

**To: Council**

**On: 27 September 2018**

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**Report by: Director of Finance & Resources**

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**Heading: Scheme of Delegations**

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**1. Summary**

- 1.1 The purpose of this report is to seek approval for a change to the Council's Scheme of Delegated Functions ("the Scheme") to take into account the most recent part of the Community Empowerment (Scotland) Act 2015 that came into force relating to Common Good and separately to include a technical delegation relating to the roads function for the sign off of compliance with design standards for new roads.
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**2. Recommendations**

- 2.1 That the Council notes that the provisions of the Community Empowerment (Scotland) Act 2015 relating to common good and also abandoned, neglected and detrimental land are now in force
- 2.2 That the Council authorises the Director of Finance and Resources to publish a list of common good property held by the Council for consultation in terms of the 2015 Act and agrees that the Register of Common Good property will be submitted to a future meeting of the Infrastructure Land and Environment Policy Board for approval.
- 2.3 That Section 5 (Powers Delegated to Officers) of the Council's Scheme of Delegated Functions be amended as follows:

- (a) To add a new paragraph to the delegations to the Director of Environment & Infrastructure as follows:

“The Director of Environment & Infrastructure, along with the Head of Operations, is authorised to carry out the following functions of the Council as Roads Technical Approval Authority in accordance with the Design Manual for Roads and Bridges Volume 1 Section 1 Design Standard BD2 Technical Approval of Highway Structures:-

In relation to accepting submissions for Approval in Principal, Design and Check Certificate, Certificate of Construction Compliance and Departure from Standard, after being agreed and signed by a suitably qualified chartered civil or chartered structural engineer employed by the Council, for a new structure associated with a road, works to an existing structure associated with a road or a third party development adjacent to a road with the potential to cause damage to an existing structure associated with a road.”

- (b) To add a new paragraph to the delegations to the Director of Finance and Resources as follows:

“To exercise the Council’s functions in relation to maintaining a register of common good property in terms of section 102 of the Community Empowerment (Scotland) Act 2015

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### **3. Background**

- 3.1 The Scottish Parliament has now brought into force the parts of the Community Empowerment (Scotland) Act 2015 relating to Common Good and the Community Right to Buy abandoned, neglected or detrimental land.
- 3.2 The provisions in the Act relating to Common Good introduce the following requirements:
- a) The Council must establish and maintain a register of property which is held by the authority as part of the common good (“a common good register”). The register will cover not only land and building held as part of the common good but also moveable property and funds.
  - b) Before the common good register is published, the council is required to publish a list of property it believes should be included on the register and also notify community councils and other community bodies of the list and give them the opportunity to make representations in respect of the list. The Council must have regard to any representations it receives before establishing the common good register.

- c) Where the council is considering disposing of or changing the use of any common good property, the council is obliged to publish details about the proposed disposal or change of use and notify the community councils in whose areas the property is located and any other community body with an interest in the property.
- 3.3 The responsibility dealing with applications from community bodies for the community right to buy abandoned, neglected or detrimental land is with the Scottish Ministers and the Keeper of the Registers of Scotland rather than the Council. It is possible that an area of Council land may be the subject of an application under these provisions. Should such an application be made by a community body to the Scottish Ministers, the Council would have the opportunity to respond to the application and would be able to challenge any assertion that the area of land was abandoned, neglected or that its use was detrimental to the local community.
- 3.4 In light of these new obligations, it is proposed that the Director of Finance and Resources is authorised to publish the initial list of common good property and to seek representations as required under the Act. The list will include all common good funds and moveable property as well as land held on the common good accounts. It is also proposed that following the statutory consultation process the register of common good property will be submitted to the Infrastructure, Land and Environment Policy Board for approval and that the Director of Finance and Resources be responsible for maintaining the register.
- 3.5 The Council's Scheme of Delegated functions need to be updated to provide delegations to officers to deal with approvals for new structures associated with roads. These are detailed in section 2 above.
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## Implications of the Report

1. **Financial** – none
2. **HR & Organisational Development** - none
3. **Community/Council Planning** – none
4. **Legal** – the report relates to the implementation of elements of the Community Empowerment (Scotland) Act 2015 and changes to the Council's Scheme of delegated Functions
5. **Property/Assets** – The report refers to the council implementing a statutory requirement to establish and maintain a register of common good property.
6. **Information Technology** – none
7. **Equality & Human Rights**  
The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights

have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.

- 8. **Health & Safety** – none
  - 9. **Procurement** – none
  - 10. **Risk** – none
  - 11. **Privacy Impact** – none
  - 12. **CoSLA Policy Position** – not applicable
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**List of Background Papers** – none

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