

PERTH AND KINROSS COUNCIL

Strategic Policy and Resources Committee

19 April 2017

COMMUNITY ASSET TRANSFER POLICY

Report by the Senior Depute Chief Executive, Education and Children's Services (Equality, Community Planning and Public Service Reform)

PURPOSE OF REPORT

This report introduces a draft Policy on Community Asset Transfer, which will enable Perth and Kinross Council to respond appropriately to Part 5 of the Community Empowerment (Scotland) Act 2015 and support communities to take control of the things that matter to them.

1. BACKGROUND / MAIN ISSUES

- 1.1 Community Asset Transfer is the transfer of responsibility for land or buildings from the Council to a Community Body – these assets can include village halls, greenspace, office buildings, or any other land or buildings held by the Council.
- 1.2 Part 5 of the [Community Empowerment \(Scotland\) Act 2015](#) sets out a new right for Community Bodies to request the transfer of assets from Public Bodies. This Part of the Act, including associated secondary legislation, came into force on 23 January 2017.
- 1.3 The Local Government (Scotland) Act 1973 places a statutory obligation on the Council to obtain the best price or the best rent when it disposes of any asset by sale or lease. However, the Disposal of Land by Local Authorities (Scotland) Regulations 2010 allow the Council to dispose of an asset for less than market value, where it has weighed up the advantages and disadvantages of the proposal and has satisfied itself that the disposal is reasonable and that the benefits accruing to the community are such that a disposal for less than market value can be justified.
- 1.4 The aim of Community Asset Transfer is to improve or promote economic development, regeneration, public health, social wellbeing or environmental wellbeing. Under the Community Empowerment (Scotland) Act 2015, a Community Body wanting to take on an asset must set out the reasons for the request, the benefits that would arise from the transfer, and the price or the rent they would pay to buy or lease the land or building. The Council must consider a range of factors in its decision, but must agree to the request unless there are reasonable grounds for refusing it. If the request is refused, the Community Body has a right to have the decision reviewed by the Council. If the original decision is upheld after review, the community body has a right of appeal to the Scottish Ministers.

- 1.5 A draft Policy and accompanying Guidance have been compiled by a working group of officers from The Environment Service (Property, Community Greenspace, Estates and Planning, Economic Development), Legal Services, Housing and Community Care, Democratic Services and Community Services. The working group received technical advice from Development Trusts Association Scotland (DTAS) during the drafting process. The draft Policy and Guidance were approved at Executive Officer Team on 11 November 2016. Scottish Government then produced final Guidance and Regulations in January 2017. This led to some revision of the draft Policy, with further technical advice from DTAS, to ensure consistency with the Guidance and Regulations.

2. PROPOSALS

- 2.1 The draft Community Asset Transfer Policy (Appendix 1) states the Council's proposed position in relation to Part 5 of the Community Empowerment (Scotland) Act 2015 ("the Act").
- 2.2 An "asset" may include land or buildings, as defined in the Act. It can refer to greenspace, village halls, or any other land or buildings owned by the Council. A "transfer" can refer to a transfer of management responsibility, to a short or long term lease, or to the transfer of outright ownership of the asset. A Community Body is a body which consists of members of the community which aims to promote a benefit to that community. A detailed definition is contained in section 19 of the Community Empowerment (Scotland) Act 2015.
- 2.3 The draft Policy states that the Council supports the principle of Community Asset Transfer and will support communities to make it happen. A named Single Point of Contact within the Council will support the Community Body throughout the process. This contact will liaise with other parts of Perth and Kinross Council to co-ordinate the necessary information and will keep the Community Body informed of developments and timescales.
- 2.4 The Policy states that all requests for asset transfer will be considered against the potential economic, social and environmental benefits to the community. It sets out a range of potential benefits that the transfer of Council assets to community bodies can offer to local communities, to the community bodies, and to the Council.
- 2.5 Perth and Kinross Council has previously identified a number of assets that are surplus to requirements, including buildings and greenspace. There is an opportunity to pro-actively market these surplus assets, so that Community Bodies seeking Asset Transfers are encouraged to consider them. Support is offered to the Community Body throughout the Asset Transfer Request process to help ensure that they are eligible and able to take on the responsibilities associated with Asset Transfer, principally by the local Community Capacity Building worker.

