Members appointed as such by the Council from time to time.

“Asset” means any land, building, plant, vehicle, machinery, equipment, computer hardware or software, furniture or fittings used or proposed to be used in the delivery of services.

“Trading Organisations” means the Roads Trading Operation (SBContracts)

“Monitoring Officer” is defined by the Local Government and Housing Act 1989. The role is undertaken by the Service Director Regulatory Services (or such other Officer so designated by the Council from time to time).

## **5. FINANCIAL ADMINISTRATION**

- 5.1 The Executive Committee is responsible for advising the Council on the regulation and control of the finances of the Council. This is carried out through regular revenue and capital budgetary control reports to the Executive Committee and by annually providing Council with five year revenue and ten year capital financial plans.
- 5.2 The Chief Financial Officer is, for the purposes of Section 95 of the Local Government (Scotland) Act 1973, responsible for the proper administration of the Council's financial affairs.
- 5.3 As the Council's financial adviser, the Chief Financial Officer will ensure that a report is made to the Council, at least annually, with respect to the level of financial resources for revenue and capital estimated to be available in each financial year. In addition, reports will be made to Executive Committee:-
- 3 times in each financial year (normally August, November and February) with respect to the financial performance of each Service and Trading Organisation against approved revenue and capital budgets, together with the overall position for the Council.
  - As at each financial year end, showing the final outturn position for revenue and capital.
- 5.4 The Council is responsible for advising on the making and amending from time to time of such Financial Regulations as it considers necessary and desirable for the maintenance, supervision and control of the financial affairs of the Council.
- 5.5 The Executive team and Service Directors are responsible for ensuring the security, custody and control of all resources including employees, plant and equipment, buildings and furnishings, materials, cash and stores appertaining to their department.
- 5.6 Service Directors must consult the Chief Financial Officer with respect to any matter covered under 5.7 below or any other matter which may significantly impact financially upon the Service concerned, the Council itself or the Council's ability to meet its financial obligations before any commitment is incurred.
- 5.7 Where a Service proposes -
- a new policy; or
  - a variation of existing policy; or
  - a variation in the means or time-scale of implementing existing policy
- which affects or may affect the Council's finances, the appropriate Service Director must submit a report to the Executive Committee which may report thereon to the Council.

## **6. FINANCIAL PLANNING**

- 6.1 Following consultation with the Chief Executive the Chief Financial Officer will, in sufficient time each year, intimate to the Management Team the arrangements for the preparation of capital and revenue financial plans, which shall be consistent with



and form an integral part of the Council's overall Corporate and Business Planning and people planning process.

- 6.2 The Management Team will lead the review of the Financial Planning resource and development of a 5 year Revenue and 10 year capital plan to deliver the priorities set out in the Council's Corporate Plan. This ensures a long term approach to financial planning to identify challenges and opportunities facing the Council. To ensure that the Council's financial plan remains affordable the Management Team will continue to review the assumptions made in the financial plans through out the year.
- 6.2 The detailed form of the capital and revenue financial plans will be determined by the Chief Financial Officer and be in accordance with any general directions given by the Council.
- 6.3 The Executive Team, Service Directors, Elected Members and the Chief Financial Officer, will ensure that they fully participate in the preparation of capital and revenue financial plans for their Services in accordance with the processes and directions referred to in 6.1 and 6.2 above.
- 6.4 The 10 year capital plan will consist of a 3 year operational plan and 7 year strategic plan, as approved by Members.
- 6.5 The revenue budget will consist of a 5 year medium term revenue plan to support the delivery of a 1 year budget and 2-5 year indicative plans to support longer term decision making. The revenue financial plan will show the movement between financial years as well as service pressures, developments and efficiencies.
- 6.6 The Chief Financial Officer will report to the Administration Finance & Resources Working Group (AFRWG) and ultimately the Council on the aggregate effect of the capital and revenue financial plans on the Council's financial resources. Each Member of the Council will be provided with a copy of the proposed Financial Strategy, capital and revenue financial plans together with a statement by the Chief Financial Officer of their effect on the Council's finances and the recommended or optional levels of Council Tax to be levied.

## **7. BUDGETARY CONTROL**

### **General**

- 7.1 The Chief Financial Officer will provide Service Directors with on-line access to the Council's Financial Information System and/or with periodic statements to facilitate the management of their Services' financial affairs. The Chief Financial Officer will assist Service Directors with financial management information needs including identifying changing requirements and possible ways of meeting them.
- 7.2 It is the responsibility of the Executive Team, in consultation with the Chief Financial Officer, to ensure that the financial performance of the Services and those budget heads for which they are responsible, are properly managed and monitored and that expenditure and income are managed within approved budgets.
- 7.3 The Executive will provide a challenge and oversight role in the delivery of the Capital Financial Plan and to ensure it is delivered within the agreed capital investment principles. This will include making recommendations to Council on proposed changes to the Plan where appropriate. The capital investment principles underpinning the Capital Financial Plan are shown at Appendix 2.

- 7.4 Each Service Director shall monitor and regulate the financial performance of his Service so as to:-
- ensure that actual expenditure committed and actual income receivable are within approved budgets;
  - achieve such other financial targets as may be imposed by the Council, the Executive Committee, the Administration Finance & Resources Working Group, the Chief Executive or the Chief Financial Officer.
- 7.5 The Executive Team and Service Directors shall comply with procedures determined from time to time by the Council, the Executive Committee, the Chief Executive or the Chief Financial Officer, including the Revenue and Capital Budgetary Control Codes of Practice available on the Intranet, with regard to the preparation of budget monitoring reports for presentation to the Executive Committee as appropriate. Such procedures may include the style and content of such reports, the definition of consultations required and the timetable to be adopted.
- 7.6 The Executive Committee will keep the Council informed as to the state of the Council's finances and nothing in these Regulations will limit the right of the Executive Committee to recommend to the Council such changes to Service budgets as it may deem appropriate. For the avoidance of doubt such changes may be either of general application or particular to specific budget heads or to specific services.
- 7.7 Nothing in these Regulations will prevent the incurring of expenditure which is essential to meet any immediate needs created by an emergency, subject to the action conforming to the Council's emergency procedures defined in Standing Order 53 (which can be found on Intranet and various Emergency Planning and Business Continuity Plans) and being reported to the next appropriate Executive Committee meeting together with proposals for funding that expenditure.

## **Revenue**

- 7.8 The inclusion of any item of expenditure in an approved revenue budget will allow the relevant Service Directors to incur such expenditure subject to compliance with any regulations, procedures, etc approved by the Council, the Executive Committee, the Chief Executive or the Chief Financial Officer which may from time to time be in force.
- 7.9 Except in accordance with the scheme of virement specified at 7.10 and the arrangements for earmarked balances at 7.12, a service may not commit or incur expenditure which cannot be met from the amount currently available in the revenue budget under a budget head to which that expenditure should be charged.
- 7.10 Subject to the procedures detailed below, Service Directors may authorise virement where the budget heads involved are to be varied by not more than the greater of £5,000 or 10% of the original approved budget for each budget head subject to a maximum of £100,000 in any financial year. The Executive Committee may sanction virements in excess of these limits as set out in the Scheme of Delegation.
- 7.11 All virements must be advised to the Chief Financial Officer using the appropriate documentation and must comply with the defined procedures (available on the intranet).

7.12 If as at 31 March in any financial year an underspending has arisen on a revenue budget head, such underspend may be carried forward as an earmarked balance to a subsequent financial year subject to:

- the reason for the underspend being identified before 31 March;
- the nature and amount of the proposed earmarked balance being approved by the Executive Committee before 31 March; and
- no overspend existing within the relevant Department

From time to time the Executive Committee may:-

- determine the relevant budget heads to which this regulation applies:
- suspend the operation of this Regulation.

Nothing in this regulation shall obviate the need to comply with the scheme of virement detailed at 7.10 during a financial year.

7.13 The Trading Organisations of the Council will be exempt from Financial Regulations 7.8, 7.9 7.10 and 7.11 subject to their compliance with any regulations and procedures determined by the Council or the Executive Committee for the control of their operations and to their meeting any financial targets specified by the Council and the statutory financial targets in force from time to time and not leading to any increased costs chargeable to the Council client during any financial year. For the avoidance of doubt, the remainder of these Financial Regulations shall apply to trading organisations.

7.14 Regulations 7.9, 7.10, 7.11 and 7.12 will not apply to expenditure and income managed by School Head Teachers in terms of the Council's Scheme of Devolved School Management. For the avoidance of doubt, the remainder of these Financial Regulations shall apply to schools.

## **Capital**

7.15 The approval by the Council of the Capital Programme prior to the commencement of each financial year shall be taken as approval for the individual projects or expenditures included therein. For spending blocks within the programme, detailed spending plans will be presented to the Executive Committee for approval. The Service Director Assets & Infrastructure may incur expenditure included in the programme (and where appropriate, blocks) without further reference to the Council provided that:-

- the scope and phasing of the project remains in accordance with the detailed proposals previously approved by the Council
- the Executive Committee has approved detailed plans for spending block allocations; and
- the expenditure on the project in each year of the Programme will not exceed the amounts approved by the Council.

7.16 Subject to the procedures set out below, the Service Director Assets & Infrastructure may in consultation with the Chief Financial Officer authorise a virement between capital budget heads for up to £50,000 or 10% of the approved budget. For clarity, the interpretation of budget head in relation to block allocations will be the block allocation lines as reported to Executive Committee – NB allocations of up to £50,000 or 10% between projects within approved block programmes is therefore permissible without prior Executive approval. All Virements approved will however be reported to the next Executive Committee.

7.17 If at 31 March in any financial year an overspend has arisen on a project budget due to acceleration of project timescales, the approved project budget for the subsequent financial year shall be decreased to the full extent of such overspending. Monitoring reports will include the total budgeted cost of projects across the whole timeline for project delivery.

If as at 31 March in any financial year an underspend has arisen on a project budget due to a timing movement, such underspend will be added to the approved project budget for the next financial year.

## **8. ACCOUNTING**

8.1 All accounting systems, procedures and supporting records of the Council and its Officers shall be determined by the Chief Financial Officer in consultation with Service Directors as appropriate.

## **9. MANAGEMENT OF FUNDS AND RESERVES**

9.1 The Chief Financial Officer will manage the following funds in accordance with the limits and conditions imposed by statute and by the Council and in accordance with the Financial Strategy :-

- General Fund
- Loans Fund
- Pension Fund
- Trust Funds comprising the Educational Trust and all other bequests, endowments and trusts administered by the Council
- Common Good Funds
- Insurance Fund
- Capital Fund

9.2 Such other funds as the Council may decide to set up will be managed by the appropriate Service Director in consultation with the Chief Financial Officer

## **10. CAPITAL FINANCING AND TREASURY MANAGEMENT**

10.1 The Executive Committee is responsible for the implementation and monitoring of the Council's treasury management policies and practices.

10.2 All capital financing activities will be conducted in accordance with the Prudential Code for Capital Finance in Local Authorities. The Chief Financial Officer is responsible for:-

- ensuring that the requirements of that Code are complied with
  - ensuring that the Prudential Indicators are calculated, regularly reviewed and amended where necessary
  - formally delegating to appropriate Service Directors their responsibilities with regard to compliance with that Code.
- 10.3 The Council adopts the key recommendations of CIPFA Code of Practice for Treasury Management in the Public Services (subject to variation for any particular circumstances of the Council). Accordingly, the Council will create and maintain, as the cornerstone for effective treasury management:-
- a Treasury Management Policy Statement, stating the policies and objectives of its treasury management activities;
  - suitable Treasury Management Practices, setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

The approved Policy Statement is shown at Appendix 3

The Council will receive reports on its treasury management policies, practices and activities, including as a minimum an annual strategy and plan in advance of the financial year, a mid-year review and an annual report after the close of the financial year, in a form prescribed in the Treasury Management Policy.

- 10.4 Before the start of the financial year the Chief Financial Officer shall report to the Executive Committee on the strategy for Treasury Management for the coming year. The Chief Financial Officer shall submit an annual report on Treasury Management activities for a financial year to the Executive Committee by the following 30 September.
- 10.5 All decisions on borrowing, deposits of surplus funds or financing is delegated to the Chief Financial Officer who is required to act in accordance with CIPFA's Code of Practice on Treasury Management in the Public Services, the approved treasury management policy statement and approved annual strategy (all available on the Intranet).
- 10.6 All investments under its control will be made in the name of the Council; bearer securities shall be excepted from this regulation but any purchases of such securities must be reported to the Executive Committee.
- 10.7 All securities in the name of the Council will be held in the custody of the Chief Financial Officer or under arrangements approved by him.
- 10.8 All funds and money in the hands of the Council, with the exception of funds held in the name of the Pension Fund, will be aggregated for the purposes of Treasury Management and will be the responsibility of the Chief Financial Officer.
- 10.9 The Chief Financial Officer will be the Council's registrar of stocks, bonds and mortgages other than the exceptions identified in paragraph 10.6 above and will maintain records of all borrowing of money by the Council.
- 10.10 All trust funds will, wherever possible, be in the name of the Council. All monies left in trust to the Council or to be administered by its officials must be notified immediately to the Chief Financial Officer.

- 10.11 All nominated capital balances held in relation to Common Good and Trust Funds administered by the Council will be managed in accordance with the Common Good and Trust Fund Investment Strategy.
- 10.12 Any officer acting as trustee by virtue of his official position must deposit all securities, etc. relating to the trust with the Chief Legal Officer unless the deed otherwise provides.

## **11. BANKING ARRANGEMENTS, CHEQUES AND OTHER PAYMENT MEDIA**

- 11.1 All arrangements with the Council's bankers will be made by or under arrangements approved by the Chief Financial Officer, who is authorised to operate such bank accounts as he may consider necessary. This regulation will also apply to bank accounts for all Voluntary Funds and Imprests operated by Officers of the Council by reason of their employment.
- 11.2 All cheques on the Council's main banking accounts will be ordered only on the authority of the Chief Financial Officer or other officer authorised by him, who will make proper arrangements for their safe custody.
- 11.3 Cheques on the Council's main banking accounts will bear the facsimile signature of the Chief Financial Officer or be signed by Chief Financial Officer or other Officer authorised by him to do so.
- 11.4 The Chief Financial Officer is authorised to overdraw the Council's main bank account from time to time as may be necessary, providing that the overdraft at any time does not exceed £300,000 unless in emergency circumstances.
- 11.5 The Chief Financial Officer is authorised to make use of the most appropriate payment media having regard to their security and cost effectiveness.
- 11.6 Any employee who considers they require to open and operate a bank account in the name of the Council for the performance of their duties shall require the prior written approval of the Chief Financial Officer to do so. This includes any bank account opened in relation to a voluntary fund as listed in 26.4 below and those opened on behalf of private individuals under corporate appointeeship arrangements.
- 11.7 The Chief Financial Officer is required to maintain a central register of all bank accounts operated by the Council, including those for voluntary funds and corporate appointeeships. It is the responsibility of each Service Directors to ensure that information in relation to bank accounts operated within their service is reported to the Chief Financial Officer for inclusion in the register.
- 11.8 Any Payment Cards will be used only on Council business and within authorised limits. Receipts must be obtained and retained wherever possible, reconciliations completed on a monthly basis and any evidence of irregularity should be immediately advised to the Chief Financial Officer.

## **12. INCOME**

- 12.1 Service Directors will report annually to Council, as part of the setting of the Council's Financial Plan, on the charging policy to be adopted for the forthcoming financial year for services provided under their control.

- 12.2 The collection of all money due to the Council will be under arrangements approved by the Chief Financial Officer. Service Directors should ensure compliance with the Income Management policy.
- 12.3 Payment for goods or services provided should be sought in advance of the goods or service being provided wherever possible.
- 12.4 The Chief Financial Officer must be notified promptly of all income due to the Council. Service Directors must ensure that invoices for goods or services provided are issued as soon as possible after provision of the goods or service and provide the Chief Financial Officer with all relevant details in connection with work done, goods supplied or services rendered and of all other amounts due as may be required by him to record correctly all sums due to the Council in line with the Debt Recovery Policy.
- 12.5 The Chief Financial Officer must be notified promptly of all money due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money. The Chief Financial Officer will have the right to inspect any documents or other evidence in this connection as he may decide.
- 12.6 All invoices, receipt forms, books, tickets and other such items of financial stationery will be ordered by the Chief Financial Officer and supplied to Service Directors, who in turn should ensure that satisfactory arrangements for the control of these items are in place.
- 12.7 All money received by an officer on behalf of the Council must be lodged in the Council's bank account without delay (or as otherwise directed, passed to a member of the team). No deduction may be made from such money unless authorised by the Chief Financial Officer. No cheques will be cashed out of money held on behalf of the Council. Each officer who banks money must provide to the Chief Financial Officer a relevant reference to the income received (such as the sundry debtor account number, receipt number or the name and address of the debtor) or otherwise indicate the origin of the cheque/cash.
- 12.8 Every transfer of Council money between Services must be recorded on the appropriate form and signed by the appropriate official. In the case of electronic transfers the procedures determined by the Chief Financial Officer must be followed.
- 12.9 The Chief Financial Officer has authority to write-off individual irrecoverable debts up to £100,000 and shall report to the Executive Committee annually on the aggregate amounts written off. Any debt in excess of £100,000 may only be written-off as irrecoverable following approval by the Executive Committee. All debt due to the Council will be recovered in line with the Debt Recovery policy.
- 12.10 The Chief Financial Officer is responsible for collection and recovery of all debts due to the Council.

### **13. GRANT APPLICATIONS AND CLAIMS**

- 13.1 It is the responsibility of Service Directors to ensure that they identify all opportunities for the Council to claim grants available to it and submit grant applications to the awarding body.
- 13.2 It is the responsibility of Service Directors to ensure that the Chief Financial Officer is advised of the details of all grants receivable by the Council and is involved in applications where the amounts involved are significant.

- 13.3 The Chief Financial Officer is responsible for maintaining a register of all significant grants receivable by the Council and providing details of these to the appropriate Service Director.
- 13.4 All grant claims must be completed timeously by the appropriate Service Directors in accordance with Financial Procedure "Process for Signing Grant Claims" available from the Finance team and on the Intranet.

## 14. RISK MANAGEMENT

- 14.1 The Executive Team and Service Directors are responsible for ensuring that proper arrangements are in place to manage risk, that effective monitoring is carried out in respect of the Services for which they are responsible and that the following are regularly maintained and updated:-
- A Risk Register based on a comprehensive assessment of risk within their service area
  - Appropriate risk mitigation actions to address all the risks identified in the Risk Register
  - Business Continuity Plans to ensure delivery of crucial service to the public during periods of disruption.
  - Monitoring Reports to inform the Audit & Risk Committee of changes in the level of severity and potential frequency of particular risks which have been identified as "high".
- 14.2 Service Directors are responsible for the management of all risks within their service and should ensure that risk management is taking place
- at the appropriate level within their service
  - in accordance with approved risk management strategy, policy and guidelines (available on the Intranet).
- 14.3 Service Directors/Depute Chief Executives will be required to provide the Chief Executive with annual assurance in relation to the risk management arrangements operating in their Service as part of their Annual Assurance Statement on Internal Control and Governance.

## 15. INSURANCE

- 15.1 The Chief Financial Officer will affect all insurance cover and negotiate all claims in consultation with other officers where necessary. All correspondence regarding claims against the Council must be passed immediately to the Chief Financial Officer in accordance with the Insurance guide and online forms (available on the Intranet). Under no circumstances should liability of the Council be acknowledged or admitted by an employee or an Elected Member. This requirement applies to any Arms Length External Organisations (ALEOS) established by the Council and to External Contractors working on behalf of the Authority.
- 15.2 Service Directors must give prompt notification to the Chief Financial Officer of all new risks, Property or plant, vehicles or equipment which require to be insured and



of any alteration affecting existing insurances including those related to services being delivered via joint working and partnership arrangements.

- 15.3 Service Directors must immediately notify the Chief Financial Officer in writing of any loss, liability or damage or any event likely to lead to a claim and, after consultation with the Chief Executive, inform the Police where appropriate.
- 15.4 All appropriate employees of the Council will be included in a suitable fidelity guarantee insurance policy if their duties require it.
- 15.5 In accordance with the Insurance guide and online forms (available on the Intranet). The Chief Financial Officer will annually, or at such other period as he may consider necessary, review all insurances in consultation with Service Directors, as appropriate.
- 15.6 Service Directors must consult the Chief Legal Officer regarding the terms of any indemnity which the Council is requested to give.
- 15.7 The Chief Financial Officer has authority to obtain the advice of consultants on insurance and risk management matters, subject to sufficient budgetary provision.
- 15.8 Proposals from Service Directors for ex-gratia payments in relation to insurance claims must be submitted to the Chief Financial Officer for consideration and approval, subject to sufficient budgetary provision.

## **16. INTERNAL AUDIT**

- 16.1 A continuous internal audit, under the independent control and direction of the Chief Officer Audit & Risk, will be arranged to carry out a continuous review of systems and activities that are currently existing or under development, in all departments throughout the Council, to provide assurance on the adequacy of internal financial control, internal control, risk management and governance arrangements in place. Work will be directed by risk and will be carried out in accordance with the Internal Audit Charter, Internal Audit strategy and strategic and annual internal audit plans (all available on the Intranet) approved by the Audit & Risk Committee.

## **17. PREVENTION OF FRAUD, THEFT, MONEY LAUNDERING OR CORRUPTION**

- 17.1 Service Directors are responsible for implementing policies, procedures and controls to prevent and detect fraud, theft and corruption in their Services in accordance with corporate counter fraud policy, strategy and guidelines (available on the Intranet).
- 17.2 Where fraud, theft, corruption or irregularity is suspected:-
  - employees shall comply with the “Whistleblowing” policy within Code of Conduct for Employees and the “Corporate Counter Fraud Response Plan” available on the intranet as appropriate;
  - employees shall comply with the “Anti-Money Laundering Policy” available on the intranet
  - Service Directors are responsible for initiating an investigation and ensuring this is conducted in accordance with the “Guidelines on Conducting Investigations” available on the Intranet within “HR Policies and Procedures”.

- 17.3 Internal Audit is required to give independent assurance on the effectiveness of processes put in place by management to manage the risk of fraud. Internal Audit's other responsibilities in relation to fraud are provided in more detail within the Internal Audit Charter, available on the Intranet.

## **18. ASSET MANAGEMENT**

- 18.1 Service Directors are responsible for managing and continuously reviewing the utilisation of all assets in or under their control or custody and for the preparation of Asset Management Plans as required by the Council, Executive Committee, Chief Executive or Chief Financial Officer.
- 18.2 The Service Director Assets and Infrastructure is responsible for maintaining a register of all heritable property in the Council's ownership (including that held by Common Good Funds).
- 18.3 Service Directors must consult with the Service Director Assets and Infrastructure, Chief Legal Officer and the Chief Financial Officer regarding any acquisition, disposal or lease of land and/or buildings by the Council.
- 18.4 Adequate budgetary provision must be identified for any property acquisition or lease to the Council, which must be first confirmed by the Chief Financial Officer.
- 18.5 All terms and conditions of a property transaction must be first approved by the Service Director Asset & Infrastructure, Chief Legal Officer and the Chief Financial Officer before conclusion of the transaction.
- 18.6 Service Directors are responsible for maintaining inventories of all moveable assets which record an adequate description of furniture, fittings and equipment, computer hardware and software, vehicles, plant and machinery under their control and which is the property of the Council which shall be operated and managed in accordance with the Financial Procedure "Inventories" available on the Intranet. The form in which inventories are recorded is to be determined by the appropriate Service Directors, be consistent with the standard inventory form shown in the financial procedure (in liaison with the Corporate Transformation & Service Director in connection with computer hardware and software) and agreed by the Chief Financial Officer.
- 18.7 Service Directors are responsible for maintaining an annual check of all items on their service inventory, for taking action in relation to surpluses or deficiencies and amending the inventory and advising the Chief Financial Officer accordingly.
- 18.8 Furniture, fittings and equipment, computer hardware and software, vehicles, plant and machinery belonging to the Council will not be removed otherwise than in accordance with the ordinary course of the Council's business. No property or equipment may be used other than for Council purposes except with the specific approval of the Service Directors concerned. In the case of I.T. equipment, the additional approval of the Corporate Transformation & Services Director is also required.
- 18.9 Service Directors are responsible for the care and custody of the stocks and stores in their service which shall be managed in accordance with the Financial Procedure "Stocks and Stores" available from the Finance team and on the Intranet.

- 18.10 Service Directors will, at least once per year, review the level of stocks held and ensure these are not in excess of normal requirements except in special circumstances.
- 18.11 Service Directors will, after consultation with the Chief Financial Officer, make arrangements for periodic sample examinations of stocks by persons other than the storekeeper concerned. All adjustments of stock valuations in the stores accounting records for write-offs, stock deficiencies, obsolescence, etc. may only be made with the approval of the Chief Financial Officer.
- 18.12 The Chief Financial Officer will be entitled to receive from Service Directors such information as he requires in relation to stores for the accounting, costing and financial records.
- 18.13 Surplus moveable assets shall be disposed of by competitive tender or public auction unless decided otherwise in a particular case after consultation with the Chief Financial Officer. Surplus I.T. equipment will be disposed of by a third party with the specific approval of the Corporate Transformation and Services Director.

## **19. SECURITY**

- 19.1 Service Directors are responsible for ensuring proper security is maintained at all times for all buildings, stocks, stores, furniture, equipment, vehicles, plant, cash, computer systems etc under their control.
- 19.2 Maximum limits for cash holdings will be agreed with the Chief Financial Officer and must not be exceeded without his express written permission.
- 19.3 Keys to safes and similar receptacles must be kept in the custody of the persons responsible at all times. The loss of any such keys must be reported immediately to the Chief Financial Officer and where appropriate to the Police.
- 19.4 Service Director are responsible for maintaining proper security and privacy of information in respect of computer systems and manual records and for ensuring that the provisions of the Data Protection Act 1998 and subsequent legislation are complied with.

## **20. CONTRACTS FOR BUILDING, CONSTRUCTION OR ENGINEERING WORK**

- 20.1 Where contracts provide for payment to be made by instalments, the supervising Service Directors will arrange for the keeping of a contract register or registers to show the state of account on each contract between the Council and the Contractor.
- 20.2 Payments to Contractors on account of contracts will be made only on a certificate of payment issued by the supervising Service Directors or other officer nominated for the purpose.
- 20.3 Subject to the provisions of the contract in each case, every variation must be authorised or confirmed in writing by the supervising Service Directors or other officer or consultant nominated for the purpose.
- 20.4 Any change in the estimated cost and / or phasing of a project must be reported to the next available meeting of the Executive Committee for consideration of its effect and a recommendation as to the course of action to be followed.
- 20.5 The Chief Financial Officer will, to the extent he considers necessary, examine records and accounts for contracts and he will be entitled to make all such enquiries

and receive such information and explanations as he may require in order to satisfy him as to the accuracy of the records and accounts.

- 20.6 Claims from contractors and third parties in respect of matters not clearly within the terms of any existing contract will be referred to the Chief Legal Officer and Chief Financial Officer for consideration of the Council's legal liability and consideration of the financial aspects before a settlement is reached. A report by the Service Directors responsible for the contract on each proposed ex gratia and/or extra contractual claim will be submitted to the Executive Committee, as appropriate, for approval.
- 20.7 Where completion of a contract is delayed, it shall be the duty of the Service Directors concerned to take appropriate action in respect of any claim for liquidated damages, loss and/or expense and to report his action to the Executive Committee as appropriate.

## **21. PROCUREMENT OF GOODS, SERVICES & WORKS**

- 21.1 The procurement of all goods, services and works shall be in accordance with the relevant provisions in the Council's Procedural Standing Orders, the Public Contracts (Scotland) Regulations 2006, the Council's approved Procurement Strategy, and relevant EU regulations. The Purchasing Guidelines are provided and are complementary and supportive of Standing Orders and Financial Regulations. The guidelines provide an additional and less technical source of guidance, allowing officers to procure in accordance with all related governance required for any procurement.
- 21.2 Official orders shall be in a form approved by the Chief Financial Officer.
- 21.3 Any major procurement or contract which is of a significant amount and of strategic relevance to the Council must be authorised / signed by the Chief Legal Officer. (A major procurement is defined by any activity that requires approval by any committee of the Council)
- 21.4 Official orders shall be authorised (whether by signature or electronic means) only by officers authorised by the appropriate Service Directors who will be responsible for official orders issued from their services. The names of such officers together with specimen signatures and initials where appropriate, authorised to certify such orders must be sent to the Chief Financial Officer by Service Directors. Before issuing any such order the certifying officer must ensure that a current provision within a relevant budget head exists to meet the resulting liability.
- 21.5 Official orders shall be issued for all work, goods or services to be supplied to the Council. Orders should be issued using the Council's e-procurement system.
- 21.6 Each order must conform to any directions of the Council or the Chief Financial Officer with respect to central purchasing and the standardisation of supplies and materials.
- 21.7 A copy of each order should be retained in accordance with the Records Management and Retention Policy, and access granted, if so requested, to the Chief Financial Officer.

- 21.7 Service Directors must consult the Chief Financial Officer, prior to the procurement of any asset, so that the advantages or otherwise of leasing/contract hire as compared to purchasing may be evaluated.
- 21.8 All terms and conditions of a leasing/contract hire contract, prior to being agreed and signed, must first be approved by the Chief Financial Officer and Chief Legal Officer.
- 21.9 In relation to the funding of external bodies, any payments or in-kind provision shall be in accordance with the Council's Code of Practice on 'Following the Public Pound' available on the Intranet.

## **22. PAYMENT OF INVOICES**

- 22.1 The Chief Financial Officer is responsible for making payment of all certified invoices and monies due by the Council.
- 22.2 The normal method of payment of money due from the Council will be by Bankers Automated Clearing System (BACS), cheque or other instrument drawn on the Council's bank account by the Chief Financial Officer. The Chief Financial Officer has the authority to arrange for payments to be made direct from the Council's bank account by BACS, direct debit, standing order or other means.
- 22.3 Service Directors are responsible for ensuring that all invoices and other payment vouchers arising from sources in their service are examined, checked, verified and certified in accordance with instructions issued by the Chief Financial Officer. Invoices arising from orders raised using the Council's e-Procurement system shall be released for payment only when all electronic authorisation orders have been completed. Otherwise, certification of invoices and all other payment vouchers must be in manuscript (or other means approved by the Chief Financial Officer) by or on behalf of the Service Directors. The names of officers, together with specimen signatures and initials where appropriate, authorised to certify such payments must be sent to the Chief Financial Officer by Service Directors.
- 22.4 Before certifying or authorising an invoice for payment the certifying officer must be satisfied that:-
- An official order, where required, has been properly raised and authorised for the work, goods or services;
  - The work, goods or services to which the invoice relates, are the same as that ordered, has been received, carried out, examined and approved;
  - The relevant expenditure has been properly incurred and is within the relevant budget provision;
  - Appropriate entries have been made in asset registers, inventories, stores records, or stock systems as required;
  - The invoice has not been previously passed for payment and is a proper liability of the Council; and
  - The appropriate ledger code and other relevant information has been properly entered on the invoice against orders raised, acceptable to the Chief Financial Officer.
- 22.5 Except under an approved scheme of devolved invoice processing, all invoices must be sent in the first instance to the Payments section. In accordance with the

guidance specified on the official orders, the supplier must quote the official order number, details of the goods or services supplied and the place where the work was done or goods delivered.

22.6 Service Directors should ensure that their staff address any items within "Troubleshooting" promptly in the E-Procurement system.

22.7 Immediately after the end of each financial year Service Directors will notify the Chief Financial Officer of all outstanding expenditure relating to that year in accordance with the "end of year accounting instructions and timetable".

### **23. SALARIES, WAGES, PENSIONS AND ALLOWANCES**

23.1 The payment of all salaries, wages, pensions, compensation, allowances and other emoluments to all employees, former employees or Elected Members of the Council will be made by the Chief Officer Human Resource (in consultation with the Chief Financial Officer) or under arrangements approved and controlled by them.

23.2 Service Directors are responsible for notifying the Chief Officer Human Resources as soon as possible of all matters affecting the payment of such emoluments, in particular :-

- appointments, resignations, dismissals, suspensions, secondments and transfers;
- changes in remuneration, excluding increments and pay awards;
- information necessary to maintain records of service for pension, income tax and national insurance.

23.3 Service Directors will, in accordance with the agreed procedures, notify the Chief Officer Human Resources immediately of absences from duty for sickness or other reason, apart from approved paid leave.

23.4 Appointments of all employees will be made in accordance with the appropriate policies of the Council and within the approved budget.

23.5 All time records, overtime claims and other pay documents will be in a form prescribed or approved by the Chief Officer Human Resources and will be certified in manuscript (or other means approved by the Chief Officer Human Resources) by or on behalf of the relevant Service Directors. The names of officers, together with specimen signatures and initials, authorised to sign such records will be sent to the Chief Financial Officer by Service Directors.

23.6 The Clerk to the Council is responsible for advising the Chief Officer Human Resources of all changes to Allowances payable to elected Members including

- Election to and resignation from the Council;
- Appointment to and resignation from posts carrying additional and/or special responsibilities.

### **24. TRAVELLING, SUBSISTENCE AND OTHER EXPENSES**

- 24.1 Payments to Members and employees of the Council who are entitled to claim for travelling or other expenses will only be made for actual expenditure reasonably and necessarily incurred in the course of their duties.
- 24.2 Payments to Members of the Council including co-opted members of its Committees who are entitled to claim travelling or other allowances will be made by the Chief Officer Human Resources following submission of the prescribed form duly completed and signed and supported, where appropriate, by receipts. All mileage claims should be supported by fuel VAT receipts and be in accordance with the Mileage Guidelines issued by Human Resources (available on the Intranet in HR Policies and procedures).
- 24.3 All claims by employees for payment of car mileage allowance, subsistence allowance, travelling and incidental expenses will be submitted electronically online to the Chief Officer Human Resources. Claims must be in a form approved by the Chief Officer Human Resources, made up to a specified date of each month, and submitted to him within three working days thereof and supported, where appropriate, by receipts. All mileage claims should be supported by fuel VAT receipts and be in accordance with the Mileage Guidelines issued by Human Resources (available on the Intranet in HR Policies and procedures).
- 24.4 The names of officers, together with specimen signatures and initials, authorised to sign such documents must be sent to the Chief Financial Officer by Service Directors and immediately amended on the occasion of any change.
- 24.5 Certification of claims by the authorising officer will be taken to mean that he is satisfied that the journeys were authorised, the expenses properly and necessarily and actually incurred and that the allowances are properly payable by the Council.

## **25. IMPREST ACCOUNTS**

- 25.1 The Chief Financial Officer will provide such imprest accounts for such officers of the Council as may need them for the purposes of defraying petty cash and other small expenses which shall be operated and managed in accordance with the Financial Procedure "Managing Petty Cash" available from Finance and on the Intranet.
- 25.2 No income received on behalf of the Council may be paid into an imprest account but must be banked or paid to the Authority as provided elsewhere in these Regulations.
- 25.3 All payments from Imprest Accounts will be limited to minor items of expenditure and must wherever practicable be supported by a receipted voucher.
- 25.4 The Chief Financial Officer will annually request from an imprest holder or a holder of cash floats, a certificate as to the state of the imprest account held by them.
- 25.5 Larger imprests may be held in a bank account and the bank account title must include the name 'SCOTTISH BORDERS COUNCIL'. Imprest bank accounts can only be opened on the authorisation of the Chief Financial Officer and must comply with Regulation 11.1.
- 25.6 Claims for reimbursement of Imprest Accounts must be made by the imprest holder in accordance with procedures and timescales determined by the Chief Financial Officer.

- 25.7 Imprest Accounts must not be increased or topped up from other funds or from personal funds.
- 25.8 On leaving the employment of the Council or otherwise ceasing to be entitled to hold an imprest, an officer will account to the Chief Financial Officer for the amount advanced to him.

## **26. PRIVATE PROPERTY AND VOLUNTARY FUNDS**

- 26.1 All arrangements for the safekeeping of valuables (e.g. cash, jewellery, watches, bank books, documents of title etc. deposited with an employee of Social Work) will require to be approved by the Chief Financial Officer.
- 26.2 The Chief Financial Officer must be advised of all voluntary funds, e.g. school funds, comfort funds, etc., administered by officers of the Council by reasons of their employment. It will be the duty of such officers to prepare annual accounts promptly and to arrange for the accounts to be examined by a competent and appropriately qualified person who is independent of administering the Fund.
- 26.3 Paragraphs 11.1 and 16.1 of these Regulations will apply to this section.
- 26.4 Accounts and supporting records should be prepared and maintained in accordance with the appropriate Financial Procedures available from Finance or on the Intranet as follows;-
- Welfare and Comfort funds held in Residential and Day Centres
  - School Funds; Guidelines to Headteachers on Accounting Procedures
  - Financial Advice to Honorary Treasurers, Honorary Auditors and Other Office Bearers of Community Centres

## **27. TRADING ORGANISATIONS**

- 27.1 It may be practical in certain circumstances, to enable the operation of Trading Organisations, for certain Financial Regulations to be waived. The appropriate Service Directors shall require the written authority of the Chief Financial Officer, in consultation with the Chief Executive before such action is taken.

## **28. DELEGATION**

- 28.1 It shall be competent for any Executive Team member or Service Director to delegate any or all of the powers, duties and responsibilities set out in these Regulations to any member of staff they line manage (either directly or indirectly) subject to :-
- the powers, duties and/or responsibilities being set out in writing and cross-referred to the appropriate Financial Regulation
  - the officer to whom the delegation is made expressly acknowledging and accepting the delegated powers, duties and/or responsibilities in writing to the Executive Team member or Service Director



- the Executive Team member or Service Director sending copies of the delegation and acceptance to the Chief Financial Officer for approval.

28.2 Paragraph 28.1 shall not apply to the statutory duties imposed on the Section 95 Officer or the Monitoring Officer.

## **29. EMPLOYEE RESPONSIBILITIES**

### **29.1 Breach of Financial Regulations**

If you believe that anyone has broken, or may break, these Financial Regulations, you must report this immediately to the Chief Financial Officer (or, if more appropriate, to the Chief Executive or the Service Director Planning & Regulatory Services), who may then discuss the matter with the Chief Executive, Service Director Planning & Regulatory Services (as Monitoring Officer) or any other member of the Executive Team, Service Director or authorised person as appropriate to decide what action to take.

