**Response 015**

**Questions**

**Q1. Do you agree that Highlands and Islands Enterprise Community Land Unit is the appropriate body to provide advice to the KLTR on potentially suitable community groups? If not, who would you suggest and why?**

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| [The Development Trusts Association Scotland](http://www.dtascot.org.uk) (DTAS) is a membership organisation with 353-member development trusts. Development trusts are community anchor organisations representing a geographic community, democratically accountable to that community with their Board elected from their membership, they are multi-service delivery and take an enterprising approach. The vast majority already own and manage key assets in their community from large land holdings and community hubs to community growing spaces, renewable energy installations and shops and post offices.  DTAS also manage the Scottish Government funded [Community Ownership Support Service (COSS)](http://www.dtascommunityownership.org.uk). This adviser-led service is Scotland-wide and supports both communities and the relevant authorities in the sustainable transfer of public assets into community ownership. The service provides one-to-one adviser support at every stage of the asset transfer process, access to Expert Help and opportunities to network and share good practice. COSS also delivers an annual 4- workshop CPD programme for local authorities on asset transfer in which 29 of the local authorities have participated to date and also facilities a quarterly meeting with the local authorities to explore key issues and practice.  If there is a requirement to proactively identify and work with community groups who may have an interest in an asset that has been brought forward to KLTR then the Community Ownership Service could be a key partner in the facilitating community uptake and the delivery of this service.  HIE would of course be an acceptable organisation to provide advice on suitable community groups. |

**Q2. Do you agree that a valuation and other reports undertaken by the KLTR are sufficiently independent to avoid duplication of cost for all involved in the OPTS? If not, why not?**

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| Agree that a KLTR valuation should be independent whether this is through a commercial valuer or the DV. It would be useful if the valuers were instructed at the outset that their report would be relied upon by 3rd parties. |

**Q3. Do you think three months for the local authority to decide whether or not it wishes to take ownership of an ownerless property is reasonable? If not, how long would you suggest and why?**

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| As highlighted, much would depend on the committee cycles. A 6-month timescale would perhaps be a better time limit. Unless an established community group has initiated the process and expressed a desire to own the land then it will take time to establish community interest.  There may also be additional challenges where, for example, a property lies on the boundary/boundaries of more than one local authority. It could take a while for agreement to be reached between the local authorities as to which one takes ownership. |

**Q4. Do you agree that the above process is reasonable and workable? If not, how would you improve the process?**

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| Where there is an established community anchor organisation or other suitable community group that has the support of the local authority, the option to transfer directly to the community body is to be welcomed, particularly in cases where the community has proactively identified the land (as highlighted with the Belgrave Terrace/ South Park Avenue example).  Our concern would be where a community group, for whatever reason, does not have the support of their local authority. There could be clear community benefits which the local authority/ public body is unwilling or unable to resource the development of the group/ proposition to capitalise on the opportunity.  The ongoing review of the programme should identify the instances where this has been the case and presumably the programme adjusted accordingly. |

**Q5. Do you agree that the property transfer value for OPTS should be at “nominal value” as described above? If not, what value do you think should apply and why?**

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| Nominal value where this is in the interests of communities. It should be noted that it may not necessarily be in the interests of communities to take on an asset at nominal value if prohibitive title conditions are added.  Where the land has been transferred to the relevant authority for a nominal sum for onward transfer to a community, it would be expected that the ‘spirt’ of the transfer be maintained throughout the process with the community group also securing the land for a nominal sum. |

**Q6. Do you think the KLTR should place conditions on the transfer of OPTS property to ensure the intended benefits to local communities are delivered?**

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| Only such conditions which are not detrimental to the local community. Would KLTR be prepared to discharge such conditions, if requested by the community? Will the local authority be prevented from imposing similar title conditions, to avoid duplication? |

**Q7.**  **Do you think a recognised public authority should retain a property to allow an appropriately constituted community body to raise the necessary funds, etc.? If so, should a timescale be set for raising the funds?**

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| Yes, this level of collaboration with the public authority/ local authority acting as a holding agent is to be welcomed as long as it is clear that the retention is conditional on a transfer to the community body. A time limit is acceptable, so long as it is reasonable and can be amended. |