- 2.6 [Guidance](#) accompanying the Policy sets out how a Community Body can make an Asset Transfer request, and how the Council will deal with that request. Appendix 2 provides a flowchart showing the process for a Community Asset Transfer. The Guidance sets out the detail of this two-stage process. Support is available to the Community Body at all stages of the process through a Council officer nominated as the Single Point of Contact. This role will be fulfilled by the local Community Capacity Building worker.
- 2.6.1 **Stage 1** involves an Expression of Interest by a Community Body about a particular asset. The Expression of Interest stage helps the Community Body develop their proposal and determine its viability before going through the detailed formal application stage. The outcome of the Expression of Interest does not prevent Community Bodies submitting a formal application for asset transfer request under the Act. The intention of the Expression of Interest stage is to open dialogue between the Community Body and the Council, and to give an early indication of the likely success of an Asset Transfer Request.
- 2.6.2 **Stage 2** involves a detailed formal application by the Community Body, which will be considered by a Review Team consisting of officers from all relevant Council services. This detailed application will include a business plan and information such as feasibility studies on the property; financial capability; community consultation; risk assessment; and project objectives. Community Capacity staff will facilitate the Community Body in developing the application and business case. The Review Team will make a recommendation to the relevant Council Committee(s), which will take the decision whether to grant the request.
- 2.7 Appendices to the Guidance provide detail on timescales and the forms to be used. All forms will be made available on the Perth & Kinross Council website for completion online.
- 2.8 The Council has considered a number of Community Asset Transfer requests in the past. These requests have been dealt with by Services as and when they arose. This has proven time-consuming for officers, and the range of services involved can be confusing for the Community Body making the request. With the commencement of Part 5 of the Act, we anticipate an increase in the number and range of Community Asset Transfer requests. The adoption of a clear Policy and Guidance will enable the Council to consider requests against a consistent set of criteria; work to agreed timescales; and provide greater clarity for Community Bodies about the process through a single point of contact.
- 2.9 The fact that there have been previous Community Asset Transfer requests means that there is a considerable body of experience within the Council of dealing with these requests, including the ability to support Community Bodies. The draft Policy and Guidance draws on this experience by ensuring that a Single Point of Contact is nominated, both to co-ordinate the gathering of information from relevant services, and to liaise with and support the Community Body.

2.10 If this draft Policy is adopted, implementation can begin immediately. Implementation will involve:

- Publishing the Policy and Guidance on the Council website
- Briefing Customer Contact Centre staff on the Policy's implications for how they should respond to people enquiring about Community Asset Transfers
- Briefing members of the Community Capacity Building Team, some of whom are already supporting Community Bodies with Community Asset Transfer requests, on their role as the Single Point of Contact
- Briefings to Action Partnerships on Community asset transfer
- Developing an easy-read "how to guide" for communities in a format accessible to them, to accompany the policy

2.11 The Corporate Asset Management Team currently has a register of assets from the Property Management System (Concerto), which can be filtered in different ways depending on the request. However, the register of assets is not publicly available at present, and to fully comply with the Act will need to be made accessible, for example by including a link to it on the Perth & Kinross Council website. Scoping work has commenced to establish how and when this can be achieved.

3. CONCLUSION AND RECOMMENDATIONS

3.1 This report introduces a Policy on Community Asset Transfer (Appendix 1), and accompanying [Guidance](#). Adopting the Policy will help to ensure that Perth and Kinross Council can consistently carry out its duties under the Community Empowerment (Scotland) Act 2015. It will also ensure that the Council is able to maximise the potential benefits to communities, Community Bodies, and the Council itself.

3.2 Strategic Policy and Resources Committee is asked to approve the Community Asset Transfer Policy (Appendix 1).

Author(s)

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Approved

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1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Community Plan / Single Outcome Agreement	Yes
Corporate Plan	Yes
Resource Implications	
Financial	Yes
Workforce	None
Asset Management (land, property, IST)	Yes
Assessments	
Equality Impact Assessment	Yes
Strategic Environmental Assessment	Yes
Sustainability (community, economic, environmental)	Yes
Legal and Governance	Yes
Risk	Yes
Consultation	
Internal	Yes
External	None
Communication	
Communications Plan	Yes

1. Strategic Implications

Community Plan/Single Outcome Agreement

- 1.1 Adopting the Community Asset Transfer Policy supports the delivery of the following Strategic Objectives by enabling citizens to take responsibility for assets within their communities:

- Developing educated, responsible and informed citizens;
 - Supporting people to lead independent, healthy and active lives
- It also supports the delivery of the following Strategic Objectives by empowering communities to find new ways of using assets, making them more sustainable.
- Promoting a prosperous, inclusive and sustainable economy
 - Creating a safe and sustainable place for future generations

Corporate Plan

- 1.2 Adopting the Community Asset Transfer Policy supports the delivery of the following Strategic Objectives by enabling citizens to take responsibility for assets within their communities:

