

# Community Empowerment Act (Scotland) 2015



## FAQs

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The Community Empowerment Bill received Royal Assent and became an Act on 24 July 2015. Different parts of the act will come in to force at different times.

The Act will help to empower community bodies through the ownership of land and buildings and by strengthening their voices in the decisions that matter to them.

### What does this mean for me and my community?

It means that your community will have more say on public services, how they are planned and provide a community representation. It also enables communities to be more involved in improving public services and the Act also gives the communities rights to owning land.

### What is the Community Empowerment (Scotland) Act 2015?

The Act is a new piece of legislation that gives communities additional rights.

#### These are through:

- **having more say in how public services are planned and provided** (e.g. community representation on Community Planning Partnerships)
- **owning or leasing land, assets and estate** (through asset transfer and community right to buy)
- **becoming involved in improving the outcomes of services** (e.g. participation requests)

#### There are 11 parts to the Act:

**Part 1: National outcomes** – Scottish Ministers set goals for Scotland. Ministers will be required to consult on these goals and report progress on them at least every 5 years.

**Part 2: Community planning** – As a Community Planning Partnership local public sector bodies, e.g. Scottish Borders Council, Police, NHS, are expected to work together and with local communities to improve services. This part of the Act came into force on 20th December 2016.

**Part 3: Participation requests** – Community groups will be given the power to ask to be involved with local public sector bodies, e.g. Scottish Borders Council, Police and NHS, to improve services. This part of the Act came into force on 1 April 2017.

**Part 4: Community rights to buy land** – The Act will extend community right to buy to urban communities. This means that groups in Hawick and Galashiels, for example, will now be able to use the process.

**Part 5: Asset transfer requests** – Sets out how a community group can ask to buy, lease, manage or occupy land or buildings owned by public sector bodies. Public sector bodies must publish and maintain a list of assets that they own or lease. This part of the Act came into force on 23rd January 2017.

**Part 6: Delegation of Forestry Commissioners' functions** – The Act will allow the forestry commission to delegate its responsibilities in connection to land that is leased to community groups.

**Part 7: Football clubs** – Gives Scottish Ministers power to make rules about the role supporters play with the clubs they support.

**Part 8: Common Good property** – We are required to publish a list of common good property in the Scottish Borders and make sure that community councils and other community groups are consulted on any proposed changes.

**Part 9: Allotments** – Makes the law about allotments easier to understand and how waiting lists should be managed.

**Part 10: Participation in public decision making** – Gives Scottish Ministers the power to request that public authorities publicise and support the involvement of the community in the decisions and activities of the authority, including the allocation of resources.

**Part 11: Non-Domestic Rates** – The Act allows the Council to set local business rates. This part of the Act came into force on 31st October 2015.

The Act keeps referring to public authorities, who are these?

**Under the Act the public authorities relevant to the Scottish Borders are:**

Borders College	<a href="http://www.borderscollege.ac.uk/">www.borderscollege.ac.uk/</a>
NHS Borders	<a href="http://www.nhsborders.scot.nhs.uk/">www.nhsborders.scot.nhs.uk/</a>
Police Scotland	<a href="http://www.scotland.police.uk/">www.scotland.police.uk/</a>
Scottish Enterprise	<a href="http://www.scottish-enterprise.com/">www.scottish-enterprise.com/</a>
Scottish Borders Council	<a href="http://www.scotborders.gov.uk/">www.scotborders.gov.uk/</a>
Scottish Environment & Protection Agency	<a href="http://www.sepa.org.uk">www.sepa.org.uk</a>
Scottish Fire & Rescue Service	<a href="http://www.firescotland.gov.uk">www.firescotland.gov.uk</a>
Scottish Natural Heritage	<a href="http://www.snh.gov.uk">www.snh.gov.uk</a>
SESTrans	<a href="http://www.sestran.gov.uk">www.sestran.gov.uk</a>

## Part 2 of the Act talks about Community Planning

### What is community planning?

Community Planning is about local organisations working together and with local communities to improve services. This may be through joint working, agreeing joint policies or just making sure everyone knows what each other is doing.

To make sure this happens the Act specifies who is responsible to make sure it works and who else needs to be involved.

### **Community Planning Partners responsible for making sure community planning in the Borders works are:**

- Scottish Borders Council
- NHS Borders
- Police Scotland
- Scottish Fire and Rescue Service
- Scottish Enterprise

### **Other partners are:**

- Borders College
- Registered Social Landlords (Housing Associations)
- Third Sector
- Integrated Joint Health and Social Care Board
- Scottish Government
- Skills Development Scotland
- SEStran
- Scottish Natural Heritage
- Scottish Environmental Protection Agency
- Historic Environment Scotland
- Live Borders
- Visit Scotland
- Scottish Borders Community Councils' Network

### What is a Local Outcomes Improvement Plan (LOIP)?

The LOIP replaces Single Outcome Agreements. It will contain the outcomes that are a priority for the Community Planning Partnership to improve on. The plan will include the actions that will be taken in order to improve the outcomes. Appropriate community groups must be consulted when developing the LOIP. The LOIP will cover the whole of the Borders.

