I would like to thank the Committee for providing me with a copy of their report “Community Empowerment: Taking Stock of Participation Requests and Asset Transfers Four Years On”, that was published on Friday 26th February 2021.

I have now had the opportunity to consider the detail of your report which highlights the positive impact community control and ownership can have on people and their communities. I was pleased to read that the majority of respondents to the Committee’s online questionnaire found the Participation Request process straightforward, and noted respondents from both community groups and public bodies were generally positive about the Asset Transfer process.

I am also aware that challenges remain, and note carefully the findings and recommendations the Committee report raises. As you acknowledge in your report, more can be done to support successful Participation Requests and Asset Transfers, including improved awareness, increased public authority buy in, better transparency of process and higher levels of reporting. As the Committee is aware, the Scottish Government has been engaging extensively with a variety of our partners and stakeholders to work through the challenges, share our learning, and further establish these policies.

We will continue to work with our public sector partners and communities on these issues. For example, we have already introduced improvements in annual reporting templates for Participation Request and Asset Transfer activity that includes information on actions taken to promote these requests which is helping our understanding of the local landscape.

The newly established National Asset Transfer Action Group will help inform actions required in response to the recommendations of Glasgow Caledonian University’s three year...
evaluation on Asset Transfer activity, and this report will provide further direction to their work. It will also provide valuable information to our work responding to the three year evaluation on Participation Requests and to further embed and establish these across Scotland.

We will consider how we can enhance current successful approaches, along with what further actions we can do, as part of our work to continue to embed these policies. I know the Committee made a number of specific points, requests and recommendations. For ease of reference, please find attached an annex which responds to each of these in turn and, I hope, makes clear what actions we will take in response to your recommendations.

AILEEN CAMPBELL
Annex – Recommendations

The Committee:

Participation Requests

1. The Committee doubts whether the low number of requests being submitted indicates high levels of satisfaction with local services or that local communities feel more empowered. This would not accord with evidence gathered from our own inquiry, nor with wider evidence, for instance the very concerning statistic that only 18% of Scots feel they can influence decisions affecting their local area. Work therefore needs to be done to make the participation request process appear less remote from communities and more real. Knowledge is power, and a lack of awareness or understanding of the process has been a practical barrier. The right to make a request has often not been publicised sufficiently, yet those bodies least successful at raising awareness of the participation request process, and explaining how to use it, might be those who need it most. Some bodies have institutionalised a belief that a participation request is a sign of "failure" by that body, and this too could be a barrier.

SG response: The 18% figure is disappointing and more work needs to be done to understand its context. We will continue to work closely with the Scottish Community Development Centre who we fund to raise awareness and promote Participation Request activity, and to ensure people know their rights to make requests. This support includes work in areas of little or no uptake of Participation Requests, to find out why this is, and to encourage activity. They also carry out work in areas where people have experienced deprivation or marginalisation, and are carrying out tailored engagement activities to support and encourage requests with these communities.

We are also continuing to support public service authorities as they develop their processes to manage Participation Requests. We have developed an annual reporting template for the authorities to complete which is gathering important information on local activity levels, including actions taken to publicise the right to make these requests, raise awareness, and steps taken to encourage communities to make them. This information will help inform our support as we continue to embed this policy.

2. The Committee recommends that the Scottish Government works with public service authorities covered by the Act, and with COSLA, to ensure communities are aware of their rights to challenge and influence decisions and services. This will involve understanding and removing barriers to the use of participation requests where these could lead to improved outcomes for the local communities involved. Institutional views that participation requests denote "failure", while to an extent understandable, are holding back progress and should be challenged. The Scottish Government should also:

• remind all public bodies of their reporting responsibilities in relation to participation requests and their role in promoting the process,
• pay specific attention to the very low level of requests made to public bodies (including health boards) other than local authorities.

