

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)

Glasgow and West of Scotland Forum of Housing Associations

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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)
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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

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Introduction

1.1 The Glasgow and West of Scotland Forum of Housing Associations (GWSF) is the leading membership and campaigning body for local community-controlled housing associations and co-operatives (CCHAs) in the west of Scotland. The Forum represents 69 members who together own around 85,000 homes. As well as providing decent, affordable housing for nearly 85,000 households in west central Scotland CCHAs also deliver factoring services to around 20,000 owners in mixed tenure housing blocks. For almost forty years CCHAs have been at the vanguard of strategies which have helped to improve the environmental, social and economic well-being of their communities.

1.2 The Forum's key objectives are: to promote the values and achievements of the community-controlled housing movement; and to make the case for housing and regeneration policies that support our members' work in their communities.

1.3 We welcome the opportunity to contribute to this consultation. Our response has been developed by members of the Forum and reflects their experiences of working alongside local people in their communities for the past four decades.

Overall comments

2.1 The Community Empowerment (Scotland) Act 2015 (CEA) is underpinned by an ambition to empower communities by giving them a voice in decision making processes, and by creating a framework which is supportive to requests from communities in relation to both asset transfer (land or buildings) and to the shaping of local services.

2.2 The overall policy aims of the CEA in relation to community empowerment, including supporting subsidiarity, local decision making and asset transfer, resonate with the core values of the community controlled housing movement. Therefore we welcome the potential new opportunities which it offers to both communities themselves and to representative community bodies.

2.3 We strongly believe that *true* community empowerment can only be achieved as a result of action taking place at local level with local people leading, supported by trusted community anchor organisations. As the community controlled housing model demonstrates, when community empowerment happens in this way it leads to sustainable and enduring physical and social regeneration within communities. We believe that there are real opportunities under this section of the Act for CCHAs to acquire land and buildings in their communities which could be put to use for the benefit of the community.

2.4 We welcome the fact that 'asset transfer' as described in the CEA 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.

2.5 Since 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 consequently no regulations to be made on this issue. We therefore welcome the fact that the Scottish Government intends to provide guidance in this area. We also welcome the establishment of a Short-Life Working Group on Valuation and Assessment of Non-Financial Benefits to help develop the guidance.

2.6 We agree with the proposed review process outlined in the consultation document which allows a *community transfer body* to initiate with a relevant authority for any asset transfer requests which are denied.

2.7 We also welcome the proposed appeals process to the Scottish Ministers which a CTB can instigate if it does not agree with the outcome of a relevant body's review process.

Arms-Length External Organisations

3.1 We agree with the list of *relevant authorities* outlined in the Act. However, as is acknowledged in the consultation document Arms-Length External Organisations (ALEOS) are not currently included as *relevant authorities*. The Scottish Government is currently looking at how different ALEOS are structured and considering whether they should be included on the list. We believe that this should definitely be the case since it may be that in some local authorities assets might have been transferred to ALEOs. It would seem to be in the spirit of the Act that asset transfer requests should be applicable to *all* assets – including those held within an ALEO.

3.2 In our opinion, this issue is of particular importance under Section 94 of the Act which 'requires each relevant authority to publish a register of land which it owns or leases'. We would argue that to provide a complete picture for *community transfer bodies* it is crucial that assets owned or maintained by ALEOS must be included on a *relevant authority's* Register of Land.

3.3 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. With the inclusion of the stipulation outlined in 3.2 (above) we think this is the right approach especially since an asset transfer request can still be made for land which does not appear on the register.

Designation of community controlled housing associations as class of bodies

4.1 The definition of a community-controlled body under Section 19 of the Act is as follows:

Meaning of "community-controlled body"

In this Part, a "community-controlled body" means a body (whether corporate or unincorporated) having a written constitution that includes the following—

- (a) a definition of the community to which the body relates,
- (b) provision that the majority of the members of the body is to consist of members of that community,
- (c) provision that the members of the body who consist of members of that community have control of the body,
- (d) provision that membership of the body is open to any member of that community,
- (e) a statement of the body's aims and purposes, including the promotion of a benefit for that community, and
- (f) provision that any surplus funds or assets of the body are to be applied for the benefit of that community.

4.2 GWSF has sought legal advice on the issue of whether or not CCHAs can be considered community-controlled bodies under the Act. Following this our understanding is that some

CCHAs and cooperatives may not meet all the requirements. This is because some CCHAs' own Rules are not completely aligned to the criteria for community controlled bodies in the Act; specifically in relation to the inclusion of a geographic area setting out 'a definition of the community to which the body relates' (as outlined in Point (a) above). Furthermore, Fully Mutual Co-operatives do not meet the Act's definition of a community controlled body in relation to 'membership of that body [being] open to any member of that community (as outlined in point (d) above.

4.3 As we have outlined in our introductory remarks and in Point 2.3 above our members have a proven track record in both physical and social regeneration in their communities over the last forty years. We believe that CCHAs are ideal agents who could take forward effective asset transfers working alongside communities.

4.4 Part 5, Section 77, p2 (b) allows the Scottish Ministers to designate an individual body or a 'class of bodies' as *community transfer bodies*. We would ask that the Scottish Ministers consider designating all Community Based Housing Associations and all Fully Mutual Housing Cooperatives as such a class of bodies. This would mean that their status as *community transfer bodies* could not be challenged by a *relevant authority*.

4.5 The Scottish Federation of Housing Associations' Community Based Model Rules and the Fully Mutual Co-operative Rules which are already in existence could be used as a foundation for a legal definition of Community Controlled Housing Associations. Any CCHAs/Co-ops which adopt these, and specifically their reference to a geographical area of operations, could then qualify under that 'class of bodies'.

Follow up

5.1 We will continue to explore the issue of designation with our members and we are happy to follow it up in more depth with the Scottish Government in due course.