### **29.2 Failure to Comply**

Failure to comply with any requirement contained within these Financial Regulations, and associated documents, may result in the matters being dealt with under the Council's Human Resources Policy Framework.

## **30. REVIEW**

30.1 The Chief Financial Officer, in consultation with the Council management team shall review these Regulations on a regular basis, ideally annually. Minor update changes to financial regulations are delegated to the Chief Financial Officer in consultation with the Chief Officer Audit and Risk. Financial regulations will be published on the Intranet. Financial regulations will be reviewed by the Executive Committee at least every 3 years.

**Capital Expenditure**

1. Decisions on the proper accounting treatment of capital expenditure rest with the Chief Financial Officer and will be taken with reference to the definitions contained in the most recently published CIPFA Local Authority Code of Accounting practice.
2. All expenditure on the acquisition, creation or enhancement of long term assets should be treated as Capital. Expenditure to be treated as provision of a long term asset is:-
  - acquisition, reclamation, enhancement or laying out of land.
  - acquisition, construction, preparation, enhancement or replacement of roads, buildings and other structures.
  - acquisition, installation or replacement of plant, machinery, apparatus, vehicles and vessels.
  - Acquisition, development of intangible assets.

“Enhancement” means carrying out works which are intended to:-

  - lengthen substantially the useful life of the assets; or
  - increase substantially the open market value of the assets; or
  - increase substantially the extent to which the asset can or will be used for the purposes of or in connection with the functions of the authority.
3. Expenditure on the acquisition of a long term asset, or expenditure which adds to, and not merely maintains, the value of an existing asset, is Capital provided that the asset yields benefits to the authority and the services it provides are for a period of more than one year.
4. Improvement works and structural repairs should be treated as Capital, whereas expenditure to ensure that the asset maintains its previously assessed standard of performance is Revenue.
5. The costs of keeping an asset in good repair or decoration to reach its assessed period of useful life are revenue.
6. The Prudential Code requires the authority to identify the impact of capital investment decisions by forecasting total budgetary requirements. The budgetary requirements should be included in the authority’s revenue budget. For this purpose, capital expenditure includes all of the above, as well as items such as:-
  - approved lending on mortgage for house purchase
  - approved on-lending to Registered Social Landlords and for NHT arrangements
  - specific consent to borrow from Scottish Government
  - lending for car purchase
  - lending to the private sector
  - grants to the private sector (for capital expenditure items) as permitted under legislation and consents from Scottish Government
  - assets acquired by way of finance lease or under PPP / PFI / NRD financing arrangements
7. Individual assets with a cost of less than £5,000 and a group of assets with a combined cost of less than £20,000 will not be treated as capital expenditure and must be charged to revenue

**Capital Investment principles**

The capital investment principles underpinning the Capital Programme are as follows:

- To ensure that **best value for money** is derived from the Council's capital investment through better planning.
- To demonstrate to stakeholders that the capital investments are **in line with the Council's key long term objectives** in relation to the development and delivery of its services.
- To use the Capital Planning Process to demonstrate that the Council is **delivering its key objectives in a considered and objective manner**.
- To use the longer term planning horizon **to undertake rigorous option appraisal**, and **examine and mitigate risks** associated with delivery of the schemes within the programme.
- To plan for the **better use of scarce financial resources**, both revenue and capital, and to look for opportunities to reduce dependency on revenue.
- To better **align capital investment to the best management** of the Council's asset portfolio.
- To **embed project management disciplines** into the delivery of schemes to deliver them on-time and within budget.

## **Appendix 3**

### **Treasury Management Policy Statement**

#### **Adopted by Council – 22 April 2010**

1. The Council defines its treasury management activities as:

*The management of the Council's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of the optimum performance consistent with those risks.*

2. The Council regards the successful identification, monitoring and control of risk to be the prime criteria by which the effectiveness of its treasury management activities will be measured. Accordingly, the analysis and reporting of treasury management activities will focus on their risk implications for the Council.
3. The Council acknowledges that effective treasury management will provide support towards the achievement of its business and service objectives. It is therefore committed to the principles of achieving best value in treasury management, and to employing suitable comprehensive performance measurement techniques, within the context of effective risk management.
4. The Chief Financial Officer will from time to time formulate suitable criteria for assessing and monitoring the credit risk of investment counterparties and shall construct a lending list defining appropriate limits.



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## HAWICK ACTION PLAN – UPDATE

**Report by Corporate Transformation & Services Director**

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### SCOTTISH BORDERS COUNCIL

**29 June 2016**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 **This report provides a first opportunity for Council to discuss the Initial Hawick Action Plan, published in March 2016, and agree the priority actions that should be taken forward in the first instance.**
- 1.2 Since the announcement of the closure of Hawick Knitwear at the start of the year and the subsequent Business Breakfast workshops led by the then Minister for Business, Energy and Tourism, Mr Fergus Ewing MSP, an Initial Hawick Action Plan has been prepared. This was based on the issues and opportunities for growing the economy highlighted at the workshop held in February 2016.
- 1.3 The Action Plan is structured around three key themes which came through strongly at the Business Breakfast. The first theme focuses on making Hawick a 'Great Place for Working and Investing'. The second theme focuses on making Hawick a 'Great Place for Living and Learning' and the third strategic theme focuses on making Hawick a 'Great Destination to Visit', aiming to make a Hawick a great place to visit and stay.
- 1.4 The work is being led by a partnership of Scottish Borders Council, Scottish Government, Scottish Enterprise and Skills Development Scotland. However, it is also imperative that local businesses and other local organisations in Hawick become involved in taking forward actions and activity to support the development of the town and its economy.

#### **2 RECOMMENDATIONS**

- 2.1 **I recommend that Scottish Borders Council:**
  - (a) **Notes the Initial Hawick Action Plan 2016 as set out in Appendix 1;**
  - (b) **Agrees that the Council should support further work with businesses in Hawick over the Summer 2016 period; and**
  - (c) **Asks the Corporate Transformation and Services Director to present an update report to the Committee in Autumn 2016 setting out progress, clear priorities and actions for the**

**Council, and the anticipated resource requirements, including how they may be funded.**



### **3 BACKGROUND**

- 3.1 In February 2016 the then Minister for Business, Energy and Tourism, Mr Fergus Ewing MSP, hosted a Business Breakfast in Hawick to meet with local businesses and discuss what they might do in response to the sudden closure of Hawick Knitwear and the loss of approximately 180 jobs. A range of business people from Hawick and other parts of the Scottish Borders took part in the workshop sessions to consider key issues that business faced in Hawick, as well as identifying potential opportunities for growing the economy.
- 3.2 A range of ideas and potential projects were highlighted by the gathered businesses and Cllrs Parker and Bell asked Council officers to take the feedback away and to develop appropriate elements of an action plan to address the issues. Following further meetings involving Council officers and representatives from Scottish Government, Scottish Enterprise and Skills Development Scotland, an Initial Hawick Action Plan was produced and circulated to all of the businesses and other attendees of the original Business Breakfast on 23 March 2016.
- 3.3 This was the first step in sparking a locally led response to the challenges arising from the closure of Hawick Knitwear. Since then officers have also been working to take forward some of the actions in the Initial Hawick Action Plan. However, it is also imperative that local businesses and other local organisations in Hawick become involved in taking forward actions and activity to support the development of the town and its economy. The initial Hawick Action Plan is attached at Appendix 1 and represents the first step towards a joint effort by the private, public and voluntary sector to encourage new investment and new initiatives in Hawick.

### **4 INITIAL HAWICK ACTION PLAN**

- 4.1 The Action Plan is structured around three key themes which came through strongly at the Business Breakfast in February 2016. The first theme focuses on making Hawick a 'Great Place for Working and Investing'. As part of this, the ambition is to make sure that Hawick is a 'Connected Place' ready to do business in the modern economy. This includes digital connectivity as well as the potential extension of the Borders Railway and improvements to the A7.
- 4.2 The Plan identifies the need to create an environment to encourage economic growth. There is an action to explore the benefits of an Enterprise Zone in Hawick and consider how similar benefits may be delivered through alternative approaches. It is also planned that future business property needs should be identified and then matched with currently available property. The issue of vacant industrial and commercial property will also be tackled by researching ownership, future potential uses and gap analysis. There is also the potential to develop a business incubator and innovation centre to encourage business innovation, start-ups, growth and inward investment and it is proposed to research this potential in detail.
- 4.3 The opportunity that the development of the new flood protection scheme offers is also highlighted. The plan seeks to support the current activity that is creating an innovative plan to address the flood protection of the

town.

- 4.4 The second theme focuses on making Hawick a 'Great Place for Living and Learning'. The plan seeks to provide a suitable environment to retain school leavers and to attract new workers into the area. All of the partners need to consider how to retain young people in, and attract them back to, the Borders and ensure they have the skills local businesses need. The need for improved digital skills for all age groups came through very strongly at the Business Breakfast and is highlighted as an action to ensure that the workforce has the skills required for the digital future. The desire to ensure local training providers are delivering the courses that businesses require is also reflected in the Action Plan.
- 4.5 The third strategic theme focuses on making Hawick a 'Great Destination to Visit' and aims to make a Hawick a great place to visit and stay. The intention is to work with local businesses to identify what the tourism offer is and then agree what the gaps are and how to fill them. The opportunity to work with local tourism operators to address the issue of a lack of hotel accommodation is also highlighted. The Action Plan details the need to work with local businesses to address the issues facing the High Street, particularly shop closures and attractiveness of the buildings.

## **5 IMPLEMENTING THE ACTION PLAN**

- 5.1 Council officers are working with national and local partners to take forward a number of the actions in the Initial Hawick Action Plan. The current focus is around the property, flood protection, digital skills and tourism topics. The Council is working with Scottish Enterprise to identify current business property needs and how that matches with the existing available property in the town. This work will establish what types and sizes of properties are required to allow local businesses to expand, and to attract new businesses to the town.
- 5.2 Linked to this, officers are also working to identify which longstanding vacant properties in the town could most readily be redeveloped to provide opportunities for new uses. Officers have begun to research the potential to develop a new business incubator and innovation centre that could act as a hub for enterprise and business start-ups in the town. All of these actions can only be successfully taken forward if there is positive input and commitment from local businesses.
- 5.3 Work is also ongoing around the development of the Hawick Flood Protection Scheme, to deliver 1 in 75-year protection for the town. There is excellent local input from businesses and the community with a major public consultation exercise planned for August 2016 with the aim to deliver an outline design by the end of 2016. The community's support over the next twelve months is paramount to the project successfully achieving the approvals in 2017 to secure Scottish Government funding.
- 5.4 The complexity of this major project means that it will be 2018 before the detailed design work is completed. In the interim, works in response to last winter's floods are also being addressed in order to increase the resilience of the town to flooding.
- 5.5 The direct defences are phase two of a three phase strategy for Hawick. The long term improvements require upstream Natural Flood Management and compensatory storage to increase the level of protection in the town beyond the 1 in 75 year level of protection that the direct defences will

provide. This could provide a level of protection that will allow development in the town within the current flood zoning.

- 5.6 The Council will work with Borders College and Skills Development Scotland to develop a coordinated programme of digital skills training for businesses and individuals, to raise the skills base. The aim is to ensure more people have higher level digital skills and that more businesses utilise higher level digital skills. Business Gateway will run workshops for businesses to ensure they are ready for digital opportunities.
- 5.7 In relation to tourism, the Council and VisitScotland will work with local businesses to help identify what the tourism offer is, agree what the gaps are and how to fill them. This will involve collating details of attractions and experiences, both existing and in development, and other essential tourist facilities. The aim is to ensure there is a strong tourist offering available to visitors and that can be used to help promote the town and attract more visitors. A workshop with local tourism businesses, and other interested businesses will be run in September 2016 to start this process. The timing reflects the challenge that tourism businesses find in committing time during the busy summer months. An independent facilitator has been identified to run this workshop.
- 5.8 In relation to the High Street, the Council has been working with Future Hawick to support actions in the town centre, aiming to improve the attractiveness of the town centre. One of the initiatives that Future Hawick has flagged as a potential benefit to the town is the use of the Council's new powers under the Community Empowerment Act 2015 to introduce additional reliefs from non-domestic rates for businesses. Recognising the significant challenges faced by Hawick High Street in terms of footfall and vacancy rates, Council officers have been working with Future Hawick to identify how these new powers could best be used to facilitate the regeneration of the High Street. Work to build up a case for a trial Local Relief Scheme will continue over Summer 2016.
- 5.9 The actions outlined above are being taken forward by the public sector with some input from local businesses. The Council is taking positive role in helping to develop the Action Plan and securing the commitment and engagement of its Community Planning Partnership partners and the Scottish Government. However, as already highlighted, it is crucial that local businesses and other local organisations in Hawick also get practically involved in a positive way with this work. There is a clear opportunity for them to take forward further actions and activity, and to be a positive voice in support of the development of the town and its economy.
- 5.10 The ongoing challenges facing Hawick were highlighted by the recent announcement by Peter Scott Knitwear that it is considering the closure of its manufacturing operation in Hawick, with the potential loss of a further 50 jobs. There is a risk that a self-fulfilling negativity is becoming entrenched in the community. It is imperative at this time that all those with an interest in the future of Hawick work together to build a more positive image and culture of self-belief for the town. This needs to be a feature of the Action Plan.

## **IMPLICATIONS**

### **Financial**

- 6.1 The actions in the Initial Hawick Action Plan require to be properly resourced if they are to be effectively delivered. Officers are working on detailed delivery plans that will assess costs and potential sources of funding as well as the staff resource required. Some of the actions will be delivered within existing schemes and have budgets and staff resource already in place. Additional funding will have to be secured from a range of sources for the majority of the projects, including through the Council's annual financial planning process. It is likely that both revenue and capital funding will be required. The Economic Development service has identified an initial £25,000 allocation to support the Action Plan and this will be used to draw down support from other partners in the first instance.

### **Risk and Mitigations**

- 6.2 There is a reputational risk to the Council if it does not support the Initial Hawick Action Plan and help to implement the actions set out in the plan. This risk is mitigated by the positive role that the Council is taking in helping to develop the Action Plan and securing the commitment and engagement of its Community Planning Partnership (CPP) partners and the Scottish Government. The CPP's Economy and Low Carbon Theme Group will monitor progress in relation to delivery of the Action Plan. There is also a risk to the successful implementation of the Action Plan if local businesses and the community do not engage in the projects and provide positive support for the initiative. This will be mitigated by engaging businesses in workshop activity and also encouraging local organisations such as Future Hawick to positively support the plan.
- 6.3 There is a risk that the Hawick Flood Protection Scheme will receive objections to the proposals and if they cannot be cleared it would lead the project towards a Public Local Inquiry. The time involved in this process could take the project beyond the current Scottish Government Funding window, which would mean that it could be delayed until 2022 and have to compete for funding with the Grangemouth protection project. This risk is being mitigated as far as possible with public engagement sessions and community meetings in advance of the main Public Exhibition in August 2016. The information gained from this process will shape the Outline Design, prior to the approvals process.

### **Equalities**

- 6.4 It is anticipated that an Equalities Impact Assessment would be required in relation to the individual projects as they are developed in order to ensure that there are no adverse impacts due to race, disability, gender, age, sexual orientation or religious/belief arising.

### **Acting Sustainably**

- 6.5 The Initial Hawick Action Plan aims to make the economy of the town more sustainable by improving its connectivity, its business infrastructure, the level of local skills and the tourism offering. If it helps to secure additional economic activity and growth it will have contributed to the sustainability of the local economy and community.

### **Carbon Management**

- 6.6 Some of the actions contained in the Initial Hawick Action Plan could have a positive impact on carbon emissions, particularly those actions that lead to the development or redevelopment of aging or vacant industrial properties.

### **Rural Proofing**

- 6.7 The Initial Hawick Action Plan focuses on the town of Hawick but it is acknowledged that some of the actions, especially relating to digital connectivity could have a positive impact on the rural areas surrounding the town.

### **Changes to Scheme of Administration or Scheme of Delegation**

- 6.8 There are no changes to be made to the Scheme of Administration or Scheme of Delegation arising from this report.

## **7 CONSULTATION**

- 7.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR and the Clerk to the Council have been consulted and their comments incorporated into the report.

### **Approved by**

**Rob Dickson**  
**Corporate Transformation**  
**and Services Director**

**Signature .....**

### **Author(s)**

Name	Designation and Contact Number
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**Background Papers: None**

**Previous Minute Reference: None**

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# INITIAL HAWICK ACTION PLAN

MARCH 2016

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# INITIAL HAWICK ACTION PLAN

## 1. GREAT PLACE FOR WORKING & INVESTING



## THEME 1

### GREAT PLACE FOR WORKING & INVESTING

REF	ACTIVITY	STAKEHOLDERS	OUTPUTS	OUTCOMES
1	Make Hawick a 'Connected Place' ready to do business in the modern economy	Scottish Borders Council Scottish Enterprise Broadband suppliers Mobile Phone operator		Town and surrounding area connected with fastest available broadband and mobile technology
a	Review current superfast broadband coverage and existing plans for increasing	Scottish Borders Council, local businesses, local community	Assessment of current roll-out, Communication to businesses and community on roll-out schedule, Identify "hotspots" that need addressed	Clear timetable for roll-out, Increased capacity in areas or buildings identified as important to economy
b	Review current mobile coverage and existing plans for increasing	Scottish Borders Council, local businesses, local community	Assessment of current roll-out, Communication to businesses and community on roll-out schedule, Identify "hotspots" that need addressed	Clear timetable for roll-out, Increased capacity in areas identified as important to economy
c	Create free Wifi Hotspots in key parts of the the town	- Scottish Borders Council, local businesses, local community, tourists	Feasibility study into where these should be and their impact/ effectiveness	Wi-fi hotspots in key parts of the town
d	Make progress with scoping work in regard to the extension of the Borders Railway from Tweedbank to Carlisle	- Scottish Borders Council, local businesses, local community, tourists	Report covering the scope of a potential project	Information baseline in place to facilitate a future feasibility study
e	Consider opportunities for improving A7 Trunk Road north and south of the town, including improved signage	Scottish Borders Council, local businesses, local community, tourists, A7 Action Group	Report from Transport Scotland and A7 Action Group on the practical potential for improvements	Potential for improvements on the A7 is clarified

REF	ACTIVITY	STAKEHOLDERS	OUTPUTS	OUTCOMES
2	<b>Create an Environment to Encourage Economic Growth</b>	- Scottish Borders Council - Scottish Enterprise - Owners - Tenants		<b>Attractive place and obvious contender as a place to develop a business</b>
a	Explore the benefits of an Enterprise Zone in Hawick and consider how similar benefits may be delivered through alternative approaches	Scottish Enterprise, Scottish Borders Council, Businesses	Assessment of opportunity and comparison to other similar areas	An enabler to doing business in Hawick
b	Identify future business property needs and match with current availability	Scottish Enterprise, Scottish Borders Council, Business Owners, building owners	Gap analysis showing potential future business property needs, existing and planned availability, and action required to meet gap	Appropriate business property available in the town to allow local businesses to grow and inward investment to locate
c	Evaluation of the empty industrial/commercial properties in the town, researching ownership, future potential use and gap analysis	Scottish Borders Council, Scottish Enterprise, Business Owners, building owners	Details of all empty properties, assessment of potential future uses, (including 2d below) identification of those that can be demolished for better land use	Upgraded appearance of the town, new life for old buildings, spaces cleared for future development or change of use
d	Research the potential to develop an incubator and innovation centre to encourage business innovation, start-ups, growth and inward investment - Borders Business Improvement Base	Scottish Borders Council, Scottish Enterprise, Business Owners, building owners, Further Education, Higher Education	Review of possible areas for innovation, the potential demand, and potential locations / buildings	Creation of a modern, high quality, attractive business facility which will facilitate new business development, higher value innovation, business growth and job creation

REF	ACTIVITY	STAKEHOLDERS	OUTPUTS	OUTCOMES
3	Create an Innovative Flood Protection Scheme	- Scottish Borders Council, community, businesses,	Flood protection for the town	Future flood prevention, innovative business and tourism ideas, energy options and reuse of buildings
a	Support the current activity that is creating an innovative plan to address the flood protection of the town. This should be supported where possible by the Hawick Action Plan	Scottish Borders Council, community, businesses	Flood protection for businesses and householders	Future flood protection, innovative business and tourism ideas, renewable energy options and reuse of buildings

INITIAL  
HAWICK ACTION PLAN

## 2. GREAT PLACE FOR LIVING & LEARNING



## THEME 2

### GREAT PLACE FOR LIVING & LEARNING

REF	ACTIVITY	STAKEHOLDERS	OUTPUTS	OUTCOMES
1	Provide a suitable environment to retain school leavers and to attract new workers into the area	Skills Development Scotland, Scottish Borders Council, Borders Regional College, Heriot Watt University, Employers -		A strong and diverse workforce
a	Consider how to retain young people in, and attract them back to, the area and ensure they have the skills local businesses need	Skills Development Scotland, Scottish Borders Council, Borders Regional College, Heriot Watt University -	Survey of young people to identify what will make them stay / encourage them to return . Communication to employers about apprenticeship schemes. Closer working between employers and further education to develop courses required	A detailed plan for young people showing opportunities which would attract them to stay in the town and / or return eg graduates
b	Attract people from outside the Scottish Borders to come to work in Hawick	Scottish Borders Council, Employers	Creation of a marketing campaign to promote the town/region to people looking to develop their career/family life	Enlarging the labour pool, attracting new skills and new families into the Borders, facilitating economic growth
c	Deliver digital skills to all age groups to ensure that the workforce has the skills required for a digital future	Scottish Borders Council, Borders College, Skills Development Scotland, Scottish Govt	A coordinated programme of digital skills training for businesses and individuals to raise skills base	More people with higher level digital skills, more businesses utilising higher level digital skills
d	Ensure local training providers are delivering the courses that businesses require	Borders Regional College, Heriot Watt University, Scottish Enterprise, Scottish Borders Council, Skills Development Scotland	Deliver a process that enables employers to easily inform further education institutions what future skills requirements they have for employees (young people and existing employees)	A more skilled workforce ready for jobs created in the area

INITIAL  
HAWICK ACTION PLAN

# 3. GREAT DESTINATION TO VISIT



## THEME 3

### GREAT DESTINATION TO VISIT

REF	ACTIVITY	STAKEHOLDERS	OUTPUTS	OUTCOMES
1	<b>Make a Hawick a great place to visit and stay</b>	<b>VisitScotland, Scottish Borders Council, Community, Businesses</b>		
a	Working with local businesses, identify what the tourism offer is, agree what the gaps are and how to fill them	VisitScotland, Scottish Borders Council, Businesses	Collate details of attractions and experiences, both existing and in development, and other essential tourist facilities	A strong tourist offering available to both visitors and community to help sell the town, more visitors making the businesses more secure
b	Work with local tourism operators to address the issue of a lack of hotel accommodation	VisitScotland, Scottish Borders Council, Businesses	Collate information held on bed spaces available in Hawick, find out from Mansfield House Hotel owners what their intentions are	Accommodation available for the increased number of visitors
c	Work with local businesses to address issues facing the High Street, with shop closures and attractiveness of the buildings	Scottish Borders Council, Businesses, Future Hawick	identification of main problems, meeting with owners of empty properties, use of Business Gateway shop jackets, produce plan for longer term development of the street	Attractive High street for visitors and for new businesses to start



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## HOUSEHOLD WASTE CHARTER

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### Report by Service Director Neighbourhood Services

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## SCOTTISH BORDERS COUNCIL

**29 JUNE 2016**

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### 1 PURPOSE AND SUMMARY

- 1.1 **This report proposes that Scottish Borders Council sign-up to the voluntary Household Waste Charter and associated Code of Practice.**
- 1.2 In 2014 the Scottish Government and COSLA agreed to convene a Zero Waste Task Force to identify recommendations for the transformation of the management of public sector waste into an effective feedstock for the circular economy.
- 1.3 A key recommendation from the Taskforce was that Local Authorities should be empowered and enabled to move towards more consistent recycling collection systems whilst allowing Councils to design services in accordance with local needs and issues.
- 1.4 This approach has now been articulated into the Household Recycling Charter and associated Code of Practice, which have been scrutinised and approved by COSLA Leaders.
- 1.5 The 'Charter' is entirely voluntary and it is at the discretion of each individual Local Authority whether to sign-up or not.
- 1.6 A review of the Code of Practice indicates that the majority of Scottish Borders Council's current kerbside collection services are not compliant with the requirements of the Code.
- 1.7 The most significant changes that would need to be made if Scottish Borders Council was to deliver a Code of Practice compliant service are:
  1. Cease providing a comingled collection of Paper, Card, Cans and Plastics (i.e. blue lidded bin) and replace it with two containers. One for Paper and Card and another for Metals and Plastics.
  2. Either increase the number of bottle banks or provide a kerbside glass collection service.

3. Consider reducing the volume of non-recyclable waste (i.e. general waste – Grey Bin) collections.
- 1.8 In a joint letter from Councillor Stephen Hagan, COSLA Spokesperson for Development, Economy and Sustainability and Richard Lochhead, Cabinet Secretary for Rural Affairs, Food and Environment have asked that Councils sign up to the Charter.
- 1.9 Formally signing up to the 'Charter' does not commit Local Authorities to designing and implementing services that will result in higher costs than currently budgeted for.
- 1.10 The implication of this is that if achieving Charter compliance is affordable (either with or without funding) and efficient this would require the Council to deliver the service changes.
- 1.11 Where there is a funding shortfall, compared to existing budgets, an application will be made to the Scottish Government for financial support. If the application is rejected, no service changes will be required or enforced.
- 1.12 The Waste Management Plan Member Officer Reference Group supports the recommendation to sign up to the Charter as outlined in section 2.

## **2 RECOMMENDATIONS**

- 2.1 **I recommend that the Council signs-up to the Household Recycling Charter on the basis that:**
  - a) **Zero Waste Scotland continues to provide support to complete the options appraisal/transition plan.**
  - b) **Following completion of the options appraisal and stakeholder engagement a report is presented at a future Council meeting for consideration prior to implementation.**
  - c) **Scottish Borders Council reserves the right to opt out of the Charter if it is not considered to be in the best interests of the Council.**

### 3 BACKGROUND

- 3.1 In 2014 the Scottish Government and COSLA agreed to convene a Zero Waste Task Force to identify recommendations for the transformation of the management of public sector waste into an effective feedstock for the circular economy.
- 3.2 Following a series of workshops the Zero Waste Taskforce concluded that, where benefit was proven, Councils should;
- work together to share services
  - implement common ways of working; and
  - reduce variation in collection systems across the country

The objective being to improve the efficiency and effectiveness of these systems.

- 3.3 One of the outputs of the task force was the development of a **voluntary** 'Household Waste Charter' supported by a 'Code of Practice'.
- 3.4 Development of the Charter and the Code of Practice has involved input from SOLACE, Zero Waste Scotland (ZWS), the Waste Managers Network (WMN), COSLA and the Scottish Government.

### 4 HOUSEHOLD RECYCLING CHARTER

- 4.1 The Household Recycling Charter is a high level document outlining the principles and operational practices of a **common approach** to delivering Local Authority waste services.
- 4.2 The 'Charter' sets out 21 commitments from Local Government that will achieve the following outcomes:
- To improve household waste and recycling services to maximise the capture, and improve the quality, of resources from the waste stream, recognising the variations in household types and geography to endeavour that our services meet the needs of all our citizens.
  - To encourage citizens to participate in our recycling and reuse services to ensure that they are fully utilised.
  - To operate services so that our staff are safe, competent and treated fairly with the skills required to deliver effective and efficient resource management on behalf of our communities.
- 4.3 The Household Recycling Charter was approved by COSLA Leaders on 28 August 2015.
- 4.4 The full text of the 'Charter' can be seen at:  
<http://www.zerowastescotland.org.uk/content/charter-household-recycling>

## 5 CODE OF PRACTICE

5.1 The 'Charter' is underpinned by the Code of Practice (the 'Code') which sets out the specifics of how services should be delivered in order to achieve the desired outcomes of the 'Charter'.

5.2 The outcomes that the Code aims to deliver are:

### 5.2.1 **OUTCOME ONE: ACHIEVE HIGH QUANTITIES OF RECYCLING AND MINIMISE NON-RECYCLABLE WASTE**

Recycling more and wasting less is good for the economy and for the environment. This Code of Practice seeks to increase quantities of materials recycled and reduce the amount of waste that cannot be recycled.

### 5.2.2 **OUTCOME TWO: MAXIMISE HIGH-QUALITY MATERIALS**

High-quality recycling, typically defined as 'closed loop' recycling, generally achieves higher value in global, European and UK markets. There is also greater opportunity for investment in the reprocessing industry when there is a ready supply of high-quality materials available to the market in consistent formats and standards. This Code of Practice seeks to provide consistent, high-quality materials for the market, supporting the work of the Scottish Materials Brokerage Service.

### 5.2.3 **OUTCOME THREE: COST EFFECTIVE SERVICES FOR LOCAL GOVERNMENT**

This Code of Practice will support Scottish Councils in delivering cost-effective services in the medium to long term.

### 5.2.4 **OUTCOME FOUR: SERVICES THAT ENCOURAGE PARTICIPATION FROM CITIZENS**

This Code of Practice seeks to ensure that the waste and recycling services being delivered to citizens are easily understood and communicated in language and formats to allow them the ability to participate fully.

### 5.2.5 **OUTCOME FIVE: KEEP CITIZENS, STAFF AND CONTRACTORS SAFE**

This Code of Practice seeks to ensure that services being delivered recognise and manage any hazards to the safety and health of these groups.

### 5.2.6 **OUTCOME SIX: SERVICES THAT SUPPORT EMPLOYMENT**

This Code of Practice will support the delivery of services that support employment in Scotland and within local areas either through collection services or from the onward sorting or sale of

materials.

- 5.3 The Code sets out the basis for a consistent approach to the provision of recycling services by Local Authorities. Throughout the Code reference is made to 'Essential' and 'Desirable' requirements, which are defined as follows:

**Essential** - These requirements are vital in the effort to achieve consistency across waste and recycling services in Scotland. The adoption of these requirements is considered to be the minimum expectation placed on Councils signing up to the Household Recycling Charter.

**Desirable** - These requirements are important in the effort to achieve consistency across waste and recycling services in Scotland. The adoption of these requirements is something that Councils shall consider after they have met the essential requirements.

- 5.4 The 'Code of Practice' was approved by COSLA Leaders on 27 November 2015.

- 5.5 The full text of the Code can be seen at:  
<http://www.zerowastescotland.org.uk/content/charter-household-recycling>

## 6 KEY REQUIREMENTS OF THE CODE OF PRACTICE

- 6.1 The following section outlines the **key** points of the common collection system defined in the Code of Practice.

### 6.2 Essential Requirements

1. Separate containers shall be provided to each property for the following:
  - a. Paper and card
  - b. Metals, plastic and cartons
  - c. Food waste in all areas where the Waste (Scotland) Regulations 2012 require a collection.
2. Separate containers for glass shall be provided to each property or alternatively within the community for communal use (e.g. bottle banks).
3. The weekly volume of recycling to be provided to each property for each material where kerbside collection takes place should exceed the following:

Material	Code of Practice Minimum Requirements
Paper & Cardboard	40 Litres per week
Metals, Plastics & Cartons	70 Litres per week
Glass	20 Litres per week

Food Waste	20 Litres per week
<b>Total Volume</b>	<b>150 Litres</b>

4. Consider reducing the capacity for non-recyclable waste (General Waste).

### 6.3 Desirable Requirements

1. The collection of each recycling stream, in particular food waste is carried out on a weekly basis.
2. Separate food collections are provided to all areas not required to have a collection under the Waste (Scotland) Regulations 2012.
3. Introduce a common colour system for each material (i.e. bin colour) in accordance with a future national standard.
4. Reduce the capacity for non-recyclable waste (General Waste) as follows:
  - a. **Households with kerbside access:** A maximum of 80 Litres per week per property. To be achieved by reducing the bin size or frequency of collection.
  - b. **Flats:** A maximum of 70 Litres per week per property. To be achieved by reducing the bin size or frequency of collection.

- 6.4 Additional information on the **key** points of the common collection system defined in the Code of Practice can be found in Appendix 1.

## 7 PROPOSED GOVERNANCE AND FUNDING APPROACH

- 7.1 The Charter is entirely voluntary and it is at the discretion of each individual Local Authority whether to sign up or not.
- 7.2 Signing up to the Charter does not commit Local Authorities to designing and implementing services that will result in higher costs than currently budgeted for.
- 7.3 Where there is a funding shortfall, compared to existing budgets, an application will be made to the Scottish Government for financial support. If the application is rejected, no service changes will be required or enforced.
- 7.4 The Scottish Government is yet to confirm the amount and type of funding that will be made available to Council's to help deliver the Charter.
- 7.5 At the current time the indication is that funding will be in the form of Capital only, similar to food waste funding, with no ongoing Revenue support. Also, it is unlikely that the Scottish Government would have funds to support all Councils in implementing service changes at the same time. It is more likely to be a phased release over a period of time.



- 7.6 In a joint letter (Appendix 2) from Councillor Stephen Hagan, COSLA Spokesperson for Development, Economy and Sustainability and Richard Lochhead, Cabinet Secretary for Rural Affairs, Food and Environment have asked that Councils sign up to the Charter.
- 7.7 Following signature of the Charter, Local Authorities will be able to access support from Zero Waste Scotland to develop a Transition Plan that will scope out the cost-effective changes needed to move to a compliant collection system.
- 7.8 Local Authorities will then be further supported to develop an Implementation Plan which will detail the timescales and scope of the necessary changes, together with an expected cost profile.
- 7.9 A Working Group will scrutinise each implementation plan, checking its compliance with the Code of Practice and ensuring that cross-council issues and opportunities are identified.
- 7.10 At this point Councils will be given an In-Principle Offer, subject to final ratification of the implementation plan.
- 7.11 Following development of the implementation plan, and the in-principle offer of funding, the plans will be scrutinised by a high-level, Strategic Oversight Panel.
- 7.12 Following scrutiny by the strategic panel, and assuming their approval, the specific funding required will be released and councils can begin implementation.
- 7.13 The governance and funding approach is outlined in more detail in a process flow diagram at Appendix 3.
- 7.14 It is important to note that whilst signing the Charter does not commit the Council to implementing change that is more than currently budgeted for, any future funding support provided by Zero Waste Scotland will be dependent on the Council implementing services in line with the Code of Practice.

Note: Services recently supported by Zero Waste Scotland funding include 'Recycling on the Go' and Food Waste Collections.

## **8 IMPLICATIONS FOR SCOTTISH BORDERS COUNCIL**

- 8.1 Appendix 4 outlines the **key** requirements of the Code of Practice and compares them with Scottish Borders Council's current service provision.
- 8.2 It can be seen from this assessment that the majority of Scottish Borders Council's current service provision is not compliant with the requirements of the Code of Practice.

8.3 The most significant changes that would need to be made if Scottish Borders Council was to deliver a Code of Practice compliant service are:

1. Cease providing a comingled collection of Paper, Card, Cans and Plastics (i.e. blue lidded bin) and replace it with two containers. One for Paper and Card and another for Metals and Plastics.
2. Either increase the number of bottle banks or provide a kerbside glass collection service.
3. Consider reducing the volume of non-recyclable waste (i.e. general waste – Grey Bin) collections.

## **9 OTHER LOCAL AUTHORITY COMMITMENT**

- 9.1 Officers are in regular contact with other Councils via the COSLA Waste Manager Network.
- 9.2 Over the last 6 months Officers have noticed a change in attitude from Councils from 'sitting on the fence' to a gradual leaning towards sign-up.
- 9.3 To date only Falkirk Council has committed to the Waste Charter. However as of 25<sup>th</sup> May, 10 Councils have committee approval to sign up to the Charter and a further 8 have reports going to their directorate proposing sign up which they may take to Council.
- 9.4 The Scottish Government's Policy position is clear and it is suggested that if Local Authorities do not commit to the Charter this will be followed by some sort of legislation or system that delivers the same thing. The likelihood of this occurring increases if Scotland's recycling rate, currently 42.8% (2014), does not look like it will hit the EU 2020 recycling target of 50%, which is a requirement for member states.

## **10 WASTE POLICY AND LEGISLATION – DIRECTION OF TRAVEL**

- 10.1 Over the last 9 months there have been a number of legislative and policy developments at a National and European level. All have the potential to impact the Council's future kerbside collection services and new Waste Management Plan, see below:
- 10.2 **EU Circular Economy Package**
- 10.2.1 The European Commission published the long awaited redrafted Circular Economy Package on 2 December 2015.
- 10.2.2 The proposal includes new binding recycling targets for household waste that go beyond the current 2020 target of 50% as outlined below:
- 2025            60%
  - 2030            65%
- 10.2.3 Adoption of the proposal by the EU Parliament and Council is not expected until the middle of 2017. However the direction of travel towards increasing household recycling rates is clear.

10.2.4 In 2014 Scottish Borders Council achieved a recycling rate of 36.7%.

### 10.3 **Circular Economy Strategy for Scotland**

10.3.1 The Scottish Government released its Circular Economy Strategy on the 23 February 2016.

10.3.2 This strategy sets out the Scottish Governments priorities for moving towards a more circular economy, where products and materials are kept in high value use for as long as possible.

10.3.3 Amongst other things the strategy outlines that the Scottish Government wants all households in Scotland to have access to a food waste service and they are therefore intending to review the rural exemption for food waste collection systems.

10.3.4 Scottish Borders Council currently provides food waste collections to 6 towns across in accordance with its statutory requirements.

10.4 The European and National Policy and Legislation outlined above combined with those already in place outline a clear direction of travel towards increased recycling performance and the provision of separate kerbside collections.

## **11 KERBSIDE COLLECTION OPTIONS APPRAISAL**

11.1 Zero Waste Scotland have been commissioned to undertake an appraisal of future kerbside collection options for the Council's new Waste Management Plan.