SG response: Using participation request legislation can sometimes be a last resort for communities if they feel that their concerns or ideas are not listened to. The new annual reporting template that we have developed to support public service authorities asks questions on the promotion of these requests – this information is helping us better understand the local context. Although the vast majority of requests have been received by
local authorities, we know from this data that even though numbers remain low, more and more public service authorities are now embracing the legislation, and there is an increase in annual reporting levels. We will continue to work closely with the Scottish Community Development Centre and the public service authorities to ensure that Participation Requests are promoted fairly and openly, and that opportunities for dialogue that the legislation provides is fully encouraged. We will also look to work with COSLA to provide the necessary support to local authorities to encourage an uptake in these requests.

3. We welcome confirmation from the Cabinet Secretary that the independent evaluation of Part 3 is to continue. We recommend that the Scottish Government discuss our findings with project leaders so that that the evaluation can take forward issues we have raised in relation to participation requests.

SG response: Although the three year independent evaluation of Part 3 has now concluded, we will continue to evaluate progress and work closely with our partners and community groups on the establishment and embedding of Participation Requests throughout Scotland, and will continue to engage with them on the challenges including those that your report raises. We also provide funding to the Scottish Community Development Centre who are carrying out a range of work to build capacity, promote awareness, and support harder to reach groups experiencing inequalities to encourage participation requests. We will continue to work closely with them, taking forward the points you raise.

4. The Committee recommends that the Scottish Government introduces an appeals mechanism for community bodies under section 30 of the 2016 Act, and ask it to consider proposing a timeline for this. Section 30 was agreed to in order that the Parliament could take stock of the need for an appeals process, following a first evaluation of participation requests. This has taken place and, in our view, the verdict is now in. We agree with views that the introduction of an appeals process would help keep public bodies disciplined and focussed in their handling of participation requests, as it will require them to take requests seriously, and give clear reasons for refusing them, if they want to avoid a reversal on appeal. It also seems very unlikely that an appeals body would be flooded with appeals - a concern when the legislation was passed - given the low number of requests so far.

5. The Committee agrees with evidence that appeals should be considered by a body or person independent of both government and the relevant public body. We suggest the body should also be skilled in mediation, as helping to mend damaged relationships is likely to be an informal but important element of any appeals process.

SG response: Glasgow Caledonian University were asked to consider an appeal process as part of their evaluation on participation requests. The Glasgow Caledonian evaluation highlighted that given the significant challenges to introducing an appeals process and in ensuring its fairness and robustness, alongside the very small numbers of participation requests completed using the legislation, this is likely to be a longer-term piece of work.

An appeals mechanism is something that we will continue to monitor and consider as Participation Request activity increases. In the meantime we will work with our partners to investigate how such a process could be established in a fair and robust manner, how it might operate in practice, and which body is best to lead this work.
Asset Transfers

6. The Committee welcomes the generally positive view stakeholders have of Part 5 of the 2015 Act, on asset transfer requests. It is encouraging to hear that, in the main, communities’ experiences have been positive. The Scottish Government has acknowledged that there are some teething issues with the process and we ask it to clarify what specific changes it is minded to make.

SG response: We know from the Glasgow Caledonian University evaluation that asset transfer legislation is being implemented as intended across Scotland. We also know from the annual report data collected to date, that since 2017, 249 asset transfer applications have been made. That said, we also acknowledge that challenges remain and that is why we established our new National Asset Transfer Action Group to take these forward. We have also introduced a new annual reporting template for the relevant authorities to document their asset transfer activity including information on actions taken to promote these. This learning and good practice will continue to be shared with the relevant authorities to encourage compliance and a consistent level of service.

7. The Committee invites the Scottish Government to respond to views that the process has, with time, become more onerous and more bureaucratic, and that lease arrangements are increasingly preferred over transfers of ownership. Does the Scottish Government agree? If so, are there good reasons for this change? If not, is there a need for the Scottish Government to clarify best practice? We also ask the Scottish Government to address views that the process does not always take into account the intangible or non-monetary benefits of an asset transfer.

