

Agenda Item	21
Report No	HC/36/17

HIGHLAND COUNCIL

Committee: Highland Council

Date: 7 September 2017

Report Title: **Community Empowerment (Scotland) Act 2015: Part 8 Common Good Property**

Report By: Director of Finance

1. Purpose/Executive Summary

- 1.1 This report outlines the draft response to the Scottish Government consultation on the draft regulations relating to Common Good Property under the Community Empowerment (Scotland) Act 2015 Part 8.

2. Recommendations

2.1 Members are asked to:

- i. Note the content of the consultation on the draft guidance relating to Common Good Property under the Community Empowerment (Scotland) Act 2015 in **Appendix 1**.
- ii. Approve the response to the Scottish Government's consultation on Common Good Funds in relation to the Community Empowerment (Scotland) Act 2015 as contained in **Appendix 2**.

3. Introduction

- 3.1 The Community Empowerment (Scotland) Act 2015 introduces a number of measures to support community involvement. Part 8 places new duties on local authorities in relation to Common Good property. The intention is to increase transparency about the existence of Common Good assets and increase community involvement in decisions about the identification, use and disposal of them.
- 3.2 Part 8 is not in force yet. Once the consultation on the draft guidance that is the subject of this report has been completed and the guidance approved, Part 8 will come into force and the guidance will be published.
- 3.3 Part 8 does not define or redefine Common Good or remove or alter any restrictions on the use or disposal of Common Good property.

4. Section 102 - Common Good registers

- 4.1 Section 102 Community Empowerment (Scotland) Act 2015 places a duty on local authorities to “establish and maintain a register of property which is held by the authority as part of the common good”.
- 4.2 The section also sets out how local authorities must engage and consult with their local communities in setting up these registers.

5. The process relating to Common Good registers

- 5.1 Before establishing a Common Good register a local authority must publish a list of property it proposes to include in the register. This list may be published in such a way as the local authority may determine.
- 5.2 On publishing the list of proposed property, a local authority must notify any community council for the local authority’s area and any community body of which the local authority is aware and invite representations; in particular in relation to whether the proposed property is common good or whether there is property that should be included or excluded. The local authority must have regard to these representations when establishing the register.
- 5.3 The local authority must enable members of the public to inspect the Common Good register free of charge and must make it available electronically, ideally on the authority’s website.

6. Section 104 - Disposal and use of Common Good property: consultation

- 6.1 Section 104 Community Empowerment (Scotland) Act 2015 sets out the consultation process for when a local authority is considering disposing of or changing the use of any property held as part of the Common Good.

7. The process relating to disposal and use of Common Good property: consultation

- 7.1 Before disposing of or changing the use of any Common Good property a local authority must publish details of its proposals and must notify any community council whose area includes the property and any community body known to

have an interest in the property and invite representations. The local authority must have regard to these representations when deciding whether to dispose of or change the use of the property in question.

8. Proposed Council Response

8.1 A copy of the consultation document can be found at **Appendix 1**. The draft guidance for Part 8 Community Empowerment (Scotland) Act 2015 relates to the processes and covers specific aspects:-

- Publication and availability of the list of property proposed to be included on the Common Good register.
- Information to be included to allow identification of the property – name, description, location, former Burgh, additional useful information.
- Identifying and contacting community bodies.
- Making and responding to representations on contents of register – proposal is 8 weeks to make and 8 weeks to respond.
- Publication of the Common Good register – proposal is as soon as practicable after end of initial 8 week period and in any case within six months of the end of the consultation. Whether register should include items where Common Good title is not yet confirmed.
- Review of register – proposal is at least annually.
- Publication of details of proposed disposal or change of use of Common Good property.
- Making and responding to representations on proposed disposal or change – proposal is 20 working days to make and 20 working days to respond.
- Should there be further consultation if proposal is revised.