**Q8. Do you think the OPTS should apply to all properties as described or should it be restricted to certain types of properties? If the latter, which types?**

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| All types of property should be included. |

**Q9. Do you agree that the above proposals provide an opportunity for ensuring community interests are considered as early as possible? If not, why not?**

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| Where there is an established community anchor organisation who is well-connected to their community and has good relations with their local authority, this process will work and the community interest is likely to be considered at the earliest opportunity. However, as anyone can refer land for consideration under this scheme including individuals and small groups, without proactive community engagement, some will not be able to navigate this process effectively and the opportunity will be lost.  Our experience of supporting the Community Right to Buy for abandoned, neglected and detrimental has been that it can be a small group of individuals who are most affected by the issue but not best placed to move the project forward. For example, a land wrap around a housing estate in the north of Glasgow was allowed to fall into an abandoned and neglected condition. This was having a significantly detrimental impact on the community but it didn’t made sense for that particular community to establish a separate community organisation to take ownership of the land. The local development trust agreed to pursue the CRtB for this group and work with them to restore the land.  It would also be helpful if the KLTR website referred to support organisations and provided case study examples. DTAS/COSS developed jointly with the Scottish Land Commission the [toolkit](https://myland.scot/communityaction/) for Community action on vacant and derelict land which also references KLTR. As flagged in the guide, DTAS/COSS has a property lawyer on the team who will conduct title searches for community groups at no cost.  With regard to the time limits on KLTR starting as soon as KLTR are notified, something on the website to warn parties about this would be useful and to advise that KLTR is not notified until the parties are in a position to go ahead. |

**Q10. Do you agree that the above criteria should apply to the OPTS? If not, what criteria do you think should or should not apply and why?**

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| We agree with these criteria. |

**Q11. Do you agree that the OPTS should ensure the wider public interest is considered before private interest? If not, why not?**

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| Yes, public interest should be considered ahead of private interest. |

**Q12. Do you think the public interest is defined reasonably for the purposes of the OPTS? If not, how should it be defined?**

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| As defined |

**Q13: Do you agree that the KLTR should take a high-level approach to sustainable development issues, as above, in order to allow further scrutiny and transparency at local level? If not, why not?**

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| Local authorities are well placed to identify and assess any sustainable development issues brought forward by proposals. However, unlike the Community Empowerment Act, this process does not provide communities with an option to appeal decisions if they believe sustainable development issues are ignored. Nor does it provide a mechanism to deal with interest from more than one community group interested in the property.  Unless community groups go through the formal asset transfer process under the Community Empowerment Act, where there is a requirement to publish all the documentation, it is not clear how taking this high-level approach improves transparency at a local level. Consideration could be given to publishing details of all transfers on the KLTR site. Not only would this raise the profile of the programme but would give transparency to decision-making and recommendations.  With the Appeals to Scottish Ministers under the Community Empowerment Act, there is interesting learning from the Scottish Government Reporter Reports on asset transfer in relation to measuring/ capturing the social, economic and environmental impact of asset transfers. |

**Q14:** **Do you consider there are specific circumstances in which the KLTR should never deal with dissolved company property when a company still remains within its 6-year restoration window?**

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| KLTR is already well aware of risks involved in dealing with a company which could be restored, so we are happy to rely on KLTR’s judgement. |

**Q15. In addition to the above, do think any other financial controls or safeguards are required? If so, please describe how and why.**

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| Nothing to add. |

**Q16. Do you think the KLTR’s approach to liability and risk is acceptable? If not, how could this be improved?**

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| Yes. |

**Q17. Are there any other ways you think the OPTS may be monitored? If so, in what way?**

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| As with any transfer of public assets there are risks associated with the transfer. Local authorities/ public bodies are well versed in managing/ mitigating these risks in relation to the transfer of their own assets and organisations such as DTAS/ COSS and HIE/ SOSE work with community groups to strengthen their own governance arrangements and business propositions for assets. As part of the DTAS/ COSS CPD for local authorities we deliver a session on [Managing Risk in Asset Transfer](https://dtascommunityownership.org.uk/sites/default/files/DTAS%20Managing%20Risk%20FINAL.pdf).  A working group established to review ongoing practice will be a very helpful to monitor progress and impact. |