11.2 Similar support has been provided to other local authorities including Falkirk Council who have recently made alterations to their kerbside collection services.

11.3 The options appraisal is being undertaken over two phases:

- Phase 1 – High Level Modelling of Scenarios
- Phase 2 – Detailed Modelling of Short Listed Scenarios

11.4 It is envisaged that Phase 1 modelling will be completed during Summer 2016 following which scenarios will be shortlisted.

11.5 The scenarios being modelled by Zero Waste Scotland include Waste Charter Compliant and Non-Compliant options.

11.6 The aim of evaluating Charter compliant and Non-Compliant options has been to enable the Council to make an informed decision as to the implications of signing-up to the Charter prior to sign-up.

- 11.7 Zero Waste Scotland is providing the support free of charge, and it was this, along with the benefits of having an independent review of the services provided by the Council that led to their commissioning.
- 11.8 On 11 March 2016 Zero Waste Scotland confirmed that:
- They will be prioritising funding on the Household Recycling Charter.
  - Support will only be made available to local authority's that have signed the Charter and are examining options to move towards the principles set out in the Code of Practice.
  - From 1 April 2016, they will be prioritising their transition support towards signatories to the Charter and from 1 June 2016 we will only progress transition modelling/planning with Councils who have signed the Charter.
- 11.9 The consequence of the above is that unless Scottish Borders Council commits to the Charter it will be unable to complete the kerbside collection modelling exercise with Zero Waste Scotland.
- 11.10 In order to finalise the Options Appraisal without the support of Zero Waste Scotland will require alternative technical experts to be commissioned incurring additional cost and delays.

## **12 CONCLUSION & RECOMMENDATION**

- 12.1 The **key** issues that the Council must consider in deciding whether it should sign-up to the Charter are as follows:
1. The implications for delivering waste services that meet the needs of the Borders public.
  2. The implications to delivering a waste service that is 'fit for purpose' and financially sustainable in the long term.
  3. The implications for delivering Corporate Transformation Savings associated with the Waste Management Plan.
  4. The European and National drive to increase recycling performance and provide separate collection systems.
  5. Any future funding support provided by Zero Waste Scotland will be dependent on the Council implementing services in line with the Code of Practice.
  6. The type and amount of funding being made available by Scottish Government to support service alterations.
- 12.2 The aim of commissioning Zero Waste Scotland to undertake the kerbside collections options appraisal was to answer a number of the challenges outlined above.
- 12.3 Given that Zero Waste Scotland have now outlined that they will be focusing their attention on Councils that have signed up to the Charter, it is clear the Council will be unable to complete its kerbside collections options appraisal which will provide these answers without either:

- Signing up to the Charter;
  - or
  - Commissioning alternative technical adviser to complete this work incurring additional cost and delays.
- 12.4 Although the Charter and Code are specific about the type of services that Council's must provide it provides some flexibility in how this is achieved including:
- Container type
  - Frequency of collection
  - Type of vehicles used
- 12.5 Signing up to the Charter does not commit Local Authorities to designing and implementing services that will be inefficient or result in higher costs than currently budgeted for.
- 12.6 The implication of this is that if achieving Charter compliance is affordable (either with or without funding) and efficient this would require the Council to deliver the service changes.
- 12.7 This is a critical point as cost and efficiency may not be the only consideration for the Council in making a decision to deliver the Charter. For example public opinion will play a key role.
- 12.8 The Waste Management Plan Member Officer Reference Group have been briefed on the Waste Charter and support the recommendation to sign up to the Waste Charter as detailed in section 12.9.
- 12.9 On balance it is recommended that the Council signs-up to the Charter on the basis that:
1. Zero Waste Scotland continues to provide support to complete the options appraisal.
  2. Following completion of the options appraisal and stakeholder engagement a report is presented at a future Council meeting for consideration prior to implementation.
  3. Scottish Borders Council reserves the right to opt out of the Charter if it is not considered to be in the best interests of the Council.

## **13 IMPLICATIONS**

### **13.1 Financial**

The full financial implications of signing up to the Charter are not known at the current time. These will be better understood once the transition plan has been developed with support from Zero Waste Scotland, should the Council sign up to the Charter. The Council's financial position should not be negatively impacted by signing as there is no commitment to implement new processes which cost more than current processes. The

Council will be able to apply for additional funding which can only be accessed if signed up to the Charter.

### 13.2 **Risk and Mitigations**

Risk and Mitigations are outlined in Appendix 5.

### 13.3 **Equalities**

The equality implications of the Waste Charter and Code of Practice are not known at the current time. Equality Impact Assessments (EIA) will be undertaken and considered throughout the development of the Transition and Implementation Plan.

### 13.4 **Acting Sustainably**

The economic, social and environmental effects of the Waste Charter and Code of Practice are not known at the current time. These will be assessed and considered throughout the development of the Transition and Implementation Plan.

### 13.5 **Rural Proofing**

The impact of the Waste Charter and Code of Practice on the Council's Rural Proofing Policy is not known at the current time. This will be assessed and considered throughout the development of the Transition Plan and Implementation Plan.

### 13.6 **Carbon Management**

The impact of the Waste Charter and Code of Practice on the Council's carbon emissions are not known at the current time. This will be assessed and considered throughout the development of the Transition and Implementation Plan.

### 13.7 **Changes to Scheme of Administration or Scheme of Delegation**

There are no changes to either the Scheme of Administration or the Scheme of Delegation as a result of the proposals in this report.

## **14 CONSULTATION**

14.1 The Chief Financial Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR and the Clerk to the Council are being consulted and any comments received will be incorporated into the final report.

14.2 Others that have been consulted are listed below:

- Chief Executive
- Depute Chief Executive Place
- Corporate Transformation Services Director
- Service Director Regulatory Services
- Service Director Assets & Infrastructure
- Procurement Officer

- Communications & Marketing

**Approved by**

**Jenni Craig**

**Service Director Neighbourhood Services**

**Signature .....**

**Author(s)**

Name	Designation and Contact Number
Ross Sharp-Dent	Waste Manager Ext 8857

**Background Papers: NA**

**Previous Minute Reference: NA**

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Jacqueline Whitelaw can also give information on other language translations as well as providing additional copies.

Contact us at Jacqueline Whitelaw, Place, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA. Tel 01835 825431, Fax 01835825071, email

## Appendix 1 – Key Requirements of the Code of Practice

### 1 Essential

1.1 Separate containers shall be provided to each property for the following:

- Paper and card;
- Metals, plastic and cartons

**Note:**

At the point of collection, the contents of each container will either be sorted into constituent materials (i.e. kerbside sort) or placed into separate compartments of a single vehicle or into separate vehicles for primary sorting at a site (i.e. transfer station or Materials Recovery Facility –MRF).

1.2 Separate containers for glass shall be provided to each property or alternatively within the community for communal use. These containers shall facilitate the colour separation of glass to occur.

**Note:**

Where the Council is not providing a glass collection from each property, the Council is required to:

- Demonstrate that the alternative provision (i.e. from recycling points) is achieving the same quality and quantity of glass that would otherwise be collected from kerbside collection.
- Provide a minimum capacity outlined of 10 litres per week for each property within the community. In urban areas these should be no further than 1km from each property.

Colour separation of glass can occur at a glass sorting facility if the Council can demonstrate through benchmarking with other Councils that the same quantity of glass will be available to enter high-quality recycling processes (i.e. remelt to glass containers) after sorting has taken place .

1.3 Separate containers shall be provided for food waste collection in all areas where the Waste (Scotland) Regulations 2012 require a collection.

1.4 The weekly volume of recycling to be provided to each property for each material where kerbside collection takes place should exceed the following:

Material	Code of Practice Minimum Requirements
Paper & Cardboard	40 Litres per week
Metals, Plastics & Cartons	70 Litres per week
Glass	20 Litres per week
Food Waste	20 Litres per week
Total Volume	150 Litres



- 1.5 Consider reducing the capacity for non-recyclable waste (General Waste).
- 1.6 **Desirable**
- 1.7 The collection of each recycling stream, in particular food waste is carried out on a weekly basis.
- 1.8 Separate food waste collections are provided to all areas.
- 1.9 Introduce a common colour system for each material (i.e. bin colour) in accordance with a future national standard.
- 1.10 Reduce the capacity for non-recyclable waste (General Waste) as follows:
  - 1. Households with kerbside access: A maximum of 80 Litres per week per property. To be achieved by reducing the bin size or frequency of collection.
  - 2. Flats: A maximum of 70 Litres per week per property. To be achieved by reducing the bin size or frequency of collection.

## Appendix 2 – Joint Scottish Government and COSLA letter

Cabinet Secretary for Rural Affairs, Food and the Environment  
Richard Lochhead MSP

F/T: 0300 244 4000  
E: scottish.ministers@gov.scot



4 February 2016

Dear Leader and Chief Executive

As you know, we jointly convened the SG/COSLA Zero Waste Taskforce in 2014 in order to identify recommendations for the transformation of the management of public sector waste into an effective feedstock for the circular economy. A key recommendation from this Taskforce was that local authorities should be empowered and enabled to move towards more consistent recycling collection systems. This approach has now been articulated by the Household Recycling Charter and associated Code of Practice, which have been scrutinised and approved by COSLA Leaders.

Development of the Charter and of the Code of Practice has brought together input from SOLACE, Zero Waste Scotland (ZWS), the Waste Managers Network (WMON), COSLA and the Scottish Government. The Code of Practice therefore reflects the combined expertise and experience of waste professionals across Scotland and the collection strategies and systems outlined in the document represent those which are considered to best meet the overall objectives of the Taskforce, improve recycling performance and fulfil the aim of developing a consistent national system whilst leaving room for councils to design the specific services that reflect local needs and issues.

St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)



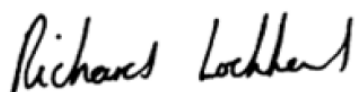
We believe that by signing the Charter and subsequently implementing the systems described in the Code of Practice local authorities will be able to:

- Stimulate inward investment and subsequent job creation in recycling and reprocessing industries
- Retain and enhance existing jobs in waste collection
- Generate and retain the best collective value from waste streams whilst increasing recycling rates
- Provide councils with a strong voice in the procurement market and enable them to manage market conditions to their collective advantage
- Demonstrate the innovative thinking resulting from empowering local government to develop solutions
- Work together to communicate to the public the value in recycling, and the benefits that good recycling practice can bring to communities

This is an exceptional opportunity to turn a required service provision into something that generates jobs, stimulates economic development and can deliver genuine efficiencies and cost savings to both individual councils and to local government as a whole. The Scottish Government is firmly committed to assisting local authorities in the implementation of this more consistent approach to recycling collections and will be aligning the support delivered through ZWS with the systems detailed in the Code of Practice.

Following signature of the Charter, councils will be offered support from ZWS to develop a transition plan that scopes out the cost-effective changes required to move towards the consistent system and to develop an implementation plan complete with timescales and financial considerations. Oversight and scrutiny of this process will be carried out through a high-level strategic group to ensure that the overall aims and objectives of the Charter are being met and to maintain focus on the over-arching circular economy goals and benefits.

Signing the Charter is voluntary, but we would very much like to urge councils to do so, and thereby to unlock the benefits of a more consistent approach to recycling across Scotland; an approach which has been developed by councils themselves and which is considered by practitioners across the country to represent good practice with regards to recycling collections. We are keen that together we maintain the momentum generated so far and continue to drive forward Scotland's efforts to realise the benefits of the circular economy. In light of this, we would appreciate it if you could give careful consideration to signing the Charter and look forward to supporting you in its implementation.



**RICHARD LOCHHEAD**

Cabinet Secretary for Rural Affairs, Food and Environment



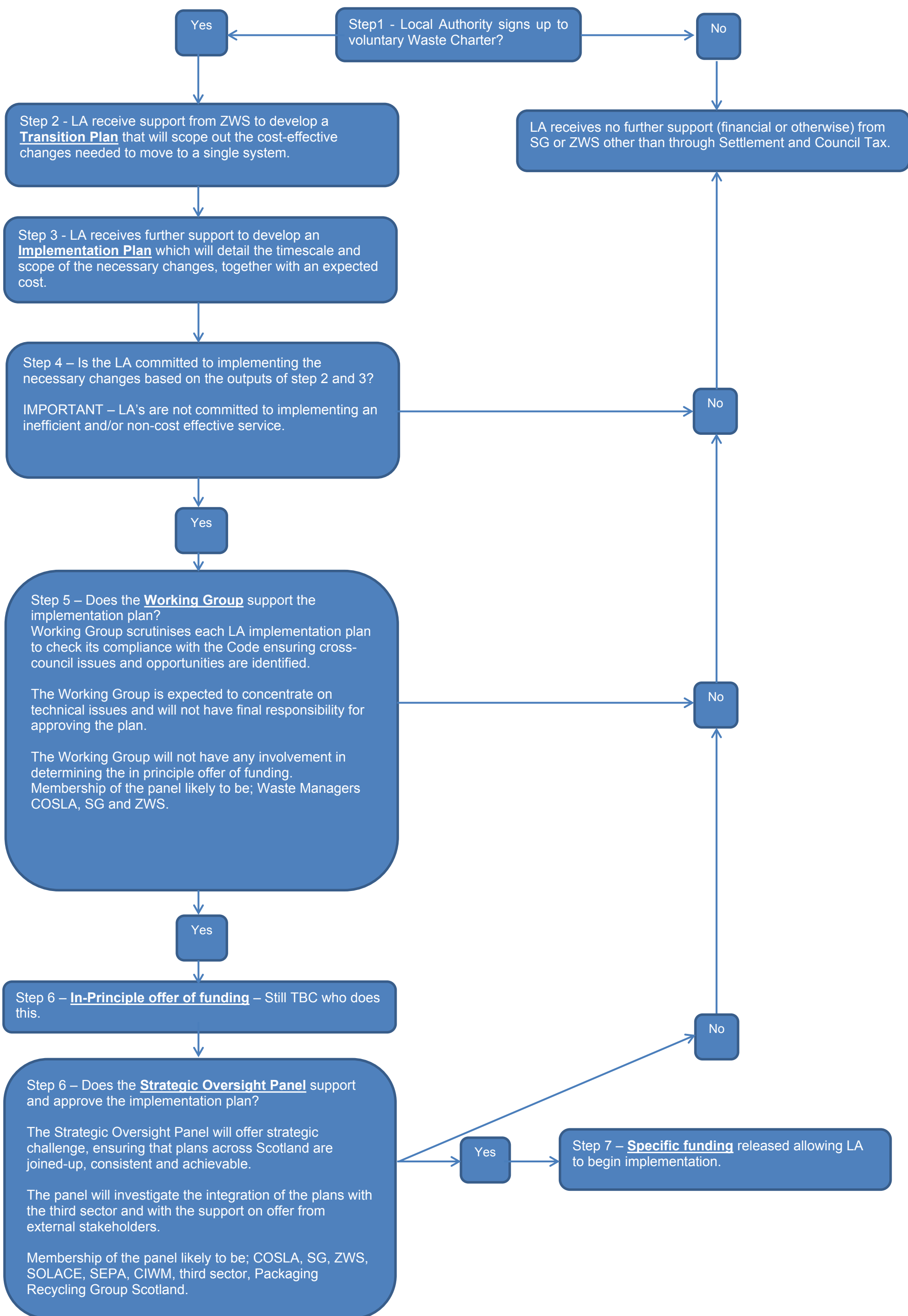
**CLLR STEPHEN HAGAN**

COSLA Spokesperson for Development, Economy and Sustainability

St Andrew's House, Regent Road, Edinburgh EH1 3DG  
www.gov.scot



**Appendix 3 – Waste Charter – Governance and Funding Approach**



## Appendix 4 –Scottish Borders Council’s current provision vs key requirements of the Code of Practice

### Essential Requirements

Key Requirement of ‘Code of Practice	Is SBC compliant?	Potential Implications for Scottish Borders Council								
Separate container for Paper and Card.	No	<ul style="list-style-type: none"> <li>• Commingled blue bin for recycle to be replaced with two containers.</li> <li>• New vehicles and containers required.</li> <li>• Upgrade Waste Transfer Stations to store additional recycle streams.</li> </ul>								
Separate container for Metals, Plastic and Cartons.	No	As above								
Separate container for Glass at kerbside or ‘same quality and quantity via recycling point’.	No	Either; <ul style="list-style-type: none"> <li>• Individual glass containers for households</li> <li>• New vehicles and containers required.</li> </ul> Or; <ul style="list-style-type: none"> <li>• Increase number of banks per site</li> <li>• Increase number of sites</li> </ul>								
Where no kerbside glass provided, minimum 10 litres per household and within 1km of each property.	No	<ul style="list-style-type: none"> <li>• Increase number of banks per site</li> <li>• Increase number of sites</li> </ul>								
Food waste shall be provided to all Waste (Scotland) Regulation areas.	Yes	None.								
Weekly minimum volume to be provided at kerbside per property: <ul style="list-style-type: none"> <li>• Paper/Card – 40L</li> <li>• Metal/plastic/cartons – 70L</li> <li>• Glass – 20L</li> <li>• Food waste – 20L</li> </ul>	<table border="1"> <tbody> <tr> <td>Paper/Card – 40L</td> <td>No</td> </tr> <tr> <td>Metal/plastic/cartons – 70L</td> <td>No</td> </tr> <tr> <td>Glass – 20L</td> <td>No</td> </tr> <tr> <td>Food waste – 20L</td> <td>Yes</td> </tr> </tbody> </table>	Paper/Card – 40L	No	Metal/plastic/cartons – 70L	No	Glass – 20L	No	Food waste – 20L	Yes	Would need to provide different containers for all materials to comply with requirements bar food waste.
Paper/Card – 40L	No									
Metal/plastic/cartons – 70L	No									
Glass – 20L	No									
Food waste – 20L	Yes									
Where Councils have adopted all of the requirements regarding food and dry recycling they shall consider reducing the capacity of non-recyclable waste collections.	No	Consider reducing the capacity of non-recyclable waste collections.								

### Desirable Requirements

Collection of recycling materials to take place weekly	No	Only food waste is collected weekly. All others would need to be increased.
Separate food collections are provided to all areas not required to have a collection under the Waste (Scotland) Regulations 2012.	No	<ul style="list-style-type: none"> <li>• Would need to expand our food waste collections to rural areas.</li> <li>• More bins and vehicles required.</li> <li>• Would need to upgrade food waste transfer station.</li> </ul>
Containers to have specific colours (colours to be agreed)	Unknown	May need to change colours. Unclear if requires new containers or if a sticker would suffice.
Where Councils have adopted all of the requirements regarding food and dry recycling they shall reduce the capacity for non-recyclable waste to 80 litres per week to each property and 70 litres for flats.	No	The Council currently provides 90 litres per week so provide more than is currently required. Would only need to consider reducing the volume if we provide all of the food and dry recycling requirements outlined in the code.

## Appendix 5 – Risk and Mitigations

No.	Risk	Mitigation
1	<p>Legal Services have confirmed that the Waste Charter is not designed to be a legally binding document/contract. However there is a small risk that the Council could be bound to the undertakings made should the Council sign up.</p> <p>This risk only becomes active if following sign up the Council decides not to deliver on the commitments outlined in the Charter. The implications are not known at the current time.</p>	<p>The options are:</p> <ol style="list-style-type: none"> <li>1. Accept the risk</li> <li>2. Request that the Scottish Government moderate the terms of the Charter to clarify that the Council is not making a binding commitment.</li> <li>3. Caveat sign up to the Charter as detailed below:</li> </ol> <p>“Scottish Borders Council reserves the right to opt out of the Charter if it is not considered to be in the best interests of the Council.”</p> <p>It is recommended that the Council caveat sign up to the Charter as per option 3.</p>
2	<p>Efficiency and affordability may not be the only reasons why the Council would not be prepared commit to implementing a service following sign up to the Charter.</p>	<p>It is recommended that the Council’s sign up to the Charter is caveated as follows:</p> <p>“Scottish Borders Council reserves the right to opt out of the Charter if it is not considered to be in the best interests of the Council.”</p>
3	<p>The funding available from Scottish Government to support implementation is not known.</p>	<p>Formally signing up to the ‘Charter’ does not commit local authorities to designing and implementing services that will result in higher costs than currently budgeted for.</p> <p>Where there is a funding shortfall, compared to existing budgets, an application will be made to the Scottish Government for financial support. If the application is rejected, no service changes will be required or enforced.</p>
4	<p>Householders may feel that a decision has been taken on service provision prior to stakeholder engagement and consultation. This may cause reputational damage and adverse publicity.</p>	<p>Stakeholder engagement has commenced including a survey and dialogue tool.</p> <p>Communications plan to be developed.</p>
5	<p>If following sign up the Council decides not to deliver on the commitments outlined in the Charter there may be political consequences. These are unknown at the current time.</p>	<p>It is recommended that the Council’s sign up to the Charter is caveated as follows:</p> <p>“Scottish Borders Council reserves the right to opt out of the Charter if it is not considered to be in the best interests of the Council.”</p>
6	<p>If following sign up the Council decides not to deliver on the commitments outlined in the Charter there may be reputational damage.</p>	<p>If this situation arises it is suggested a communications plan is developed prior to making the decision public. This should refer to the reasons as to why the decision has been made.</p>



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## **ON-STREET PARKING AND TRAFFIC MANAGEMENT**

**Report by Chief Officer, Roads**

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### **SCOTTISH BORDERS COUNCIL**

**29 JUNE 2016**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 This report proposes to update the Council on the progress and findings of the Decriminalised Parking Enforcement (DPE) Working Group and to seek permission to undertake further work and analysis prior to a final decision being made in relation to the control of on-street parking.**
- 1.2 Following the withdrawal of the traffic warden service there has been a reduced monitoring and enforcement service of waiting and loading restrictions within the area's towns and villages. This in turn has led to concerns of reduced compliance and poorer traffic management as well as increased public dis-satisfaction and complaint.
- 1.3 An officer/member Working Group was set up to look into the issue and explore the options available to the Council in relation to the future control of on-street parking. The Working Group has concluded its work and made recommendations on what it considers the preferred way forward for the Council.
- 1.4 Staff have undertaken initial investigations but further detailed study is required in relation to establishing the scale of the issue. In this regard it is proposed to commission consultants to undertake detailed parking studies and analysis.

#### **2 RECOMMENDATIONS**

- 2.1 I recommend that the Council**
  - (a) Notes the updated position in regard to on-street parking control and in particular the findings and recommendations of the Member/Officer Working Group.**
  - (b) Notes the concerns raised under financial risks in terms of affordability.**
  - (c) Notes the alternative of using the powers provided within the Police and Fire (Reform) Act 2012 to inform the Local Policing Plan as a mechanism for greater control of on-street**

**parking enforcement in the future.**

- (d) **Agrees to the funding of parking studies in key towns at a cost of £17,700 to be funded from within the existing Place budget.**
- (e) **Agrees that following the analysis of the parking studies a further report, on the findings, is presented to the Council in September 2016.**
- (f) **Agrees that should the Council decide to support DPE then a full public consultation will need to be undertaken and that proposed details on this be presented to the Council in September 2016.**

### **3 BACKGROUND**

- 3.1 In February 2014 Police Scotland withdrew their traffic warden service in Scotland.
- 3.2 On-street parking transgressions in the SBC area remain a criminal offence and enforcement responsibility lies solely with Police Scotland regardless of the fact that they no longer have a dedicated Traffic Warden Service.
- 3.3 Legislation is available however, that allows roads authorities to apply to Scottish Ministers to introduce Decriminalised Parking Enforcement (DPE) in their area. This process allows a council to undertake the management and enforcement of on-street parking. It is however a protracted legal process with significant set-up and running costs associated with it. A number of authorities have gone down this route in the past but, as the map in Appendix A illustrates, to date this has primarily been urban authorities for whom it was financially attractive to implement.
- 3.4 A member/officer working group was subsequently established to further explore the different options available to the Council in regard to on-street parking enforcement.
- 3.5 CoSLA (the Convention of Scottish Local Authorities) has also been working on the issue on behalf of its member authorities; particularly in relation to economies of scale and potential joint working across authority boundaries.
- 3.6 The latest national position, through CoSLA, is that 14 of the 32 local authorities now have DPE in place and a further 4 are within the application process. Of the remaining authorities 6 have indicated they currently have no intention of introducing DPE. The remaining authorities, including Scottish Borders, are still actively considering their position.
- 3.7 Officers have also had background discussions with neighbouring authorities in terms of options available and the potential for sharing back, and/or front, office resources or alternatively "piggy-backing" on existing DPE operations. At this stage it is not possible to draw firm conclusions in this regard as costs will very much depend on the specific level of service required by the Council. Further information will be supplied on these options in the report to Council in September 2016.

### **4 DECRIMINALISED PARKING ENFORCEMENT**

- 4.1 Decriminalised Parking Enforcement (DPE) is a regime which enables a local authority to administer its own parking penalties, including the issuing of Penalty Charge notices (PCNs). In areas with DPE, stationary traffic offences cease to be criminal offences enforced by the police and instead become civil penalties enforced by the local authority.
- 4.2 DPE can only be introduced on an authority wide basis. There is no mechanism for pilot studies or permanent schemes on a reduced area or town by town basis. It is however entirely up to individual local authorities how it applies its resources once DPE is introduced. For clarity the Council will be responsible for parking control over the wider Council area but can

- choose to concentrate on certain towns or areas within that area.
- 4.3 A comprehensive Business Case and application to Scottish Ministers is required. A key component of the business case is that a scheme must be financially sustainable.
- 4.4 The preparation of a business case and the application to Scottish Ministers is a complex and specialist task that is likely to require the appointment of consultants to undertake it. An important aspect of the process is the thorough checking of existing Traffic Regulation Orders (TROs) and their application on the ground.
- 4.5 In comparison to the current system, where the Council is reliant on Police Scotland for any enforcement action, DPE would allow the council to determine its own on-street checking frequency and pattern. This would allow much greater flexibility across the area as well as the opportunity to focus on specific areas of concern.
- 4.6 Once DPE has been introduced in an authority it is deemed unlikely that Police Scotland would consider accepting the return of enforcement duties in the foreseeable future. As such a decision to go down the route of DPE is unlikely to be reversible.

## **5 DPE WORKING GROUP FINDINGS**

- 5.1 Following a recommendation from the Environment & Infrastructure Committee a Member/Officer Working Group was established in the summer of 2014. Member representation on the group was through Councillors Cockburn, Edgar, Paterson and Smith with officers drawn from the Council's Network Section. The meetings concentrated on the options available to the Council and the staffing, operational and financial implications for each.
- 5.2 The main decision to be made by the group was whether to recommend the acceptance of the current situation of limited control and enforcement through Police Scotland or to seek to introduce a Council controlled DPE regime. Within the latter there are several different operating models that can be employed; both in terms of back office processing and on the ground operations.
- 5.3 The Working Group initially discussed five options, and these are listed in Appendix C along with initial commentary from the Working Group at the time. It was identified that the preferred way forward for the Council, in terms of traffic management in our towns, would be to apply to Scottish Ministers to introduce Decriminalised Parking Enforcement.
- 5.4 There is a considerable body of work required in order for the Council to reach the position where it could apply for and thereafter, if successful, introduce DPE. In terms of arriving at this position the Working Group identified a number of preferred working arrangements and these are discussed in the subsequent paragraphs.

- 5.5 A key aspect of DPE is the validation of the existing Traffic Regulation Orders (TROs) across the concerned area. In the Scottish Borders most towns and villages have their own TRO schedule and map. Many of these date back to the early seventies. Over the intervening years, most have been subject to multiple amendments. As a consequence the documents are extremely difficult to follow and interpret in practice. In recent years the trend has been for authorities (particularly those moving to DPE) to move to map based schedules that can be stored electronically and viewed on the web. The Working Group recommendation is that the mapping and checking of existing TROs is outsourced to a specialist consultant.
- 5.6 In the interim period it was agreed that staff should continue to consolidate existing TROs as they came up for review.
- 5.7 The working group identified that existing parking attendants and back office numbers would need to be increased were DPE to be introduced following further agreement.
- 5.8 The Working Group recognised that the existing individual TROs had led to a huge variance in terms of limited waiting times; minimum no-return periods and operational times. In order to simplify this and to aid parking attendants it was recommended that more standardised limited waiting be introduced across the Scottish Borders.
- 5.9 In relation to the practicalities of monitoring the length of time vehicles have been parked the working group concluded that a disc parking regime would offer significant benefits. Under a disc system drivers are required to set a parking clock to the time when they arrive in their car. This allows parking attendants to make an immediate check on whether a clock has been set and for how long a vehicle has been at that location. In the absence of a disc system, parking attendants have no way of knowing whether a car has recently arrived or been there all day. In practice they would need to record individual vehicles as they first encountered them and then check back following the maximum waiting period allowed to determine if they had moved on or not.
- 5.10 There was additional discussion on the cost to the Council of producing parking discs and the potential for this to be defrayed through allowing advertising on them. Whether to charge for the discs; where they could be obtained and the impact of disc parking on potential visitors were all discussed. No firm conclusion was reached but on balance it was felt that the benefits of parking discs outweighed the dis-benefits and the group determined to recommend their use.
- 5.11 The working group does not propose to introduce payment for on-street parking at this stage. The Council has to date been resistant to this course of action and it is not a requirement of DPE.
- 5.12 Essentially what the group has proposed is that parking attendants would undertake the duties previously performed by traffic wardens in ensuring that waiting and loading restrictions are being complied with and the issuing of penalty charge notices where appropriate. This approach would not however preclude the Council from revisiting the situation in the future and introducing a payment regime to park on-street.

- 5.13 In conclusion it is accepted that in operational terms a Council operated DPE system would offer a number of practical advantages in addressing current complaints, but there is considerable concern over the financial implications, both in terms of set up costs and ongoing revenue requirements; at a time when the Council is facing unprecedented financial constraints.
- 5.14 In addition to the financial concern officers are also mindful that a decision to introduce DPE is likely to be very difficult to reverse in the future as Police Scotland would no longer have any responsibility for traffic management and there would appear to be little to no incentive for them to accept that responsibility back.

## **6 DISCUSSION & PROPOSALS**

- 6.1 The Police and Fire (Reform) Act 2012 provides the Council with the mechanism to require the police to address parking enforcement as part of the local policing plan through section 45 (3) of the Act, which states "a local authority may specify policing measures that it wishes the local commander to include in a local policing plan". The Council is also afforded the opportunity to request performance information on parking enforcement through section 45(5)(a) of the act which states "A local commander must provide to the local authority such reports on carrying out police functions in its area (including by reference to any local policing plan in force for the area)".
- 6.2 The local police commander can be held to account for the action suggested in 6.1 through the Police, Fire and Rescue and Safer Communities Board.
- 6.3 Observational analysis by Council Officers suggests that in most towns the majority of drivers are actually reasonably compliant to the Traffic Regulation Orders in place and that there is a turn-over of vehicles, albeit somewhat less than when traffic wardens operated. There exists however a significant number of drivers who regularly flout the regulations and some of these are occupying spaces for large periods of the day making it more difficult for others to find a place to park.
- 6.4 In relation to single yellow and, to a lesser extent, double yellow lines there appears to be a notably higher level of non-compliance in the absence of traffic wardens.
- 6.5 To allow any decision to be taken based on facts rather than appearance a professional independent analysis of the problem is proposed. To achieve this a specialist company would be required to undertake full day surveys and analysis in a number of key towns. Indicative costs have been obtained for undertaking 0800 -1800 surveys and providing detailed analysis in a number of key town centres is detailed below.

TOWN	SINGLE DAY	3 DAYS	EACH ADDITIONAL DAY
Hawick	£995 + Vat	£2,800 + Vat	£4,000 + Vat
Kelso	£1,580 + Vat	£4,210 +Vat	
Melrose	£995 + Vat	£2,800 + Vat	
Peebles	£995 + Vat	£2,800 + Vat	
Galashiels	£1,350 +Vat	£3,860 +Vat	
Duns	£995 + Vat	£2,800 + Vat	
<b>All Discounted</b>	<b>£6,500 + Vat</b>	<b>£17,700 +Vat</b>	

- 6.6 In addition to the above Council officers have been in discussions with RTA Associates Ltd. RTA have worked with the majority of authorities in England and Scotland who have investigated going down the DPE route and are the acknowledged experts in the field of examining the scope for DPE. They have provided an informal quote of just under £9,000 (ex VAT) to undertake a feasibility study for introducing Decriminalised Parking Enforcement in the Scottish Borders.
- 6.7 The decision on DPE will have far reaching consequences for the Council and it is important that it is in as informed a position as possible on the extent of the current situation. It is therefore recommended that the 3 day parking surveys are undertaken in the six towns identified. Thereafter a further report on the findings would be brought before the Council in September 2016.
- 6.8 Officers recognise the desire for a speedy inquiry and resolution to this issue. Should this proposal be accepted then the surveys and analysis will be commissioned immediately and undertaken over the summer. This will allow an informed Council decision to take place at the September Council.
- 6.9 Also contained in the September 2016 report will be further comment on the alternative suggestion of using the Police and Fire (Reform) Act 2012.

## 7 IMPLICATIONS

### 7.1 Financial

There are a number of financial implications for the Council directly associated with the recommendations within this report and these are listed below as (a) and (b). Also listed are the financial implications for the Council should it determine to proceed with applying for DPE.

- (a) The cost to undertake parking surveys on the scale of the issues ranges from £6,500 to £17,700.
- (b) It is intended that the results from the parking study should inform the decision on whether to proceed with the next stage of a feasibility study into the viability of the Council undertaking DPE. An informal quote of £9,000 has been obtained for this important element.
- (c) Outwith the costs discussed in (a) and (b) above, initial set-up costs of £220,500 have been identified for DPE. It should be noted that £60,000 of this is required to introduce a map based Traffic Regulation Order system and that this is something that the Council

may well be required to do anyway at some point in the future.

- (d) It is estimated that a DPE scheme will run at an initial operating loss of £15,390 per annum. An option for funding this would be to run it in conjunction with the existing off-street Pay & Display regime. The average surplus for the current off-street regime is £36,163 per annum (calculated over a six year period) with Galashiels providing the majority of this.
- (e) A breakdown of the costs in c) and d) is attached as Appendix B. It should be noted that the previous requirement that DPE had to at least reach a break-even position has now been relaxed. It is now sufficient to demonstrate that there is a method of sustainably funding the process.
- (f) There is currently no provision in the 2016/17 Financial Plan for any of the expenditure described in the paragraphs above.

## 7.2 Risk and Mitigations

- (a) An application to Scottish Ministers may be unsuccessful and any costs incurred will be lost to the Council. This can be mitigated against through close liaison during the application process and by limiting expenditure as far as possible until a decision is forthcoming.
- (b) There is a risk that the service will be unpopular with the public attracting negative publicity for the Council. There is however a similar risk for the Council in not being seen to take action on this subject.
- (c) If the Council decides not to go down the route of DPE then there is a likelihood that the increased level of parking infringements, reduced turn-over of spaces and poor traffic management will continue to get worse and that public dis-satisfaction and complaints will increase. This in turn can be mitigated against through putting in place greater priority on police parking enforcement through the powers provided within the Police and Fire (Reform) Act 2012 to inform the Local Policing Plan
- (d) There is a risk that the financial projections for DPE prove to be insufficient and the cost to the Council in either, or both, initial set-up or running costs is greater than projected. The financial assumptions have been checked with the Finance service and are believed to be reasonably robust, and a contingency of 10% has been set against the set-up costs.
- (e) There is a risk that the more successful a Council operated system of DPE is the less revenue it produces as drivers become more compliant and parking infringements reduce.
- (f) A Private Members Bill to make provision for the restriction of parking on footways and at dropped footways, and double parking was introduced by Sheila White MSP on 21 May 2015. Should this come to fruition it would potentially place significant additional



burden on the authority responsible for on-street parking enforcement. No allowance has been made for this in the proposals outlined.

The current status of the Bill is that it fell on 23 March 2016, following dissolution of Session 4 of the Parliament.

- (g) There is anecdotal evidence that there is greater resistance to the payment of parking charges when they are not issued through the Police.
- (h) If Members agree in September 2016 to pursue DPE there is still considerable work to be undertaken in order to reach a position where approval is received and it can be implemented on the ground.

Key steps in this are as follows:

Feasibility Study

Consultation

TRO review

Preparation and submission of draft Business Case

Transport Scotland (TS) comment on Business Case

Review of comments and submission of final application

TS final application and prepares Scottish Statutory Instruments (SSIs) as appropriate

Subject to ministerial approval SSIs made and laid before the Scottish Parliament

Provided no objections raised, SSIs come into force.

There are a number of factors that can affect this programme including the quality of the application; the level of readiness of the authority; its engagement through the process and parliamentary recess dates. Current TS advice is that it is likely to be up to two years from the decision to progress to the SSIs coming into force.

### 7.3 **Equalities**

An Equalities Impact Assessment has been carried out on this proposal and it is anticipated that there are no adverse equality implications.

### 7.4 **Acting Sustainably**

There are no significant impacts on the economy, community or environment arising from the proposals contained in this report.

### 7.5 **Carbon Management**

It is not anticipated that the Council's carbon emissions will be effected by the Council's decision in regard to this report.

### 7.6 **Rural Proofing**

It is anticipated there will be no adverse impact on the rural area from the proposals contained in this report.

## 7.7 Changes to Scheme of Administration or Scheme of Delegation

If the Council decides to proceed down the route for introducing DPE it is likely that some amendments will be required to the Scheme of Administration and Scheme of Delegation

## 8 CONSULTATION

- 8.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR, and the Clerk to the Council have been consulted and comments received are incorporated in the report.