8.2 The draft response to the consultation is attached at **Appendix 2** and deals with the following issues :-

- Information shown on the list and the Common Good register should be consistent with the information held in respect of the Asset Transfer guidance save that a map based system alone will not be sufficient. This is due to the fact that the register will contain details on moveable property, investments and funds as well as land and buildings.
- Use of community councils, Community Planning Partnerships and local Voluntary Action Groups to identify other community bodies.
- Whilst 8 weeks is sufficient to make representations, longer may be needed to investigate and respond due to the often complicated nature of Common Good titles – a minimum 12 week response period is proposed by the Council.
- Publishing the Common Good register after the end of the initial 8 week period is too soon. It would make more sense to publish it after the conclusion of the period allowed for responding to representations. This would ensure it is published with limited ongoing investigations. The Council would suggest that publication within 6 months of the end of the full consultation period is reasonable. The register should only include such items as the Council is able to show it has reasonable justification to believe are Common Good and should not include items where title is not yet confirmed.

- Annual review is reasonable though it must be noted the minimum review period for the Asset Transfer register is 3 months so this lacks consistency.
- Timescale of 20 working days to make representations is consistent with asset transfer guidance but may be problematic for some community groups that meet monthly or less frequently – a period of 6 to 8 weeks is proposed as a more realistic time frame.
- The Act places a duty on the local authority to have regard to the representations – a further consultation period on any revision should not be necessary.
- There is inconsistency in the part of the Act and guidance relating to Asset Transfers and Part 8 of the Act and the draft guidance relating to disposal of Common Good property.

An Asset Transfer Request can be made for Common Good property and, under that part of the Act; all the local authority must do is publish a notice of the request. There is no requirement to consult specifically with community councils or community bodies in such an instance.

Therefore, the Council is suggesting in this response to the draft guidance that the guidance relating to disposal or change of use of Common Good property should be extended to ensure that the type of consultation referred to in section 104 takes place in the event of an Asset Transfer Request of Common Good property even though this will not have been initiated by the local authority.

9. Implications

- 9.1 **Resource** – Council had approved the creation of a fixed term Common Good Fund Officer post in 2016 with the successful applicant commencing in role in March 2017. One of the stated purposes of the position is to provide advice, support and assistance across the Council in connection with the Community Empowerment legislation.
- 9.2 **Legal** – The guidance sets out how the Government wishes local authorities to meet the duties contained in Part 8 of the Community Empowerment (Scotland) Act 2015.
- 9.3 **Community (Equality, Poverty and Rural)** – The guidance relates to processes designed to increase community involvement in decisions about the identification, use and disposal of Common Good property.
- 9.4 **Climate Change/Carbon Clever** – No implications are expected to arise from this report.
- 9.5 **Risk** – There is always a risk of non-compliance with timescales in new legislation. However this is being mitigated by ensuring the proposed list of property to be included has been completed in advance of the legislation coming into force.
- 9.6 **Gaelic** – No implications are expected to arise from this report.

Designation: Director of Finance

Date: 28 August 2017

Author: Sara Murdoch, Common Good Fund Officer.

Background Papers:

- Appendix 1 – Draft guidance consultation document for Community Empowerment Act Part 8 – Common Good proper
- Appendix 2 – Draft response to the consultation on the guidance for Community Empowerment Act Part 8 – Common Good property

Community Empowerment and Common Good Property

Consultation on Draft Guidance

June 2017



Scottish Government
Riaghaltas na h-Alba
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Community Empowerment and Common Good Property: Consultation on Draft Guidance

Overview

1. This is a consultation on guidance for local authorities on how to fulfil the requirements of Part 8 of the Community Empowerment (Scotland) Act 2015 in relation to Common Good property.
2. Common Good property is owned by local authorities and has been passed down, through local government reorganisation, from former burghs. Those burghs would have received it as a gift or purchased it. It includes land and buildings, moveable items such as furniture and art, and cash funds. There may be restrictions on how certain items of Common Good property are allowed to be used, and whether the local authority can dispose of them. In some cases this has to be decided by the courts. It is also worth noting that, due to the time which has passed, it is sometimes difficult to know whether property forms part of the Common Good.

