

WEST LOTHIAN COUNCIL

COMMUNITY ASSET TRANSFER POLICY
GUIDANCE NOTES FOR APPLICANTS

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1. Introduction to Community Asset Transfer

This guidance is for all voluntary and community organisations interested in the transfer of property assets that are owned, leased or managed by West Lothian Council in order to develop and deliver services, and to generate benefits for their local communities. For the purpose of this policy, all eligible voluntary or community organisations shall be referred to as 'community transfer bodies'.

These guidance notes aim to:

- Explain the scope of the council's policy on community asset transfer;
- Provide guidance to interested groups on how to apply to take on an asset, and
- Explain how the council will determine an application, including the appeals process.

The guide outlines our process and timescale for responding to requests for individual property asset transfers, which we believe is in line with being an open and transparent local authority.

Our objective is to make it as simple as possible for an organisation to make an enquiry about asset transfer and start the application process to purchase or lease land or property from the council. The information supplied will help us to ascertain whether an organisation is ready to take on the asset and whether the purpose the applicant has in mind for the property will bring about benefit for the community and support council objectives.

There must be a clear proposal, business case and rationale for any transfer. This could include opportunities for new and innovative ways of supporting the priorities of the council in providing services to the community, delivering services directly, or the provision of new activities or services that would otherwise not be available and where there is clear evidence of 'need' for such a service.

Community asset transfer is driven by the delivery of services, not the availability of assets. It provides an opportunity to engage people in providing services, and adding value in their local communities. This may be by delivering services that are additional or complementary to services delivered by the council, the need for which has been identified by the local community. It may also allow a group to develop a commercial venture which will support community benefit. In addition, community transfer bodies may be able to access development funding from a range of external funders that might not otherwise be available.

Each asset transfer will be judged on its own merits and the detail of any arrangements for transfer will be arrived at through individual negotiation. However, the council's objective is to have a consistent, fair and transparent process for responding to proposals from local communities. Each asset transfer request will be judged on the benefits it will deliver, not on the community it represents. Community transfer bodies interested in any potential asset transfer are encouraged to engage with the council at the earliest opportunity.

2. Policy context

The need for local authorities to consider the methods of service delivery, and the growing interest from community-led organisations in assuming responsibility for the delivery of local services, are fuelling the drive for communities to take responsibility for publicly owned property assets. This trend is reflected in significant recent changes to public policy and legislation, most notably the Community Empowerment (Scotland) Act 2015 and the Disposal of Land by Local Authorities (Scotland) Regulations 2010.

The council's policy for the transfer of property assets to community transfer bodies recognises that handing over the ownership or stewardship of an asset can have a valuable role in supporting and sustaining local communities.

The community ownership of assets can make an important contribution to the range of innovative, bottom up solutions which community groups can develop to address local needs. Importantly, these solutions not only meet the needs of the local people, they can also contribute to the delivery of council and national strategic priorities.

It is anticipated that most interest in transfer of responsibility will come from community transfer bodies that identify a specific opportunity. However, opportunities may also be identified by the Council. The ongoing review of council services is expected to identify properties that have potential for a more intensive use, or a greater variety of social, community and public purposes, to the benefit of the local community.

Proposals may be many and varied, and it is likely that the legal structure for transferring any property asset will vary to reflect the specific needs and circumstances of the proposal or organisation making the proposal – there will be no single model. Solutions will depend on the nature of the proposal and the property assets involved. They will also be affected by the way the proposal is being funded, the type of community transfer body that is implementing it, and the organisations with whom they have to reach separate agreements with such as funders.

If transfer is proposed, there must also be a critical appraisal as to whether it assists in delivering agreed outcomes. The Council has to ensure that there is a robust justification for transfer. Transfer should be a means to an end, not an end in itself.

The Council's responsibility for the stewardship of public assets will mean that we may need to protect the public interest through conditions or burdens within the legal structure of any transfer.

The Council are keen to engage with community organisations early in the process, so that discussions around any potential for asset transfer can be investigated in the interest of all parties at a pre-application stage.