### Approved by

**Brian Park**  
**Chief Officer, Roads**

**Signature .....**

### Author(s)

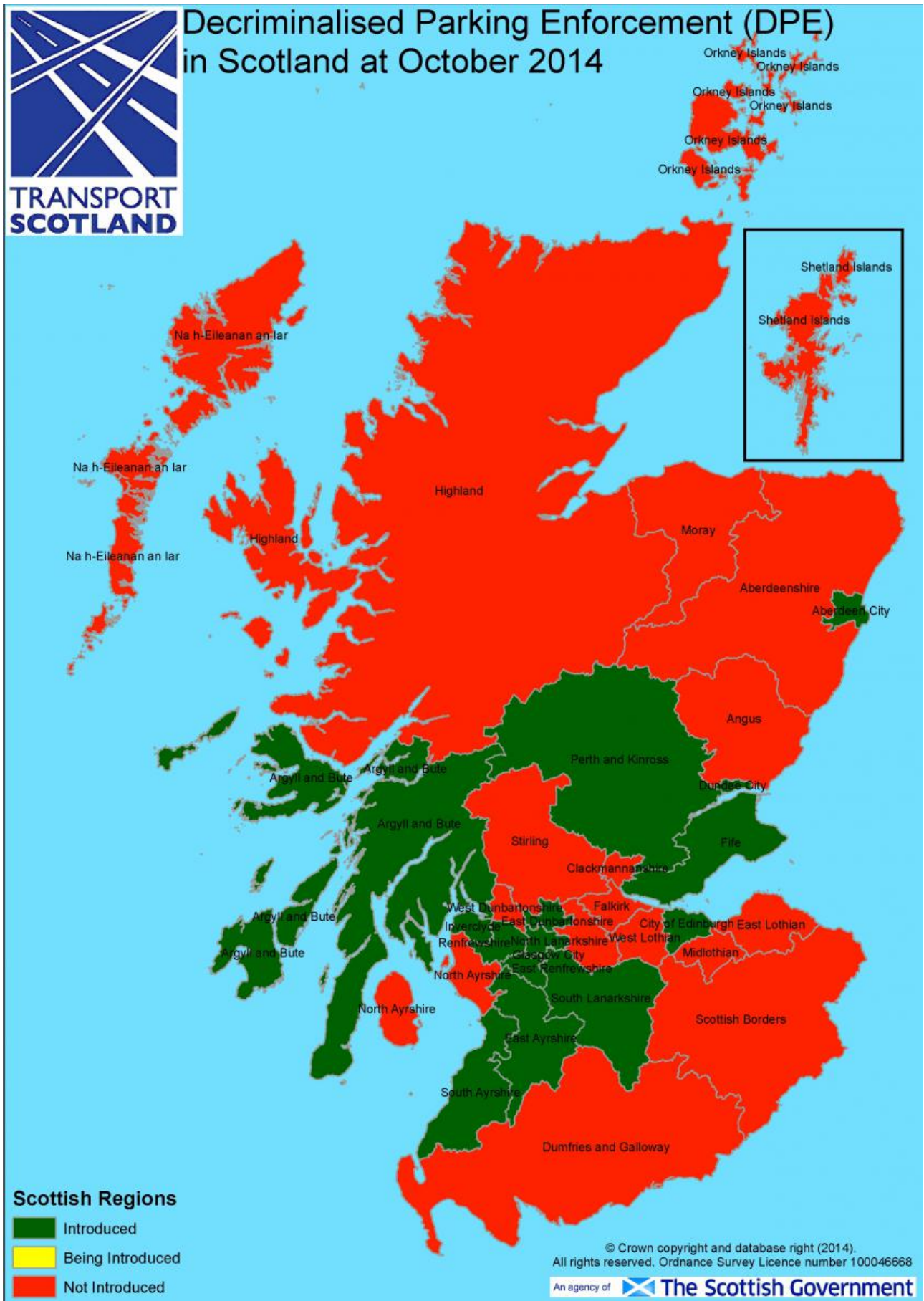
Name	Designation and Contact Number
Brian Young	Network Manager 01835 825178

**Background Papers:** None

**Previous Minute Reference:** None

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Jacqueline Whitelaw can also give information on other language translations as well as providing additional copies.

Contact us at Jacqueline Whitelaw, Place, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA, Tel 01835 825431, Fax 01835 825071, email [eitranslationrequest@scotborders.gov.uk](mailto:eitranslationrequest@scotborders.gov.uk).



## Appendix B

		<b>Additional Costs to Current Off-Street P&amp;D Operations</b>	
		<b>One off cost</b>	<b>Annual cost</b>
Preparation of DPE Application	Consultants	£50,000	N/A
Buchanan Computing	TRO Loading TRO Review	£60,000	£3,100
Signs and Lines	Replacement of missing signs and lines from TRO review	£20,000	£1,500
Disc Parking Signing Amendments	Sign Manufacture and Erection	£35,000	£1,000
Parking discs	Purchase of 50,000 without advertising	£10,000	£2,000
Additional Staff	1.8 FTE Parking Attendant 0.7 FTE Back Office Staff		£45,000
Vehicles	1 x New Van		£6,000
Handhelds	Upgrade x 5 New x 1	£3,000	£500
Software	Upgrade	£5,000	
Uniforms	New/Replacement Uniforms for staff	£1,000	£200
Stationary		£500	£200
Training		£5,000	
Telephones		£1,000	£1,000
Publicity/Advertising		£10,000	
	SUB TOTAL	£200,500	
10% Contingency		£20,050	
	<b>TOTAL</b>	<b>£220,550</b>	<b>£60,500</b>

Based on Police Scotland Fixed Penalty Notices issued (1300 pa) and a recovery rate as below (based on Argyll & Bute's submission to Transport Scotland) it is estimated that an income of £45000 pa will be achieved from PCNs

<b>Recovery rate</b> - 80% of PCNs will be paid without being contested (15% at £60, 62% at £30 and 3% at £90)	<b>-£39,390</b>
20% will be appealed or contested and these will be recovered at an average rate of £22	<b>-£5,720</b>
<b>Deficit to be made up from Off-Street P&amp;D</b>	<b>£15,390</b>

## **Appendix C**

### **Option 1 – Do nothing.**

Members discussed the option of taking no action in response to removal of wardens, which was the present ongoing position. For this to be effective there would be reliance on drivers to self-comply and for the police to continue their existing purge approach. The risk was that it would not work and that it would lead to indiscriminate parking. The view was expressed that police should not spend their time on parking enforcement. It was agreed to rule out this option at the present time.

### **Option 2 – Funding police to reintroduce Traffic Wardens locally**

Funding police to reintroduce wardens locally would be in accordance with Section 95 or the Road Traffic Regulation Act 1984 under which wardens can be employed only by the police. The officers advised that this was unlikely to be a serious option bearing in mind the decision of Police Scotland to remove the service. Although this could be a short term solution and was the one being followed by one local authority the cost involved was likely to be significant. The Group agreed that Police Scotland should be approached for a response as to whether this was an option that could be considered for the Scottish Borders. Following further consultation with Police Scotland it quickly became apparent that this was not a viable option.

### **Option 3 – Offer from private company – warning letter**

It was explained that SBC had been approached by two former police officers who offered to provide the service on behalf of the Council. In the short term this could be on a trial basis, at low cost, to issue warning letters to drivers as a means of parking control. They felt they could do this very economically in tandem with an existing role providing mobile security. In effect this would be an external management arrangement under Option 5. A DPE scheme would still be required and procurement rules would apply. It was agreed this option should be kept in reserve as a possible way forward under DPE.

### **Option 4 – A TRO review to 'slim-down' and rationalise restrictions, relaxing/removing as many as possible and consolidating traffic orders into one.**

It was explained that a TRO review would be an opportunity to take away unnecessary restrictions and bring in closer connected schemes. This should lead to a situation where restrictions were easier for the public to understand and easier to police. It was suggested that, in relation to TROs, there should be a standardisation of times across the Borders. Although this option would result in easier management of restrictions this would not provide any level of enforcement. Members agreed that a TRO review should be carried out whether or not a DPE Scheme was set up and noted that work had already started on a review and that this would include a review of regulations associated with disabled spaces.

### **Option 5 - Agreed Borders-wide regime of DPE**

It was agreed that to provide a DPE service would give the best control of parking. There would be an ability to target problem areas and would improve road safety especially near schools. The disadvantages were that it would be a time-consuming process to operate and would be expensive in terms of staff time and/or consultants fees. It would be difficult to make a financial case for a DPE scheme. The areas to be looked at would be whether there should be a full on-street and off-street scheme, or

partial in critical areas where needed, following a TRO review; and whether there should be on-street charging. A decision would also be needed as to whether management of the scheme should be in-house, external or a mix of both.



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## **BELLWIN CLAIM 2015/16 - UPDATE**

**Report by Chief Financial Officer**

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**Scottish Borders Council**

**29 June 2016**

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### **1 PURPOSE AND SUMMARY**

- 1.1 This report provides the Council with an update regarding the claims for financial assistance being progressed in response to the major flooding events caused by major storms Desmond, Frank and other flooding events during the 2015/16 financial year.**
- 1.2 This report is a follow-up to the report considered by Executive Committee on 5 April 2016.
- 1.3 The report outlines the progress on revenue works being undertaken under the Government funded "Bellwin Scheme". It also outlines how the claim is progressing towards completion and indicates the expected size of the unaudited claim at £3.5m.
- 1.4 The report also provides detail of an application to secure further capital funding of £0.925m for flood damage under a separate government backed compensation scheme being operated through the Society of Chief Officers of Transportation in Scotland (SCOTS) for flood affected Councils.

### **2 RECOMMENDATIONS**

- 2.1 **It is recommended that Council:**
  - (a) Notes the extent and costs of works undertaken to date and those remaining to be completed in response to major flooding events experienced over the winter 2015/16;**
  - (b) Notes the proposed timing of the Interim and Final Audited claims in respect of Bellwin;**
  - (c) Notes the progress made to date on remedial works under the Bellwin Scheme and works remaining to be completed; and**

- (d) Notes the further funding compensation application that is being progressed through SCOTS for capital flooding repair works that are not eligible for Bellwin funding.**



### 3 SBC STORM RESPONSE

- 3.1 The Council asked the Scottish Government for an extension to the Bellwin deadlines to allow completion of what has been a very extensive programme of post flooding remedial works. A deadline extension to the 30<sup>th</sup> of June 2016 was granted for all roads and civil repair works and to 30<sup>th</sup> of September 2016 for all bridges and river embankment works.
- 3.2 Work has been on-going since the first storm "Desmond" in December 2015 to address these repairs on a prioritised basis using the resources of Infrastructure & Asset Management, Neighbourhood Roads and SBc Contracts.
- 3.3 Due to the extent and nature of the repair work required, applications from the Council the Scottish Government have twice allowed extensions to the normal 2 month Bellwin completion dates and which allowed for general road, infrastructure and civil works repairs to be completed by the 30<sup>th</sup> of June 2016 and will allow work on riverbanks and bridges to be completed by 30<sup>th</sup> of September 2016.
- 3.4 **Progress with Bellwin Works:** Good progress has been made on all general road, infrastructure and civil works repairs and these will be fully completed by the 30<sup>th</sup> of June 2016. An ongoing programme of bridge and riverbank repairs is underway involving staff from SBc Contracts, Neighbourhood Roads and sub-contractors and it is anticipated these works will be completed by the 30<sup>th</sup> of September 2016 deadline date. To date 390 Bellwin eligible jobs have been identified and scheduled for completion by the agreed deadline dates.
- 3.5 **Timing of Bellwin claim:** It has been agreed with the Scottish Government that the Council's Bellwin claim will be submitted in two stages. The first stage will cover all work and jobs covered by the 30<sup>th</sup> of June 2016 completion date. It is planned to have this stage of the claim ready for audit by the Council's external auditors KPMG by mid-August 2016 for submission to the Scottish Government by the 31<sup>st</sup> of August 2016. Stage two of the Council's claim covering on-going bridge and river bank repairs will be fully prepared for external audit by mid-October 2016 and submitted to the Scottish Government by the 31<sup>st</sup> of October 2016.
- 3.6 **Financial Scale of Bellwin claim:** As of the 20<sup>th</sup> of June 2016 a total of just over £3 million of Bellwin eligible expenditure and commitments had been incurred. Of that amount £1.9 million was incurred in the 2015/16 financial year and £1.1 million so far in 2016/17. This value will increase further between now and the end of September 2016 due to on-going bridges and riverbank repairs and is likely to exceed £3.5 million in total.
- 3.7 **Non Bellwin eligible expenditure:** The Bellwin Scheme is only applicable to remedial expenditure which is deemed to be of a "Revenue" nature. Several of the major repairs involved initial temporary works which are of a revenue nature and are therefore eligible to be included in the Bellwin claim. The permanent reinstatement subsequently required must however be classified under accounting rules as capital expenditure which is not eligible for emergency Bellwin funding. Further compensation for flood affected Councils who have incurred such capital costs has been offered by the

Scottish Government through Society of Chief Officers of Transportation in Scotland (SCOTS) and the Council has applied for this funding.

- 3.8 SBC has identified three flood repair schemes totalling £925k in value which are classified as capital and thereby fall to this funding route.

Bowanhill Bridge – Permanent Replacement	£755,000
Selkirk – Ettrick Water, Embankment Works	£150,000
Newmill Footbridge – Permanent Replacement	<u>£20,250</u>
	<u>£925,250</u>

## 4 IMPLICATIONS

### 4.1 Financial

Scottish Borders Council is liable for the first £508k of works undertaken in relation to these works. This cost has been funded from existing reserves.

### 4.2 Risk and Mitigations

The Bellwin Scheme has specific guidelines and strict definitions of what constitutes eligible and ineligible expenditure. Whilst every effort will be made to ensure that only eligible expenditure is included within the Council's claim, including photographic evidence of the works undertaken, the final decision on cost eligibility will rest with the Council's External Auditors and the Scottish Government. A decision to reject elements of the Bellwin claim would result in these costs falling to SBC. In this event changes to approved planned capital and revenue plans may be required.

### 4.3 Equalities

It is anticipated there will be no adverse impact due to race, disability, gender, age, sexual orientation or religion/belief arising from the proposals contained in this report.

### 4.4 Acting Sustainably

Many of the measures and remedial works proposed are designed to rectify and avoid environmental damage within the Scottish Borders and remedial measures will be undertaken in cooperation with SEPA & SNH.

### 4.5 Carbon Management

No effect on carbon emissions are anticipated from the recommendations of this report.

### 4.6 Rural Proofing

It is anticipated there will be no adverse impact on the rural area from the proposals contained in this report.

### 4.7 Changes to Scheme of Administration or Scheme of Delegation

No changes to either the Scheme of Administration or the Scheme of Delegation is required as a result of this report.

## 5 CONSULTATION

- 5.1 The Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit & Risk, the Chief Officer HR and the Clerk to the Council are being consulted and any comments will be reported verbally to the Council meeting.

### Approved by

**David Robertson**  
**Chief Financial Officer**

**Signature .....**

### Author(s)

Name	Designation and Contact Number
Donald Macdonald	Financial Business Partner, 01835 825903

**Background Papers:** Nil

**Previous Minute Reference:** Executive Committee 5/4/16

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Treasury & Capital Team can also give information on other language translations as well as providing additional copies.

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## **SESPLAN: RATIFICATION OF PROPOSED STRATEGIC DEVELOPMENT PLAN**

**Report by Service Director Regulatory Services**

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### **SCOTTISH BORDERS COUNCIL**

**29 JUNE 2016**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 This report seeks ratification of SESplan Proposed Plan and Action Programme and the noting of associated documents.**
- 1.2 The SESplan Proposed Plan provides the strategic long term context for the preparation of Local Development Plans within south east Scotland. It sets out a vision and a series of outcomes in relation to the creation of a thriving, successful and sustainable region. It includes a number of housing and infrastructure proposals of direct relevance to the Scottish Borders.
- 1.3 The SESplan Proposed Plan is accompanied by a suite of associated documents including the Action Programme which sets out the proposals for delivery alongside the Plan.

#### **2 RECOMMENDATIONS**

##### **2.1 I recommend that the Council:-**

- (a) Agrees to ratify the SESplan Proposed Plan and Proposed Action Programme set out in Appendices 2 and 3 respectively,**
- (b) Notes the following associated documents: Housing Background Paper (Appendix 4); SDP2 Transport Appraisal (Appendix 5); Updated Environmental Report and Habitats Regulation Appraisal (Appendix 6); Equalities and Human Rights Impact Assessment (Appendix 7), and,**
- (c) Notes the publication proposals set out in paragraphs 3.20-3.22.**

### 3 BACKGROUND

- 3.1 At its meeting on 20 June 2016 the SESplan Joint Committee discussed and agreed the Proposed Strategic Development Plan and accompanying documents. The SESplan committee report is set out in **Appendix 1**. The Proposed Plan is set out in **Appendix 2**, and the Proposed Action Programme is set out in **Appendix 3** to this report.
- 3.2 A number of associated documents have been produced, and are available for view in the members' library. These are the housing background paper (**Appendix 4**), the Transport appraisal (**Appendix 5**), the updated Environmental Report and Habitats Regulation Appraisal (**Appendix 6**), and, the Equalities and Human Rights Impact Assessment (**Appendix 7**).
- 3.3 The SESplan Strategic Development Plan Authority, made up of 6 member authorities, is required to prepare a Strategic Development Plan for South East Scotland. SDPs set out a vision and a spatial strategy for development for up to 20 years.
- 3.4 The Proposed Plan was preceded by a Main Issues Report which was approved for consultation by the SESplan Joint Committee 29 May 2015. Consultation took place for 10 weeks starting on 21 July 2015. Thereafter, reports on consultation were considered by the Joint Committee on 28 September 2015, and on 14 December 2015.

#### **SESplan Proposed Plan**

- 3.5 The Proposed Plan has developed alongside discussions/workshops with the Joint Committee, as well as with Key Agencies and the City Region Deal Team, and has taken into account the consultations received on the Main Issues Report.
- 3.6 The Proposed Plan provides the strategic guide for Local Development Plans to set out detailed policies and land allocations. The key elements of the Plan are-
- (i) A growth strategy where most growth over the next 20 years is focused in and close to Edinburgh and along growth corridors with good public transport.
  - (ii) A set of place-making principles to guide local planning and development.
  - (iii) Ambitious, realistic housing supply targets and a generous supply of housing land.
  - (iv) A plan-led and prioritised approach to enhancing green networks.
  - (v) A strategic walking and cycling network, and,
  - (vi) The need for Supplementary Guidance on cross boundary transport development contributions.
- 3.7 Technical papers produced as part of the Main Issues Report have been reviewed and updated where appropriate. In addition, a background paper on housing (Appendix 4), and a transport appraisal (Appendix 5) have been produced related to key aspects of the Plan.

## **SESplan Proposed Action Programme**

- 3.8 The Action Programme sets out how the Plan will be implemented. It sets out roles, responsibilities and timelines related to each of the strategic actions.
- 3.9 Although the Action Programme is submitted to the Scottish Ministers alongside the Proposed Plan, it is not subject to formal Examination.

## **Implications for Scottish Borders**

### *Vision and Key Outcomes*

- 3.10 The Plan vision is for a thriving, successful and sustainable region. Key outcomes are set out and these include improved employment opportunities, reduced impact from climate change, well-designed homes to meet needs, vibrant town centres, reduced health and education inequalities, increased use of public transport, improved opportunities for cycling and walking.

### *Spatial Strategy*

- 3.11 The spatial strategy is for most growth in and around Edinburgh and in the long term growth corridors. For the period up to 2030 most growth will be met by land already identified in existing Local Development Plans. Beyond 2030 growth will be directed to Edinburgh, the longer term growth corridors and settlements in the rural growth areas (in the Scottish Borders these equate to the growth areas identified in the Local Development Plan). Place making principles are set out to guide the development of the Local Development Plan.
- 3.12 The spatial strategy looks to the transport improvements to accommodate cross boundary movement, the maintenance of designations such as the area's Countryside around Towns, and the further development of strategic green networks in central and western Borders.
- 3.13 There is support for the development of new opportunities provided by the Borders railway both within immediately adjacent areas (including the Central Borders Business Park) and into the rural heartlands. The potential for the future extension of the railway to Hawick and beyond is set out. The opportunities provided by a new station at Reston are recognised, as are the improvements to key routes including the A1, the A7 and the A68. The opportunities provided by town centres and local access routes to promote tourism are also recognised.

### *A Place to do Business*

- 3.14 The opportunities for tourism, recreation development and wider business and industrial growth and investment in the Central Borders business cluster are set out. There is also emphasis on the contribution to the city region by the rural economy through sectors including tourism, food and drink, textiles, farming and forestry, and low carbon and creative and niche industries.

- 3.15 The Plan identifies issues to be addressed including high speed broadband, promoting low carbon solar and hydro, business related to farming and forestry, promoting Eyemouth harbour as a potential offshore wind farm service port.
- 3.16 There is a proposal to establish a cross boundary windfarm working group and support for the Zero Waste Plan.

#### *A Place for Communities*

- 3.17 The Plan targets increasing housing delivery. For the Scottish Borders up to 2030 it is expected that there will be a requirement for 4594 homes including an additional generosity allowance of 10%. Estimates currently indicate that there is sufficient land currently identified within the Local Development Plan (and Supplementary Guidance) to meet this requirement in the Scottish Borders.
- 3.18 Local Development Plans are to identify the retail hierarchy of town centres and local centres within the Scottish Borders.

#### *A Better Connected Place*

- 3.19 The SESplan Proposed Plan places emphasis on the promotion of sustainable travel, and identifies a number of strategic walking and cycling routes within the Borders, along with key transport infrastructure set out in the strategy above.

### **Proposed Consultation Arrangements**

- 3.20 It is expected that the ratification of the Proposed Plan and Action Programme will be completed in August 2016. Following printing and circulation of the documents, it is expected that the Plan will be published in September 2016 for a period of 6 weeks during which time representations to the Plan may be made.
- 3.21 There will be a public notice and placement of the documents on the internet, in council offices and in all public libraries. Key Agencies, adjoining planning authorities and strategic development plan authorities, and Community Councils will be advised of the representation process period.
- 3.22 An Engagement Action Plan will be prepared by SESplan in consultation with member authorities for agreement by the SESplan Board to set out the approach to engagement with key groups.

## **4 IMPLICATIONS**

### **4.1 Financial**

The Council supports the funding of SESplan through its annual member contribution, and budget is in place to cover the Plan development costs.



## 4.2 Risk and Mitigations

SESplan is the strategic development authority for Edinburgh and the South East of Scotland set up by the Scottish Government. The Council therefore has a duty to contribute to its effective operation and members and officers have been closely involved in its preparation. The ratification of the Proposed Plan is not considered to pose risk to the Council.

## 4.3 Equalities

There are no direct adverse equality implications arising from this report. The SESplan Proposed Plan has been subject to an Equalities and Human Rights Impact Assessment.

## 4.4 Acting Sustainably

There are no direct economic, social or environmental effects arising from this report. The SESplan Proposed Plan has been subject to an Environmental Report and a Habitats Regulation Appraisal.

## 4.5 Carbon Management

There are no effects on carbon emissions arising directly from this report.

## 4.6 Rural Proofing

The Proposed Plan has been subject to a rural proofing exercise, and there are no anticipated adverse impacts.

## 4.7 Changes to Scheme of Administration or Scheme of Delegation

There are no changes required to the Council's Scheme of Administration or Scheme of Delegation as a result of this report.

## 5 CONSULTATION

- 5.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR and the Clerk to the Council have been consulted and their comments incorporated into this report.

### Approved by

**Brian Frater**

**Service Director Regulatory Services**

**Signature .....**

### Author(s)

Name	Designation and Contact Number
M. Wanless	Planning Policy and Access Manager Ext 5063

**Background Papers:** None

**Previous Minute Reference:** None

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Jacqueline Whitelaw can also give information on other language translations as well as providing additional copies.

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Tel:01835 825431

<b>For Decision</b>	✓
<b>For Information</b>	

**ITEM 8 – PROPOSED PLAN AND PROPOSED ACTION PROGRAMME**

Report by: Ian Angus, SDP Manager

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**Purpose**

This report presents the Proposed Plan and Proposed Action Programme to the SESplan Joint Committee for consideration and approval. The Proposed Plan and Action Programme attached as Appendices 1 and 2 to this report include amendments which seek to address the concerns noted by the Joint Committee at its meeting on 30 May 2016.

**Recommendations**

It is recommended that the Joint Committee:

- a) Approves the Proposed Plan and Proposed Action Programme, attached as Appendices 1 and 2 to this report, for publication, subject to ratification of this decision by the member authorities;
- b) Notes the Housing Background Paper and SDP2 Transport Appraisal, attached as Appendices 3 and 4;
- c) Notes the process for the approval of supporting documents to the Proposed Plan, including technical notes, for publication set out in Appendix 5;
- c) Agrees that editorial changes of a non-policy nature to Appendices 1 and 2 are delegated to the Strategic Development Plan Manager in consultation with the SESplan Joint Committee and SESplan Project Board Chairs; and
- d) Agrees the publication proposals set out in paragraphs 4.1-4.4 of this report.

**Resource Implications**

As set out below.

**Legal and Risk Implications**

All risks are detailed in the SESplan Risk Register and reported to Joint Committee on an annual basis.

**Policy and Impact Assessment**

No separate impact assessment is required.

## 1. Background

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- 1.1 Under the terms of the Planning etc. (Scotland) Act 2006, the six member authorities that make up the SESplan Strategic Development Plan Authority (SDPA) are to prepare a Strategic Development Plan (SDP) for South East Scotland. The SDP is to set out a vision statement as the SDPA's broad view on the future development of the SESplan area, along with a spatial strategy for future development and land use within the area, taking into account cross border relationships.
- 1.2 Scottish Ministers expect SDPs to be concise, visionary documents that set clear parameters for subsequent Local Development Plans (LDPs) and inform decisions about strategic infrastructure investment. Vision statements within the SDP are to set out a view on 20 years hence and a context for the spatial strategy of the plan. The spatial strategy should provide clear direction and provide a strategy for new development up to Year 12 from plan approval, with a broad indication of the scale and direction of growth up to Year 20. The principal topics for SDPs are expected to be land for housing, business, shopping, waste management development, strategic infrastructure (including transport, water supply and waste water), strategic greenspace networks and green belts.
- 1.3 To facilitate and inform the development of the second SDP, the SDPA prepared a Main Issues Report (MIR2). The issues and options set out in MIR2 were informed by discussions at the Joint Committee and workshops involving Joint Committee members and other key stakeholders. At its meeting on the 29 May 2015, the SESplan Joint Committee approved MIR2 for publication for consultation. This decision was ratified by all six member authorities and MIR2 together with a series of supporting documents was published for a 10 week consultation on the 21 July 2015 on the [SESplan Consultation Portal](#).
- 1.4 A report on the consultation activities which took place over the consultation period was presented to the Joint Committee at its meeting on the [28 September 2015](#). It was notable that the MIR2 consultation attracted responses from a more representative mix of stakeholders than previous SESplan consultations and the number of responses received was significantly greater than in the majority of previous SESplan consultations. The Easy Read Guide to the MIR, which was an innovative and engaging, graphic led approach to the presentation of issues and options, was well received by consultees in all stakeholder groups. A report setting out the responses to the consultation together with detailed summaries of all individual responses was presented to the Joint Committee on [14 December 2015](#). All of the responses and supporting documents are available on the [SESplan Consultation Portal](#) or website.
- 1.5 The Draft Proposed Plan Joint Committee Version 1.0 and supporting documents were considered by the Joint Committee on 30 May 2016. At that meeting, the Joint Committee noted members' concerns regarding aspects the Draft Proposed Plan and Action Programme. In this context, the Joint Committee agreed to defer decision on the draft plan and supporting documents to allow officers of the Core Team and

member authorities to consider and address the concerns which had been raised. The Draft Proposed Plan Joint Committee Version 2.10 and the Draft Action Programme Joint Committee Version 2.10, attached as Appendices 1 and 2 to this report, incorporate amendments which address the concerns which were raised by members. Appendix 6 to this report sets out all of the changes made to the Proposed Plan Joint Committee Version 1 and Action Programme Joint Committee Version 1, incorporated in Appendices 1 and 2.

- 1.6 The changes made to the Proposed Plan Joint Committee Version 1 and Action Programme Joint Committee Version 1, incorporated in Appendices 1 and 2, do not necessitate any amendment to the Environmental Report, Habitats Regulations Appraisal, Strategic Flood Risk Assessment and Equalities and Human Rights Impact Assessments associated with the Proposed Plan.

## **2. The Proposed Plan**

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- 2.1 The Draft Proposed Plan and Proposed Action Programme are attached as Appendices 1 and 2. MIR2 and the Proposed Plan have been informed by a number of technical assessments. The Housing Background Paper and the Transport Appraisal for SDP2 which inform the Proposed Plan are attached as Appendices 3 and 4. Appendix 5 summarises the proposed approach to the approval of the Proposed Plan and all supporting documents for publication.
- 2.2 The Proposed Plan has been shaped by discussions at the SESplan Joint Committee and workshops with Joint Committee members, Key Agencies and others. The Proposed Plan has been developed under the direction of the SESplan Project Board and in consultation with member authorities and the Key Agencies. The City Region Deal team have also been consulted in the preparation of the plan. All of the submissions received through the MIR2 consultation have been considered in the preparation of the plan.
- 2.3 The Proposed Plan has been prepared within the context of the first Strategic Development Plan for the area, approved by Scottish Ministers in June 2013, and the Supplementary Guidance on Housing Land adopted by the member authorities in October 2014. A key requirement for the Proposed Plan is to provide continuity to ensure that the proposals already identified through the approved Strategic Development Plan and Local Development Plans prepared to accord with that are taken forward to delivery.
- 2.4 The Proposed Plan sets out an ambitious vision to guide the growth of the city region over the next 20 years. It provides a strategic basis for Local Development Plans to set out more detailed proposals for where development should and should not happen and a context for development management. The plan will also help to achieve the vision by influencing and supporting investment plans and other strategies affecting the region.

- 2.5 The Proposed Plan is intended to be accessible to all people with an interest in the plan. To help achieve that, the style of the plan is based on that of the Easy Read Guide to MIR2. The plan makes extensive use of graphics and is written in a straightforward style as far as is practical while ensuring that the plan continues to fulfil its role in directing Local Development Plans and in development management.
- 2.6 The Proposed Plan addresses all of the issues identified in MIR2. The key elements of the plan are:
- A Growth Strategy where **most growth over the next twenty years is focussed in and close to Edinburgh** and along growth corridors with good public transport;
  - A set of **Placemaking Principles** to guide Local Development Plans and decisions on new development proposals;
  - A set of **ambitious but realistic Housing Supply Targets and a generous supply of housing land**;
  - **A plan-led and prioritised approach to enhancing green networks** including the commitment to prepare Cross Boundary Green Network Frameworks as Supplementary Guidance to the plan;
  - **A Strategic Regional Walking and Cycling Network** and priorities for new or upgraded routes; and
  - A commitment to preparing **Supplementary Guidance on a Cross Boundary Transport Contributions Framework** to assist in the delivery of some of the transport inventions needed to deliver the vision.
- 2.7 The Housing Supply Targets have been developed in line with a methodology agreed between the SESplan member authorities. The methodology, set out in detail in the Housing Background Paper, Appendix 3, is based on a 2015 Housing Need and Demand Assessment (HNDA) certified as robust and credible by the Scottish Government Centre for Housing Market Analysis (CHMA). The approach is compatible with Scottish Planning Policy, the HNDA Managers Guide and Local Housing Strategy Guidance.
- 2.8 All of the technical work completed to inform MIR2 and the technical notes on Spatial Strategy, Housing Land, Economy, Minerals and Waste have been reviewed in the context of the Proposed Plan. The Housing Land Technical Note will be superseded by the Housing Background Paper. All of the other notes remain relevant to the Proposed Plan and do not require updating with the exception of the Green Network Technical Note. This note will be amended to reflect minor changes to the green network priority areas and the strategic, regional walking and cycling network, agreed with key partners, following the consultation on the MIR. Appendix 5 sets out the proposed approach to the approval of Proposed Plan and supporting documents including technical notes for publication.
- 2.9 The Final Report of a transport appraisal commissioned to inform the Proposed Plan is attached as Appendix 4. This appraisal builds on the emerging work from the Cross Boundary Transport Project led by Transport Scotland and assesses the impacts of the additional development required to meet SDP2's Housing Supply Targets. The assessment highlights that there are further journey time and congestion impacts in West,

Central and North Edinburgh as a result of the additional housing inputs but these are very minor relative to the impacts of development already identified in existing plans. The assessment recommends outline interventions that could accommodate and mitigate these impacts.

### **3. The Action Programme**

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3.1 The purpose of the Action Programme is to set out how the SDP will be implemented, relating actions to specific SDP policies. The Action Programme addresses the 'how', the 'when' and 'by who', not simply focusing on proposals for land releases or redevelopment but setting out all proposed actions required in order to effectively deliver the policy objectives of the plan. The Action Programme must contain the following;

- A list of actions required to deliver each of the Plan's policies and proposals;
- The name of the person who is to carry out the action; and
- The timescale for carrying out the action.

3.2 The Action Programme will focus on:

- a. actions to deliver cross-boundary infrastructure and infrastructure of regional importance
- b. actions to deliver national developments; and
- c. actions that require the input and coordination of more than one local planning authority to deliver.

3.3 This Action Programme has been developed in consultation with the member authorities, the Scottish Government, Key Agencies and officers working on the City Region Deal. Other stakeholders identified in the Action Programme are being consulted on the relevant actions and roles. Many of the funding commitments in the plan will be dependent on future Government spending reviews and public and private sector finance. The City Region Deal proposal, currently the subject of negotiation with Scottish and UK Government, is also likely to have a key role to play in delivering SESplan's vision.

3.4 The Action Programme will be published and submitted to Scottish Ministers alongside the SDP. The Action Programme is not subject to examination alongside the Proposed Plan but may be updated following the examination. The Action Programme will then be adopted and published within three months of the plan approval. Following its adoption, the Action Programme will be kept under review and updated and published at least every two years. Appendix 2 includes further details on the Action Programme.

### **4. Next Steps**

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4.1 A decision by the SESplan Joint Committee to publish the Proposed Plan and accompanying documents must be ratified by each of the member authorities. It is expected that this process will be completed in August

2016. Allowing time for the printing and distribution of the documents, it is expected that the Proposed Plan will be published around 13 September 2016 for a period of six weeks for representations to be made.

4.2 In accordance with Regulation 5 of the Town and Country Planning (Development Planning) (Scotland) Regulations 2008, the documents will be published and distributed as follows.

- A notice will be published in a local newspaper covering the region and on the internet setting out:
  - o That the document has been prepared, and where and when it may be viewed;
  - o A brief description of the content and purpose of the document;
  - o Details of how further information may be obtained; and
  - o A statement that representations may be made, and how, to whom and by when they should be made.
- Information advising of the Period for Representations will be sent to:
  - o The Key Agencies (13 in total);
  - o Adjoining planning authorities and SDPAs (11 in total); and
  - o Community Councils within the SDP area (232 in total).
- A copy of the document will be made available to inspect at an office of each of the constituent planning authorities (6 per member authority, 36 in total) and in all public libraries in the plan area (132 in total).
- The document and supporting information will be published on the internet.

4.3 To meet the above requirements, 700 copies of the Proposed Plan, Action Programme and updated Environmental Report and Addendum will be printed in hard copy. When publishing MIR2, hard copies were requested by and distributed to other organisations including housing associations, MPs and MSPs, developers, community councils and individuals. It is expected that demand for copies of the Proposed Plan will be higher and so an allowance for additional prints has been included within the above total.

4.4 In accord with the [SESplan Stakeholder Strategy](#) presented to the Joint Committee on 21 March 2016, an Engagement Action Plan for the Proposed Plan will be prepared in consultation with member authorities. The Engagement Action Plan will set out our approach to engaging the key groups identified in the Strategy. At the stage in the programme for SDP2, action will focus on raising awareness of the plan preparation process, explaining the content of the Proposed Plan and inviting formal comments on plan during the period for representations. The Engagement Action Plan will be presented to the Project Board on 26 August 2016.

## Appendices



Appendix 2	Proposed Action Programme
Appendix 3	Housing Background Paper
Appendix 4	SDP2 Transport Appraisal
Appendix 5	Approval of Proposed Plan and Supporting documents for publication
Appendix 6	Schedule of changes to Draft Proposed Plan Joint Committee Version 1 and Draft Action programme Joint Committee Version 1

**Report Contact:** 01506 282879

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**Report Agreed By:** Ian Angus, SDP Manager

**Author Name:** Ian Angus, SDP Manager

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# SESplan

The Strategic Development Planning Authority  
for Edinburgh and South East Scotland

Page 327

*Thriving, Successful, Sustainable*  
**Proposed Strategic Development Plan**

September 2016







## SESplan and the Strategic Development Plan

SESplan is the Strategic Development Planning Authority for the Edinburgh and South East Scotland region. The region covers six council areas including City of Edinburgh, East Lothian, Midlothian, West Lothian, the Scottish Borders and the southern half of Fife. SESplan works in partnership with these six councils to prepare a Strategic Development Plan for the area.

A Strategic Development Plan is a statutory planning document which is prepared or updated every five years and covers a twenty year time period. It communicates strategic level and cross-boundary planning policy and applies national policy and guidance from the Scottish Government. It is used to inform the Local Development Plans prepared by each of the Local Authorities in the region.

## SESplan

**Have Your Say**

SESplan is currently at a key stage in the preparation of the replacement Strategic Development Plan where we publish the Proposed Strategic Development Plan. The Proposed Strategic Development Plan is effectively a draft plan which represents our settled view on the final content of the replacement Plan. It has been informed by the responses received during the [Main Issues Report](#) consultation which took place between 21 July and 30 September 2015.

We are now inviting formal comments to be made on the Proposed Strategic Development Plan. At this stage representations should be limited to explaining what changes you consider should be made to the plan along with justification for the proposed changes.

The Proposed Strategic Development Plan publication period runs from XX September to XX October 2016. If you wish to submit a representation you should do so through the SESplan consultation Portal: [sesplan.objective.co.uk/portal](http://sesplan.objective.co.uk/portal).

In line with Scottish Government advice, the detail of each representation should be expressed in a concise way (no more than 2,000 words). A concise summary is also required (up to a maximum of 400 words), together with the change that is sought to the Proposed Plan.

Following completion of the publication period, SESplan is required to address all the representations and decide if any of them warrant modification to the Proposed Plan. If no modifications are considered appropriate then all of the representations and SESplan's response to them will be submitted to the Scottish Government alongside the Proposed Plan for examination.