- Developing educated, responsible and informed citizens;
- Supporting people to lead independent, healthy and active lives
- It also supports the delivery of the following Strategic Objectives by empowering communities to find new ways of using assets, making them more sustainable.
- Promoting a prosperous, inclusive and sustainable economy
- Creating a safe and sustainable place for future generations

2. Resource Implications

Financial

- 2.1 Council officers from Finance were involved in the development of the Policy and Guidance. It is not possible to provide an accurate projection of any financial implications for the Council, as these will vary depending on the asset. The decision to grant or refuse an asset transfer request will be made at Committee in every case, and will include consideration of any financial implications for the Council of transferring that particular asset. This includes consideration of what represents best value, whether there is any need for a “spend to save” approach, and whether the business plan from the Community Body requesting the transfer reflects a sustainable approach where the Council is not likely to incur further costs.

Workforce

- 2.2 N/A

Asset Management (land, property, IT)

- 2.3 The Director (Environment) has been consulted, and has indicated agreement with the proposals.

3. Assessments

Equality Impact Assessment

- 3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties. The Equality Impact Assessment undertaken in relation to this report can be viewed clicking [here](#).

- 3.2 The proposals have been considered under the Corporate Equalities Impact Assessment process (EqIA) with the following outcome:

(i) Assessed as **not relevant** for the purposes of EqIA

Strategic Environmental Assessment

- 3.3 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals.
- 3.4 The proposals have been considered under the Act and pre-screening has identified that the policy will have no or minimal environmental effects, it is therefore exempt and the SEA Gateway has been notified. The reason for concluding that the policy will have no or minimal environmental effect is that any decision to transfer a Council asset to a Community Body as a result of the policy will be considered on its own merits at Committee. This will include an assessment of the environmental impact of that particular asset transfer.

Sustainability

- 3.5 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. Under the Climate Change (Scotland) Act 2009 the Council also has a duty relating to climate change and, in exercising its functions must act:
- in the way best calculated to delivery of the Act's emissions reduction targets;
 - in the way best calculated to deliver any statutory adaptation programmes; and
 - in a way that it considers most sustainable.
- 3.6 The proposals have been assessed against the Council's Principles for Sustainable Development using the Integrated Appraisal Toolkit, and no impact on climate change was identified.

Legal and Governance

- 3.7 The Head of Legal and Governance Services has been consulted.

Risk

- 3.8 There will be implications for the Property Asset Management Plan. The Corporate Asset Management Team are aware of the need to update this in line with the Policy.

4. Consultation

Internal

- 4.1 Elected members were briefed on the Community Empowerment Scotland Act 2015, including Part 5: Community Asset Transfer, in August 2015.
- 4.2 The draft Policy and Guidance were compiled by a working group of officers from The Environment Service (Property, Community Greenspace, Estates and Planning, Economic Development), Legal Services, Housing and Community Care, Democratic Services, and Community Services. The working group received technical advice from Development Trusts Association Scotland (DTAS) during the drafting process. The draft Policy and Guidance were approved at Executive Officer Team on 11 November 2016.

External

- 4.3 This policy was presented to the Community Planning Partnership Board on 9 December 2016.

5. Communication

- 5.1 Communication about the implementation will require:
 - Publishing the Policy and Guidance on the Council website.
 - Briefing Customer Contact Centre staff on the Policy's implications for how they should respond to people enquiring about Community Asset Transfers.

2. BACKGROUND PAPERS

- [Community Empowerment \(Scotland\) Act 2015](#)
- Draft Final [Regulations and Guidance](#) on Part 5 of the Community Empowerment (Scotland) Act 2015: Community Asset Transfer

3. APPENDICES

- Appendix 1: Community Asset Transfer Policy
- Appendix 2: Community Asset Transfer Process Map



Perth & Kinross Council

Community Asset Transfer Policy

Introduction

This Policy sets out how Perth & Kinross Council will respond to requests by Community Bodies for the transfer to them of a Council-owned asset.

An asset may include land or buildings, as defined in Part 5 of the Community Empowerment (Scotland) Act 2015 ("the Act"), which came into force in January 2017. An "asset" can refer to greenspace, village halls, or any other land or buildings owned by the Council.

This Policy applies to either a transfer of management responsibility, to a short or long term lease, or to the transfer of outright ownership of the asset.

Our Policy

Perth & Kinross Council supports the principle of Community Asset Transfer and will support communities to make it happen.