3. Which assets may be suitable for transfer?

The Council's physical assets include land and buildings that are used for a variety of different social, community and public purposes.

Part 5 of The Community Empowerment (Scotland) Act 2015 (the Act) introduces a right for community transfer bodies to make requests to all local authorities, Scottish Ministers and a wide-ranging list of public bodies, for any land or buildings they feel they could make better use of. Community transfer bodies can request ownership, lease or other rights, as they wish. The Act requires those public authorities to assess requests transparently against a specified list of criteria, and to agree the request unless there are reasonable grounds for refusal.

The Act deliberately avoids giving detailed guidance on what may be reasonable grounds for refusal, as this must be determined by the circumstances of each individual case. However, they are likely to include cases where the benefits of the asset transfer request are judged to be less than the benefits of an alternative proposal, where agreeing to the request would restrict the council's ability to carry out its functions (including a loss in revenue and/or capital income), or where another obligation on the council prevents or restricts its ability to agree to the request.

Participation Requests

A community transfer body can ask to buy or lease land, or to have other rights, for example to occupy or use the land for a particular purpose. It may also wish to take over a building or land and the services which are delivered by the council from those premises.

This could be addressed by an asset transfer request, or a participation request in relation to improving the outcome of the services. It is not recommend using both types of request for the same project. Further information on participation requests is available via the following link: <https://www.westlothian.gov.uk/communityplanning>

4. Register of Land

The council is required to maintain and publish online a Register of Land (including buildings) that it owns or leases. That Register can be accessed via the following link: <https://www.westlothian.gov.uk/article/4429/Community-Asset-Transfer> or by contacting the Council's Property Management & Development service on Tel. (01506) 281836 or e-mail: propertymanagement@westlothian.gov.uk

It should be noted that legislation provides for certain categories of assets to be excluded from the register on practical grounds. Examples include roads, underground railways, canals, bus stations, houses, hostels and lodging-houses, police radio masts and sites used for covert policing, land used for the supply of drinking water and disposal of waste water and certain reservoirs, souvenir plots and mineral rights. Whilst these assets are exempt from inclusion in the register, they may still be subject to an asset transfer request.

5. Obtaining further information on specific land and/or buildings

Once they have identified one or more properties that may be suitable for their project, a community transfer body will need further information about them. They will need to decide whether the land or building is suitable for their planned activities, what the running costs will be, and how much to offer for it. If they intend to request ownership or a lease with repairing responsibilities, they will need information about the condition of any building, other rights on the land, and so on.

The council will be open about the information it holds, including practical knowledge about managing the property, and how other information might be obtained.

Ultimately, it is the responsibility of the community transfer body to ensure it has all the necessary and relevant information to develop its proposals. There is no requirement for the council to obtain information or commission reports to provide to the community transfer body, which it does not already have.

As part of the pre-application discussions, and where appropriate, the council will aim to share any information it holds on a relevant asset, such as:

- Title reports
- Rateable Value
- Size (including site or building plans if appropriate)
- Any planning restrictions, heritage designations, environmental designations, or other restrictions on future use
- Information on any tenancies, occupancy agreements etc. (as far as possible under confidentiality)
- Coal authority reports
- Utility / service Information
- Condition and suitability reports
- Asbestos reports and management plan
- Energy costs (for current use) and/or Energy Performance Certificate
- Contamination reports
- For agricultural or forestry land, any relevant planting records, management plan or similar

If it appears that significant cost would be involved in answering the enquiry, or it involves information that it thinks should be withheld, the council is entitled to consider it in line with the requirements of the Freedom of Information (Scotland) Act (FOISA) and the Environmental Information Regulations (EIRs).

6. Who is eligible to apply for asset transfer?

To make an asset transfer request, an organisation needs to qualify as a “community transfer body” and Section 77 of the Act defines this as being either:

- a community-controlled body, or
- a body that is designated as a community transfer body by an order made by the Scottish Ministers.