The Proposed Strategic Development Plan and supporting documents can be viewed on the website [www.sesplan.gov.uk](http://www.sesplan.gov.uk), in public libraries, local planning authority offices and at the SESplan office at:

SESplan, Civic Centre, Howden South Road, Livingston, West Lothian, EH54 6FF

For more information, or if you are unable to submit a representation through the Consultation Portal, please contact us on 01506 282883 or [contactus@sesplan.gov.uk](mailto:contactus@sesplan.gov.uk)

To keep up-to-date you can sign up to our mailing list, follow us on Twitter @SESplan or like us on Facebook.

## Foreword and Introduction

This plan sets out an ambitious vision to guide the growth of the South East Scotland region over the next 20 years. Our vision is for a city region that is easier to move around and where there are better public transport options. The success of Edinburgh's Trams and the Borders Railway has demonstrated that people will choose non-car options where a good service is available, with consequent benefits to our environment, health and economy. However, if we're to deliver a better transport system for everyone, we need to step up the pace of the delivery of transport infrastructure, particularly for public transport, walking and cycling and find new ways to pay for it. This plan sets out a number of proposals to help us do that.

Recognising the challenge of meeting people's needs for a home, member authorities have worked together to ensure that the targets for housing delivery are ambitious, but achievable. A spatial strategy focused on growth corridors with good public transport will ensure that this housing will be directed to the right places. A series of placemaking principles and a plan-led approach to green networks means that this growth can be delivered without damaging the natural assets that make the region a great place to live, work and visit.

The announcement that a City Region Deal for our region will be developed, in partnership with the UK and Scottish Governments, means that there will be opportunities to fund and deliver infrastructure in more innovative ways in the years ahead. The partner authorities are committed to an ambitious proposal to deliver a step change in the region's economic performance. We will play our full part in that process and make use of the fiscal powers to ensure that this region continues to be the best place to live in Scotland.

Councillor Stuart Bell

Convenor SESplan



## Distinctive Heritage and Culture

Home to over half of the top **20** most visited attractions in Scotland and 1 in the UK top **10**



Festival City – Edinburgh hosts the largest annual cultural festival in the world. Generating over **£260** million in the Scottish economy

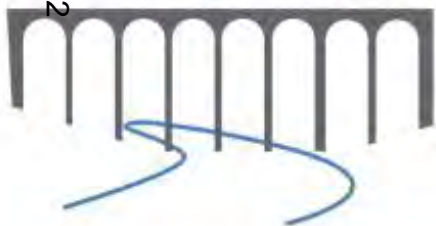
**Two UNESCO World Heritage Sites - Old and New Towns of Edinburgh and the Forth Bridge**



Scotland's Golf Coast  
Musselburgh to Dunbar

## A World Class Environment

**Two** National Scenic Areas - Eildon & Cadzow and Upper Tweeddale



Tweed Valley Forrest Park - including Glentress Mountain Biking Centre

Pentland Hills Regional Park - Edinburgh's Playground & Lomond Hills Regional Park - Fife's playground!



**3** National Nature Reserves - Blawhorn Moss, Whitlaw Mosses & St Abb's Head

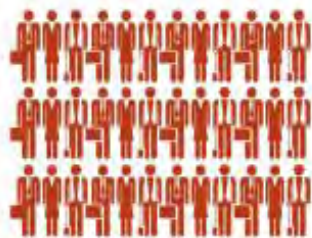


Over **20** Natura Sites - Protected Areas of European Importance including most of the Firth of Forth Coast and Islands

## A Smart Economy

City Region contributes over **£33** billion of Gross Added Value to Scotland's economy.

**26%** of the country's output



Edinburgh is the second most prosperous city in the UK (2013)



There is a skilled workforce **31.7%** working age population educated to degree or equivalent level (Scotland 26.4%) and we are home to **4** major universities

The city is a centre for excellence for financial services and the region is one of the UK's leading technology hubs





## Advanced Engineering and Infrastructure



The Queensferry Crossing is the longest three-tower, cable-stayed bridge in the world and the **tallest bridge in UK.**

Page 333



Borders Railway - longest domestic railway constructed in Britain for over **100** years.



Edinburgh Airport  
Scotland's Busiest Airport  
with over **11** million  
passengers

## A Region of Opportunities



## SESplan Assets



# City Region Vision for 2038

*Thriving, Successful, Sustainable*

Sustainable growth has been achieved by carefully managing those assets that provide the most benefits and by making well designed, successful places where people can thrive. More people are able to afford a home in a place near where they work. A series of cross-boundary transport projects has made travel by public transport easier and more people are cycling and walking to work. The economy continues to grow and the region remains an outstanding place to live, work and visit. Communities in the region are healthier and there is less inequality and deprivation.

What Change?

Spatial Strategy

Most growth in and around Edinburgh and in Long Term Growth Corridors

Placemaking in the city region

Rural Growth Areas

Green Belts

Cross-Boundary Green Networks

Strategic Cross-Boundary Transport Improvements

Key Diagram, page 11. Placemaking Principles, page 13.

Where?

Key Areas of Change



How?

Delivery Themes

Strategic Opportunities

Outcomes

A Place to do Business

Locations for Investment

page 23

Improved employment opportunities and a more productive workforce

A Low Carbon Economy

page 30

Impacts from climate change minimised and carbon reduction targets met

Increasing Housing Delivery

page 34

Well-designed homes that meet more of the need for affordable housing

A Place for Communities

Thriving Town Centres

page 41

Vibrant town centres

Enhanced Green Networks

page 42

Reduced health and education inequalities

A Better Connected Place

Supporting Non-Car Travel

page 45

More people use public transport and journey times are quicker

Regional Walking and Cycling

page 46

Walking and cycling account for a bigger proportion of journeys

Strategic Transport Improvements

page 48

## 2 The Vision

### Delivering the Vision

**2.1** The Strategic Development Plan will help achieve the SESplan vision by:

- Providing direction to Local Development Plans in the city region. Specific directions to Local Development Plans are emboldened and begin "**Local Development Plans will...**"
- Providing a context for development management – all planning applications have to be determined in accordance with the Development Plan<sup>(1)</sup> unless material considerations indicate otherwise. Specific statements relevant to development management are emboldened and begin "**Development should...**" or "**Development must...**"

- Influencing and supporting investment plans, strategic plans and other strategies affecting the region
- Identifying key strategic actions in the plan and in the SESplan Action Programme. Specific statements committing individual SESplan member authorities to take action begin "**SESplan member authorities will...**". Statements committing SESplan to take action begin "**SESplan will...**"

### SESplan Action Programme

**2.2** Many of the actions needed to deliver this plan are already set out in the action programmes related to each of the Local Development Plans in the city region. The SESplan Action Programme published alongside this plan will therefore focus on actions:

- to deliver cross-boundary infrastructure and infrastructure of regional importance
- to help deliver national developments
- that require the input and coordination of more than one local planning authority to deliver

<sup>1</sup> The Development Plan for each of the local authority areas within this city region comprises the relevant Local Development Plan and the Strategic Development Plan (supported by relevant supplementary guidance)

## City Region Deal

**2.3** The member authorities are currently engaged in negotiations to conclude a 'City Region Deal' for the city region. This is a deal between the Scottish Government, UK Government and SESplan member authorities that allows greater fiscal autonomy on the basis of an investment programme that demonstrates additional economic growth. It is likely that this investment will help deliver some of the infrastructure needed in areas already allocated for development.

**2.4** It is too early to predict the impact of this potential new investment on the economy of the region or the extent to which economic growth may affect housing demand. However, taking into account the potential opportunities, this plan includes ambitious housing targets and a generous housing land requirement. These reflect estimates of housing demand based on an economic future where the public and private sector provide the kind of strong leadership that is a key feature of City Region Deal. The impact of any City Region Deal on the pace of economic growth and any consequent impacts on the amount of development land required will be considered in relation to subsequent plans and strategies related to infrastructure delivery.



# Spatial Strategy

## The Spatial Strategy

### Most growth in and around Edinburgh and in Long Term Growth Corridors

**3.1** Over the next 20 years, most growth will be focused in and around Edinburgh and in indicative Long Term Growth Corridors (See Figure 3.1). The City of Edinburgh will meet a larger proportion of the region's housing need than in previous plans. This will help minimise commuting by car and reduce transport related carbon emissions, as well as making best use of existing infrastructure. 'A Place for Communities' (page 33) sets out the housing land requirement for each local authority area in the period 2018-2030 and provides an indication of the scale of housing land required beyond 2030.

### Strategic Growth 2018-2030

**3.2** For the next 12 years, the need for strategic growth will be largely met by land already identified in existing and proposed Local Development Plans. The key diagram identifies the broad location of this as 'Strategic Growth 2018-2030'. Most of this will occur in and around Edinburgh and along transport corridors.

### Growth Beyond 2030

**3.3** Beyond 2030, growth will be directed to locations in and around Edinburgh, locations along Long Term Growth Corridors and settlements within Rural Growth Areas. The purpose of the Long Term Growth Corridors is to direct growth to those transport corridors of primary importance for long term strategic growth. Rural Growth Areas identify those rural settlements in the Scottish Borders with potential for long term growth. The Placemaking Principles set out in Table 3.1 will be relevant over the long term and subsequent Strategic Development Plans will also include Placemaking Principles that guide the location and scale of development.

**3.4** If required to do so on the basis of future assessments, subsequent Strategic Development Plans will identify more specific locations suitable for further strategic growth in line with this long term growth strategy and the Placemaking Principles. In doing so they may direct subsequent Local Development Plans to release land, including land from the green belt, at locations along the Long Term Growth Corridors. These Local Development Plans may give more explicit policy protection to green networks in the remaining 'green wedges', in a way that recognises the full range of benefits and services that green networks provide (para. 5.20).

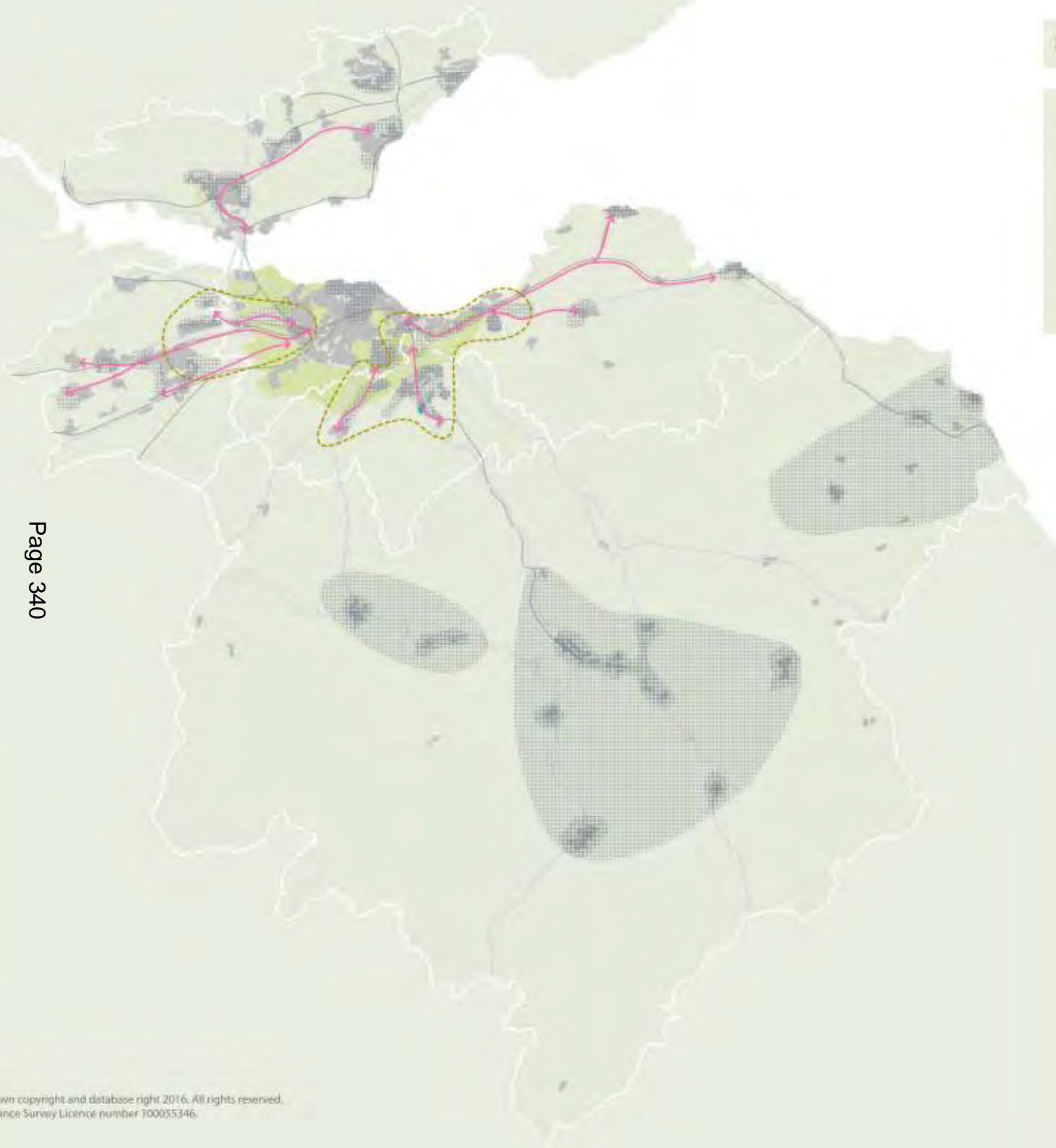
### Placemaking in the City Region

**3.5** Placemaking is a collaborative process that includes design, development and renewal of our urban and rural built environments. Good places play a fundamental role in attracting investment and supporting economic growth, promoting healthy lifestyles and providing a sense of identity and community. **SESplan member authorities will ensure that communities are involved in the design and shaping of development at an early stage, using tools such as the Place Standard to engage local people in conversations about what places should be like.**

**3.6** **Development should take account of the Placemaking Principles set out in Table 3.1. Local Development Plans will include development frameworks, masterplans and design briefs that are aligned with relevant community plans and have been developed jointly with local people. Local Development Plans will be guided by the Placemaking Principles detailed in Table 3.1. and ensure that all international, national and locally designated areas are afforded the appropriate level of protection.** The City Region Assets on page 4 illustrate many of the key natural and historic assets of international, national and regional importance.

Figure 3.1 Key Diagram

- Strategic Growth 2018-2030
- Long Term Growth Corridor 2030+
- Rural Growth Areas
- Cross-boundary Green Network Priority Areas
- Green Belt





### Strategic Cross-Boundary Transport Improvements

**3.7** Increasing traffic congestion has a major impact on movement into Edinburgh but also on movement to and between the western and south eastern fringes of the city. While the majority of these congested areas lie within the City of Edinburgh boundary, many of the journeys that contribute to that congestion are generated in the other SESplan member authority areas. This plan sets out some of the key strategic transport improvements that are likely to be needed to address these cumulative and cross-boundary impacts. It also sets out the principles underpinning a Cross-Boundary Transport Contributions Framework, to be established through Supplementary Guidance, and the matters that the guidance will address.

### Green Belts and Related Countryside Designations

**3.8** Figure 3.1 Identifies the broad location of the existing green belts around Edinburgh and to the west of Dunfermline. **Local Development Plans will identify and maintain green belts and other countryside designations fulfilling a similar function where they are needed:**

- **To maintain the identity, character and landscape setting of settlements and prevent coalescence**
- **To protect and provide access to open space**
- **To direct development to the most appropriate location and support regeneration**

**In doing so, Local Development Plans will take into account any relevant guidance on green networks.**

### Cross-Boundary Green Networks

**3.9** Two Cross-Boundary Green Network Priority Areas have been identified to focus action on places where a coordinated, cross-boundary approach is needed to maximise the benefits of green infrastructure. **SESplan will prepare Strategic Frameworks for two cross-boundary Green Network Priority Areas (Edinburgh and West, Edinburgh and East) and adopt the frameworks as Supplementary Guidance to the plan. These frameworks will:**

- **Identify and safeguard those elements of the green network that provide, or have the potential to provide, the greatest benefits for people and nature**
- **Identify strategic enhancements to green networks that will add value to existing settlements, developments for which land has already been allocated and any new allocations in subsequent Local Development Plans**
- **Provide an additional context for planning decisions**

### 3 The Spatial Strategy

**Table 3.1 Placemaking Principles**

<b>Distinctive</b>	Areas important for maintaining the character, landscape setting and distinctive identity of existing and proposed settlements should be protected and enhanced, particularly where they are needed to avoid the coalescence of settlements. The contribution of the natural and historic environment to making distinctive places should be maximised. Key views of the surrounding landscape should be integrated into developments to provide a sense of place and identity. Views of the Southern Uplands, the Lammermuir Hills, the Firth of Forth, the Pentland Hills, the Lomond Hills, the Bathgate Hills and key the landmarks of Edinburgh are particularly important in supporting a sense of place and making settlements distinctive.
<b>Safe and Pleasant</b>	Public spaces should be free from excessive traffic noise and air pollution and the needs of people should be considered before the movement of motor vehicles. Public spaces should be overlooked by housing, so that the people who use them feel safe and the people who live nearby feel a sense of ownership. It should be easy for people to access green/open space, including places where they can enjoy nature. Developments should be located within a network of green and blue infrastructure that provides a pleasant outlook for the people living and working there.
<b>Welcoming</b>	Gateways into settlements and extensions to existing settlements should be interesting, memorable and contribute to local distinctiveness. A wide range of public spaces of different types and character, accessible to all, should be provided that appeal to people of different ages and with different interests. Neighbourhood centres should include attractive and safe indoor and outdoor spaces where people can interact.
<b>Adaptable</b>	Development should be located where a wide range of densities, tenures and uses can be supported to meet the changing needs of the community into the future. Green networks should be multi-functional. They should comprise infrastructure that provides a range of benefits and can be adapted and enhanced depending on the local need for growing spaces, play spaces, natural spaces, public parks, sustainable urban drainage and the need to adapt to climate change.
<b>Resource Efficient</b>	New development should be located near existing public transport hubs, or in locations where there are planned infrastructure projects to enable easy access to the public transport network. The re-use or re-development of brownfield land should be considered before new development takes place on greenfield land, including Prime Agricultural Land and other land important for food production. Development should be located and orientated to maximise passive solar heating and opportunities for solar power generation. Heat mapping and other approaches should be used to identify opportunities to co-locate sources of high heat demand (e.g. housing) with sustainable sources of heat supply (e.g. biomass power plants). Development should be located away from functional flood plains and areas of medium to high flood risk. Areas important for flood storage and conveying capacity should be safeguarded for a range of compatible uses such as recreation, water quality management, flood attenuation and habitat creation. Development should be designed to minimise the area of impermeable surface and incorporate Sustainable Drainage Systems (SuDS) as appropriate.
<b>Easy to Move Around</b>	There should be good walking and cycling networks close to where people live, providing safe and convenient access to local facilities and to public transport stops. There should be a range of public transport options that provide easy access into Edinburgh, strategic centres, town centres, local centres and centres of employment. Developments should integrate with, and contribute to, the enhancement of walking and cycling networks.

## The Spatial Strategy 3

## Key Areas of Change South East

**3.10** Edinburgh city and the Long Term Growth Corridors radiating east and south east encompass a range of strategic development opportunities over the next 20 years. The challenge in this area is to ensure that infrastructure is delivered that enables existing allocated sites to fulfil their potential.

**3.11** Edinburgh Waterfront remains a high priority for growth. The tram extension to Leith and Granton and the establishment of an attractive cycleway and footpath is fundamental to achieving a thriving low carbon waterfront community connected to the city.

**3.12** Blindwells could benefit from interventions to accelerate its development. If Blindwells is capable of expansion beyond the current allocation, it could become one of the largest investment opportunities in south east Scotland, potentially delivering over 6,000 homes, employment opportunities and a strategic town centre serving the wider area. Realising these opportunities will require further planning studies and close cooperation between landowners and the public sector. In particular, more effective partnership working is needed to deliver the education and transport infrastructure required to unlock its full

economic potential and enable it to contribute to the regeneration of neighbouring communities in the west of East Lothian.

**3.13** Sites around existing East Lothian settlements will provide a significant amount of land to meet the requirements of the emerging East Lothian Local Development Plan. Once the development anticipated around Musselburgh is delivered, environmental and infrastructure constraints are expected to limit further significant expansion of settlements in the Musselburgh area. Any further development requirements for East Lothian will be dispersed to locations further east along the Long Term Growth Corridors. Subject to future growth requirements for East Lothian, there may be a need for a second new settlement in the east of East Lothian.

**3.14** Shawfair station is at the centre of what will be a new community in Midlothian with the potential to deliver over 4,000 new homes and significant new employment land over the next 20 years. The scale of the proposal means there will be opportunities to provide more innovative low carbon power and heat solutions to support a more sustainable place. Eskbank station will provide ready access to the Midlothian Community Hospital and a ten minute rail link between Edinburgh College campuses in Midlothian. New transport links from Shawfair station to the Royal Infirmary

of Edinburgh will be needed to deliver benefits to patients and visitors from Midlothian and the Scottish Borders.

**3.15** A modified A1 junction and underpass near Queen Margaret University will enable land adjacent to the university to be developed to support the Innovation and Science Cluster. This land also provides opportunities for start ups with a focus on life sciences, research and learning and food and drink. Improved capacity and rail services on the East Coast line and new rail stations at East Linton and Blindwells will help reduce commuting by road.

**3.16** Leith is a strong location for large scale manufacturing, installation, operations and maintenance for the renewables industry as well as a centre for the creative industries. The former Cockenzie Power Station site is not currently subject to specific proposals for carbon capture and storage and thermal generation. It remains part of an Area of Coordinated Action, but relevant stakeholders should consider a wider range of potential future uses for this site. The BioQuarter, Bush and BioCampus are key elements of the Edinburgh Science Triangle, one of the top ten research and development locations in Europe. They offer opportunities for academic, commercial and clinical research and a range of expansion opportunities for technology and bio-industries.

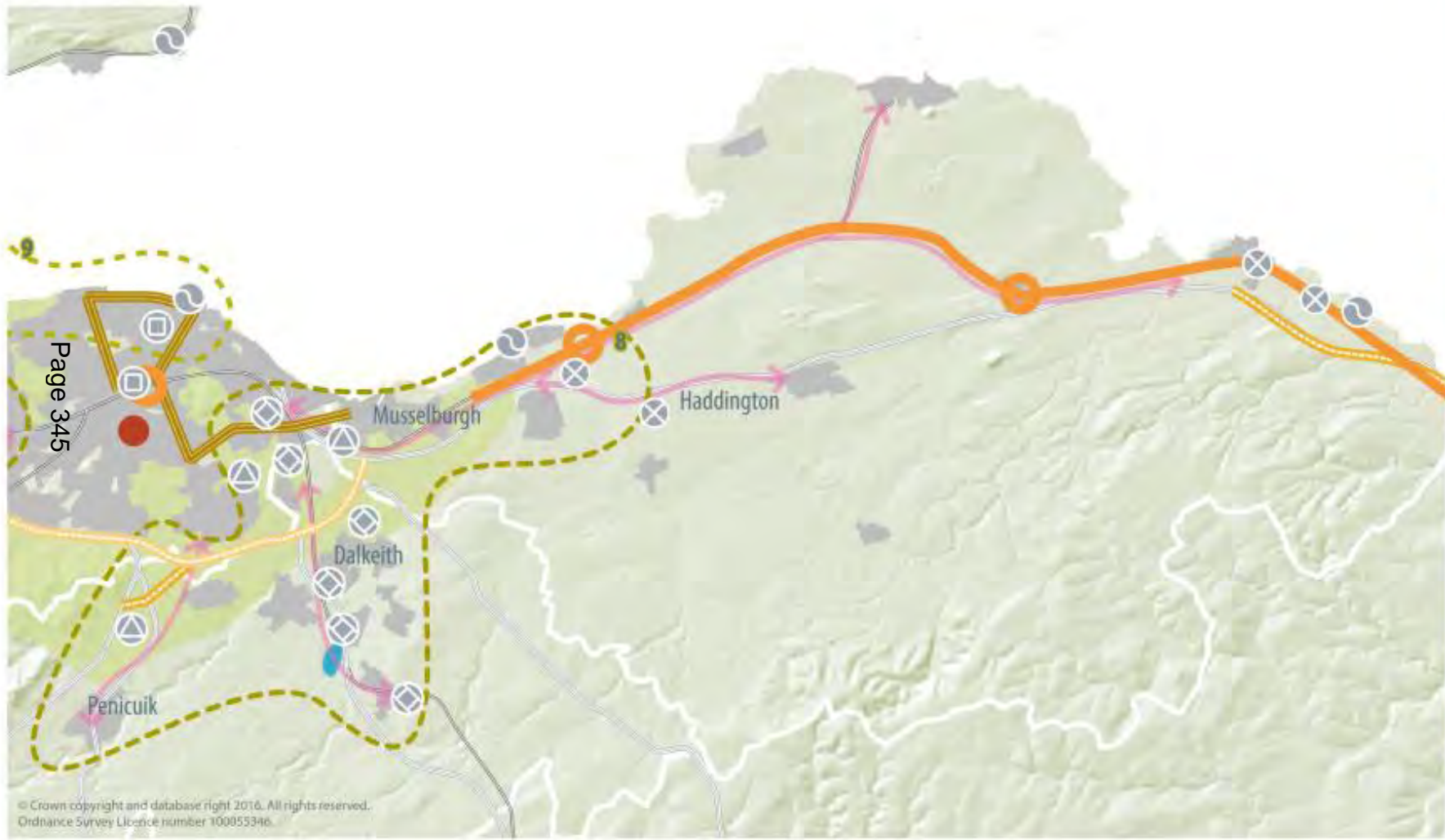
### 3 The Spatial Strategy

The tram line extension to the BioQuarter, Newcraighall and Queen Margaret University would provide a major contribution to reducing traffic into and out of Edinburgh.

**3.17** Midlothian, City of Edinburgh and East Lothian Councils will work together to take a plan-led approach to identifying and, where possible, enhancing the key green infrastructure around the periphery of Edinburgh. The priorities for action include addressing the City Bypass as a barrier to active travel and upgrading cycle routes on the A199 to become a strategic functional cycle route, providing an artery linking East Lothian with Edinburgh. Green Belts and Countryside Around Town designations will provide the framework for establishing and maintaining a high quality landscape setting for existing and future settlements and identifying and safeguarding key strategic areas of open space.

**3.18** In order to deal with what is one of the region's major challenges in delivering sustainable growth, a range of transport interventions are likely to be needed. These include major upgrades to the A720, other improvements to the strategic road and rail networks and improvements to local road networks. Major upgrades to walking and cycling infrastructure and public transport provision will also be needed to encourage more people to leave their car at home for journeys into and around Edinburgh.

Figure 3.2 South East



- STRATEGIC TRANSPORT IMPROVEMENTS**
- Junction New/Improvement
  - Road New/Upgrade
  - Tram Extension
  - Rail Improvement/Upgrade
  - A720 Improvements and Orbital Bus
  - Rail Station New/Improvement
- SIGNIFICANT BUSINESS CLUSTERS**
- Forth Coast Cluster
  - Innovation and Science Cluster
  - Central Business Cluster
  - Borders Rail Cluster
  - East Lothian Cluster
- GREEN NETWORK PRIORITY AREAS**
- Edinburgh and East
  - Forth Shores
- Other Symbols**
- City Centre
  - Strategic Growth 2018-2030
  - Long Term Growth Corridor 2030+
  - Green Belt

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## 3 The Spatial Strategy

### Key Areas of Change Edinburgh and West

**3.19** The completion of a new railway station is a key requirement in the delivery of an expanded settlement at Winchburgh in West Lothian, with the potential to accommodate over 3,000 homes and additional employment land. However, developers will need to address some of the additional infrastructure challenges relating to education provision. The new village at Calderwood and growth at Armadale and Bathgate (Wester Inch) will also make a substantial contribution to meeting housing needs.

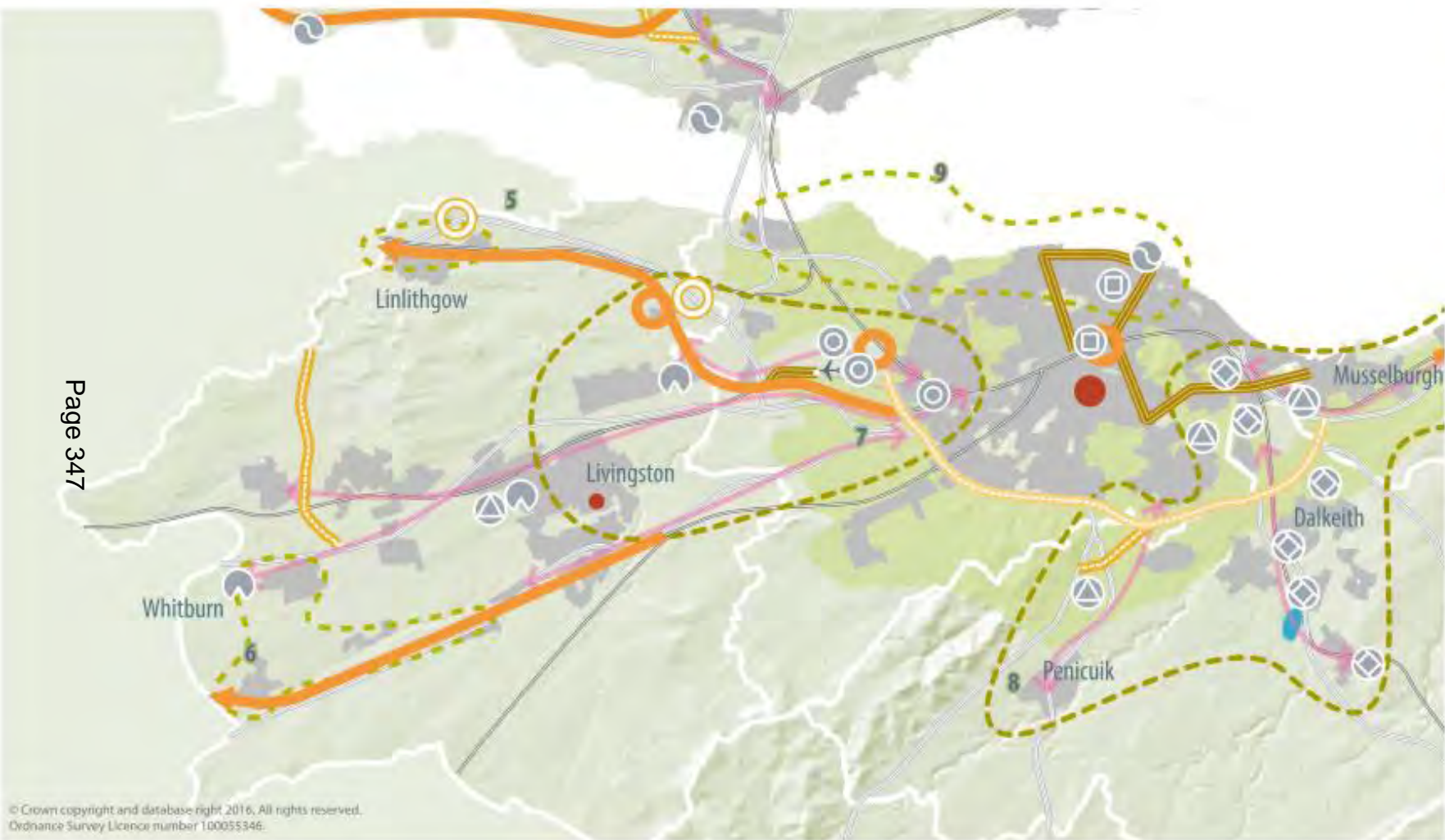
**3.20** Livingston is the largest area of employment outside Edinburgh providing a range of opportunities for information and communication industries, life sciences, technology and precision engineering. Heartlands is an emerging community near Whitburn combining residential, business, retail and leisure opportunities with opportunities for further environmental improvement. The Polkemmet and Breich Water Green Network Priority Area provides a focus for partners to deliver a plan-led approach to identifying and delivering these improvements.

**3.21** West Edinburgh has the potential to deliver a range of opportunities for strategic growth, including the delivery of substantial housing developments with good transport connections. Edinburgh International Business Gateway provides a focus for substantial business-led investment and the land adjacent to Edinburgh Airport has been identified for a range of commercial and mixed uses. A long term masterplan for International Business Gateway is already in development, with the site being positioned as a top quality global business location aimed at attracting high value jobs from other areas of the UK and Europe.

**3.22** The Gogar Rail Interchange station on the Edinburgh to Fife line and a new stop on the Edinburgh Tram network will improve access to the airport. In addition, the City of Edinburgh Local Development Plan has safeguarded land for a future extension to the tram system to Newbridge. In the longer term there may be opportunities to extend this line to Broxburn, Uphall and Livingston.

**3.23** The Edinburgh and West Cross-Boundary Green Network Priority Area provides an opportunity for the City of Edinburgh and West Lothian to collaborate on a more plan-led approach to identifying the value of the green infrastructure within and beyond the Edinburgh green belt. A key priority will be to enhance landscape character at and around settlement gateways. Key opportunities here include the completion of a River Almond Walkway and a A71 cycle super highway linking south Livingston with Balerno, Currie and West Edinburgh. The creation of a high quality, segregated route will provide a key strategic link in the region's cycling network. Innovative approaches to water management, including the de-culverting of the Gogar Burn, will be needed to deliver growth opportunities in this area without increasing flood risk.

Figure 3.3 Edinburgh and West



- STRATEGIC TRANSPORT IMPROVEMENTS**
- Junction New/Improvement
  - Road New/Upgrade
  - Tram Extension
  - Rail Improvement/Upgrade
  - A720 Improvements and Orbital Bus
  - Rail Station New/Improvement
- SIGNIFICANT BUSINESS CLUSTERS**
- Forth Coast Cluster
  - Innovation and Science Cluster
  - Central Business Cluster
  - West Edinburgh Business Cluster
  - West Lothian Cluster
  - Borders Rail Cluster
- GREEN NETWORK PRIORITY AREAS**
- 5 Linlithgow
  - 6 Polkemmet and Breich Water
  - 7 Edinburgh and West
  - 8 Edinburgh and East
  - 9 Forth Shores
- City Centre
  - Strategic Centres
  - Edinburgh Aripport
  - Strategic Growth 2018-2030
  - Long Term Growth Corridor 2030+
  - Green Belt

## 3 The Spatial Strategy

### Key Areas of Change Fife

**3.24** The Forth Bridges are a key gateway to employment and business. The opening of the Queensferry Crossing in 2016 and the use of the Forth Road Bridge for public transport, walking and cycling has been important in ensuring Fife can continue to benefit from opportunities in the city region and beyond.

**3.25** However, if this plan's vision is to be delivered in full, it is important that Fife's socio-economic needs continue to be met locally where possible in order that the area's towns can continue to thrive and the need to travel to employment is reduced. Rosyth Waterfront, Burntisland Port and Energy Park Methil (part of the 'Forth Coast Cluster') provide a range of business opportunities, including renewables manufacture and servicing. Improvements to the port at Rosyth will provide some of the Additional Freight Handling Capacity on the Forth (a National Development) needed in relation to heavily used North Sea freight shipping routes. Further environmental assessment work is currently being carried out to support the marine consents needed to progress this work.

**3.26** Areas around Dunfermline have the potential to deliver over 6,000 homes. Key to the delivery of these sites is the provision of a northern relief road and a western distributor road. These will work alongside new park and ride schemes and a new rail halt at Halbeath park and ride. Together with better access to the Forth Bridge, these will provide a range of travel options for this key area of growth.

**3.27** A taskforce is currently developing a masterplan for the former powerplant at Longannet, with a focus on maximising employment opportunities. Significant growth is also planned in Kirkcaldy and development along the northern arc of the Fife Circle railway line will help bring about the regeneration of brownfield land associated with the former mining communities of the Ore Valley and Upper Leven Valley. The Levenmouth Rail Link would encourage more non-car travel, opportunities for more rail-freight and provide a further incentive to those looking to invest in the area.

**3.28** A Green Network Priority Area has been identified near Dunfermline, recognising that there are opportunities to strengthen the landscape setting of the settlement to the north and west and provide a more joined up walking and cycling network providing access to Townhill Country Park. Green Network Priority Areas have also been identified for the Ore Valley, the Kirkcaldy Gateways and Levenmouth and Coast, where there are a number of opportunities to help deliver green network improvements alongside new housing to strengthen the sense of place.





Figure 3.4 Fife

- STRATEGIC TRANSPORT IMPROVEMENTS**
  - Junction New/Improvement
  - Road New/Upgrade
  - Rail Improvement/Upgrade
- SIGNIFICANT BUSINESS CLUSTERS**
  - Forth Coast Cluster
- GREEN NETWORK PRIORITY AREAS**
  - 1 Dunfermline North and East
  - 2 Ore Valley
  - 3 Kirkcaldy Gateways
  - 4 Levenmouth and Coast
- Strategic Centres
- Strategic Growth 2018-2030
- Long Term Growth Corridor 2030+
- Green Belt

## 3 The Spatial Strategy

### Key Areas of Change Scottish Borders

**3.29** Strategic growth in the Scottish Borders will be directed to three Rural Growth Areas in Central Borders, Western Borders and Berwickshire. Border towns within these growth areas provide the focus for retail, commercial and strategic employment opportunities. Improved connectivity to Edinburgh to the north and Newcastle and Carlisle to the south is essential for the future economic growth of this area.

**3.30** The Borders Railway is the longest new railway to open in the UK for over a hundred years. New stations along the route provide new opportunities for businesses and communities. It has performed beyond expectations and provides an impetus to drive new development and business opportunities into the rural heartlands of the Scottish Borders. To maximise the opportunity, areas around the line as far south as Hawick have been given Assisted Area status.