### How does the LOIP differ from locality plans?

Locality plans will focus on areas within the Borders where there are specific outcomes that need to be improved in that area. There is no limit to the number of locality plans that can be developed.

## What is an outcome?

An outcome is the change that results from what organisations provide or deliver, e.g. increase in physical activity levels arising from the development of a community park. The increase in physical activity is the outcome.

## Part 3 of the Act talks about participation requests

### What is a participation request?

A participation request is a request that comes from the community that asks for them to be involved in a process that will improve an outcome which they specify.

Participation request process can be found at:

**[www.scotborders.gov.uk/participationrequests](http://www.scotborders.gov.uk/participationrequests)**

### Who can participation requests be made to?

- Scottish Borders Council
- NHS Borders
- Borders College
- Scottish Enterprise
- Police Scotland
- Scottish Fire & Rescue Service
- Scottish Natural Heritage
- SESTrans
- SEPA

### Who can make a participation request?

**A community group can make a request. The group must be:**

- open to anyone in the community it covers to join,
- community led,
- the majority of members are from that community,
- for the benefit of the community, and
- uses any surplus funds/assets for the benefit of the community

The group does not need to be constituted.

## What does the Act mean by a 'community controlled body'?

**This term is used in relation to the participation requests part of the Act and means a group that:**

- has a written constitution,
- is open to anyone in the community it covers to join,
- is community led,
- the majority of members are from that community,
- is for the benefit of the community, and
- uses any surplus funds/assets for the benefit of the community.

## What does the Act mean by a community participation body?

**This term is used in relation to the participation requests part of the Act and is the same as for a community controlled body except that it does not have to have a constitution, i.e.:**

- is open to anyone in the community it covers community to join,
- is community led,
- the majority of members are from that community,
- is for the benefit of the community, and
- uses any surplus funds/assets for the benefit of the community.

It also includes community councils. Scottish Ministers may choose to name certain types of groups as community participation bodies.

## When can a participation request be made?

A community body can make a request at any time when it believes it can improve the outcome of a public service.

Requests are subject to a timescale and the acceptance or decline of a participation request is required to be reported to the Scottish Government with reasoning on the decision by Scottish Borders Council.

Further information can be found from the Scottish Government website:

**<http://www.gov.scot/Topics/People/engage/ParticipationRequests/Overview>**

## What is an outcome?

An outcome is the change that results from what organisations provide or deliver, e.g. increase in physical activity levels arising from the development of a community park. The increase in physical activity is the outcome.

What information does the community body need to provide when it makes a participation request?

**The community body making the request will need to:**

- set out the outcome(s) which results from a service provided by the public authority (SBC),
- set out the reasons why it considers it should participate,
- provide details of any relevant knowledge and expertise it has in relation to the outcome,
- provide an explanation of the improvement it expects will be achieved as a result of its participation.

Can a participation request be refused?

A public authority must agree to a participation request unless there are reasonable grounds for refusal.

## **Part 4 of the Act talks about the right to buy land**

Didn't we have community right to buy in the Borders before the Act?  
How is it different?

Until this part of the Act came in to force only communities with populations under 10,000 were able to use community right to buy. The change in law means that community groups in Galashiels and Hawick (both with populations over 10,000) can now use community right to buy.

The Act also means that more types of community group can buy land in this way. The Act can be used by companies limited by guarantee, Scottish Charitable Incorporated Organisations (SCIOs) and Community Benefit Societies.

Further information on Community Right to Buy can be accessed from the Scottish Government website: <http://www.gov.scot/Topics/farmingrural/Rural/rural-land/right-to-buy/Community>

## **Part 5 of the Act talks about asset transfer requests**

What is an asset?

In the Act, an asset is estates, land or buildings owned by public authorities.

What can be subject to an asset transfer request?

A request can also be made for the sale of any estate, land or building owned by the public authority. Alternatively a request can be made for the lease of any land or buildings that is owned or leased by the public authority.

Each public authority is required to publish a register of all their assets. The asset register for Scottish Borders Council will be available on the internet but a hard copy will be available on request.

Scottish Borders Council's current Asset Transfer Policy can be found on the website:  
[https://www.scotborders.gov.uk/downloads/file/2312/community\\_asset\\_transfer\\_policy](https://www.scotborders.gov.uk/downloads/file/2312/community_asset_transfer_policy))

## Who can make asset transfer requests?

### **A group can request the transfer of ownership if it:**

- a company limited by guarantee
- a SCIO (Scottish Charitable Incorporated Organisation)
- Community Benefit Society with at least 20 members

### **A group that can request to lease land from a public authority if it:**

- has a written constitution,
- is open to anyone in the community it covers community to join,
- is community led,
- is the majority of members who are from that community,
- is for the benefit of the community, and
- uses any surplus funds/assets for the benefit of the community.

## What does the Act mean by a community transfer body?

This term is used in relation to a community group that is requesting the transfer of the asset. There are two levels depending on the type of request that is being submitted:

### **A group requesting the transfer of ownership of an asset must be one of the following:**

- be a company limited by guarantee
- a SCIO (Scottish Charitable Incorporated Organisation)
- a Community Benefit Society with at least 20 members.