Asset transfer legislation does not define what a community can be. It simply requires a community transfer body to define the community it relates to, and ensure the body is open to and controlled by members of that community, and uses its assets to benefit that community. Whether an organisation is eligible to make an asset transfer request depends on their constitution meeting the requirements, not on what community it represents.

A community can be any group of people who feel they have something in common. In many cases, it is that they live in the same area. However, it can also be that they share an interest or characteristic. Communities of interest could include faith groups, ethnic or cultural groups, people affected by a particular illness or disability, sports clubs, conservation groups, clan and heritage associations, etc. They may be very specialised or local, ranging up to national or international groups with thousands of members.

Applicant organisations may take many forms, e.g. community associations, development trusts, community councils, community forums, tenant organisations and community based housing associations, etc. They can also adopt different types of legal structures such as company limited by guarantee, unincorporated association, partnership organisation, Community Interest Company, or industrial and provident society (co-operative). Many will have charitable status. The key thing is not the precise model, but that they are recognised in their communities as valuable, open, accountable and inclusive organisations.

A community transfer body does not have to be incorporated, but it must have a compliant written constitution. A community transfer body that 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 upon winding up.

A community transfer body does not have to be incorporated in order to make an asset transfer request for lease or other rights. Since the property remains in the ownership of the council, it is for the council to decide what type of legal structure is appropriate, depending on the rights being requested.

An asset transfer request must be accompanied by a copy of the community transfer body's constitution or other governing documents.

In addition to the foregoing legislative requirements, the council expects that all applicants will have the following characteristics. They should:-

- a) Be formally constituted; have appropriately experienced management; and have sound and relevant governance arrangements in place;

- b) Have its own decision-making system and accountability to independent trustees or its own members or constituents;
- c) Exist for community, social, environmental or economic benefit objectives;
- d) Have a strong track record in bringing in and managing money and/or a robust financial plan moving forward. (The council will wish to review copies of audited accounts and forward projections where appropriate);
- e) Not distribute any profit, dividends or surplus to owners or members, but must reinvest it to further its social aims/community benefits (i.e. commercial concerns are excluded, but organisations which charge users or the public for services or whose activities include contracts with the council are eligible);
- f) Have a minimum of 20 members and provision for transfer of its assets to a similar organisation on winding up.
- g) Operate within West Lothian.
- h) Be non-political and not engaged in supporting candidates for political office
- i) Have an element of involvement of volunteers.
- j) Demonstrate it has the skills and capacity within, or available to, its managing body to effectively deliver services and manage the asset, and comply with statutory obligations, e.g. health and safety.

7. The Application Process

Introduction

The council recognises that asset transfer will require a significant commitment from a voluntary or community group. However, as the stewards of public assets we have to be sure that there is a robust justification for any transfer. Our asset transfer process reflects Scottish Government guidance and we believe it is both transparent and proportionate.

In the first instance, groups are encouraged to discuss their options, their suitability and the scope of community asset transfer with the council's Asset Manager. These informal discussions will help to prepare for the process of making a formal application for transfer. Contact details for the Council's Asset Manager are given at the end of this guide.

Pre-application Stage

The pre-application stage is a vital component of the asset transfer process as it gives both the council and the community transfer body an opportunity to fully explore the desired outcomes of the proposed project and discuss how these can be best achieved. Proposals that are fully discussed and developed through partnership working at the pre-application stage are likely to have the best chance of being successfully delivered.

Community transfer bodies are strongly advised to contact the council's Asset Manager and discuss their proposals at an early stage, prior to the submission of a formal asset transfer request. However, community transfer bodies do have the right to submit an application without going through any pre-application stage if they so wish. An asset transfer request is not treated as having been made until a community asset transfer application form has been submitted.

The level of detail required for each application will be proportionate to the scale and nature of the request and the community transfer body will always be given the opportunity to provide any missing information that is considered key to the decision making process.

If the council considers at an early stage that a request is likely to be refused in its current form, but could agree to an alternative proposal, this will be raised with the community transfer body and a suggestion made that they may wish to consider a revised proposal. However, this must be entirely at the community transfer body's choice as they have a right to persist with

the any request they want to make and receive a formal decision, which will then be open to appeal.