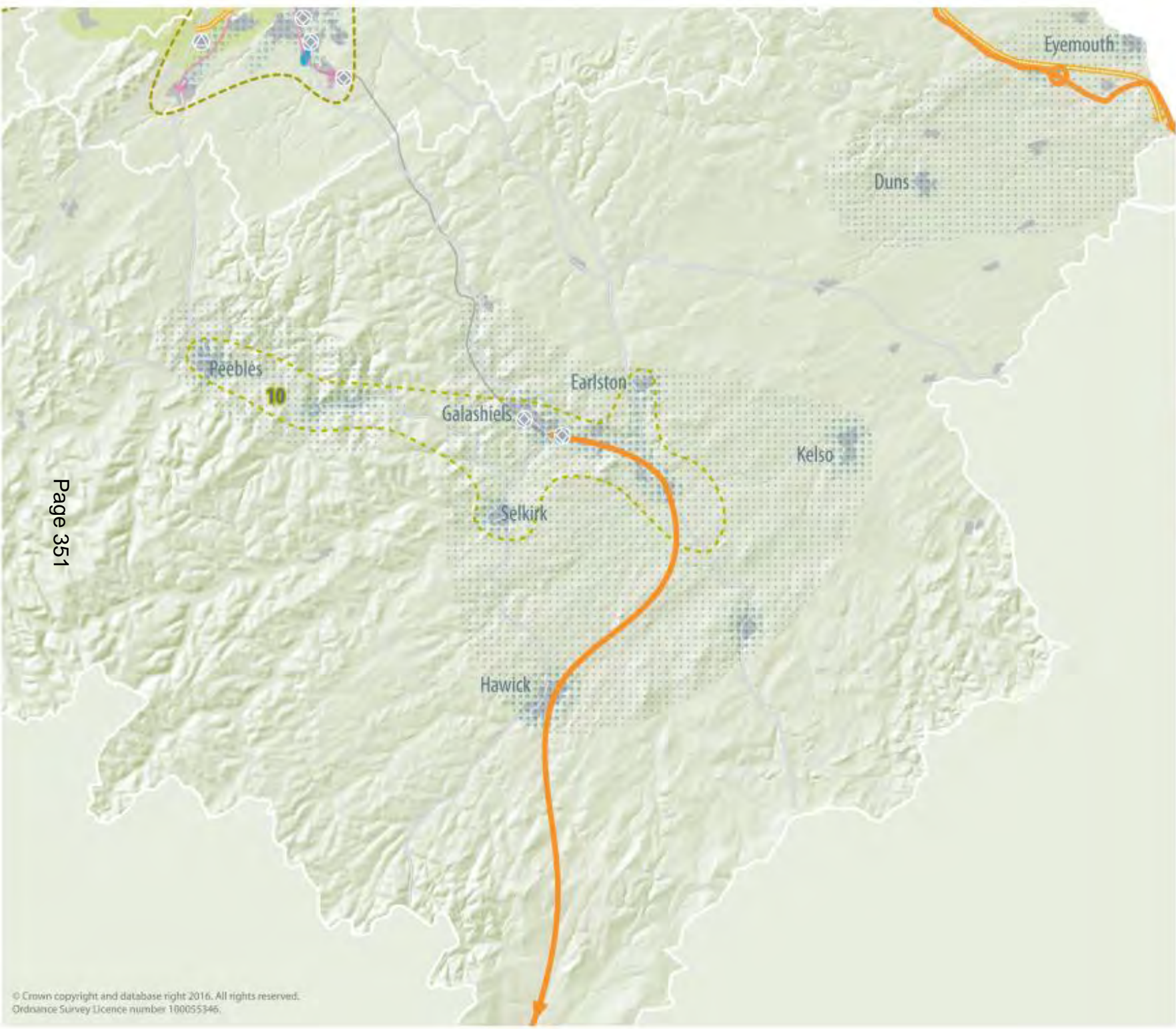
**3.31** In Galashiels, Tweedbank and neighbouring communities, the Borders Rail line provides further opportunities to connect and grow communities. A potential future extension of the railway to Hawick and beyond is currently being considered by the Scottish Government. Major flood schemes in Selkirk, Hawick and Galashiels will also provide opportunities for growth and regeneration in the Central Borders.

**3.32** The line has made it easier for people in Edinburgh to travel to the Scottish Borders, widening the labour catchment and making it easier for businesses to recruit. It has provided a boost for retail and tourism businesses and better access to education opportunities at Borders College and the Heriot-Watt School of Textiles and Design. The rail link has also underpinned significant investment at the Central Borders Business Park at Tweedbank.

**3.33** On the East Coast Main Line, a new station at Reston will provide settlements in the Berwickshire with easier access to employment and education markets in Edinburgh and encourage more people to visit the area. Dualling of the A1 and local improvements to the A68 and A7 will improve journey times to and from England.

**3.34** The Countryside around Town designation provides the framework and setting for the Central Borders area and surrounding towns. A Strategic Green Network Priority Area connects settlements in the Central Borders with Peebles and Innerleithen in the western borders. Former railway lines represent a network of former track beds which link many of the larger towns. The network offers considerable potential for walking and cycling access to town centres and to tourism sites including Traquair House, Glentress Mountain Biking Centre, Abbotsford, Melrose and Dryburgh Abbey, Eildon and Leaderfoot National Scenic Area and the River Tweed.

Figure 3.5 Borders



- STRATEGIC TRANSPORT IMPROVEMENTS**
  - Rail Improvement/Upgrade
  - Rail Station New/Improvement
- SIGNIFICANT BUSINESS CLUSTERS**
  - Borders Rail Cluster
- GREEN NETWORK PRIORITY AREAS**
  - 10 Scottish Borders
- GROWTH AREAS**
  - Strategic Growth 2018-2030
  - Rural Growth Areas



# A Place to do Business

## Locations for Investment

**4.1** This region has the potential to make a huge contribution to boosting Scotland's competitiveness and tackling inequality in line with the Scottish Government's Economic Strategy. This section sets out a range of strategic opportunities for investment in the region's infrastructure to help businesses to grow, innovate, and create good quality employment opportunities.

## Significant Business Clusters

**4.2** This plan identifies a number of significant business clusters. These are broad locations where groups of similar or complementary business sectors or industries operate and where there are opportunities for expansion. This plan also includes clusters of different types of businesses or opportunities that share a common geography, such as the new opportunities made possible by the new Borders Rail Link and opportunities along the East Coast transport corridors.

**4.3** The clusters have been identified for their contribution or potential contribution to the city region's distinctive economy. Aligned with the spatial strategy and operating across local authority boundaries, the clusters provide opportunities for continued growth and expansion supporting a growing sustainable economy and increasing jobs.

**4.4** The clusters incorporate growing and established sectors and areas experiencing economic change where there are significant new opportunities. They include the growth sectors and National Developments identified by the Scottish Government and Scottish Enterprise<sup>(2)</sup> but also the industries and related sectors particular to the economy of south east Scotland.

**4.5** **SESplan member authorities will promote investment in the locations identified in Table 4.1. Local Development Plans will safeguard their future expansion by identifying and safeguarding sufficient land and supporting infrastructure including public transport and walking and cycling provision. Local Development Plans will adopt a flexible approach to allow for new long term employment opportunities.**

**4.6** **Local Development Plans will also consider whether to identify local based business clusters.** Identification of clusters at a local level can ensure the alignment of employment uses with housing and infrastructure, including sustainable travel networks.

**4.7** The strategic centres identified in the Place for Communities section are also key areas for investment and economic development.

<sup>2</sup> [National Planning Framework \(2014\)](#), [Enterprise Areas](#), [National Renewables Infrastructure Plan](#)

Figure 4.1 Significant Business Clusters

-  Forth Coast Cluster
-  Innovation and Science Cluster
-  Central Business Cluster
-  West Edinburgh Business Cluster
-  West Lothian Cluster
-  East Lothian Cluster
-  Borders Rail Cluster



**Table 4.1 Significant Business Clusters**

Significant Business Cluster	Comprises	Principal Sectors	Opportunities
Forth Coast Cluster	Fife Energy Corridor: Rosyth Waterfront, Burntisland Port, Energy Park Fife, Methil, sites of former power stations Cockenzie and Longannet; Torness and Leith Port	Energy and Port Use	Cluster of coastal sites providing opportunities for a range of uses. In particular, port use such as renewables manufacture and servicing, thermal and low carbon energy generation or other uses associated with an Area of Coordinated Action. These locations also present significant opportunities for innovative reuse and regeneration making use of the well serviced sites and their coastal locations. Subject to a review of the National Planning Framework, locations at the former Longannet and Cockenzie power station sites may have potential for a wider range of uses.
Innovation and Science Cluster	Edinburgh BioQuarter; Midlothian BioCampus: Easter Bush and Bush Estate, Midlothian; Alba Innovation Centre, West Lothian; Edinburgh Napier, Queen Margaret University; Heriot-Watt University and Edinburgh University (multiple campuses)	Research, Knowledge, Academia and Vocational Learning	Unique internationally recognised institutions supporting life science and technology research, innovation, academic and vocational education and training. The majority of sites and locations can accommodate space for start-ups, for spin-outs and grow-on businesses, as well as for more established businesses. Includes the Enterprise Areas at BioCampus and BioQuarter, where the extension of Edinburgh's tram network will enhance accessibility. Land adjacent to Queen Margaret University also provides opportunities for start ups, with a focus on life sciences, research and learning and food and drink.
Central Business Cluster	Edinburgh City Centre and Leith	Business and Financial Services, Tourism, Service and Creative industries	Extensive cluster in central Edinburgh reflecting the status as one of Europe's most important areas for financial and business services, service industries, tourism and the creative industries. Opportunities for continued growth associated with redevelopment in the city centre and expansion in Leith supported by proposed tram line extensions.

## 4 A Place to do Business

Significant Business Cluster	Comprises	Principal Sectors	Opportunities
West Edinburgh Business Cluster	International Business Gateway, Edinburgh Airport and Scotland's National Showground; Edinburgh Park, South Gyle and Gogarburn	Business and Financial Services	Growing cluster of existing and emerging developments located to the west of Edinburgh with a strong focus on business and financial services supported by mixed-uses including conference facilities and tourism.
West Lothian Cluster	Broxburn and Livingston Enterprise Areas and Heartlands Business Park	Manufacturing, Information and Communication	Comprises the West Lothian Enterprise Area (plots at Broxburn and Livingston) focused on food and drink manufacture and a range of opportunities associated with Heartlands Business Park including technology, media and logistics, making use of good connections to the transport network.
Borders Rail Cluster	Sites in Midlothian and Central Borders enabled by the Borders Rail Line.	Business Services, Food and Drink, Tourism	Presents opportunities for tourism, recreational development and wider business and industrial growth and investment in the central Borders. Scottish Government match funding to projects in Borders and Midlothian and recent investment in Tweedbank present significant opportunities. Closer to the city there are opportunities associated with planned new mixed-uses at Shawfair and at other locations close to the rail line.
East Lothian Cluster	Blindwells, Macmerry, Spott Road Dunbar, and Dunbar cement works once operations there cease	Business Services, Manufacturing, Energy, Tourism and Food and Drink	Land at Blindwells and Macmerry could provide for financial services, business and manufacturing. Land at Spott Road Dunbar and, over a longer term, Dunbar cement works presents opportunities for business and manufacturing. Mixed use development on these sites may be supported if it facilitates mixed communities and enables the development of land for employment uses.



## Rural Economy

4.8 The city region benefits from a large rural area which holds a significant proportion of Scotland's prime agricultural land. The rural areas provide significant benefits to the urban population including food production, water supply, renewable energy, timber production and tourism and recreation. The region boasts an attractive coastline and a number of operational harbours. An impressive network of long distance routes, including the John Muir Way and the Fife Coastal Path means that visitors and residents can easily access the countryside and the historic settlements of our rural areas.

4.9 These assets support a diverse range of loose business clusters in small and medium scale businesses include tourism, food and drink, textiles manufacturing, farming and forestry, low carbon and creative and niche industries. These businesses make a significant contribution to the city region economy.

4.10 The Borders railway and the proposed new stations in East Linton and Reston present opportunities to promote diversification. The Tyne Esk Leader Project and the Borders Leader programme support diversification of agriculture and rural business. Diversification of the fishing and fish-processing industry in East Lothian, Scottish Borders and Fife is being supported by the Forth Fisheries Local Action Group.

4.11 The Borderlands initiative is a national cross-border project involving Scottish Borders Dumfries and Galloway, Carlisle City, Cumbria and Northumberland Councils. It seeks to deliver improved infrastructure, transport and communications links, economic growth and employment opportunities in rural areas of southern Scotland and northern England.

4.12 There are issues to be addressed to ensure the continued viability of the rural industries. These include the development of high speed broadband; the promotion of economic opportunity within the Fisheries Local Action Group area, the potential for harbours such as Eyemouth and Dunbar to service offshore wind farms; the promotion of low carbon opportunities including solar and hydro; the promotion of opportunities to maximise the benefits from the area's forestry, including the potential for sawmills and wood chip plants and the sustaining of mart and abattoir resources to serve the area's farming industries. **SESplan member authorities will therefore support the continued operation, diversification and expansion of rural businesses.**

## 4 A Place to do Business

### Employment Land Supply

**4.13** To achieve the vision of a thriving, successful and sustainable city region it is essential that there is sufficient employment land which is both available and situated in the right locations to provide jobs to meet the region's growing population. **Local Development Plans will identify and safeguard a sufficient supply of employment land taking account of market demands and existing infrastructure. This land should be able to deliver sites which are serviced or serviceable over the plan period.**

**4.14** Local Development Plans will identify and safeguard large scale employment sites where necessary in line with the spatial strategy and, where appropriate, within the significant business clusters. This is to ensure employment opportunities are accessible by public transport and walking and cycling networks, to enable the regeneration of former sites and to strengthen the region's key economic sectors.

**4.15** Local Development Plans will support diversification and re-categorisation of existing employment sites where this facilitates wider business opportunities, mixed-uses or an increased density of development, whilst ensuring an overall sufficient supply of employment land is maintained.

## Responsible Resource Extraction

**4.16** An adequate source of minerals for construction, manufacturing and energy, close to where they are needed, is essential to support economic growth and a low carbon city region. Minerals extraction also supports a range of jobs.

**4.17** A sufficient supply of construction aggregates is required to meet the anticipated construction needs in the city region over the Strategic Development Plan period. Identification and safeguarding of these resources provides for a more sustainable and economically self-sufficient city region with less reliance on importing resources from elsewhere.

**4.18** **SESplan will establish a Minerals Working Group. This group will review the aggregate resources of the city region (based on Scottish Government minerals survey data and relevant locally sourced information) to ensure there is a sufficient aggregates landbank of permitted reserves for construction aggregates of at least 10 years.**

**4.19** **Local Development Plans will use the relevant monitoring information to identify and safeguard sufficient construction aggregates to form a land bank of reserves for a minimum of 10 years. These should be in locations where there are deposits of sufficient scale and quantity for commercial extraction and which could be worked without unacceptable environmental or amenity impacts in accordance with Scottish Planning Policy.**

**4.20** **Local Development Plans will identify coal, oil and gas reserves to support a diverse energy mix, giving sufficient weight to the avoidance of long term environmental impacts and greenhouse gas emissions from their use.** The Scottish Government is currently maintaining a moratorium on granting development consents for unconventional oil and gas development across Scotland.

**4.21** The region has a legacy of sites where minerals were formerly extracted. There are a number of examples in the region where sites have undergone, are currently undergoing, or will undergo restoration or regeneration to provide homes and employment or new settlements. These include sites such as Heartlands (West Lothian), Blindwells (East Lothian) and Dunbar cement works and quarry, once operations there cease. **Where relevant, Local Development Plans will identify former mineral sites and the potential means of restoration and regeneration in accordance with the vision and spatial strategy of the Strategic Development Plan.**

## 4 A Place to do Business

### A Low Carbon Economy

**4.22** The spatial strategy reflects the need for the region to grow in a way that contributes to a low carbon economy. New development is directed to locations where the need to travel is reduced and there are good public transport links. A range of public transport infrastructure enhancements and improvements to regional walking and cycling routes will also mean there are more opportunities to choose low carbon travel.

**4.23** In line with the Placemaking Principles (Table 3.1), **Local Development Plans will identify, as appropriate, opportunities to co-locate sources of high heat demand (e.g. housing) with sources of heat supply (e.g. biomass power plants) and to locate new development where passive solar heating and solar power generation can be maximised.**

### Energy Generation

**4.24** The site of the former Cockenzie Power Station is not currently subject to specific proposals for carbon capture and storage and thermal generation. However, the Cockenzie site, along with the former Longannet power station are retained within the Forth Energy Business Cluster, reflecting the opportunity for these sites to contribute to renewables manufacture, servicing of offshore renewables and any possible

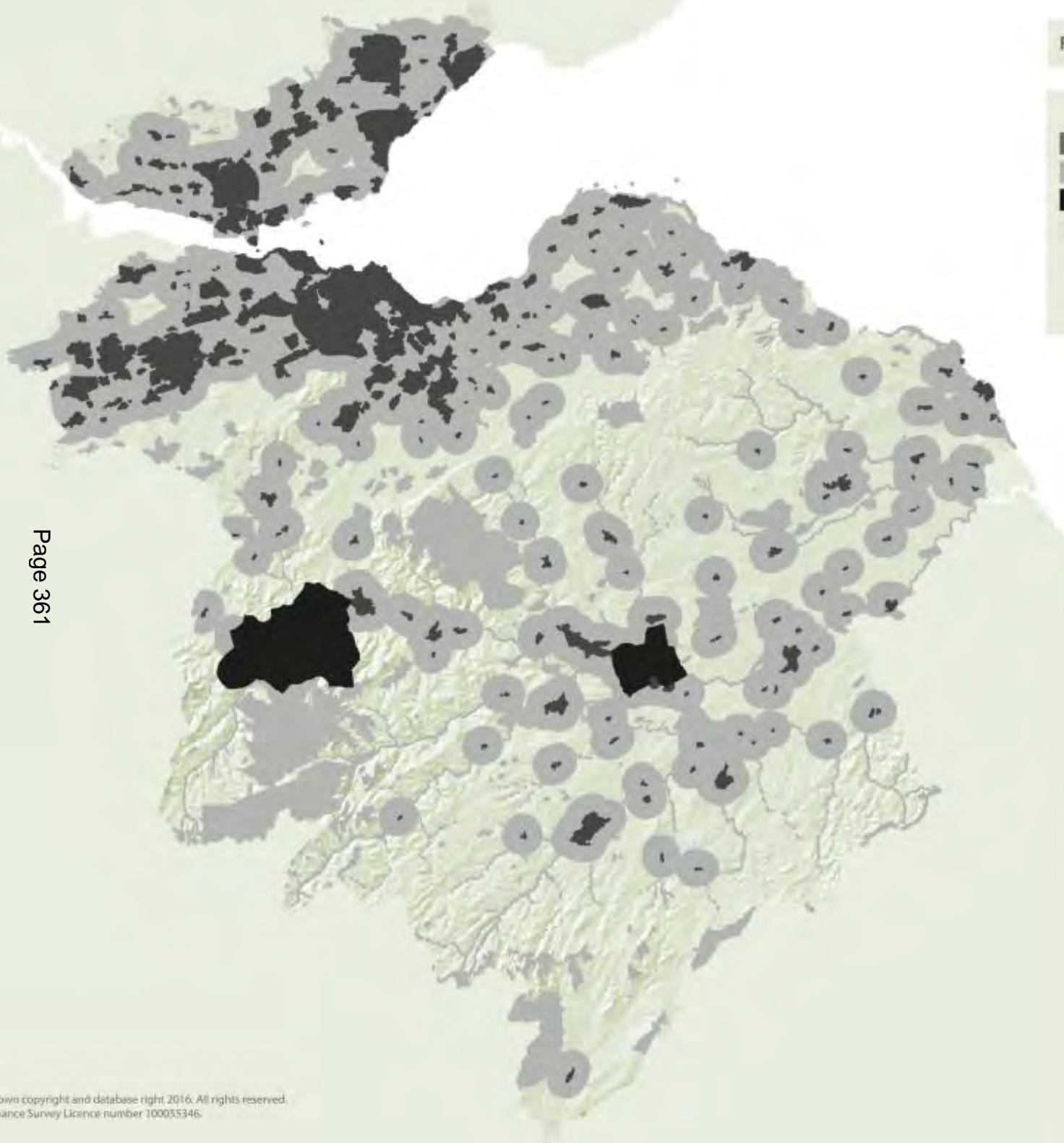
longer-term opportunities to contribute to a Carbon Capture and Storage Network. The potential for the regeneration of Longannet and Cockenzie provides opportunities to explore more innovative approaches to delivering low carbon places, such as district heating and energy storage schemes. In addition to the Forth Coast Cluster, The Innovation and Science Cluster (page 24) includes the University of Edinburgh, Napier University and Heriot-Watt University, all at the forefront of renewable energy research.

**4.25** Wind farm developments in the region, particularly in the Scottish Borders and in East Lothian have already made a major contribution to Scotland's transition to a low carbon economy. There are also significant areas of peatland habitat in the Scottish Borders important for carbon sequestration. Figure 4.1 sets out a spatial framework that identifies areas with potential for wind farm development, subject to landscape capacity and detailed consideration against relevant Local Development Plan policy criteria. Included in this framework is a 2km separation zone around settlements. **Local Development Plans will apply these 2km separation zones up to a maximum of 2km from an identified settlement envelope or edge.**

**4.26** SESplan will establish a Cross-Boundary Windfarm Working Group to explore the potential for a plan-led approach to identifying strategic capacity for wind farms and repowering opportunities (i.e. replace old turbines with new ones) in areas where there are likely to be cross-boundary effects. Relevant member authorities will pursue a collaborative plan-led approach to re-powering in order to minimise the impact on key cross-boundary assets.

**4.27** Local Development Plans will also set out the full range of additional considerations they will apply to wind farm proposals based on the particular characteristics of each area. In doing so, they should liaise closely with neighbouring authorities to identify and establish a consistent policy approach to key strategic cross-boundary assets. These assets will include, but will not be limited to, the Pentland Hills Regional Park, the Lomond Hills Regional Park, the Lammermuir Hills and the Firth of Forth.

Figure 4.2 Onshore Wind Spatial Framework



- Settlements
- Areas of significant protection \*
- Areas where wind farms not acceptable
- Areas with potential for wind farm development \*

\* Includes carbon and peatland data from SNH consultation draft dataset 2015

\* Subject to landscape capacity and other assessment

## 4 A Place to do Business

### Zero Waste

**4.28** The Scottish Government's Zero Waste Plan seeks to make the most efficient use of resources by minimising demand and maximising reuse, recycling and recovery. The principle of 'zero waste' means wasting as little as possible and recognising that waste is an economic resource that can contribute to a low carbon economy.

**4.29** Local Development Plans will support proposals which encourage recycling and recovery of waste where these are in accordance with the Zero Waste Plan and take account of environmental, transport, economic and amenity factors. Opportunities for co-location with other uses which can make use of any recovered heat will be supported. The current landfill capacity in the city region is in excess of the requirements set out by the Scottish Government.



# A Place for Communities

## 5 A Place for Communities

### Increasing Housing Delivery

**5.1** New housing is needed to provide homes for those already living in the region, including younger people who need a first home, families who want to move up or older people who may wish to downsize. New homes are also needed for those who want to move here, helping the economy grow so that strategic centres and town centres can continue to thrive. Access to well designed, energy efficient, affordable homes supports health and wellbeing and helps create successful places.

This plan sets out ambitious targets for housing and a generous land requirement to enable these targets to be met.

### Housing Supply Targets and Housing Land Requirements

**5.2** Table 5.1 sets out the number of homes (The Housing Supply Target) to be built in the SESplan Housing Market Area. This has been divided between member authorities in a way that reflects housing need and demand as well as environmental and infrastructure capacity. This

provides a Housing Supply Target, split into market and affordable, for each local authority area over the years 2018-2030.

**5.3** The Housing Land Requirement (Table 5.2) sets out the generous level of housing land needed to allow the Housing Supply Targets to be met. A 10% generosity margin has been applied to the Housing Supply Targets to calculate the Housing Land Requirements. The 10% margin provides for a generous land supply whilst ensuring that the viability of allocated sites is not undermined by an over supply of land.

**Figure 5.1 Distribution of SESplan Housing Supply Target**

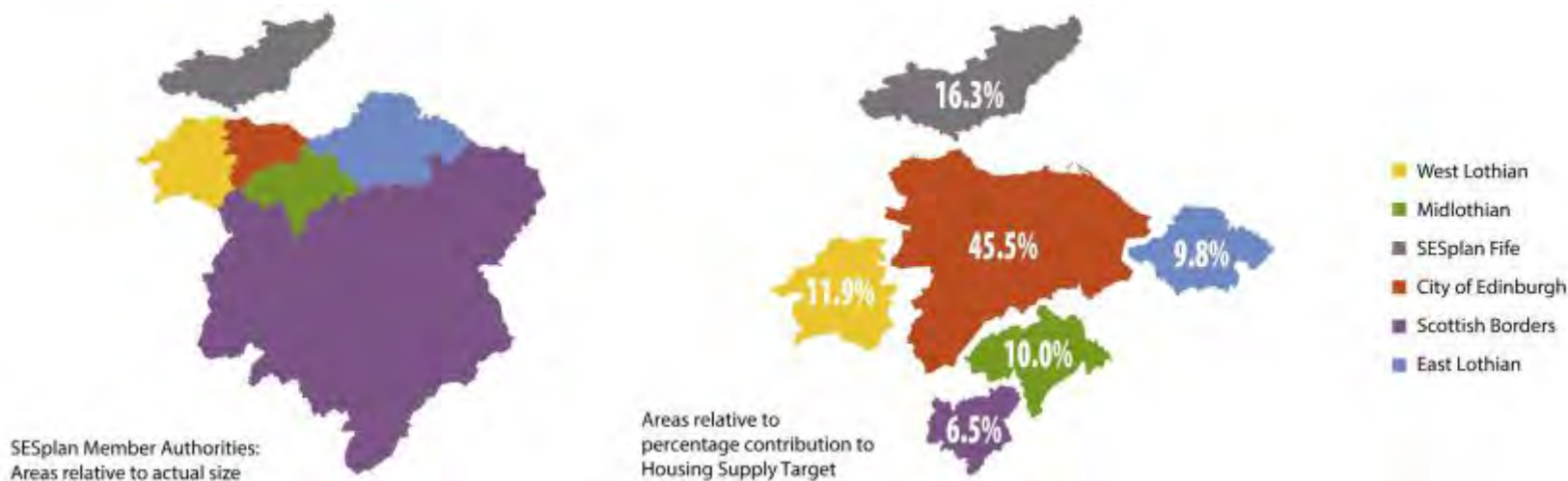




Table 5.1 Housing Supply Targets 2018-2030

Area	Number of Homes Annual Average			Number of Homes Period Total		
	Market	Affordable	Combined	Market	Affordable	Combined
City of Edinburgh	1,220	1,200	2,420	14,640	14,400	29,040
East Lothian	330	189	519	3,960	2,268	6,228
Fife <sup>(3)</sup>	605	262	867	7,260	3,144	10,404
Midlothian	369	165	534	4,428	1,980	6,408
Scottish Borders	220	128	348	2,640	1,536	4,176
West Lothian	333	300	633	3,996	3,600	7,596
<b>SESplan</b>	<b>3,077</b>	<b>2,244</b>	<b>5,321</b>	<b>36,924</b>	<b>26,928</b>	<b>63,852</b>

## 5 A Place for Communities

Table 5.2 Housing Land Requirements 2018-2030

Area	Number of Homes	
	Annual Average	Period Total
City of Edinburgh	2,662	31,944
East Lothian	571	6,851
Fife <sup>(4)</sup>	954	11,444
Midlothian	587	7,049
Scottish Borders	383	4,594
West Lothian	696	8,356
<b>SESplan</b>	<b>5,853</b>	<b>70,237</b>

## A Place for Communities 5

**5.4** The Housing Supply Targets were informed by the 2015 SESplan Housing Need and Demand Assessment. The targets are reasonable, deliverable and supported by compelling evidence, set out in the SESplan Housing Background Paper. Evidence is drawn from economic, environmental and infrastructure analysis as well as delivery opportunities and funding. In summary:

- The majority of need and demand identified in the 2015 Housing Need and Demand Assessment is for affordable housing. Whilst the affordable targets are ambitious and set higher than 2010-2015 delivery levels, it is not possible to deliver the 4000+ affordable homes per annum suggested by the Housing Needs and Demand Assessment. Instead, the targets are a realistic estimate of what might be deliverable based on a range of factors, including potential levels of funding available to support affordable housing
- Market targets exceed the level of demand identified to help meet some of the shortfall in affordable housing need. This will be achieved through more affordable models of market housing, the role of help to buy schemes and an increased role for new build private rented housing

- A greater proportion of the region's housing need and demand is being met in the City of Edinburgh than previously. The distribution of the Housing Supply Targets supports the plan's strategy to locate housing nearer where people work, support public transport use and encourage more people to walk and cycle to work. This will help to improve air quality and reduce climate change impacts

**5.5** Delivering the plan will require an ambitious affordable housing delivery programme. This is in line with SESplan member authority and Scottish Government plans to increase affordable housing delivery. **Local Development Plans will set out the proportion of affordable housing that will be sought on market sites, taking into account relevant local factors. Affordable housing will also be developed by housing associations and councils, making best use of the public estate.**

**5.6** Specialist housing, including a wide range of housing with care and support, plays an important role in enabling people to live healthy lives with dignity and independence. **SESplan member authorities will ensure that Local Housing Strategies and Local Development Plans enable the types of homes that will address the needs of a growing, ageing population and the growth in the number of smaller households.**

**5.7** The housing needs of gypsies and travellers is a potential cross-boundary issue. **SESplan member authorities will work together through the South East Scotland Housing Forum to update housing need information for these communities.**

## 5 A Place for Communities

### 2018-2030 Period

**5.8 Local Development Plans will ensure that there is a sufficient supply of housing land to meet the Housing Land Requirements over the 10 year period from the expected date of plan adoption.** Estimates indicate that there is sufficient housing land supply to meet the Housing Land Requirements for the 2018-2030 period in East Lothian, Fife, Midlothian, Scottish Borders and West Lothian. This is due to the existing land supply set out in Local Development Plans based on housing requirements in the previous Strategic Development Plan.

**5.9** Estimates indicate that City of Edinburgh may have a shortfall of housing land. To meet any shortfall, the **City of Edinburgh Local Development Plan will give priority to brownfield sites in the urban area within the Green Belt's inner boundary and ensure all allocations are consistent with this Strategic Development Plan.**

**5.10** For all SESplan member authorities the level of housing land to be allocated will depend on the estimates of housing land at the time of Local Development Plan preparation. This could include evidenced allowances for windfall sites and demolitions. **SESplan member authorities will also consider deallocating sites carried over from multiple plan cycles where action taken has proved ineffective in making them deliverable**

over a number of plan periods. SESplan member authorities will also consider deallocating sites where they are not required to meet plan objectives or consider changing such sites to long term growth opportunities.

**5.11** A step change in the level of home building is needed for the Housing Supply Targets to be achieved. **SESplan member authorities will monitor the availability of effective housing land in relation to the SESplan Housing Market Area and by Local Authority Area. This will be monitored and updated annually through the housing land audit. They will maintain a five year effective housing land supply at all times measured against the five year housing supply targets. These are calculated by multiplying the annual average housing supply targets (Table 5.1) by five.**

**5.12** Where a SESplan member authority determines there is a shortfall in the five year effective land supply, they will consider permitting proposals for additional housing supply, subject to the following criteria:

- **Development must be consistent with the spatial strategy of the development plan;**
- **The scale of the proposal and the proportion of affordable and market housing in the development must reflect the type (market or affordable) and scale of the shortfall identified;**
- **Development must demonstrate that a significant proportion of the total number of homes proposed will be completed in the next five years**
- **The scale, location and design of development must take account of the Placemaking Principles (Table 3.1);**
- **Development must align with any SESplan member authority guidance on green networks;**
- **Development must align with green belt objectives or the objectives of other designations fulfilling a similar function (Para. 3.6); and**
- **Development must demonstrate that any infrastructure required is already committed and funded, or will be delivered by the developer.**

## 2030-2038 Period

**5.13** Indications of the scale of housing required have been provided for 2030-2038 based on the 2015 Housing Need and Demand Assessment estimates. These figures do not take into account wider factors that may influence delivery, given the difficulty of making robust assumptions about these at this time. They are higher than the Housing Supply Targets for 2018-30 and will require a further step-change in the rate of delivery of affordable housing if the full level of affordable need is to be met. Housing land allocations are likely to be required in all authorities for the 2030-2038 period to meet this need. These allocations will need to be made in Local Development Plans being prepared after the next Strategic Development Plan, in line with the spatial strategy. The next Strategic Development Plan will identify more specific locations for these to be met in line with the spatial strategy.

## 5 A Place for Communities

Table 5.3 Indicative Scale of Housing Required 2030-2038

Area	Number of Homes Combined Annual Average	Number of Homes Combined Period Total
City of Edinburgh	2,491	19,928
East Lothian	534	4,274
Fife <sup>(5)</sup>	892	7,139
Midlothian	550	4,397
Scottish Borders	358	2,866
West Lothian	652	5,212
<b>SESplan</b>	<b>5,477</b>	<b>43,816</b>

## Thriving Town Centres

**5.14** The City of Edinburgh is the regional core of south east Scotland and provides a broad range of functions of regional and national importance. In addition, we have identified four strategic centres. These serve wide geographical areas and provide a range of functions at a sub-regional level, attracting significant footfall from beyond the settlement they serve.

**5.15** The role of town centres is changing to promote a wider mix of uses which will enhance their vitality and viability. **Local Development Plans**

will support all uses in town centres that generate significant footfall such as retail and commercial leisure, offices, community, cultural facilities and opportunities for town centre living. **Local Development Plans will also encourage the development of an evening/ night-time economy in town centres.**

**5.16** Local Development Plans will identify, taking account the hierarchy of centres in Table 5.4, a network of centres including town centres, local centres and commercial centres and explain how they can complement each other. **Local Development Plans will apply a Town Centre First**

policy. This means that when planning for any use that generates significant footfall, locations should be considered in the following order of preference:

- **Town Centres (including the City Centre and Strategic Centres)**
- **Edge of town centre**
- **Other commercial centres identified in the development plan; and**
- **Out of centre locations that are easily accessible by a choice of transport modes or will be made so by investment delivered by relevant development**

**Table 5.4 Hierarchy of Centres**

Hierarchy	Centres	Function
City Centre	Edinburgh City Centre	Diverse mix of uses including shopping, residential, leisure and evening economy, national government and cultural resources of national importance
Strategic Centres	Dunfermline, Glenrothes, Kirkcaldy and Livingston	Diverse mix of uses including shopping, residential, local governance, leisure and evening economy to support a wide geographical area
Town Centres	To be identified in Local Development Plans	Diverse mix of uses including shopping, residential, leisure and evening economy
Local Centres	To be identified in Local Development Plans	Mix of uses to support local needs
Commercial Centres	To be identified in Local Development Plans	Specific focus on retail and leisure uses

## 5 A Place for Communities

### Enhanced Green Networks

**5.17** Green infrastructure is the use of ecosystems, green spaces and water in strategic land use planning to deliver benefits for people and nature and to add value to the economy by supporting sustainable growth. Green infrastructure includes parks, open spaces, playing fields, woodlands, wetlands, floodplains, road verges, allotments and private gardens, as well as blue infrastructure such as sustainable urban drainage ponds, swales, wetlands, rivers and canals.

**5.18** Green networks are connected areas of green and blue infrastructure. Well designed, multi-functional green networks are a fundamental component of successful places. They provide a range of benefits including:

- Improving quality of place to make the area more attractive to residents and investors
- Opportunities for biodiversity to flourish so that people can experience nature close to where they live
- Climate change mitigation and adaptation

- Flood management
- Opportunities to get outdoors and lead healthier lives
- Strengthening the landscape character that makes places distinctive
- Opportunities for safe and pleasant walking and cycling
- Improving vacant and derelict land
- Providing places to play and meet with friends, or take a break from work

**5.19** Two Cross-Boundary Green Network Priority Areas and eight additional Green Network Priority Areas have been identified within the region. These indicate broad areas of greatest strategic importance for green network protection and enhancement and represent a significant component of the Central Scotland Green Network identified as a National Development in National Planning Framework 3.<sup>16)</sup>

**5.20** SESplan will prepare Strategic Frameworks for the two Cross-Boundary Green Network Priority Areas and adopt these as

**Supplementary Guidance to the Strategic Development Plan within one year of plan approval. SESplan member authorities will prepare non-statutory Frameworks for the other Green Network Priority Areas and incorporate the key elements of these frameworks into the relevant Local Development Plan at the first opportunity.**

**5.21** These frameworks will:

- **Identify and safeguard those elements of the green network that provide, or have the potential to provide, the greatest benefits for people and nature**
- **Identify strategic enhancements to green networks that will add value to existing settlements, developments for which land has already been allocated and any new allocations in subsequent Local Development Plans**
- **Provide an additional context for planning decisions**

6 Note however that the Scottish Borders Green Network Priority Area is not part of the Central Scotland Green Network National Development



Figure 5.2 Strategic Green Network Priority Areas

- 1** Dunfermline North and East
- 2** Ore Velley
- 3** Kirkcaldy Gateways
- 4** Levenmouth and Coast
- 5** Linlithgow
- 6** Polkemmet and Breich Water
- 7** Edinburgh and West
- 8** Edinburgh and East
- 9** Forth Shores
- 10** Scottish Borders





# A Better Connected Place

## Supporting Non-Car Travel

**6.1** Improved connectivity, with a better walking and cycling network and more public transport options, will make the region an easier place to do business and a better place to live. The region currently experiences significant rail and road transport pressures, particularly on approaches to and journeys around Edinburgh. The spatial strategy in this plan, underpinned by the placemaking principles, addresses the need to reduce travel and to encourage more low carbon transport choices. It supports the SEStran Regional Transport Strategy hierarchy of provision by enabling more journeys to take place by walking, cycling and by public transport. This will contribute to improved air quality, help reduce greenhouse gas emissions and have significant health benefits for our communities.