Why we are consulting

3. Part 8 of the Community Empowerment (Scotland) Act 2015 places new duties on local authorities in relation to Common Good property. This consultation concerns the statutory guidance related to these processes and asks for views on issues such as timescales, information about assets, local consultation and publicising proposals.
 - Section 102 places a duty on local authorities to “establish and maintain a register of property which is held by the authority as part of the common good.”
 - Section 104 places a duty on local authorities “Before taking any decision to dispose of, or change the use of, such [common good] property the local authority must publish details about the proposed disposal or, as the case may be, the use to which the authority proposes to put the property.”
 - Sections 103 and 105 require local authorities “to have regard to any guidance issued by the Scottish Ministers” in relation to these duties.
4. Part 8 does not define or redefine Common Good or remove or alter any restrictions on the use or disposal of Common Good property.

Responding to this Consultation

We are inviting responses to this consultation by **29 September 2017**.

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/local-government-policy/community-empowerment-and-common-good-property>

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 **29 September 2017**.

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

Karen Fraser
Local Government and Analytical Services Division
Area 3G North
Victoria Quay
Edinburgh
EH6 6QQ

Handling your response

If you respond using Citizen Space (<http://consult.scotland.gov.uk/>), 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 attached to 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 by 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 comments about how this consultation exercise has been conducted, please e-mail them to: CGConsultation@gov.scot

Or you can contact us by post:

Karen Fraser
Local Government and Analytical Services Division

Area 3G North
Victoria Quay
Edinburgh
EH6 6QQ

Scottish Government consultation process

Consultation is an essential part of the policy-making 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 (<https://www.ideas.gov.scot>)

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.

Chapter 1 - Common Good registers

1. Section 102 of the Community Empowerment (Scotland) Act 2015 requires local authorities to develop and publish Common Good registers. Before publishing the final version of the register, each local authority must publish a list of property which it proposes to include on its Common Good register and consult on this list.

Publication

2. Local authorities should aim to be consistent in how and where they publish both the initial list of common good property and the final Common Good register. So, in common with the requirements for publishing the final register (Chapter 4), the public should be able to inspect the list of Common Good property free of charge and access it electronically, ideally on the local authority's own website.
3. Local authorities must be ready to make the list of property available in alternative languages and formats, if requested, to meet equality requirements. They may also wish to produce paper copies of the list if they think this will be more accessible to the groups they are looking to reach. Other alternatives could be, for example, to enable people to view the list on a computer at a public enquiry office, or send out printed extracts in response to telephone enquiries.

QUESTION 1: If applicable, where or how else should this information be published as a minimum requirement? Why is this needed in addition?

Length of consultation

4. The list of Common Good property should be made publicly available for comment for at least eight weeks.

QUESTION 2: What are your views on the timescale of eight weeks for people to comment on the list of common good property?

Information about property

5. The list of Common Good property should include enough detail about each item to enable members of the public to identify and locate individual assets. As a minimum this should be: the name of the asset, a brief description of what the asset is, the location of the asset, the name of the burgh to which the asset formerly belonged and any additional information about the asset which may be of use to a reader (see Annex A for more information).
6. There is no requirement on local authorities to make checks or confirm title before including property and assets on the list. This is because it is recognised that the ownership and boundaries of land and property are sometimes unclear, especially where records are old and land has changed hands by statutory powers or reorganisation of public bodies.

QUESTION 3: What, if any, further information about common good property should be provided?

Chapter 2 – Identifying and contacting Community Bodies

1. When the list of property is published, local authorities must invite community councils and other community bodies to consider the list and provide their views.

How to contact Community Bodies

2. The definition of “community bodies” given in section 106 of the Act is quite broad. We recognise that it may be difficult for local authorities to identify every individual group with a potential interest in a piece of common good property. Therefore we recommend that local authorities work with community planning partners and organisations such as Voluntary Action Scotland to help identify relevant groups in the local area. Local authorities should also note that the Local Government etc. (Scotland) Act 1994 defines specific geographical areas where communities will have an interest in common good property.
3. We expect local authorities to use a variety of methods to reach community bodies and they may find the revised [National Standards for Community Engagement](#) helpful when trying to connect with diverse groups of people from across the community. Community councils are already statutory consultees in the planning process and we would recommend that local authorities take advantage of these existing links when notifying community councils about proposals relating to common good property.