All requests for asset transfer will be considered against the potential benefits to the community. The potential benefits of a Community Asset Transfer can be measured in terms of the economic, social and environmental wellbeing of the community. In considering potential asset transfers, the Council will evaluate each proposal against the benefits based on the submission of a business plan. Requests will not be refused unless there are reasonable grounds to do so.

Requests will be made using a two-stage process. The first stage is an expression of interest. The expression of interest stage is intended to support Community Bodies in exploring what will be required to make an Asset Transfer Request, and to enable the relevant Council services to begin gathering any necessary information prior to the formal start of the Asset Transfer Request. The second stage is a detailed application form, which constitutes the legal start of the Asset Transfer Request. The two stages are described in detail in the [Guidance](#) accompanying this Policy.

Community Bodies will be offered support at any stage. The Council will provide the Community Body with a named Single Point of Contact who will have responsibility for liaising on behalf of the

Community Body with the different services of the local authority. Their remit is described in the Guidance accompanying this Policy.

Decisions to approve community asset transfers will be made by the relevant Committee or Sub-Committee of the Council. The Single Point of Contact supporting the Community Body will liaise with all relevant services – including Estates, Legal, and Finance. All relevant services will contribute to developing a recommendation to the relevant Committee or Sub-Committee.

The costs associated with an asset transfer request will vary with the asset, but are likely to include registration dues, legal fees, independent valuation, condition survey, Energy Performance Certificate, and Land and Buildings Transaction Tax. The Council will not seek to recover its own costs from the Community Body, but the Community Body will be expected to have in place the resources to cover its share of the costs, including the cost of independent valuations. The Council can assist Community Bodies to identify possible funding sources to help with these costs.

In some circumstances the Council may decide to invest in the asset prior to a transfer. Such investment will be on a spend-to-save basis and will only be considered if the business case for the transfer shows potential savings to the Council, or in exceptional cases, substantial community benefit. The aim of this investment would be to make the asset suitable for use by the Community Body as soon as the transfer takes place.

National Context

The Scottish Government is committed to increase the pace of public service reform and to empower more communities in Scotland “...*through the ownership of assets and by strengthening their voices in the decisions that matter to them.*” This forms part of the Scottish Government’s response to the recommendations of the Christie Commission and the Scottish Government’s and COSLA’s review of Community Planning. The Community Empowerment (Scotland) Act 2015 makes it easier for communities to take responsibility for public assets.

Rationale

Encouraging the transfer of Council assets to community bodies can offer benefits to local communities, to the community bodies, and to the local authority.

Benefits to the Local Community

There are a number of potential benefits to local communities that can result from asset transfer:

1. Devolving power to neighbourhoods can encourage citizen involvement and community action.
2. Contributing towards the regeneration of communities can act as a catalyst for social, environmental and economic regeneration (including the development of community enterprise).

3. Transferring ownership or management offers opportunities to extend the use of a building or the piece of land, increasing its value in relation to the number of people benefiting and the range of opportunities it offers.
4. Stimulating the involvement of local people in shaping and regenerating their communities can be a catalyst for local volunteering and increasing community cohesion.
5. The process of community asset transfer can build confidence and capacity amongst the individuals involved, and can support the creation of community leaders and inspire others to improve their community.

Benefits to Community Bodies

Community control of assets can:

1. Generate long term sustainable revenue streams for Community Bodies, making them more sustainable.
2. Provide local people with a meaningful stake in the future development of the place in which they live and/or work.
3. Be used as leverage to draw in new finance and expand the level of community activity.
4. Result in the creation of new organisations (and potentially Council/Community Body joint ventures) with the ability to lever in additional resources which would be unavailable to the Council acting independently.
5. Create stronger, more sustainable Community Bodies, which can deliver a wide range of benefits for the communities they serve. An asset can provide a Community Body with financial security, recognition, and management capacity

Benefits to the Council

Transferring appropriate assets to the community, by working in partnership with Community Bodies, can help the Council to:

1. Achieve the outcomes set out in the Community Plan.
2. Deliver social, economic and environmental benefits including employability opportunities.
3. Contribute to the Council's objective to rationalise its estate and facilitate more effective and efficient use of its asset base where the focus is on better services and community outcomes as a result of strategic asset management.
4. Provide opportunities for long-term working between public and voluntary sectors.
5. Provide a catalyst for inward investment through local purchasing and employment, by creating opportunities for investment in the asset that may not be possible within Council ownership.
6. Bring back into full use properties deemed surplus to requirements or underperforming.
7. Cost savings will be achieved by reducing holding costs, including non-domestic rates and security costs. Where appropriate, demolition costs will be avoided.

Community Asset Transfer Process Map