**6.2** The design, density, siting, layout and mix of uses in a place determines how easy it is to move around and influences the travel choices that people make to get to and from that place. **Development should take account of the needs of people before the movement of cars. Therefore in addition to the Placemaking Principles set out in Table 3.1, new development should be designed in accordance with [Designing Streets](#) to ensure that non-car travel is an easy and convenient choice.**

**6.3** **Local Development Plans will ensure that large scale housing development is located where there is good access to town centres and employment locations by walking and cycling routes and by public transport. Where new infrastructure is needed to enable this access, Local Development Plans will ensure that this is delivered ahead of, or as part of, new development.**

**6.4** **Developments should be designed so that the density, use and layout helps reduce the need to travel by car. Developments should include clear and direct links to public transport nodes and good access to walking and cycling networks. Development close to public transport nodes and interchanges should be at higher development densities.**

## 6 A Better Connected Place

### Walking and Cycling

**6.5** Significant infrastructure improvements are needed to help support the Scottish Government's vision for walking and cycling set out in the [National Walking Strategy](#) and the [Cycling Action Plan for Scotland](#). SESplan supports the objective that by 2020, 10% of all journeys taken in Scotland will be made by bike. Figure 6.1 identifies priority strategic functional (transport) and recreational routes to help support this objective and the Action Programme sets out the specific improvements to the network.

**6.6** A strategic **Functional Route** is a continuous walking and cycling route providing a fast, direct route between multiple key destinations. It should be largely off road or physically separated from traffic, have a smooth surface and be appropriately lit and maintained so that it suits people of all abilities. A key purpose of these routes is to encourage more people to cycle or walk to school, work and the shops. A strategic **Recreational Route** may be indirect, can suit a range of different uses such as horse riding and may be of varying quality. Some of these will make an important contribution to the national long distance walking and cycling network, identified as a national development in National Planning Framework 3.

**6.7** Figure 6.1 sets out the new routes prioritised for delivery and existing routes that require upgrading, with a focus on cross-boundary routes. These routes connect major settlements, growth areas and transport interchanges. **Local Development Plans will identify and safeguard the land needed to support the delivery of these strategic functional and recreational routes, taking into account the potential future re-use of old rail lines for rail and tram transport. Development near the routes identified in Figure 6.1 should provide good connections to them and contribute towards their delivery and upgrade where appropriate.**

**6.8** In addition to strategic routes, improvements to local and more urban routes, not identified in this plan, will be essential in shifting journeys to walking and cycling. Combined, these improvements will support the development of exemplar walking and cycling friendly settlements as nodes on the regional and national network. **Local Development Plans will safeguard local routes and the route alignments needed to expand the local network. SESplan member authorities will ensure that Local Development Plan Action Programmes and walking/cycling plans set out how these local routes will be delivered.**

Figure 6.1 Strategic Walking and Cycling Routes



- Key Destination
- Existing Functional Route
- - - Proposed Functional Route
- Existing Recreational Route
- - - Proposed Recreational Route

## 6 A Better Connected Place

### Strategic Transport Improvements

#### Strategic Projects

**6.9** A range of transport infrastructure is needed to support the vision of this plan for a better connected place. Column A of Table 6.1 sets out strategic improvements that affect more than one SESplan member authority or are likely to have region-wide benefits. These projects will enable better movement around the region and better connections to and from other city regions in Scotland and the UK. Some of the projects in this column require further appraisal work before a commitment can be made to their delivery, but provided the need is supported by this further work, these projects are expected to come forward with the plan period.

#### Potential Strategic Cross-Boundary Projects

**6.10** An ongoing Cross-Boundary Transport Appraisal will identify the additional cumulative and cross-boundary impacts from traffic likely to be generated from development associated with existing Local Development Plan allocations. This will be supplemented by an ongoing transport appraisal of this Strategic Development Plan. Column B of Table 6.1 sets out a potential list of projects that are currently being appraised. When the appraisals are complete, **SESplan will set out (based on a review of the projects listed in column B of Table 6.1) the specific infrastructure required to mitigate cross boundary movements in a Cross-Boundary Transport Contributions Framework and in subsequent SESplan Action Programmes. This contributions framework will be adopted as Supplementary Guidance within one year of the approval of this plan.**

#### Strategic Longer Term Projects

**6.11** Column C of Table 6.1 sets out strategic longer term projects that may not be delivered in this plan period but are supported by SEStran and SESplan member authorities. They will improve journey times, reduce congestion, support economic growth and increase the accessibility of towns. Those marked <sup>§</sup> will require further appraisal work before a commitment can be made to their delivery.

**6.12** Information on more local projects and those affecting a single authority is set out in Local Development Plans, the SEStran Regional Transport Strategy and accompanying Delivery Plan. The latter also sets out levels of commitment and funding status.

**6.13** Local Development Plans will safeguard land as necessary for strategic projects, including potential strategic cross boundary projects and longer term projects. Local Development Plans will also safeguard land as necessary for local transport projects.

Figure 6.2 Strategic Transport Improvements

-  Junction New/Improvement
-  Road New/Upgrade
-  Tram Extension
-  Rail Upgrade/Extension
-  A720 Improvements and Orbital Bus
-  Rail Station New/Improvement



## 6 A Better Connected Place

Table 6.1 Strategic Transport Improvements

A. Strategic Projects 2018-2030	B. Potential Strategic Cross-Boundary Projects	C. Strategic Longer Term Projects
Edinburgh - Glasgow Rail Improvements	A720 Improvements, including Sheriffhall Junction - Junction Upgrades, Intelligent Transport Systems and Non-Car alternatives	High Speed Rail to England <sup>††</sup>
East Coast Mainline: Ongoing and Planned Improvements*	Improvements associated with trunk road approaches to Edinburgh including Junction Upgrades and Non-Car Alternatives such as Park and Ride Schemes <sup>†</sup>	A1 Dualling between Dunbar and Berwick Upon Tweed <sup>§*</sup>
Edinburgh-Glasgow via Shotts Rail Line Electrification	Edinburgh Orbital Bus and Associated Park & Ride Sites*	Borders Rail Extension to Hawick and Carlisle <sup>§*</sup>
East Linton* and Reston* Rail Stations on new Edinburgh-Berwick service	Edinburgh Cross-rail Services* <sup>†</sup>	Dunfermline-Alloa Passenger Rail Link <sup>§*</sup>
Edinburgh Waverley Capacity Improvements	Strategic Walking and Cycling Routes	East Coast Main Line: formation of four line section of track between Blindwells and Drem, including new station and over bridge for Blindwells <sup>§*</sup> .
Levenmouth Rail Link*		New trunk road interchange on the A1(T) at Adniston <sup>§*</sup>
Strategic Walking and Cycling Routes		
A801 Improvements		
Tram extensions: York Place to Newhaven*		



## A Better Connected Place 6

A. Strategic Projects 2018-2030	B. Potential Strategic Cross-Boundary Projects	C. Strategic Longer Term Projects
City Centre to Edinburgh BioQuarter, Newcraighall and Queen Margaret University*  Newhaven to Granton*  Roseburn to Granton*  Ingliston to Newbridge*		
A1 Junction Improvements*		
A92 Junction Improvements		
Aunfermline Northern Relief Road & Western Distributor Road		
A701 Relief Road and A702 Link		
Winchburgh Rail Station		
Winchburgh M9 Junction		
M9 J3 Upgrade		
* Not Committed † Not Mapped ‡ National Development § Further Appraisal Required		

## 6 A Better Connected Place

### National Transport Developments

**6.14** Freight by rail, road, sea and air plays an essential role in the regional economy. The most significant of these ports is Rosyth. The freight handling capacity of these ports is essential for North Sea shipping routes. **Local Development Plans will support Increased Freight Handling Capacity of Ports on the Forth and the need for associated infrastructure, safeguarding land where appropriate.**

**6.15** In addition to its role as international gateway, Edinburgh Airport is a hub for wider investment and business development. Enhancement of the airport is a National Development. **SESplan member authorities will continue to work with the Edinburgh Airport operators to develop enhanced transport options for passengers using the airport, support the delivery of relevant masterplans and ensure that transport infrastructure improvements are integrated with the wider network in the region.**

## Funding Transport Infrastructure

**6.16 SESplan will prepare a Cross-Boundary Transport Contributions Framework to help fund some of the transport improvements needed to deliver the vision and adopt the framework as Supplementary Guidance to the plan within one year of plan adoption. The framework will focus on mitigating the most significant cumulative and cross-boundary impacts at specific 'hotspots' on the network, as identified in the relevant transport appraisals.** A list of potential cross-boundary projects that may benefit from developer contributions is set out in Table 6.1 column B. **SESplan will set out (based on a review of the potential projects listed in column B of Table 6.1) the specific infrastructure required to mitigate cross-boundary movements, once the relevant transport appraisals have been completed.**

**6.17** The Supplementary Guidance will set out:

- The detailed location and boundaries of the contribution zones within which the contributions may be required. These zones will be identified in and around Edinburgh and at those locations along Long -term Growth Corridors where developments are most likely to contribute to the impacts at cross boundary hot-spots;

- The link between development in each contribution zone and the proposed infrastructure improvement that will benefit from contributions generated from that zone;
- The specific infrastructure to be funded;
- The method for calculating the contributions required; and
- How, when and to whom payments should be made.

**6.18** The Contributions Framework will be based on the the following principles:

- It will be informed by the outputs of the Cross-Boundary Transport Appraisal and the Strategic Development Plan Transport Appraisal;
- In principle, it will apply to housing, business, industrial retail and commercial leisure developments within contribution zones that do not have planning consent at the time of the adoption of the Supplementary Guidance. The impacts of requested contributions on the viability of these types of developments will be examined during preparation of the Supplementary Guidance;
- The Framework will complement and not duplicate existing approaches to securing transport contributions from developers

- The Framework will complement and not duplicate other potential funding mechanisms such as the City Region Deal;
- A set of standard charges will be applied to each contribution zone;
- Charges will be in proportion to the scale and impact of development;
- The level of the standard charges will be considered in light of the potential impacts on development viability; and
- It will comply with the tests that apply to planning obligations.

**6.19** These projects will not mitigate all impacts on the strategic transport network. **SESplan member authorities will therefore continue to seek contributions towards the non-cross boundary transport infrastructure needed to mitigate impacts on local networks and infrastructure required to connect development sites with the transport network. Local Development Plans will be accompanied by transport appraisals in accordance with Scottish Government guidance.**



# Glossary

## Glossary

## Glossary

Term	Description
Action Programme	Accompanies the Strategic Development Plan and identifies the how when and by who of delivery of the plan.
Affordable Housing	Housing of reasonable quality that is affordable to people on modest incomes.
Allocation	Land identified in a local development plan for a particular use.
Area of Coordinated Action	Locations identified in National Planning Framework 3 that would benefit from co-ordinated action and masterplanning to deliver low carbon infrastructure.
Areas of Medium to High Flood Risk	Areas where the annual probability of coastal or watercourse flooding is greater than 0.5% (1:200 years).
Areas of Significant Protection (Wind Farms)	Areas where wind farms may be appropriate in some circumstances, but where further consideration will be needed to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.
Assisted Area Status	Areas with Assisted Area Status are places where government can offer additional financial support to businesses under European Commission state aid rules.
Brownfield Land	Land which has previously been developed. The term may cover vacant or derelict land, land occupied by redundant or unused building and developed land within the settlement boundary where further intensification of use is considered acceptable.
City Region Deal	Funding mechanism in which contributions and risks are shared between councils and central government and across sectors, based on the improved performance of the regional economy.
Climate Change Adaptation	The adjustment in economic, social or natural systems in response to actual or expected climate change.

## Glossary

<b>Term</b>	<b>Description</b>
Commercial Centre	Examples include out-of-centre shopping centres, commercial leisure developments, factory outlet centres, retail parks or clusters of larger mixed retail units and leisure units.
Cross-Boundary Green Networks	Areas where Green Network Priority Areas cross local authority boundaries and require a coordinated approach to deliver enhancements.
Development Plan	A document setting out how places should change and what they could be like in the future. It stipulates what type of development should take place and where should not be developed. The Development Plan for each of the local authority areas within this city region comprises the relevant Local Development Plan and the Strategic Development Plan (supported by relevant supplementary guidance).
Effective Land Supply	The part of the established housing land supply which is free or expected to be free of development constraints in the period under consideration.
Established Land Supply	The total housing land supply including the effective housing land supply plus remaining capacity for sites under construction, sites with planning consent, sites in adopted local development plans and where appropriate other buildings and land with agreed potential for housing development.
Green Belt	Area of countryside around cities or towns which aims to prevent urban sprawl and inappropriate development.
Green Infrastructure	Green infrastructure is the use of ecosystems, green spaces and water in strategic land use planning to deliver benefits for people and nature and to add value to the economy by supporting sustainable growth. Green infrastructure includes parks, open spaces, playing fields, woodlands, wetlands, floodplains, road verges, allotments and private gardens, as well as blue infrastructure such as sustainable urban drainage ponds, swales, wetlands, rivers and canals.
Green Network	Green networks are connected areas of green and blue infrastructure.
Green Network Priority Areas	Areas of greatest strategic importance for green network protection and enhancement.

## Glossary

Term	Description
Greenfield Land	Land in a settlement or rural area which has never been developed, or where traces of any previous development are now such that the land appears undeveloped.
Heat Mapping	Mapping showing heat demand and supply of heat used for buildings.
High Speed Rail	Type of rail transport that operates significantly faster than normal trains, typically over 125mph in the UK.
Housing Market Area	Geographical space in which people will search for housing and within which they are willing to move while maintaining existing economic and social relationships.
Housing Need and Demand Assessment (HNDAs)	The evidence used as a basis for identifying future housing requirements to ensure suitable land is allocated through development plans.
Infrastructure	Public transport, roads, sewerage, water supply, schools, gas, electricity, telecommunications etc. which are needed to allow developments to take place.
Moratorium	The delay or suspension of an activity or law.
Natura site	Internationally important nature conservation sites designated under the Habitats and Birds Directives.
Place Standard	The Place Standard tool is an online resource providing a simple evaluation framework for evaluating places. It enables people to think about and discuss the physical and social elements of a place in a structured way.
Significant Business Cluster	Broad areas where similar or complementary uses operate.
Spin-outs	Businesses attempting to take ideas and inventions to market.
Supplementary Guidance	Guidance that can be adopted and issued by a strategic development planning authority in connection with a Strategic Development Plan, or by a planning authority in connection with a Local Development Plan. On adoption, any such guidance will form part of the development plan.

## Glossary

<b>Term</b>	<b>Description</b>
Thermal Generation	Steam driven power supply.
Windfall	A site which becomes available for development during the plan period which was not anticipated to be available when the plan was being prepared.
World Heritage Site	A site designated by the United Nations Educational, Scientific and Cultural Organization (UNESCO) that are of outstanding universal value to humanity and have been inscribed on the World Heritage List to be protected for future generations to appreciate and enjoy.



## Supplementary Guidance

<b>Supplementary Guidance</b>	<b>Timescale</b>
Cross-Boundary Transport Contributions Framework	To be adopted within 1 year of approval of Strategic Development Plan
Edinburgh and West Cross-Boundary Green Network Framework	To be adopted within 1 year of approval of Strategic Development Plan
Edinburgh and East Cross-Boundary Green Network Framework	To be adopted within 1 year of approval of Strategic Development Plan

# Photographs



Photographs: 1. Queensferry Crossing Construction (Courtesy of Transport Scotland); 2. Central Scotland Green Network, Fife; 3. Quatermile, Edinburgh; 4. King's Park, Midlothian; 5. A90 Cycle Path (Courtesy of Sustrans); 6. Tram St Andrew Street, Edinburgh.

# SESplan

The Strategic Development Planning Authority  
for Edinburgh and South East Scotland



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# Action Programme

September 2016

## STRATEGIC DEVELOPMENT PLAN ACTION PROGRAMME – 2016 UPDATE

### List of Tables

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Table 3	Action Table	5

## INTRODUCTION

### Purpose

The purpose of this Action Programme is to set out the key strategic actions needed to deliver the vision of the Strategic Development Plan for South-east Scotland. The SESplan Strategic Development Plan covers the City of Edinburgh, East Lothian, West Lothian, Midlothian, the Scottish Borders, and South Fife. Section 21 of the Planning etc. (Scotland) Act 2006 requires the Strategic Development Planning Authority (SDPA) to prepare an Action Programme that sets out how the authority expects to implement the Plan.

## Outcomes

The SESplan vision will be achieved by:

- Providing direction to local development plans – Local Development Plans in the city region have to be consistent with the Strategic Development Plan.
- Providing a context for decisions on planning applications – all planning applications have to be made in accordance with the development plan unless material considerations indicate otherwise
- Influencing investment plans and other strategic plans and strategies affecting the region.
- Identifying some specific actions that require the input and coordination of more than one local planning authority to deliver.

The delivery of this plan and the Local Development Plans that it seeks to direct, raises a number of issues that could be considered strategic. For example, many of the larger housing sites allocated in LDPs will not be able to be delivered without a substantial investment in new education provision. However, most of the actions to deliver the housing and infrastructure needed are already set out in the action programmes related to each of the local development plans in the city region.

This updated Action Programme will therefore focus on:

- Actions to deliver cross-boundary infrastructure and infrastructure of regional importance
- Action to help deliver national developments
- Actions that require the input and coordination of more than one local planning authority to deliver

## Development of the Action Programme

This Action Programme has been developed in consultation with the member authorities, The Scottish Government, Key Agencies and other public and private stakeholders. Many of the funding commitments in the plan will be dependent on future Government spending reviews and public and private sector finance. The City Region Deal proposal, currently the subject of negotiation with Scottish and UK Government, is also likely to have a key role to play in delivering SESplan's vision.

**How will it be used?**

Organisations identified as having a Lead Role in carrying out an action will:

- Co-ordinate the planning, delivery and monitoring of the action
- Provide updates to SESplan on progress and funding where requested
- Advise SESplan on changes needed to the Action Programme related to that action
- Seek to ensure, in collaboration with others, that all relevant plans or strategies, (including investment strategies) support the delivery of the action

Organisations identified as having a Partnership Role in carrying out an action will:

- Provide the Lead Partner(s) with information on request
- Work closely with the lead partner to help plan, deliver and monitor the action
- Seek to ensure, in collaboration with others, that all relevant plans or strategies, (including investment strategies) support the delivery of the action

**Monitoring and review**

This Action Programme will be republished at least every two years. The existing Action Programme, approved in September 2015, was prepared in the context of SDP1 and therefore this new Action Programme has been prepared to set out the actions specifically required for SDP2. In practice, the Action Programme will be used by SESplan and its partners as a 'live' high level project management tool, updating and publishing more frequently if significant changes are required.



## TABLES

Table 1. Actions Completed Since September 2015 [to be completed before publication]

Action	Progress

Table 2. Column headings/ Legend for Action Table

<b>Delivery Action</b>	Number [to be completed before publication] , title and description of individual actions <b><i>Italic:</i></b> Action associated with National Development <b><u>Underlined:</u></b> Actions that SESplan will play a leading role in coordination and delivery
<b>Timing</b>	Date range within which action likely to be implemented
<b>Lead/ Partners</b>	Lead partner highlighted in bold text
<b>Cost/Funding</b>	Indication of the cost of carrying out the action, the status and breakdown of funding and list of funding sources, where known. <b>Not applicable (n/a)</b> is used where actions can be implemented within current work programmes without significant additional funding required. <b>To be confirmed (t.b.c.)</b> is used where funding information will be sought prior to the next Action Programme update. <b>Unknown</b> is used where further studies will be required to produce cost estimates and these are not likely to be completed before the next Action Programme update.
<b>Progress</b>	Provides one of the following status updates <b>Underway/ Under construction</b> – the action is in the process of being implemented <b>Policy Support</b> – the action has support in plans and programmes other than the SDP <b>Proposed</b> – the action is proposed but has no formal commitment

**Table 3. Action Table**

The action table is structured around the three Delivery Themes in SESplan 2. A Place to Do Business (Grey), A Place for Communities (Red) and a Better Connected Place (Yellow).

	Delivery Action	Timing	Lead (Bold) /Partners	Cost/Funding	Progress
	<b>A Place to Do Business</b>				
1.	<p><b>City Region Deal</b></p> <p>Example proposals include a regional network of incubator facilities; regional collaboration to expand overseas trade; invest to protect and enhance the world famous culture and leisure assets in the region including the Edinburgh Festivals; developing advanced digital technology to support business and culture; developing a clear and integrated regional infrastructure strategy with all public sector partners; developing an integrated regional skills programme to increase opportunities for learning and development for everyone.</p>	2016-2030	<p><b>City Deal Partnership</b>, East Lothian Council, West Lothian Council, Scottish Borders Council, Midlothian Council, Fife Council, Universities, Colleges, private sector, third sector, UK Government, Scottish Government and agencies. A wide range of other public and private stakeholders and partners will be involved in delivery.</p>	<p>Ambition is to secure £2bn of funding. Estimated that an additional £3bn worth of private sector investment could be leveraged if the bid is successful.</p>	<p><b>Proposed</b></p> <p>Announcement that negotiations on a City Region deal will be commenced for South East Scotland City Region made in 2016 UK Budget.</p> <p>N.B. the City Region deal area also likely to include St Andrews and North-East Fife</p>
2.	<p><b>Edinburgh Airport Improvements:</b> Deliver enhanced facilities at Edinburgh Airport and supporting improvements in surface transport and other infrastructure as identified in NPF3, SESplan SDP and City of Edinburgh LDP.</p>	2016-2030	<p><b>Transport Scotland, Network Rail, Global Infrastructure Partners,</b></p>	<p>Costs of some interventions still t.b.c.</p>	<p><b>Underway</b></p> <p>2016 – Winter – Edinburgh Gateway Rail Station to open. Works progressing on schedule</p>

			<b>Edinburgh International Development Partnership , Edinburgh International Business Gateway Landowners, City of Edinburgh Council</b>		<p>2016 – <a href="#">2011 Airport Masterplan</a> to be updated by Global Infrastructure Partners.</p> <p>2017 – Edinburgh International Gateway – First phase plans for the £700m mixed use urban extension at Edinburgh International Business Gateway have been submitted by a consortium comprised of Murray Estates, New Ingliston, Frogmore and Salmon Harvester.</p> <p>International Business Gateway is supported by the Edinburgh tram running through the heart of the site.</p>
<b>3.</b>	<b><i>Enhanced High Voltage Energy Transmission Network</i></b> Needed to facilitate renewable electricity development and its export.	2016-2020	<b>Scottish Power Energy Networks</b>	t.b.c.	<b>Underway</b> Scottish Power operate the transmission network in the SESplan area.
<b>3A.</b>	<b><i>Carbon Capture and Storage Network and Thermal Generation</i></b> Explore options for a wider range of opportunities at Longannet and Cockenzie	2016-2020	<b>Scottish Power, Scottish Government, Fife Council, East Lothian Council</b>	t.b.c	<b>Proposed</b> East Lothian Council will prepare supplementary guidance for former Cockenzie site subject to review of National Planning Framework. Fife Council are leading on Longannet taskforce.
<b>4.</b>	<b><u>Cross-boundary Windfarm Working Group</u></b> A working group will be established to explore the potential for a plan-led approach to identifying strategic capacity for wind farms and re-powering opportunities (i.e. replacing old turbines with new	2016-2020	<b>SESplan, East Lothian Council, Scottish Borders Council, Midlothian Council, West</b>	n/a	<b>Proposed</b> Scottish Natural Heritage has published <a href="#">guidance on Decommissioning and Restoration Plans for</a>

	ones) in areas where there are likely to be cross-boundary effects. The geographic scope of this group to be decided by the working group		Lothian Council, Scottish Natural Heritage, Scottish Environmental Protection Agency		<a href="#">wind farms</a> which is relevant to issues related to repowering
5.	<b><i>Additional Freight Handling Capacity on the Forth (Rosyth)</i></b> Create multimodal container terminal facilities with deep water access and improved supporting port, road and rail infrastructure.	2016-2030	<b>Fife Council, Scottish Environmental Protection Agency, Babcock, Forth Ports, Scottish Government</b>	t.b.c.	<b>Underway</b> Work in connection with the Marine Licence application, including the preparation of an updated Environmental Impact Assessment (EIA), is progressing
6.	<b><u>Minerals– Aggregate Resources Review.</u></b> Establish a Minerals Working Group to review the aggregate resources of the city region (based on either Scottish Government minerals survey data or locally sourced information) to ensure there is a sufficient aggregates land bank of permitted reserves for construction aggregates of at least 10 years.	2016-2018	<b>SESplan member authorities</b>	n/a	<b>Proposed</b>
<b>Better Connected Place</b>					
7.	<b><u>Complete Cross Boundary Transport Appraisal</u></b> Appraisal identifying cumulative and cross boundary impacts of development on strategic transport network. Models impact of development associated with SDP1 and emerging LDPs. Will identify measures and interventions that could be developed to mitigate impacts of development.	2016	<b>Transport Scotland, SESplan member authorities, City of Edinburgh Council, Fife Council, Midlothian Council, East Lothian Council, West Lothian Council, Scottish Borders Council</b>	c. £140K Funded by Scottish Government	<b>Underway</b> Appraisal work underway. Reports due Autumn 2016
8.	<b><u>Complete Strategic Development Plan Transport</u></b>	2016	<b>SESplan, Transport</b>	c. £14K	<b>Underway</b>

	<p><b>Appraisal (SDP2 Transport Appraisal)</b> Appraisal identifying additional impacts of development as a result of additional development required by SDP2 Housing Supply Targets</p>		Scotland, City of Edinburgh Council, Fife Council, Midlothian Council, East Lothian Council, West Lothian Council, Scottish Borders Council	Funded by SESplan member authorities	Appraisal of impacts as a result of additional development required in City of Edinburgh is complete. Further appraisal work required when Cross Boundary Appraisal is complete.
9.	<p><b><u>Cross-boundary Transport Contributions Framework</u></b></p> <p>Produce supplementary guidance "Cross Boundary Transport Contributions Framework" that will set out a framework for requesting contributions towards infrastructure to mitigate the cumulative and cross boundary impacts of additional traffic generated from new developments. Guidance will set out:</p> <ul style="list-style-type: none"> <li>• The detailed location and boundaries of the contribution zones within which the contributions will be required. These zones will be identified at locations within the Growth Corridors and the City Region Core where developments are most likely to contribute to traffic hot-spots</li> <li>• The specific infrastructure to be funded</li> <li>• The method for calculating the contributions required</li> <li>• How, when and to whom payments should be made</li> </ul>	2016-2019	SESplan, Transport Scotland, City of Edinburgh Council, Fife Council, Midlothian Council, East Lothian Council, West Lothian Council	t.b.c	<b>Proposed</b> Framework to be developed following completion of Cross Boundary Transport Appraisal.

<b>10.</b>	<b>Edinburgh/Glasgow rail improvements:</b> <ul style="list-style-type: none"> <li>• Electrification of Edinburgh/Glasgow Queens Street line</li> <li>• Increase in capacity and reduction in journey times of trains between Edinburgh and Glasgow Queen Street: and</li> <li>• Further improvements will be set out in stage 2</li> </ul>	2016-2019	<b>Network Rail, Transport Scotland, Abellio Scotrail</b>	1 <sup>st</sup> stage Funded	<b>Under construction</b> Completion expected in 2019. Stage 2, to be developed in 2020's, may include Dalmeny Chord allowing Edinburgh-Glasgow trains to stop at Edinburgh Gateway Station.
<b>11.</b>	<b>East Coast Mainline Improvements</b> Ongoing improvements to the East Coast Mainline and potential future improvements. Linked to capacity and platform improvements works at Edinburgh Waverley station.	2016-2030	<b>Network Rail, Transport Scotland</b>	t.b.c.	<b>Underway</b> Potential initial list of suggest improvements set out in <a href="#">Network Rail Scotland Route Study</a> .
<b>11A.</b>	<b>Four line section of track between Blindwells and Drem</b> Capacity improvements and allows for new station to serve Blindwells development (see action 36)	2024-2030	<b>Network Rail, Transport Scotland East Lothian Council</b>	t.b.c	<b>Proposed</b> No commitment and further appraisal required
<b>12.</b>	<b>Edinburgh-Glasgow via Shotts Line Electrification</b> Electrification of 75 km of the Shotts Line between Holytown and Midcalder junctions. Will allow for faster services, including potential Edinburgh-Livingston-Glasgow Central express service	2016-2019	<b>Network Rail, Transport Scotland, Abellio Scotrail</b>	Funded	<b>Underway</b> Preparation work underway.
<b>13.</b>	<b>Winchburgh Rail Station</b> New station to support ongoing development in the Winchburgh Core Development Area.	2016-2019	<b>Network Rail, Transport Scotland, SEStran, Abellio Scotrail, West Lothian Council.</b>	Developer funded	<b>Underway</b> Design work on new stations is underway. New service and stops are included as part of recent Franchise award. Timetable details to be confirmed.
<b>14.</b>	<b>Winchburgh M9 Junction</b> New Junction on M9 supporting ongoing development in the Winchburgh Core Development Area.	2024-2030	Transport Scotland, West Lothian Council [lead t.b.c]	Developer funded	<b>Policy support</b>
<b>15.</b>	<b>M9 Junction 3 Upgrade</b>	2018-	Transport Scotland,	Developer funded	<b>Policy support</b>

	Development of Westbound slips on Junction East of Linlithgow.	2030	West Lothian Council [lead t.b.c]		
16.	<b>East Linton and Reston Rail Stations</b> New stations on East Coast Mainline supported by a new two-hourly service between Edinburgh and Berwick.	2018-2030	<b>Network Rail,</b> Transport Scotland, Abellio Scotrail, SEStran, East Lothian Council, Scottish Borders Council	Funding for design work by East Lothian Council and Scottish Borders Council	<b>Underway</b> Initial design work on new stations has been completed. New services and stations are included as priced options in the recent franchise.
17.	<b>Levenmouth Rail Link</b> Re-open rail line and new stations at Leven and Cameron Bridge for a passenger service.	2018-2030	<b>Fife Council,</b> <b>Transport Scotland,</b> Network Rail, SEStran, Abellio Scotrail	t.b.c	<b>Policy support</b> Fife Council has approved the findings and recommendations of the Levenmouth Scottish Transport Appraisal Guidance. This has been submitted to Transport Scotland for their consideration and approval of the recommendations. Following this Fife Council will engage with Network Rail to undertake the GRIP process.
18.	<b>Edinburgh Cross-rail Services</b> New cross-Edinburgh services and suburban rail capacity enhancements	2018-2030	Network Rail, Abellio Scotrail, SEStran	Unknown	<b>Policy support</b> Supported by SEStran. Fife - Edinburgh - Borders Rail services have been introduced.
19.	<b>Dunfermline Northern Relief Road and Western Distributor Road</b> Road improvements required to deliver planned housing and employment growth in Dunfermline	2016-2030	<b>Fife Council</b>	Funding to be secured through planning permission and legal agreements.	<b>Policy support</b> Policy support in FIFEplan
20.	<b>Newbridge Junction Upgrade:</b> Public transport improvements, incl. Edinburgh bound bus lane to roundabout. Safeguards included in emerging Edinburgh LDP	2016-2030	<b>Transport Scotland,</b> South East Scotland Transport, City of Edinburgh Council,	t.b.c	<b>Underway</b> A joint study looking at options for improving public transport services through junction has been

			West Lothian Council		completed, and new computerised junction control in place. New bus lanes on the A89 and A8 is also supported but no funding identified.
21.	<p><b>Improvements on trunk road approaches to Edinburgh including Junction Upgrades and Non-Car Alternatives</b></p> <p>This may include upgrades to junctions on the M9, M8, M90, A1, A71, A68, A89 and A8 and could include upgrades to strategic cycle routes as non-car alternatives.</p>	2018-2030	<b>SEStran, Transport Scotland, SESplan Member Authorities</b>	Unknown	<b>Proposed</b> List of improvements will be generated based on evidence from the Cross Boundary Transport Appraisal and the Transport Appraisal of the Strategic Development Plan
22.	<p><b>Park and Ride Sites:</b></p> <ul style="list-style-type: none"> <li>• Extensions - Ingliston, Hermiston and Sheriffhall sites</li> <li>• Potential new sites - Gilmerton Road (City of Edinburgh Council area); Lasswade Road (City of Edinburgh Council area); North A68/A720 junction (Midlothian area); Lothianburn A702/A720; Rosyth; Broxburn; Heartlands (Whitburn); Winchburgh (new M9 Junction) Linlithgow (coach park and ride); Winchburgh rail station; Tranent &amp; Blindwells to link with public transport options, including orbital bus routes</li> <li>• Park and Rail at proposed Halbeath Rail Halt</li> </ul>	2016-2030	<b>SEStran, City of Edinburgh Council, Fife Council, West Lothian Council, Midlothian Council, Network Rail, Transport Scotland</b>	t.b.c Various levels of commitment. Some funding will be raised through developer contributions.	<b>[ progress on individual sites to be confirmed prior to publication]</b> Land secured for Hermiston Extension. Rosyth Park and Ride has planning consent. Heartlands Park and Ride has planning consent.
23.	<p><b>A701 and A702 improvements</b></p> <p>Relief road for A701 with link to A702</p>	2018-2030	<b>Midlothian Council</b>	t.b.c	<b>Policy support</b>
24.	<p><b>A801 Improvements</b></p> <p>Carriageway improvements and new viaduct to improve links between Grangemouth and the M8</p>	2018-2030	<b>West Lothian Council, Falkirk Council</b>	t.b.c To be funded by development	<b>Policy support</b>
25.	<p><b>A92 Junction Improvements</b></p> <p>Improvements to roundabouts on A92 around</p>	2018-2030	<b>Fife Council</b>	t.b.c To be funded by	<b>Policy support</b> Further appraisals required.