SG response: Relevant Authorities will sometimes first consider lease arrangements as a responsible way to manage risk/build capacity, where they will link community groups to other funders if needed. Ownership, lease, and management arrangements are considered by the authorities on a case by case basis and both long/short lease and purchase arrangements are widely used. Our published statutory guidance for asset transfer includes information for both community groups and the relevant authorities on how to evidence non-monetary benefits. We also fund the Community Ownership Support Service who published their ‘Managing Risk in Asset Transfer’ guidance in December 2020 which also helps further evidence this.

8. The Committee is concerned by evidence that asset transfer requests can run into a wall, causing frustration and demoralisation, when it turns out that the asset might belong to, or be operated by, an Arms-Length Community Organisation and not the council. Given the huge range of public assets now controlled by ALEOS, this is a major gap in the current law, and not in keeping with the spirit of Part 5 of the Act. We welcome confirmation that the Scottish Government’s National Asset Transfer Group is looking at this issue and the Committee would welcome an update before the election, together with any timeline for action. Assets owned or operated by ALEOs are public assets. The Committee believes that there is a need to clarify the consequences that flow from this status and, where necessary, to clarify or amend the law. In recognition of the complexities involved, we believe that this issue should be revisited early in the next session of Parliament.

SG response: This is something that we have been aware of for some time. There are an estimated 130 ALEOs in Scotland and they are extremely diverse in size, function, and structure. ALEOs take different legal forms and are legally separate bodies from the local authorities. A small number of those manage properties on behalf of the local authority and
at times this complicates the asset transfer process as communities have struggled to ascertain who owns the asset. Designation of ALEOs is an available option but may not be the best solution as this is an issue that only affects a small number. Our National Asset Transfer Action Group is aware of this issue and is looking at this at their next meeting on 23rd March 2021, and advice will follow once they have had time to consider.

9. Practical steps can be taken in the meantime to reduce confusion and frustration. In particular, it appears there is work to be done by some councils and ALEOs to agree who owns which assets, and to make this information public and accessible. Clear publicly available statements from Councils, and ALEOs, about how they will handle asset transfers where they concern an asset owned or managed by an ALEO, would also help. We ask the Scottish Government to work with COSLA to encourage this.

SG response: It is an issue about transparency of ownership and there is no reason why these ALEOs cannot act within the spirit of the law. We will work with COSLA to encourage transparency with local authorities, and we are currently exploring this further with the Community Ownership Support Service and the National Asset Transfer Action Group.

Organisational culture and the 2015 Act

10. Community empowerment is a work in progress. There are pockets within the public sector where culture change is needed if the full benefits of the 2015 Act are to be realised. We ask the Scottish Government to ensure that the next phase of evaluation drills down into the detail of how different public bodies are handling requests under Part 3 and 5 of the Act and, for example, what steps they are taking:
   - To publicise and promote the right to make a request;
   - to make publicly available other information that might help community bodies make informed requests;
   - to reduce unneeded bureaucracy in relation to the process.

We also ask the Scottish Government work with COSLA to address some of the concerns about attitudes and processes, in relation to Parts 3 and 5 of the 2015 Act, raised during this inquiry.

SG response: In June 2020 we introduced enhanced annual reporting templates for the public bodies to complete which asks them what actions they are taking to publicise and promote requests. We will keep these under review, and are working with our stakeholders including the Scottish Community Development Centre and the National Asset Transfer Action Group to make sure these templates gather the necessary information. We will continue to work with the public bodies and also COSLA to ensure all relevant information is made publically available and bureaucracy is minimised wherever possible.

11. The Committee agrees with the finding of the Glasgow Caledonian University evaluation, and with most witnesses, that participation and asset transfer request processes would generally benefit from public bodies appointing a single point of contact to deal with them. The contact could be a person or a small team, and it should be a visible and well-promoted role, so that communities know who they are. They should have sufficient seniority and status to drive cultural change within the organisation, and to ensure requests get a fair hearing. This involves building effective relationships with senior staff and (where relevant) with elected politicians. We invite the Scottish Government to clarify whether it agrees with this recommendation, and if so, what steps it can take to drive it forward. We ask the Scottish
Government to work with COSLA to raise awareness of the recommendation with local authorities.