### **A group requesting to lease or use land should meet the following criteria:**

- has a written constitution,
- is open to anyone in the community it covers community to join,
- is community led,
- the majority of members are from that community,
- is for the benefit of the community,
- uses any surplus funds/assets for the benefit of the community.

## Who can asset transfer requests be made to?

### **Asset transfer requests can be made to:**

- Scottish Borders Council
- NHS Borders
- Borders College
- Scottish Enterprise
- Police Scotland
- Scottish Fire & Rescue Service
- Scottish Natural Heritage
- SESTrans
- SEPA
- Scottish Water
- Scottish Courts & Tribunals Service
- Historic Environment Scotland

## Assets have been transferred from SBC to community groups before, how will it change under the Act?

The Act introduces timescales within the asset transfer process and specifies the information that a group must provide when requesting an asset transfer. All public authorities must publish an annual report about the asset transfer requests they have received. The Council encourages community groups interested in requesting an asset transfer to have an informal conversation with us before submitting the request.

Scottish Borders Council's current Asset Transfer Policy can be found on the website:

**[https://www.scotborders.gov.uk/downloads/file/2312/community\\_asset\\_transfer\\_policy](https://www.scotborders.gov.uk/downloads/file/2312/community_asset_transfer_policy)**

## What information needs to be provided in an asset transfer request?

### **A community transfer body must include the following information when making an asset transfer request:**

- the land or building to which the request relates
- whether it wishes to own, lease or use the land or building
- the reason for making the request
- the benefit which the groups believes will arise if the transfer goes ahead
- the price that the group will be willing to pay for the land or building if requesting to buy it
- the rent that the group would be willing to pay if requesting to lease it
- any other terms or conditions applicable to the request.

## Can an asset transfer request be refused?

The public authority must agree the request unless there are reasonable grounds for refusal. The Council must report the number of requests it agreed and refused each year in an annual report submitted to the Scottish Government.



## Can asset transfer requests be made for property that is managed by a Trust?

Yes, if the property is owned by Scottish Borders Council an asset transfer request can be made. Contractual obligations that are already in place will have to be considered.

## Part 8 of the Act talks about Common Good

### What is common good?

The Scottish Government defines common good assets as “a special type of property owned by local authorities in Scotland...These Funds are of ancient origin and consist of property that previously belonged to one of Scotland’s burghs. They include both moveable property (for example, cash, securities, civic regalia) and heritable property (land and buildings). By far the largest component of Common Good Funds is heritable property and while this mainly consists of public buildings and public spaces, such as parks, it also includes in some cases farm land and other heritable property, such as salmon fishing.”

More information is available in the Common Good Property section of the Community Empowerment (Scotland) Act 2015: <http://www.legislation.gov.uk/asp/2015/6/part/8/enacted>

### How does the Act change things?

All councils in Scotland will have to create and publish a list of all common good property in their area, this will be/is available on the SBC website. Councils will have to consult with community councils and other community groups before selling or changing the use of any common good property.

(The accounts for current Common Good funds can be found on the SBC website: [https://www.scotborders.gov.uk/downloads/download/108/common\\_good\\_funds](https://www.scotborders.gov.uk/downloads/download/108/common_good_funds))

## Part 9 of the Act talks about allotments

### How do I apply for an allotment, has it changed under the new Act?

The process for applying for an allotment hasn’t changed much. The Act sets the standard size of allotment as 250m<sup>2</sup>. You will need to say if you are happy to have an allotment that is less than this size. You may have to wait longer if you wish to lease an allotment that is 250m<sup>2</sup> than if they are willing to take a smaller one.

Detailed information including price, availability and how to apply for an allotment can be found on the Scottish Borders Council website:

[https://www.scotborders.gov.uk/info/20032/parks\\_and\\_outdoors/628/allotments](https://www.scotborders.gov.uk/info/20032/parks_and_outdoors/628/allotments))

## **Part 10 of the Act talks about participation in public decision making**

What does the 'Participation in public decision making' part of the Act mean?

This part of the Act gives Scottish Ministers the power to require that public authorities, such as SBC, promote and support the involvement of the community in the decisions and activities of the organisation, such as the allocation of resources. At the moment Ministers have not set out exactly what this will mean but have reserved the right to do so at a later date.

Where can I find out more information about the Community Empowerment Act?

If you have any queries that aren't dealt with here, or have queries about submitting a participation or asset transfer request, please contact us on [communityengagement@scotborders.gov.uk](mailto:communityengagement@scotborders.gov.uk) or call the team on **01835 826626**. Information is also available to access from the Scottish Borders Council website; [http://www.scotborders.gov.uk/community\\_empowerment\\_act](http://www.scotborders.gov.uk/community_empowerment_act)

If you have any queries about the Act that aren't dealt with here, or have queries about submitting a participation or asset transfer request, please contact us on [communityengagement@scotborders.gov.uk](mailto:communityengagement@scotborders.gov.uk) or call the Communities & Partnerships team on **01835 826626**.

The full Act is available at

<http://www.legislation.gov.uk>

The explanatory notes can be downloaded from

<http://www.legislation.gov.uk>