	Kirkcaldy and Glenrothes. Includes works to Redhouse Roundabout			development	
26.	<b>West Edinburgh infrastructure improvements:</b> Upgrade of A8 dumbbells (two roundabouts linked by a bridge or underpass) and Eastfield Rd, Gogar link road (through International Business Gateway site connecting airport to Gogar roundabout), upgraded junctions, International Business Gateway tram halt and bus priority measures.	2016-2030	<b>Edinburgh International Development Partnership</b> comprising Scottish Government, Scottish Enterprise, Transport Scotland, City of Edinburgh Council, Edinburgh Airport, RHASS, private landowners	In excess of £56m	<b>Policy support</b> Policy support in Rural West Edinburgh Local Plan and Proposed LDP. Application for International Business Gateway phase 1 submitted with transport study.
27.	<b>A1 Junction Improvements:</b> Improvements to junctions on A1(T) in East Lothian to accommodate development in East Lothian LDP. Does not cover Old Craighall which will be assessed under Cross-Boundary Transport Appraisal.	2018-2030	<b>Transport Scotland, East Lothian Council, Developers.</b> [Lead t.b.c prior to publication]	Unknown	<b>Proposed</b> More detail will be set out in East Lothian LDP Transport Appraisal.
27A	<b>New A1(T) Junction at Adniston</b> The potential for a new trunk road interchange on the A1(T) at Adniston to facilitate further development in the area including the potential for an eastern by-pass of Tranent, will be investigated.	2024-2030	<b>Transport Scotland, East Lothian Council, Developers</b>	Unknown	<b>Proposed</b> Further investigation appraisal work is required.
28.	<b>A720 Improvements</b> Potential junction improvements and non-car alternatives that will be required to mitigate impact of development on movement along radial	2018-2030	<b>Transport Scotland, City of Edinburgh Council, East Lothian, Midlothian</b>	Unknown	<b>Proposed</b> No committed interventions yet. Cross Boundary Transport Appraisal to inform prioritisation process.

	routes to, and orbital routes around Edinburgh.		Council		
29.	<b>Edinburgh Orbital Bus and Associated Park and Ride</b> Part dedicated bus route supporting orbital movement around Edinburgh with supporting park & ride infrastructure.	2018-2030	SEStran, City of Edinburgh Council, Midlothian Council, East Lothian Council, Transport Scotland	Unknown	<b>Proposed</b> Supported by SEStran led appraisal complete but no commitment or funding. Policy support in SDP and RTS.
30.	<b>Strategic Walking and Cycling Routes: Functional Routes</b>				
30a.	<b>Glenrothes - Kirkcaldy</b> Connects major towns with strategic centres.	2018-2030	Fife Council, SEStran, Sustrans, SNH	Unknown	<b>Proposed</b>
30b.	<b>Dunfermline - Edinburgh</b> Would connect settlement, expansion areas and employment centres along the A90 corridor which suffers from significant congestion. Good quality off-road route exists between Edinburgh and southern Bridgehead but there is no quality provision between Dunfermline and Rosyth.	2018-2030	Fife Council, City of Edinburgh Council SEStran, Sustrans, SNH	Unknown	<b>Proposed</b> No current commitment to undertake work between Dunfermline and Rosyth
30c.	<b>A89/A8</b> Would connect settlement, expansion areas and employment centres along A8/A89 corridor which suffers from significant congestion. Off-road route exists between Bathgate and Broxburn along A89. Some sections in City of Edinburgh area are narrow, poorly surfaced and need upgrading.	2016-2030	City of Edinburgh Council, West Lothian Council, SEStran, Sustrans, SNH	t.b.c.	<b>Underway</b> Route safeguarded from Harthill to Bathgate. Works underway at Gogar interchange as part of Edinburgh Gateway Station works, forming a hub and providing additional safe crossing point of A8. Upgrade of surface and width along A8 commenced 2015/16, further work planned for 2017/18.
30d.	<b>A71 Separated Route</b> Current proposal for high quality separated new route along the route of the A71 from West Calder to Edinburgh. Would provide a safe route along	2016-2030	City of Edinburgh Council, West Lothian Council, SEStran, Sustrans,	t.b.c.	<b>Underway</b> West Lothian Council have appointed AECOM to undertake route study. City of Edinburgh

	this busy road corridor.		Transport Scotland, SNH		examining potential of enhancements along Calder Road.
30e.	<b>Edinburgh - Penicuik</b> Connects existing settlements, growth areas, Straiton Commercial Centre and Science and Knowledge Cluster along commuter heavy A701 corridor	2018-2030	<b>Midlothian Council,</b> City of Edinburgh Council, SEStran, Sustrans, Transport Scotland, SNH	t.b.c.	<b>Proposed</b> Support for different parts of route connecting settlements along A701 in Midlothian LDP.
30f.	<b>Edinburgh - Gorebridge</b> New route from Gorebridge to Dalkeith via Newtongrange, Mayfield and Easthouses, with a safe crossing at Sheriffhall and on to Edinburgh. Potentially including A7 urbanisation work. Connects settlements, major growth areas and major employment locations.	2018-2030	<b>Midlothian Council,</b> City of Edinburgh Council, SEStran, Sustrans, Transport Scotland, SNH	t.b.c.	<b>Policy support</b> Support for different parts of routes connecting settlements along A701 in Midlothian LDP.
30g.	<b>A1/A199</b> Spinal through the centre of East Lothian broadly following the A1 corridor and the route of the A199. Links existing settlements employment sites and housing growth areas (including Queen Margaret University, Wallyford and Blindwells).	2016-2030	<b>East Lothian Council, City of Edinburgh Council,</b> SEStran, Sustrans, Transport Scotland, SNH	t.b.c.	<b>Underway</b> East Lothian Council have appointed Ironside Farrar to undertake route study
30h.	<b>Edinburgh Orbital Route</b> Proposed route following the Edinburgh bypass (A720). Sections would include route along former railway path between Straiton and Shawfair. Proposed linking with Gyle and A90 at Barnton. Could be developed as part of Orbital Bus proposal.	2018-2030	<b>City of Edinburgh Council, East Lothian Council, Midlothian Council,</b> SEStran, Sustrans, Transport Scotland, SNH	t.b.c.	<b>Proposed</b> No detail appraisal work undertaken at this stage. Sustrans plan to construct Straiton to Shawfair path within the next 2 years.
<b>31.</b>	<b>Strategic Walking and Cycling Route Recreational Routes</b>				
31a.	Pilgrims Way – Culross & North Queensferry to St Andrews	2016-2030	<b>SESplan Member Authorities,</b> Sustrans, SEStran, SNH	Unknown	[ progress on individual sites to be confirmed prior to publication]
31b.	John Buchan Way Extension to Clyde Walkway	2016-	<b>SESplan Member</b>	Unknown	[ progress on individual sites to be

		2030	<b>Authorities,</b> Sustrans, SEStran, SNH		confirmed prior to publication]
31c.	Tweed Cycleway Peebles to Kelso	2016-2030	<b>SESplan Member Authorities,</b> Sustrans, SEStran, SNH	Unknown	Innerleithen to Walkerburn completion due in 2019
31d.	River Tyne Walkway Extension from Haddington to Vogrie Country Park	2016-2030	<b>SESplan Member Authorities,</b> Sustrans, SEStran, SNH	Unknown	[ progress on individual sites to be confirmed prior to publication]
32.	<b>High Speed Rail</b> Linking Edinburgh and Glasgow city centres with London and offering good connections to the rest of the rail network.	2016-2038	<b>Scottish Government</b>	Unknown	<b>Policy support</b> National policy support. An extended a joint study between Transport Scotland, the Department for Transport and HS2 Ltd, into bringing HS2 further and faster into Scotland is expected to report in 2016.
33.	<b>A1 Dualling between Dunbar and Berwick Upon Tweed</b> Proposal to complete dualling of the A1 within Scotland creating a better connection along East Coast.	2018-2038	<b>Scottish Government</b>	t.b.c.	<b>Policy support</b> Local policy support but no current support or commitment from Scottish Government. Further appraisal work required. Department of Transport is committed to the important work on the A1 between Newcastle and the Border dualling 13 miles of the single carriageway in Northumberland.
34.	<b>Borders Railway Extensions to Hawick and Carlisle</b>	2018-2038	<b>Transport Scotland, Scottish Borders Council, Abellio</b>	Unknown	<b>Policy support</b> All partners are committed to scoping potential further feasibility

			Scotrail, Network Rail, SEStran, Carlisle City Council and Dumfries & Galloway Council		work in relation to extending the Borders Railway line towards Hawick and Carlisle, including turning options at and beyond Tweedbank. It is envisaged that pre-feasibility work in relation to extending the Borders Railway will be initiated in 2016.
35.	<b>Dunfermline-Alloa Passenger Rail Link</b> Create sustainable connection between Alloa and Dunfermline using existing track.	2018-2038	Transport Scotland, Fife Council, Clackmannanshire Council	Unknown	<b>Policy support</b> Local policy support but no current support or commitment from Scottish Government.
36	<b>Blindwells Rail Station</b> New rail station to support sustainable development of new settlement.	2018-2038	Transport Scotland, Network Rail, East Lothian Council	Unknown	<b>Policy support</b> Policy support in emerging East Lothian LDP but no current support or commitment from Scottish Government.
37.	<b>Edinburgh Tram Extensions</b>				
37a.	St Andrew Square to Newhaven - Needed to support significant scale of development at Leith and Waterfront	2016-2030	<b>City of Edinburgh Council</b>	No funding in place. Developers along tram routes would be expected to contribute.	<b>Policy support</b> Council has approved in principle and period of site investigation and procurement underway over next year. Firm commitment still to be confirmed.
37b.	Newhaven to Granton - Needed to support significant scale of development at Waterfront	2018-2030	<b>City of Edinburgh Council</b>	No funding in place. Developers along tram routes would be expected to contribute.	<b>Policy support</b> Rights to start construction extend to March 2021. City of Edinburgh Council approved a report in March agreeing to compulsory purchase the land before the rights expire. Other routes have policy support only.
37c.	Ingliston Park & Ride to Newbridge	2018-2030	<b>City of Edinburgh Council</b>	No funding in place. Developers along tram routes would	

				be expected to contribute.	
37d.	City Centre to Edinburgh BioQuarter, Newcraighall and Queen Margaret University	2018-2030	<b>City of Edinburgh Council</b>	No funding in place. Developers along tram routes would be expected to contribute.	<b>Policy support</b>
37e.	Roseburn to Granton	2018-2030	<b>City of Edinburgh Council</b>	No funding in place. Developers along tram routes would be expected to contribute.	<b>Policy support</b>
<b>Place for Communities</b>					
37.	<b><u>Supplementary Guidance for Cross-boundary Green Networks 1.</u></b> <i>Edinburgh &amp; East</i>	2016-2019	<b>SESPlan, Scottish Natural Heritage, City of Edinburgh Council, Midlothian Council, East Lothian Council, Forestry Commission Scotland, Scottish Environmental Protection Agency, Lothian and Fife Green Network Partnership, Sustrans</b>	t.b.c.	<b>Proposed</b> Technical Paper on SESplan Green Networks Published 2015
38.	<b><u>Supplementary Guidance for Cross-boundary Green Networks 2.</u></b> <i>Edinburgh &amp; West</i>	2016-2019	<b>SESPlan, Scottish Natural Heritage, City of Edinburgh Council, West Lothian Council,</b>	t.b.c.	<b>Proposed</b> Technical Paper on SESplan Green Networks Published 2015

			Forestry Commission Scotland, Scottish Environmental Protection Agency, Lothian and Fife Green Network Partnership, Sustrans		
<b>39.</b>	<p><b><i>Cross Boundary Green Network Framework for the Green Network Priority Areas that do not cross boundaries.</i></b></p> <p>Note: Scottish Borders is not italicised since it was not selected as part of the Central Scotland Green Network National Development.</p> <p><i>Dunfermline North &amp; East Ore Valley Kirkcaldy Gateways Levenmouth &amp; Coast</i></p>	2016-2024	<b>Fife</b> , Scottish Natural Heritage, Forestry Commission Scotland, Lothian and Fife Green Network Partnership, Scottish Environmental Protection Agency	t.b.c.	<b>Underway</b> Green Networks in Fife – FIFEplan Background Paper setting out recommendations as to how green networks should be spatially defined and assessed for inclusion in the Fife LDP.
	<i>Linlithgow</i>	2016-2024	<b>West Lothian Council</b> , Scottish Natural Heritage, Forestry Commission Scotland, LFGNP, Scottish Environmental Protection Agency	t.b.c.	<b>Proposed</b>

	<i>Polkemmet &amp; Breich Water</i>	2016-2024	<b>West Lothian Council</b> , Scottish Natural Heritage, Forestry Commission Scotland, Lothians and Fife Green Network Partnership, Scottish Environmental Protection Agency	t.b.c.	<b>Proposed</b>
	<i>Forth Shores</i>	2016-2024	<b>City of Edinburgh Council</b> , Scottish Natural Heritage, Forestry Commission Scotland, Lothians and Fife Green Network Partnership, Scottish Environmental Protection Agency	t.b.c.	<b>Proposed</b>
	Scottish Borders	2016-2024	<b>Scottish Borders Council</b> , Scottish Natural Heritage, Forestry Commission Scotland, Scottish Environmental Protection Agency	t.b.c.	<b>Policy support</b> Scottish Borders Council intends to produce Supplementary Guidance
<b>40.</b>	<b>Monitor SESplan Housing Land Supply</b>	2016-	<b>SESplan, SESplan</b>	n/a	<b>Underway</b>



	SESplan and SESplan member authorities will work with Homes for Scotland to develop standards for the preparation of Housing Land Audits. Prepare an annual housing audit including information on the housing land supply and other factors such as completions and significant appeal decisions in consultation with Homes for Scotland.	2030	<b>member authorities, Homes for Scotland</b>		
41.	<b><u>Monitor need for specialist housing provision.</u></b> SESplan member authorities will work together through the South-east Scotland Housing Forum to update housing need information for communities with specialist housing needs.	2016-2030	<b>SESplan member authorities</b>	n/a	<b>Proposed</b>
42.	<b><u>Review Remit and Purpose of SESplan Housing Market Partnership</u></b> Review the remit and purpose of SESplan Housing Market Partnership. Consider whether the remit could be expanded to include additional joint action to support the rate of market and affordable housing delivery.	2016-2018	<b>SESplan member authorities, Homes for Scotland, SESplan Housing Market Partnership</b>	n/a	<b>Proposed</b>

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**LOCAL GOVERNMENT BOUNDARY COMMISSION FOR  
SCOTLAND 5<sup>TH</sup> REVIEW OF ELECTORAL ARRANGEMENTS –  
RECOMMENDATIONS TO SCOTTISH MINISTERS**

**Report by Chief Executive**

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**SCOTTISH BORDERS COUNCIL**

**29 June 2016**

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**1 PURPOSE AND SUMMARY**

- 1.1 **This report advises the Council of the final report and recommendations being made by the Local Government Boundary Commission for Scotland to Scottish Ministers for the number of Councillors and the Electoral Ward Boundaries for the Scottish Borders Council area.**
- 1.2 The Local Government Boundary Commission has submitted to Scottish Ministers its Reports and Final Recommendations for the number of Councillors and the electoral ward boundaries in each of Scotland's 32 local authorities, which included those for the Scottish Borders Council area. The Commission has recommended that from May 2017, Scottish Borders Council should comprise 32 Councillors in 10 Wards, comprising 2 Wards each returning 4 Members, and 8 Wards each returning 3 Members.
- 1.3 The Council has previously provided two responses to consultations by the Commission (in April 2014 and May 2015) and another response to the then Scottish Minister for Local Government and Community Empowerment in February 2016. The Council has a six week period from 26 May 2016 to submit any comments to Scottish Ministers at the Directorate for Local Government and Communities. Members should note that any substantive change to that response made in February 2016 would require the suspension of Standing Orders, as the decision was taken within the preceding 6 months.

**2 RECOMMENDATIONS**

- 2.1 **I recommend that the Council considers whether it wishes to make any further comments to Scottish Ministers regarding the final recommendations of the Local Government Boundary Commission for Scotland for the proposed number of Councillors and the Electoral Ward Boundaries for the Scottish Borders Council area.**

### 3 BACKGROUND

- 3.1 The Council first considered the Local Government Boundary Commission for Scotland's proposals regarding Councillor numbers and the criteria it used to calculate the numbers for each Council area at its meeting on 24 April 2014. The proposal for Scottish Borders Council was that the number of Councillors reduced from 34 to 32. At the meeting Council agreed to oppose the proposed reduction in the number of Councillors from 34 to 32 from 2017 onwards, thus retaining the present number of Scottish Borders Councillors. The Council considered that it was too soon after the introduction of the Single Transferable Vote to review ward boundaries, and that changes would confuse electors. It opposed a reduction in the number of Councillors, and believed that the use of deprivation would lead to a focus on urban areas, and did not reflect the needs of rural areas. This in turn would lead to increased workloads and travelling time for few Councillors in rural parts of the Council area, reducing the amount of time Councillors had to spend with members of the public. The Commission considered this response but confirmed their methodology and Councillor numbers at their meeting held on 10 September 2014.
- 3.2 The Commission then consulted with the Council on 19 March 2015 on its proposals for the Scottish Borders Council area, presenting an electoral arrangement for 32 Councillors representing 8 x 3-Member wards and 2 x 4-Member wards. At its meeting on 2 April 2015, Scottish Borders Council noted the details of the proposals by the Local Government Boundary Commission for Scotland ("the Commission") for the new Wards in the Scottish Borders Council area and agreed that the matter be considered in detail at a meeting of the Political Management Arrangements: Members Sounding Board, with recommendations subsequently being made to Council on a proposed response. That meeting of the Members Sounding Board took place on 23 April 2015 and all Members were invited to attend.
- 3.3 The Council then considered its response to the Boundary Commission at its meeting held on 21 May 2015 and decided the following:
- (a) *to support the Commission's proposal to move Charlesfield (approximately 80 electorate) from the Jedburgh & District Ward into the Selkirkshire Ward, with no change proposed for the houses lying within the settlement boundary of St Boswells;*
  - (b) *not to support the new Jedburgh, Denholm & Hermitage or the Hawick Wards as detailed in the Commission's proposals;*
  - (c) *to propose to the Commission that the area to the south of Hawick, including Newcastleton, should be included in a new Ward 10 (Hawick & District Ward) with 4 Councillors. The new Ward electorate would be 12,426 (at September 2013 level) which would be 11% above parity, but this would reduce in the forecast electorate in 2019 to 12,122 which was a variation of 8% above parity. This would then reflect the same variation from parity (-8%) of the existing and proposed Tweeddale West Ward. The new Ward would cover an area of 621 km<sup>2</sup>, the same area as the current Mid Berwickshire Ward. Wilton Park and Galalaw Business Park, in Hawick, currently had postcodes which placed them outwith the new Hawick Ward and it was recommended that these be included within the new Hawick Ward as they lay within the settlement boundary, albeit containing no houses;*

- (d) *to propose to the Commission that the area to the north and east of Hawick, including Denholm, be included in a proposed new Ward 9 (Jedburgh & Denholm Ward) which would also retain the change in boundary between Kelso & District and Jedburgh as proposed by the Commission, and would be served by 3 Councillors. The new Ward electorate would be 8,533 based on 2013 figures (2% above parity) with a minor increase forecast for 2019. The new Jedburgh & Denholm Ward would cover an area of 576 km<sup>2</sup>, as opposed to the Commission's proposal for a Jedburgh Ward covering 868 km<sup>2</sup>;*
- (e) *to support further amendments:*
- (i) *to move all of the property at New Horndean Farm into the Mid Berwickshire Ward – currently the Farm was split between Mid and East Berwickshire Wards; and*
- (ii) *to move the properties at Stichill Home Farm and Stichill Stables from the Mid Berwickshire Ward to the Kelso & District Ward.*
- (f) *to also submit as part of its response to the Commission the following supporting information:*
- (i) *in terms of linkages within the new Wards, Newcastleton was a geographically remote village, located just over 21 miles south of Hawick, with a driving time of approximately 56 minutes. There was a direct public transport link between Newcastleton and Hawick. There were existing links between Newcastleton and Hawick in terms of school catchment area, social work services, and health services. Newcastleton was located almost 27 miles from Jedburgh, with a driving time of approximately 1 hour and 8 minutes and no direct public transport link (public transport link is via Hawick). There were no specific links either socially, currently or historically with Jedburgh;*
- (ii) *Denholm was located just under 5 miles from Hawick and just under 6 miles from Jedburgh, almost equidistant, and there was a direct public transport link to both Hawick and Jedburgh. Denholm lay in the school catchment area for Hawick High School although some parents chose to send their children to Jedburgh Grammar School. While some members of the Denholm community would have a more natural affinity with Hawick, there were existing links with Jedburgh. This change in boundaries should have no impact on the social and cultural relationships which currently exist between Denholm, Hawick and Jedburgh; and*
- (iii) *with regard to Community Council areas, Scottish Borders currently had 69 Community Councils, a number of which were split across existing Wards e.g. Hawick Community Council and Hobkirk Community Council areas were split between the current Hawick & Denholm and Hawick & Hermitage Wards. The proposed new Kelso & District and Jedburgh & Denholm Ward boundary would see Heiton & Roxburgh Community Council split between the 2 Wards, with the majority of the Community Council area in the Kelso & District Ward. Crailing, Eckford & Nisbet Community Council area would also be split between these*

*Wards. Denholm and Southdean Community Council areas would be wholly included in the new Jedburgh & Denholm Ward.*

3.4 Following public consultation, the Commission discussed two further suggestions for Scottish Borders Council area at its meeting on 12 January 2016. The first suggestion retained the existing electoral arrangements in the Council area and the second suggestion proposed redrawing the boundaries of Wards 1 to 9 in order to achieve improved elector parity with reduced Councillor numbers. Neither of these suggestions was acceptable to the Commission. The first suggestion would have resulted in under-representation in the east of the Council area and departed from the number of Councillors proposed by the Commission's methodology. The second suggestion failed to address over-representation of electors in the south-west of the Council area. After due consideration, the Commission agreed to the proposals included in their final recommendations as they improved forecast parity, minimised disruption by retaining 4 existing Wards across the Council area, and satisfied the Council's request to include Newcastleton in a ward with Hawick in addition to other requested changes.

3.5 At its meeting on 25 February 2016, Council agreed the following Motion:

*"That Scottish Borders Council agrees to write to the Scottish Government Minister for Local Government and Community Empowerment, on behalf of the local communities in and around Hawick which are being penalised by the disproportionate weighting of the methodology used by the Local Government Boundary Commission for Scotland (LGBCS) for the 5th Review and the resultant proposed reduction in councillor numbers and significant changes to the existing Hawick ward areas.*

*The Council calls upon the Minister, when considering any LGBCS proposals, to reject the arbitrary maximum variation in electoral parity in the new wards of +/- 10% which places an artificial burden in particular on the Hawick area, failing to recognise that area's natural population and settlement distribution, geography, and its traditional social, economic and cultural connections. The Minister is urged to reject any proposal to reduce councillor numbers in the Scottish Borders, and its consequential effect on the wards of the Hawick and Jedburgh area, and instead allow for a true reflection of the unique demographic, geographic and natural communities in and around Hawick, and the wishes of the local electorate.*

*This letter should also be copied to the Local Government Boundary Commission for Scotland to allow the Commission to take this Motion into account when arriving at its final recommendations."*

The letter was subsequently sent to the then Minister for Local Government and Community Empowerment on 11 March 2016 and copied to the Secretary of the Local Government Boundary Commission for Scotland.

3.6 In terms of consultation with members of the public, the Commission consulted on their proposals for Councillor numbers between 29 May and 21 August 2014, which resulted in 2 responses for the Scottish Borders Council area, both of which opposed a reduction in Councillor numbers. A further 2 responses were received for all Council areas in Scotland – one was from Cosla and one from an individual. On 30 July 2015, the Commission announced a 12 week consultation period for the Scottish Borders Council area which adopted the Council's suggestion for electoral arrangements – 31 responses were received, with the main themes of these being Denholm

had strong ties to Hawick; Newcastleton had strong ties to Hawick; and the proposals may disrupt the work of Community Councils and the Teviot and Liddesdale Area Forum. Another 30 responses were received by the Commission out-with the public consultation period. The main themes of these letters were objections to the proposed move of Newcastleton/ Hermitage/Liddesdale to a Jedburgh Ward; the proposed move of Denholm and Hobkirk to a Jedburgh Ward; the inclusion of Hornshole in a Jedburgh Ward; as well as the reduction in Councillor numbers and one of the Hawick wards.

#### 4 FINAL RECOMMENDATIONS OF THE LOCAL GOVERNMENT BOUNDARY COMMISSION FOR SCOTLAND

- 4.1 On 24 May 2016, the Council received a letter to advise that the Commission had submitted to Scottish Ministers its Reports and Final Recommendations for the number of Councillors and the electoral ward boundaries in each of Scotland's 32 local authorities, which included those for the Scottish Borders Council area. In terms of Section 17(2) of the Local Government (Scotland) Act 1973, as amended, the agreed date for submission was taken as 26 May 2016. The Council has a six week period from that date to submit any comments to Scottish Ministers at the Directorate for Local Government and Communities.
- 4.2 The Commission has recommended that in the interests of effective and convenient local government, the future electoral arrangements for Scottish Borders Council area should provide for a Council of 32 Councillors in 10 Wards, comprising 2 Wards each returning 4 Members, and 8 Wards each returning 3 Members as follows:

Ward No	Ward Name	Cllrs	Electorate (Sept - 2013)	Actual variation from 2800 parity	Forecast electorate	Forecast variation from 2800 parity
1	Tweeddale West	3	7,716	-8%	7,717	-9%
2	Tweeddale East	3	8,247	-2%	8,320	-2%
3	Galashiels & District	4	10,862	-3%	10,530	-7%
4	Selkirkshire	3	7,926	-6%	8,238	-3%
5	Leaderdale & Melrose	3	8,427	0%	8,742	3%
6	Mid Berwickshire	3	8,310	-1%	8,635	1%
7	East Berwickshire	3	8,465	1%	8,990	6%
8	Kelso & District	3	8,952	6%	9,106	7%
9	Jedburgh & Denholm	3	8,576	2%	8,550	0%
10	Hawick & District	4	12,383	10%	12,059	6%
	<b>Totals</b>	<b>32</b>	<b>89,864</b>	<b>4%</b>	<b>90,887</b>	<b>5%</b>

- 4.3 Appendices 1 and 2 to this report show maps of the boundaries of the new Jedburgh & Denholm Ward (Appendix 1), and Hawick & District Ward (Appendix 2).
- 4.4 Members are now asked whether they wish to make further representations to Scottish Ministers on the final recommendations of the Local Government Boundary Commission for Scotland for the Scottish Borders Council area. As a decision was made by Council at its meeting on 26 February 2016, Members should note that any substantive change to that decision would require the suspension of Standing Orders, as the decision was taken within the preceding 6 months.

## **5 IMPLICATIONS**

### **5.1 Financial**

There are no costs attached to any of the recommendations contained in this report.

### **5.2 Risk and Mitigations**

It is likely that the Commission's recommendations and the Council responses could prove unacceptable to some local communities in the new Wards. The Council has provided two responses previously to the Commission and a response to the previous Minister for Local Government and Community Empowerment. The public responses to the Commission's consultations represented 0.29% of the electorate in the 2 affected Wards.

### **5.3 Equalities**

Within the Council, no equality impact assessment (EIA) has been carried out as the responsibility for this lies with the Local Government Boundary Commission for Scotland.

### **5.4 Acting Sustainably**

There is no direct economic, social or environmental impact of the potential changes in Ward boundaries.

### **5.5 Carbon Management**

There is no discernible impact on the Council's carbon emissions resulting from changes to Ward boundaries.

### **5.6 Rural Proofing**

The Council's second response to the Commission – based on the methodology used by the Commission - better reflects local rural communities within the south-west area of the Council.

### **5.7 Changes to Scheme of Administration or Scheme of Delegation**

No changes are required at this time to either the Scheme of Administration or the Scheme of Delegation as a result of the proposals in this report.

## **6 CONSULTATION**

- 6.1 *The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Service Director Strategy and Policy, the Chief Officer Audit and Risk, and the Chief Officer HR are being consulted and any comments received will be incorporated into the final report.*



**Approved by**

**Tracey Logan  
Chief Executive**

**Signature .....**

**Author(s)**

Name	Designation and Contact Number
Jenny Wilkinson	Clerk to the Council - 01835 825004

**Background Papers:** Nil

**Previous Minute Reference:** Scottish Borders Council, 25 February 2016

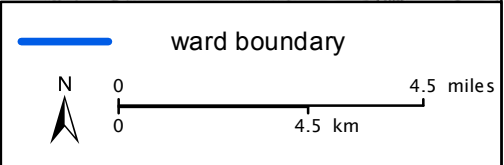
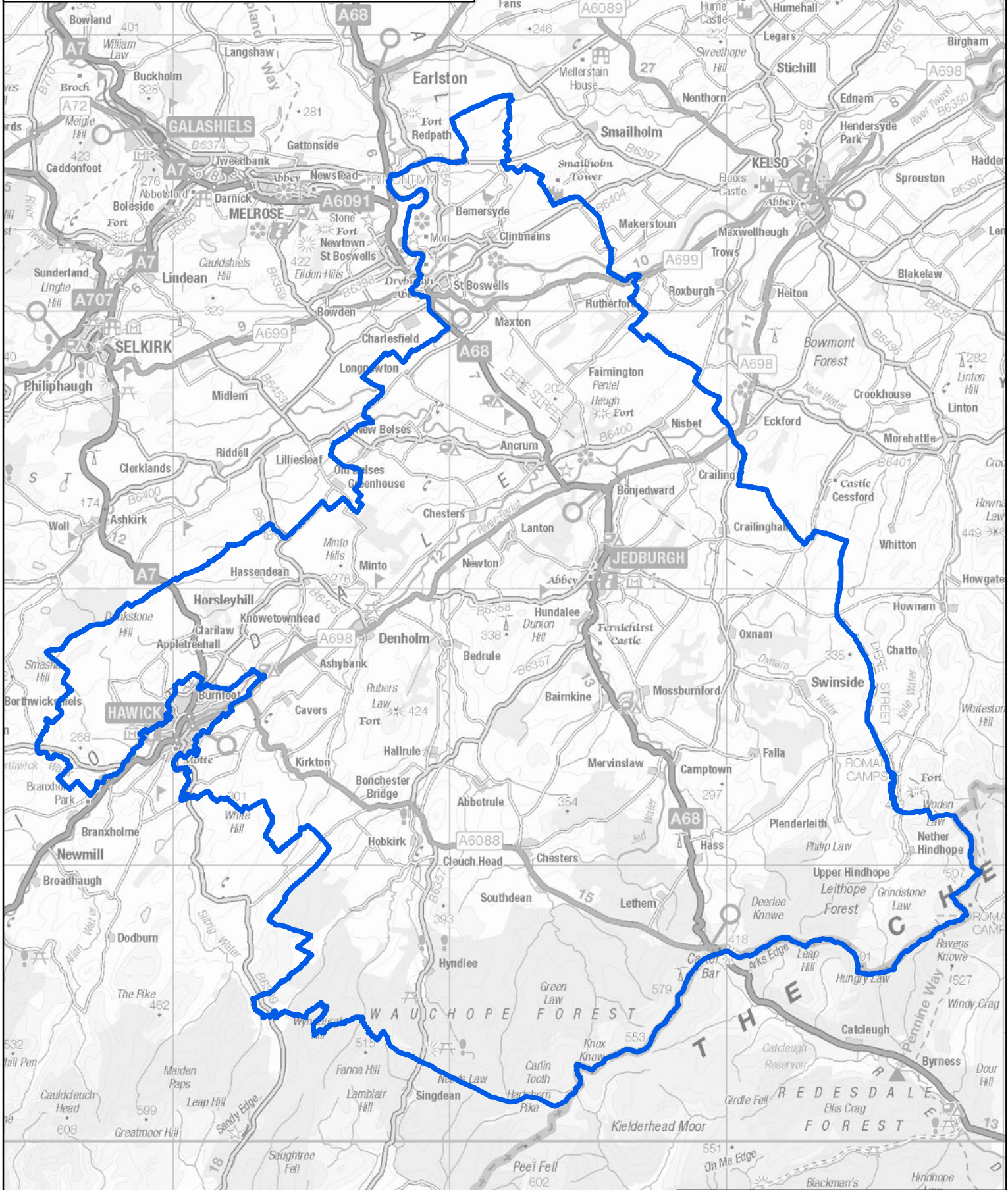
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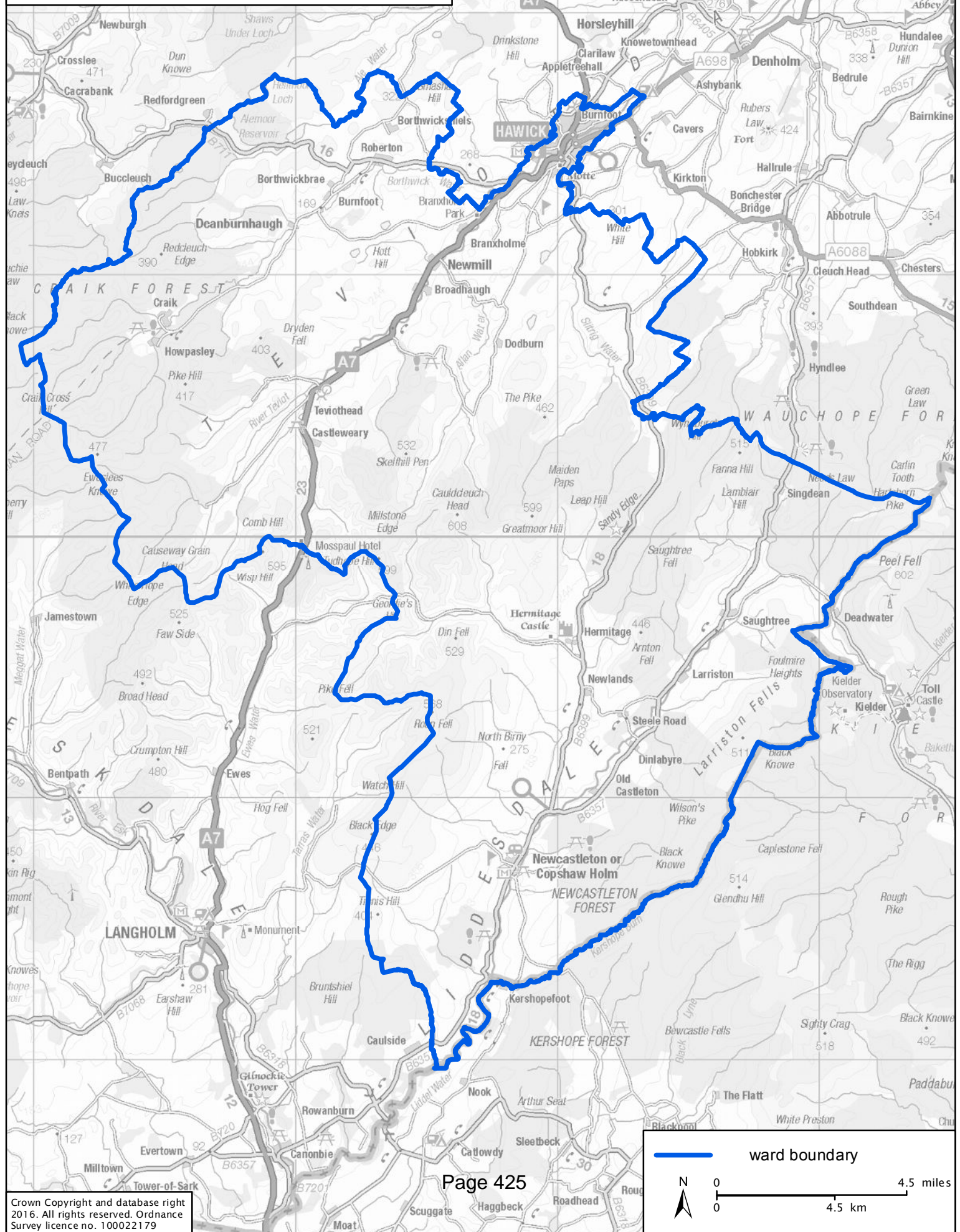
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Local Government Boundary Commission for Scotland  
 Fifth Review of Electoral Arrangements  
 Final Recommendations  
 Scottish Borders Council area  
 Ward 9 (Jedburgh and Denholm)



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Local Government Boundary Commission for Scotland  
Fifth Review of Electoral Arrangements  
Final Recommendations  
Scottish Borders Council area  
Ward 10 (Hawick and District)



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## **EARLY RETIREMENT/VOLUNTARY SEVERANCE**

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### **Report by Chief Executive**

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## **Scottish Borders Council**

**29 June 2016**

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### **1 PURPOSE AND SUMMARY**

- 1.1 **This report seeks approval for 7 applications for staff who have requested early retirement and voluntary severance. These volunteers have the support of the Acting Chief Executive, Depute Chief Executives and Service Directors.**
- 1.2 Council agreed a revised policy for both compulsory redundancy and voluntary severance/early retirement schemes in August 2010. The scheme was open to all staff, except teachers. It was extended to teachers for the period between January and March 2015. As part of the Councils Financial and People plans the voluntary severance/ early retirement scheme is being operated with a focused approach to seeking applications from staff in areas where specific budget reductions have been identified.
- 1.3 In June 2016 7 applications have been received which are supported by the relevant Depute Chief Executive or Service Director. Should all 7 applications be agreed, total one-off costs of £161,812 will be incurred and total direct recurring employee cost savings of £254,478 will be delivered each year, demonstrating a payback period of 0.64 years which is an attractive proposition for the Council.

### **2 RECOMMENDATIONS**

- 2.1 **I recommend that the Council approves the current 7 applications as detailed in table 1 within the report, with the associated costs being met from the voluntary severance/early retirement budget for 2016/17 of £161,812.**

### 3 EARLY RETIREMENTS AND VOLUNTEERS FOR SEVERANCE

3.1 At its meeting of 19<sup>th</sup> August 2010, Scottish Borders Council agreed a revised policy for both compulsory redundancy and voluntary severance/early retirement schemes, including the creation of a budget provision to fund such applications in future years. Following this, the Executive agreed that in order to enable the Council to deliver an affordable balanced financial plan for 207/13 and beyond, a revised policy would be open to all staff indefinitely and teachers as required, which would allow the organisation to reduce its overall staff numbers. From January 2016, applications are only being considered from staff employed in areas targeted for efficiencies through the budget process and linked to workforce planning.

#### 3.2 Definitions

(a) Early Retirement:

Voluntary retirements in the interests of efficiency for staff over the age of 50 who can access pension

(b) Voluntary Severance:

Where staff are allowed to volunteer to leave the organisation with a compensation payment. This payment is based on age and length of service and may be paid alongside early retirement.

### 4 PROPOSALS

4.1 Following Council approval offers will be confirmed to individuals. The leaving date for postholders will range from 30 June 2016 until 30 September 2016. 7 applications have been approved in principle, reducing FTE posts by 5.55. A summary of the approved applications by department and FTE equivalent is summarised below in Table 1.

Table 1 Application Summary

Dept	Post title	Annual Saving	Severance Cost	Strain on Fund	Payback	FTE reduction or replacement
Place	Policy & Planning Access Manager	68,565.00	45601.65	nil	0.67	-1.0
Place	Internal Audit Manager	35,000.00	23478.43	nil	0.67	Staff cost reduction equivalent to -0.6
Place	Development Negotiator	52,192.00	23271.80	nil	0.45	-1.0
Place	Asset Engineer	29,283.00	24007.93	8053.85	1.22	-1.0
People	HSLW	20,120.00	7,647.22	0.00	0.38	-0.71
People	ANA	4,218.00	2,418.00	8,671.00	2.63	-0.24
People	CLD	45,100.00	18,662.96	0.00	0.41	-1.00
<b>Totals</b>		254,478	145,087.99	16,724.85		-5.55



## 5 IMPLICATIONS

### 5.1 Financial

- (a) The purpose of this exercise is to facilitate the reduction in overall employment costs to the Council. As detailed above, an assessment has been made of potential savings in each Department and considered against the estimated costs incurred and overall efficiency in terms of non-financial benefits. There is sufficient funding available within the 2016/17 Early Retirement / Voluntary Severance budget to meet the cost of these applications.
- (b) In total, £254,478 of direct recurring employee cost savings will be delivered, should all of the above 7 applications be accepted. A breakdown of the expected net annual staffing savings by department is detailed below in Table 2.

Table 2 – Expected employee cost savings Year 1

<b>Department</b>	<b>Employee cost savings nearest £</b>
Place	185,040
People	69,438
<b>Total</b>	<b>254,478</b>

- (c) The financial payback associated with each of the proposals above varies however; the average payback period for all staff is 0.91 years, which is an attractive proposition for the Council. The associated costs of £161,812 will be met by the 2016/17 Early Retirement/Voluntary Severance provision.

### 5.2 Risk and Mitigations

- (a) If approval to proceed with the voluntary severance is not given, the savings noted will not start to be realised during the financial year 2016/17.
- (b) As part of the monitoring of Early Retirement/Voluntary Severance decisions it is important that members are aware of the impact on the composition of scheme membership, arising through people granted Early Retirement/Voluntary Severance leaving the service of the Council.
- (c) Should the balance of pension fund membership change substantially due to Early Retirement/Voluntary Severance decisions there may be a need to change the funding strategy of the pension fund towards more income generating investments.
- (d) The Local Government pension fund continues to keep the composition of membership under review to ensure that the future funding strategy is optimised with respect to the relative number of active scheme members to pensioners drawing benefits.

### 5.3 Equalities

An Equalities Impact Assessment has been carried out on this proposal and it is anticipated that there are no adverse equality implications.

### 5.4 Acting Sustainably

There are no economic, environmental or social effects.

### 5.5 Carbon Management

There are no effects on the Council's carbon emissions

### 5.6 Rural Proofing

Not applicable

### 5.7 Changes to Scheme of Administration or Scheme of Delegation

No changes are required as a result of the proposals contained in this report.

## 6 CONSULTATION

- 6.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR, and the Clerk to the Council have been consulted and their comments have been incorporated into the final report.

### Approved by

**Tracey Logan**  
**Chief Executive**

**Signature .....**

### Author(s)

Name	Designation and Contact Number
Clair Hepburn	Chief Officer HR

**Background Papers:** Nil

**Previous Minute Reference:** Council August 2010

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