**SG response:** Agree. We know that when a public body appoints a single point of contact there is an improvement in transparency, uptake in activity, and an ease of process. A key contact person with responsibility for asset transfer requests can also act as an effective conduit between community transfer bodies and relevant authority personnel, and drive culture change in relevant authorities. We will continue to work closely with COSLA to raise awareness of this recommendation with the local authorities, and with our wider partners to encourage this and share good practice.

**Raising grassroots awareness**

12. This is clearly work to be done in raising awareness of participation and asset transfer requests, particularly in more deprived communities. Resources are part of the issue, with evidence that some communities do not have the support they need at grassroots level to help unlock the potential of the 2015 Act. We support the conclusion of the Glasgow Caledonian University evaluation that the Scottish Government continue to work with key partners to identify actions that may help to overcome barriers, and that there be better signposting of services.

**SG response:** We have provided funding to the Scottish Community Development Centre to identify and work with areas of little or no uptake of Participation Requests, and to carry out bespoke work to promote requests in areas experiencing deprivation. In February 2021 we also funded the Community Ownership Support Service to carry out an Asset Transfer pilot exercise in Barmulloch, Glasgow to explore a single service hub model to support groups experiencing deprivation and to encourage them to submit Asset Transfer requests. This will conclude later this year and learning will be shared. We also asked the Community Ownership Support Service to specifically target areas experiencing deprivation as part of their overall 2020/21 funding arrangements.

13. The Committee welcomes the Scottish Government's commitment to require the Community Ownership Support Service and the Scottish Community Development Centre to target communities in disadvantaged and marginalised areas. We would welcome more information on what this will involve, and on what additional resources (if any) they have been given to help them in this important work.

**SG response:** In 2020/21 we provided funding to the Scottish Community Development Centre to take forward this work. Building on a wider programme of information provision about participation requests in 2019/20, our funding enabled work in three development sites with community groups experiencing disadvantage and exclusion and agencies that work to support them. This included:

- **Glasgow:** 12 representatives from equality-focused community organisations, community groups experiencing poverty and practitioners working to address inequality attended the workshops which are now completed with learning feeding into the other two sites. This also included attendance by key officers with roles in coordinating or supporting PRs in Glasgow, East Renfrewshire, Renfrewshire and East Dunbartonshire.
- **West Lothian:** 16 community representatives and practitioners signed up for the programme drawn from Locality Planning Groups in the most disadvantaged
communities and Equalities Reps. 12 attended the first workshop, organised in conjunction with West Lothian Council. With 8 at the second and third, which was delivered remotely. Outcomes will also help the Council strengthen its own existing toolkit. The process also supported two real-world Participation Requests on services for young people and refuse collection and recycling.

- Argyll and Bute: Two Workshops have been organised in partnership with Argyll and Bute Council the first of which took place in Oban with 7 participating community representatives, and the second was delivered remotely in April.

Despite the programme being affected by the impact of the pandemic this year, the Scottish Community Development Centre has used the learning from the three sites to develop a Participation Request toolkit which will provide community organisations and public bodies with accessible resources aimed at increasing the beneficial impact of the legislation on disadvantaged and marginalised communities. The following resources are being produced:

- An introductory guide for those new to Participation Requests, and case studies.
- Interactive video presentations on participation requests and how to make them.
- A template for groups and public agencies to enable production of better outcome improvement processes, a response to Participation Requests specified in the Act.
- A Participation Request route map that takes community organisations through the whole process, from assessing whether participation requests are the best option, to monitoring and reporting requirements for public bodies at the end of the process.