QUESTION 4: What, if any, further ways should local authorities use to identify and contact relevant community bodies?

Chapter 3 – Dealing with representations

1. The ability to provide views and comments (make representations) before the common good register is formally published, ensures that individuals, community councils and other community bodies have an opportunity to make a case for property to be included in or excluded from the register.

How to make representations

2. When publishing the list of common good property, local authorities should clearly set out the process and timescale for making any representations. All representations should be made in writing, either by e-mail or by letter. It should also be made clear that all representations will be published (although personal details must be handled in accordance with the local authority's data protection policy).

How to access representations

3. We expect local authorities to publish all the representations they receive. All of these documents, whether paper copy or electronic, should be accessible from the same place as the list of property and, eventually, the Common Good register.

Responding to representations

4. Local authorities should aim to investigate and respond to representations within eight weeks. The final response should be published alongside the original representation. Once a local authority has fully considered a representation, this decision will be final - unless significant new information comes to light or a court decides otherwise. Local authorities are not required to consider repeated representations in relation to the same asset when no new information is provided.

QUESTION 5: What are your views on the timescale of eight weeks to investigate representations in respect of the register?

Chapter 4 - Publishing the Common Good register

1. Local authorities should aim to publish the first version of their Common Good register as soon as practicable after the initial eight week consultation period has closed, and in any case within six months of the end of the consultation.
2. In cases where there have been numerous or particularly complex representations and a local authority is still carrying out investigations, a note should be added to the register to that effect. A covering note to the Register should make clear that some representations are still being followed up and there should be an indication of when these investigations are likely to be completed and a new version of the register made available. This should maintain transparency while still allowing local authorities to properly investigate complex cases.

QUESTION 6: What are your views on the timescale for publishing the Common Good register?

QUESTION 7: Do you agree or disagree with the proposals to publish the register even when some items on it are not yet confirmed?

Access to the register

3. The public must be able to inspect the Common Good register free of charge, and the document must be available electronically, ideally on the local authority website.
4. Local authorities should ensure that their Common Good register is easy to find and has clear instructions for use. They must also be ready to provide information from the register in alternative languages and formats if requested, to meet equality requirements. It is not necessary to produce a full paper version of the register, although this may be the preferred option for some local authorities. Alternatives could be, for example, to enable people to use the register on a computer at a public enquiry office, or to send out printed extracts in response to telephone enquiries.

Review

5. Common Good registers should be considered to be “living documents” and local authorities should revise their register if new Common Good assets are identified or if existing assets are disposed of or re-classified. It is also good practice to review the register at regular intervals, such as at the same time as the register of common good assets for accounting purposes (which is usually carried out annually). The process and timescale for review of the Common Good register should be made clear, along with the date of the last update.

QUESTION 8: What are your views on reviewing the common good register annually?

Chapter 5 - Consultation when planning to dispose or change the use of Common Good property

1. Section 104 requires local authorities to consult with the local community when they are planning to dispose of common good property, or change its use. Each local authority must publish details of the proposed disposal or change of use of common good property.

What information should be included about the property

2. The proposal should clearly state which property is being considered and what the plans are. The proposal should include enough detail to enable members of the public to identify and locate the property. To identify the property, the local authority should use the same information about the property that is included in the Common Good Register (Chapter 1). In relation to cash funds, “change of use” would not cover every payment to different people, or moving investments about, but would include, for example, changing the rules about what type of things could be funded.

Where and how should details be published

3. As a minimum, local authorities should publish the details of the proposal on their own website and should ensure that this is publicised widely. If the request relates to a building or area of land, a public notice should be placed on the building or land, or on an object close to it. If it is a building open to the public, you may also want to put a copy somewhere prominent inside. However, it is more important that the notice is put up where interested people will see it than that it is on or adjacent to the land in question. It could be displayed in a village shop, on a community noticeboard or an information point in a car park - wherever local events and notices are normally advertised.

QUESTION 9: If applicable, where or how else, should details of a proposed disposal or change of use be published as a minimum requirement? Why is this (are these) needed in addition?