**Q18. Do you agree that penalties for non-delivery of aspirations are unnecessary, as above, and that local accountability should be sufficient to ensure delivery of agreed aspirations?**

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| We agree that penalties for non-delivery are unnecessary and may actually create a disincentive for local authorities and public bodies to engage with this initiative. Having a high level of transparency around uptake and progress such as regular published reports is much more likely to promote good practice. |

**Q19. Which of the further measures above do you think should be applied to the OPTS?**

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| The financial limit of £0.5m should be applied to the OPTS. Where a community is involved in a higher value asset there is possibly a more nuanced approach to be taken around the level of discount to take it below the £0.5m - rather than this acting as an automatic cut off with sale at market value about this level. |

**Q20. Do you think properties within the 6-year restoration window should be excluded from OPTS or do you agree that a criteria-based policy approach, as described above, is the best way of addressing this?**

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| We agree that a criteria-based approach is better. |

**Q21. Are there any other measures you think should be taken to safeguard those involved in the OPTS process?**

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| Nothing to add. Constituted groups – tenants and members |

**Q22. Are you aware of any examples of how the proposals in this consultation might impact, positively or negatively, on island communities   
in a way that is different from the impact on mainland areas?**

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| Many island communities have well established development trusts/ community anchor organisations who are already significant land and asset owners. Where this is the case and an asset is identified, it makes sense to engage directly with the community organisation rather than through the local authority. |

**Q23. Are you aware of any examples of particular current or future impacts, positive or negative, on young people, (children, pupils, and young adults up to the age of 26) of any aspect of the proposals in this consultation?**

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| By applying the principles of sustainable development then this will apply to young people. |

**Q24. Are you aware of any examples of how the proposals in this consultation may impact, either positively or negatively, on those with protected characteristics (age, disability, gender reassignment, marriage   
and civil partnership, pregnancy and maternity, race, religion or belief,   
sex and sexual orientation)?**

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**Q25. Are you aware of any examples of potential impacts, either positive or negative, that you consider any of the proposals in this consultation may have on the environment?**

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**Q26. Are you aware of any examples of how the proposals in this consultation might impact, positively or negatively, on groups or areas at socioeconomic disadvantage (such as income, low wealth or area deprivation)?**

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| As was highlighted in [Glasgow Caledonian University’s Evaluation](https://www.gcu.ac.uk/research/researchcentres/yunuscentre/research/communitycitizenshipandparticipation/evaluationofcommunityempowermentscotlandact) of the Community Empowerment Act, there is concern that communities in areas of socioeconomic disadvantage will not be able to utilise the legislation. This has been further supported by inhouse DTAS/COSS research into the profile of community ownership in Glasgow.  As a result of this research the Scottish Government has funded DTAS/COSS to deliver a Hub and Spoke pilot programme in Barmulloch in Glasgow to establish whether an experienced, well-connected community anchor organisation can build capacity and confidence within local community groups to explore the asset options available. To date this programme has been very successful with a far greater number of groups considering their options. With funding from the William Grant Foundation, the pilot is being replicated in Inverclyde this year.  Consideration will need to be given to how best to support groups in areas of disadvantage to identify and explore the options available to them under this scheme. The timescales will also need to be considered. |

**Q27. Are you aware of any potentially unacceptable costs and burdens that you think may arise as a result of the proposals within this consultation?**

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| Where a community group identifies a property which is suitable for the OPTS, they of necessity incur costs before contacting KLTR about the property. Is there a mechanism that could allow these costs to be recouped to the community group? |

**Q28. Are you aware of any impacts, positive or negative, of the proposals in this consultation on data protection or privacy?**

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| No |

Please email to the KLTR Policy Team’s mailbox at [**Policy@KLTR.gov.uk**](mailto:Policy@KLTR.gov.uk)**.**   
You can save and return your responses while the consultation is still open but please ensure that consultation responses are submitted before the closing date.

If you are unable to respond by e-mail, please print and complete the Respondent Information Form and send it by post to:

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