Sessions are planned for the next 3-4 months which will involve larger events, one for Northern Scotland, and one for Central and Southern Scotland that will target wider engagement and local areas with higher socio-economic disadvantage. The third session will target national and local support organisations working with communities of identity with protected characteristics under the 2010 Equalities Act.

The Scottish Community Development Centre report an increase in live requests for assistance from community groups and agencies and are working to build on this increased interest by testing and improving their toolkit and, support meaningful participation with positive outcomes relating to equality and inequality. They have been working with Health Improvement Scotland the Community Planning Officers Network, amongst others, in order to achieve this. Examples of this emerging work include:

- In January 2021, they delivered a successful pilot of Participation Request awareness raising/ future planning approach with the Community Engagement team at Health Improvement Scotland where they also piloted an online training delivery approach which will be used in future sessions.
- Support has been provided to other public bodies, including local authorities and health boards around participation requests they have received and/or their processes for dealing with these. Examples include
  - A Participation Request involving the NHS in Lanarkshire with potential of exploring options for community land/asset use.
  - Support being offered in Govanhill, the most diverse community in Scotland, around using a Participation Request to improve level of involvement in improving environmental services.
- Advice to a local authority in the south of Scotland regrading follow up to a granted Participation Request to admit an organisation to an existing participation process.
• Glasgow’s Thriving Places communities are amongst the most socio-economically disadvantaged communities in Scotland. The Scottish Community Development Centre are awaiting confirmation of a training support programme for the key staff supporting communities in these areas to be delivered in the coming months. They are confident that, as we come out of Covid, the use of Participation Requests by more community groups to engage positively with public bodies to improve service outcomes will continue to increase. The tools being finalised now will be of significant value in making this process work and assist more organisations who may need to make use of the legislation to further their aims in combating inequality.

We provided £10,000 to the Community Ownership Support Service in February 2021 to match fund their £10,000 contribution to the Barmulloch pilot, which has been set up to explore whether an established, well connected and experienced community anchor organisation (Barmulloch Community Development Company) will be able to play a strong enabling and supporting role for early staged community organisations in areas of disadvantage. It is expected to achieve key outcomes including increased capacity and confidence to assess the options available to the wider community. Impact and outputs from the pilot will be captured and lessons learned and shared. We also provided funding to COSS for overall core funding which includes specific work to target communities experiencing disadvantage with more intensive adviser support and targeted workshops.

Sharing good outcomes and best practice

14. With both public authorities and communities still on a learning curve in relation to the participation and asset transfer request processes, the effective sharing of good practice is absolutely crucial. This is underlined by the widely varying experiences of the processes that groups have shared with us. The Committee asks the Scottish Government to elaborate on the work the asset transfer action group, the Community Ownership Support Service and others are doing to step up efforts to share good practice and to promote networks of advice, support and information sharing at community level.

**SG Response:** We provide funding to the Scottish Community Alliance to deliver the Community Learning Exchange Programme. This enables community groups who have experience, expertise or knowledge which they are able and willing to share with other groups to do so, creating opportunity for communities to learn through the exchange of ideas and the sharing of common solutions. This programme is currently being delivered virtually due to Covid restrictions, and is continuing successfully without the need to reschedule visits.

We also provide funding to the Scottish Community Development Centre to maintain the Communities Channel Scotland website, which presents news, stories and learning from community groups to improve their communities, and highlights a wide range of resources that can help groups develop their work. The website also hosts the Social Impact Pledge, which we launched in 2016, and considers what contribution to community renewal, social regeneration and tackling inequalities, public sector organisations could make through their day-to-day activities.

We formed our new National Asset Transfer Action Group who are looking at the experiences of the asset transfer process, and are considering the three year evaluation conducted by Glasgow Caledonian University, and learning will be shared. We are keeping our annual reporting templates under regular review, and the Asset Transfer Action Group
are due to review the template at their next meeting in March in preparation for the next round of annual reporting due in June 2021.