Chapter 6 – Consulting the Community

1. Local authorities must notify community councils and community bodies when the proposal is published.

Representations

2. Local authorities must invite community councils and other community bodies to consider and give their views on the proposal making it clear that all representations will be published. This ensures a transparent process and that individuals, community councils and other community bodies have an opportunity to consider the proposal and how it might affect them. It should be made clear that people will have at least 20 working days from date of publication to make representations.

QUESTION 10: What are your views on the timescale of 20 days to make a representation on a proposed change or disposal of a common good asset?

Final response

3. Local authorities should aim to consider and respond to any representations within 20 working days. The final response(s) should then be published online alongside the original representation(s). Local authorities should also ensure that they publish the final decision about the proposal (i.e. whether the proposal will be taken forward and any changes which will be made) and notify community bodies and anyone who made a representation.

QUESTION 11: What are your views on the timescale of 20 days to respond to representations?

QUESTION 12: If the proposals are amended, should the guidance recommend consulting again on the revised proposal?

Annex A – Information to be included in Common Good Register

Information fields	Detail
Name of asset	The name by which the asset is generally known by
Description of asset	A brief description of what the asset is e.g. land, building, fund
Location	The most detailed information that the local authority has about the location of the asset e.g. grid reference, map or description. A member of the public should be able to use the description to accurately identify where the asset is
Former Burgh	The former Burgh to which the asset originally belonged
Additional Information	Any extra information which might be of use to a reader e.g. if the asset is managed by a third party or, if the asset is not land or property, a description of what the asset is

Example of what entries in a Common Good Register might look like

Name of asset	Type of asset	Location	Former Burgh linked to asset	Additional Information
Scotlandtown Recreation Park	land	An acre of land in Scotlandtown, which is bordered to the north by the river Alba and on the east by Scotland Street. It is adjacent to Scotlandtown town hall.	The Royal Burgh of Scotlandtown	Exact date of acquisition is unclear but was before 1900.
*Chandlers Row	land	A lane in Scotlandtown, running from the Harbour to the Marketgate.	The Royal Burgh of Scotlandtown	*Unconfirmed as common good property – still under investigation.
Dunalba Common Good Fund	fund	N/A	The Burgh of Dunalba	Fund set up for the benefit of the inhabitants of Dunalba. Detailed information about what can be funded is available direct from the local authority
Painting of Provost Ross (1893)	painting	Dunalba Town House, Mercat Square, Dunalba	The Burgh of Dunalba	Painting gifted to the Burgh of Dunalba by the family of Provost Ross in 1893



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W W W . G O V . S C O T



Community Empowerment and Common Good Property: Consultation on Draft Guidance

RESPONDENT INFORMATION FORM

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

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Highland Council

Phone number

01463 702430

Address

Glenurquhart Road
Inverness

Postcode

IV3 5NX

Email

sara.murdoch@highland.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 (without name)
 Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

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

Chapter 1 – Common Good registers

QUESTION 1: If applicable, where or how else should this information be published as a minimum requirement? Why is this needed in addition?

Comments:

- The suggestions in the draft guidance are sufficient and are consistent with guidance relating to other parts of the Act eg: Asset Transfers.
- It must be noted that as Common Good property also extends to moveable items and funds, a map based register alone would not be sufficient.

QUESTION 2: What are your views on the timescale of eight weeks for people to comment on the list of common good property? Please give reasons for your answer.

- About right
 Should be shorter
 Should be longer.

Comments:

- Eight weeks is a sufficient time period for people to comment on the list of common good property.

QUESTION 3: What, if any, further information about common good property should be provided?

Comments:

- The information suggested in the draft guidance is sufficient. It also provides consistency with other parts of the Act eg: Asset Transfers.

Chapter 2 – Identifying and contacting Community Bodies

QUESTION 4: What, if any, further ways should local authorities use to identify and contact relevant community bodies?

Comments:

- Close links with the Community Councils is invaluable in identifying other relevant community bodies.
- In Highland, contact with Community Planning Partnerships and Voluntary Action Groups would also be beneficial as they include partner agencies and local groups and would be a source of valuable local knowledge.

