

## **Asset Transfer - Questions and Answers**

### **1. What is Asset Transfer**

Asset Transfer is the transfer of responsibility for a council owned asset to a community group (referred to as a Community Transfer Body). This can be either the transfer of ownership or transfer under a short or long-term lease arrangement.

### **2. Who can apply for an Asset Transfer**

To make an asset transfer request, an organisation needs to be a Community Transfer Body. It can be either a community-controlled body or a body designated by the Scottish Ministers.

A community-controlled body does not have to be incorporated, but it must have a written constitution, incorporating the provisions set out in the Scottish Government's guidance and can be found using the link below.

<http://www.gov.scot/Publications/2016/11/1889/5>

A community-controlled body which wants to make an asset transfer request for ownership must also be incorporated as a company, a SCIO (Scottish Charitable Incorporated Organisation) or a BenCom (Community Benefit Company), with a minimum of 20 members and provision for transfer of its assets on winding up.

The Act does not require a Community Transfer Body to be incorporated to make an asset transfer request for lease.

We will consider transfer of assets to long established, stable and secure formal groups and will also consider transfers to newly formed CTBs provided they can demonstrate they have the necessary expertise and experience to manage the asset and have a sound business plan in place.

### **3. What is an asset**

An asset can be any land or building in the ownership of the council. A community group may wish to undertake Asset Transfer because it feels it can make better use of the asset to deliver benefits to the local community or it may wish to take over a service previously provided by the council from that asset.

However, not all council assets will be considered suitable for transfer. Assets that are required for the delivery of essential services or are generating an income stream for the council or have title restrictions are unlikely to be considered suitable for transfer.

### **4. What Assets are available for transfer?**

Please see our [Asset List \(xls 480KB\)](#)

## **5. How much do community groups have to pay for an asset?**

The transfer of an asset would usually be at market value. However, where the community group feel that a discount should be applied this should be stated in the application, demonstrating a case that supports the discount and illustrates the community benefits that can be delivered.

## **6. Can I appeal if I don't agree with the decision?**

In the first instance an appeal should be made in writing within 20 working days to the chair of the Asset Transfer Steering Group. Following a review of the decision the Council will issue a notice of outcome. If you remain unhappy with this decision you may then appeal to the Scottish Minister.

## **7. How long does a transfer take?**

The council will work with community groups to progress the application and obtain all the necessary information needed from them to support the application.

Once the council is satisfied that all the required information has been provided the group will receive an acknowledgement of this. From this date the council has 6 months to issue its decision, unless a longer period is agreed between the council and the community group.

## **8. Will the Council provide any legal assistance or property advice?**

No, for the Council to provide legal assistance or property advice would be a conflict of interest. Any organisation interested in applying for an asset transfer will need to seek (and fund) independent legal advice on the process and any transfer which is approved.

## **9. What would the Community Group be responsible for if the asset was to be leased?**

Once the building has been leased, the group will be responsible for complying with all relevant legislation and for meeting all operating costs set out in the lease. It should be noted that additional support is often required particularly in relation to technical expertise around asbestos, health and safety, compliance with the Equality Act 2010, fire risks, legionella and related risks. The organisation should consider in advance how such issues will be addressed.

## **10. Can I apply for assets which are listed as Common Good assets?**

For common good assets there may be a requirement to obtain a Common Good Order through the courts. In such circumstance the council will pay the costs of trying to obtain the order.

## **11. What happens if another group has already applied for the asset I'm interested in?**

In the event that two groups are interested in the same asset, the council would prefer if the groups worked together on a joint application. However, if this is not

possible the Council will progress both applications and the final decision will be made on the application which demonstrates the greatest community benefit.

However, if a second application for an asset arrives significantly after the first application has been submitted, the Council would be unlikely to progress the second application until the first one has been dealt with.

## **12. Where can I find further information?**

There is a wide range of information available on the internet to community groups and individuals interested in Asset Transfer. The following are links to some of the most useful sites:

### **[Scottish Government](#)**

The Scottish Government sees community ownership of assets as one way of empowering communities. The website provides information on their approach.

### **[Community Ownership Support Service \(COSS\)](#)**

COSS is a programme hosted by Development Trusts Association Scotland (DTAS) and is funded by the Scottish Government to support the transfer of publicly held assets into community ownership. They can provide: -

- Expert advice on all aspects of asset transfer
- Training seminars on the asset transfer and asset development process
- Sign-posting to other relevant support agencies
- A comprehensive web resource including information on good practice, toolkits and case studies.

### **[Highlands and Islands Enterprise](#)**

Although most relevant to those living and working in the Highlands this website provides examples of some of the initiatives being undertaken to support communities in sparsely populated areas. On the website you can find a guide to asset transfer.

### **[Aberdeenshire Voluntary Action](#)**

Aberdeenshire Voluntary Action (AVA) provide a single point of access for community groups. AVA will be able to advise on funding opportunities.

### **[Aberdeenshire Rural Partnership Federation](#)**

Rural Partnerships are independent community led organisations, established to progress economic, social and environmental development in Aberdeenshire. They can provide resources and expertise to help communities develop their plans.

**[Banffshire Partnership;](#) **[Buchan Development Partnership;](#) **[Formartine Partnership;](#) **[Garioch Partnership;](#) **[Kincardineshire Development Partnership;](#) **[Marr Area Partnership](#)************