We fund the Community Ownership Support Service who published their *Managing Risk in Asset Transfer* report in December 2020 that provides advice and guidance on how to approach risk and calculate social value. They have made this resource free to access on their website, and promoted it at an awareness seminar on 25th February 2021. We have funded the Community Ownership Support Service to conduct a pilot exercise in Barmulloch, Glasgow to explore the role of a well-connected community anchor organisation in supporting community groups experiencing disadvantage with the asset transfer process, and lessons learned will be widely shared.

15. We recommend that the Scottish Government work with COSLA to encourage local authorities to maintain networks for sharing good practice on participation and asset transfer requests. We also recommend that the Scottish Government work with public bodies to drive a culture of improvement and information sharing in relation to Parts 3 and 5 of the Act. This could include:

- providing more opportunities and vehicles for shared learning. Crucially, this must include opportunities for councils and other public bodies to learn from community groups who can share their experiences - good or bad - of making use of the participation and asset transfer request processes;
- promoting frameworks for best practice, such as those provided by Audit Scotland and promoting the work of organisations that support community empowerment, with an emphasis on the resources and advice they can offer councils and public bodies;
- encouraging public bodies to publish and share data or information on participation or asset transfer requests in a format and manner that others will find usable and helpful.

**SG response:** We are aware of many examples of this happening already, such as the Ayrshire Councils supporting each other with the asset transfer process, and other public bodies including Forestry and Land Scotland; Scottish Water; and Highlands and Islands Enterprise to name a few who have been meeting regularly for some time to discuss the asset transfer process, share learning, and how to support each other. We work closely with Audit Scotland and contributed to the development of their community empowerment framework, and they also have representation on our National Asset Transfer Action Group. We will engage with COSLA to encourage other local authorities to create and maintain similar networks for sharing good practice, and we will continue to encourage other networks of support with the wider public bodies.

**Reporting**

16. The Committee is very concerned by the low level of compliance with formal reporting requirements under the 2015 Act. Limitations in reporting over the review period made it difficult for the Glasgow Caledonian evaluation to obtain an accurate and clear picture of how the legislation was working on the ground. We welcome the Scottish Government's recent work to address this information deficit, but ask it to continue to remind public bodies of their duties and to monitor "persistent offenders", making clear that a failure to report is unacceptable. We also ask it to work with COSLA on this issue.

**SG response:** This is disappointing. To support the quality and consistency of annual reporting we have produced and shared a new Asset Transfer Reporting Template with the 95 Relevant Authorities. This template was used for the first time for June 2020 reporting...
based on 2019/20 activity. It has been well received and the template has helped achieve an increase in annual reporting to a 52% response rate. We will continue to monitor and support an increase in annual reporting and will work with our National Asset Transfer Action Group to further develop the reporting template, and we will continue to engage with COSLA on local authority levels of annual reporting. We have also conducted a similar exercise with the public service authorities responsible for Participation Requests, and our new template for these has seen compliance rise above 50% for the first time last year.

17. We recommend that the Scottish Government continue to work with public bodies to improve consistency in the way information is reported. We also recommend that the Scottish Government issue guidance to public authorities on reporting participation and asset transfer requests. Guidance should include practical advice to councils on what information to record, with a focus on information that will serve a practical purpose and help future evaluations of the legislation.

SG response: We have published statutory guidance for Participation Requests and Asset Transfers which includes advice on reporting requirements. We have also provided funding to the Scottish Community Development Centre and the Community Ownership Support Service who have provide helpful information on their websites to support reporting, and who also work with the public bodies to provide support. We have also set out this information in our annual reporting templates, to make it easy for the authorities to capture all this information in one place.

Local authorities are engaging increasingly well with the process, and although there are 95 organisations on the statutory relevant authority list, the majority of requests have been received by councils. Relevant authorities have actively promoted asset transfer and also participation requests through a variety of ways including websites, internal and external information events, publication of asset registers, and their first point of contact.

The National Asset Transfer Action Group will also be looking at the annual reports submitted by the authorities and providing the necessary guidance on what support is required to better promote and embed these practices.