Chapter 3 – Dealing with representations

QUESTION 5: What are your views on the timescale of eight weeks to investigate representations in respect of the register? Please give reasons for your answer.

- About right
 Should be shorter
 Should be longer.

Comments:

- Eight weeks is not a sufficient period of time to investigate and respond.
- The draft guidance recognises that ownership and boundaries are often unclear as records are old and land has changed hands by statutory powers or reorganisation of public bodies. Title documents might not be easy to locate or might not exist resulting in extensive investigations involving a number of agencies – registers, archives, historical societies.
- Local authorities have no additional resources for such work which will have to be accommodated alongside all other necessary workloads and take into account staffing levels, holidays, sickness etc.
- A more realistic time frame will set manageable expectations, reduce chasing enquiries and increase public confidence in the process.
- A minimum of 12 weeks would be a more realistic timescale.

Chapter 4 – Publishing the Common Good register

QUESTION 6: What are your views on the timescale for publishing the Common Good register? Please give reasons for your answer.

- About right – **with regard to the 6 month time period**
- Should be shorter
- Should be longer.

Comments:

- More sensible to publish after the conclusion of the period for investigation and responding to representations as this would avoid publishing a register with too many notes referring to ongoing investigations.
- Keep it straightforward and set a time frame of within six months of the conclusion of the whole consultation period. This will allow clarity and improve public perception in the process.

QUESTION 7: Do you agree or disagree with the proposals to publish the register even when some items on it are not yet confirmed?

- Agree
- Disagree

Comments:- Although the draft guidance states that there is no requirement to confirm title before including on the list and, by extension, the register; the authority still needs to have some justification for considering such items to be common good. If the titles are still subject to investigation that justification may not yet exist.

QUESTION 8: What are your views on reviewing the common good register annually? Please give reasons for your answer.

- About right
- Should be shorter
- Should be longer.

Comments:

- Register would be automatically reviewed in the event of any change/disposal/acquisition
- Annual review is sufficient however this is not consistent with register reviews in other parts of the Act eg: Asset Transfers where the guidance recommends review every three months.

Chapter 5 – Consultation when planning to dispose or change the use of Common Good property

QUESTION 9: If applicable, where or how else, should details of a proposed disposal or change of use be published as a minimum requirement? Why is this (are these) needed in addition?

Comments:

- Whilst the suggestions are consistent with guidance relating to other parts of the Act, they are not practical in terms of staff time and resources particularly in a rural authority such as Highland.
- **However** – it must be noted that common good property is in scope for Asset Transfers. The guidance for such transfers only requires the relevant authority to publish notices of the request received and does not extend to the level of consultation required by section 104.
- Given the unique nature of common good property this guidance should also extend the provisions of section 104 to include situations where an Asset Transfer request is made for common good property when the request to dispose or change the use of the property has not been initiated by the local

Chapter 6 – Consulting the Community

QUESTION 10: What are your views on the timescale of 20 days to make a representation on a proposed change or disposal of a common good asset? Please give reasons for your answer.

- About right
 Should be shorter
 Should be longer.

Comments:

- 20 working days is not sufficient.
- Some community councils/community bodies may only meet monthly or even less frequently than that and would need more time to consider and formulate any representations to be made.
- 6-8 weeks is a more realistic time frame.

QUESTION 11: What are your views on the timescale of 20 days to respond to representations? Please give reasons for your answer.

- About right
 Should be shorter
 Should be longer.

Comments:

- 20 working days should be sufficient to allow for responses to any representations made though the guidance may wish to specify that if any complexities occur a longer period for responding may be agreed.

QUESTION 12: If the proposals are amended, should the guidance recommend consulting again on the revised proposal? Please give reasons for your answer

- Yes
 No

Comments:

- No – otherwise the process could become onerous and never ending. It must be appreciated that issues relating to common good property are often contentious and a consensus of views may not be possible to achieve.
- Section 104(6) requires the local authority to have regard to any representations made therefore by amending any proposal the authority is demonstrating that due regard has been given to the representations.
- The decision making process needs to be clear to ensure transparency and further consultation may only serve to cloud this.