At the pre-application stage, the council will appoint a relevant officer to act as the applicant's Key Liaison Officer (KLO). This officer will have experience in the particular field of activity that will be delivered from the asset (e.g. sports, community health etc.). The community transfer body and the KLO will then work in partnership to develop the asset transfer application.

Price, Valuation and Non-financial benefits

The community transfer body has to state in its application how much they are prepared to pay, alongside the benefits the project will deliver, to allow the Council to decide whether to accept that price.

The council have a duty to secure 'Best Value' in their operations, including when disposing of or letting property. Best value does not always mean the highest possible price, and the council have the ability to dispose of property at less than market value where there are wider public benefits to be gained. This is set out in the Disposal of Land by Local Authorities (Scotland) Regulations 2010.

If the community transfer body decides to offer a price that is less than the market value, the council will need to assess whether the non-financial benefits offered by the proposals justify that reduced price.

To reduce overall costs and provide a common starting point, the council and the community transfer body will instruct a joint valuation based on market value, and agree that this will provide figure on which any transfer will be based. This should be instructed prior to the date of the asset transfer request, during pre-application discussions. The cost of that valuation will be shared equally between the council and the community transfer body.

Outline of the Application Process

When the council receives an asset transfer application, the first step is to check it contains all the required information and that the organisation making the request qualifies as a community transfer body. If the organisation making the request is not eligible to do so, technically it is not an asset transfer request and no further action is required. In such cases the Council will reply explaining in general terms why the organisation is not eligible.

If the request does not contain all the required information the Council will send the community transfer body a notice confirming what is missing. No further action will be taken until all the required information is received.

Following on from the pre-application stage described above and upon receipt of a valid application, the formal application process is as follows.

- The start of the timeline for processing an application is triggered by the receipt of a valid community asset transfer application. When a valid application is received, an acknowledgment letter will be issued confirming the application's validation date.
- In order to create a robust decision making process, the Council will bring together officers with key responsibilities within the authority, including property, legal, finance, economic development, and those with a focus on community development, community engagement, and community planning, to review and assess the application. This group is called the Community Asset Transfer Board (CATB) and will be chaired by the Head

of Finance and Property Services. Applications will be assessed by the CATB against a specified list of criteria which are outlined section 11 of this guidance.

- Once an application has been assessed, the CATB will submit a report to the council's Asset Transfer Committee (ATC). The ATC is the formal decision-making committee made up of elected members. The report will outline the proposal and either recommend that the application be accepted, and if so on what terms, or it will recommend rejection of the application and it will set out the reason(s) for refusal.
- The ATC will consider the report and make a formal decision on behalf of the council. A decision notice will be issued thereafter confirming the decision and its basis.
- If the ATC refuses an application, the community transfer body has the right to seek an internal review by way of a referral to the council's Asset Transfer Review Body (ATRB). The ATRB is a separate committee comprising an entirely different group of elected members from those who made the original decision.
- The ATRB will either uphold the ATC's original decision, or amend it. A decision by the ATRB represents the council's final position and the only recourse for applicants thereafter is a formal appeal directly to the Scottish Ministers.

How long will it take?

The council has an obligation to issue a decision notice within no more than 6 months of an application's validation date. The deadline for issuing a decision can be extended, as long as it is mutually agreed by both the council and the community transfer body.

The following shows how long the application process will take:

Timescales for pre-application stage

There is no set timescale for this stage of the process. The intention is that all interested parties work together to prepare the relevant information required to submit a valid application and in doing so give the proposed project the best chance of success. Time and effort invested in proposals at the pre-application stage will undoubtedly prove beneficial later in the asset transfer process.

Timescales for determination of an application

The timeline for completion of the application process is triggered by confirmation of the validation date. When a valid application is received, the following timescales will apply:

Stage	Timescale
Acknowledgement letter issued confirming validation date	Within 10 working days of receipt of the application.
Assessment of the application by CATB	Within 3 months of validation date.
Determination by ATC & decision notice issued	Within 6 months of validation date.
Determination of any reviews referred to the ATRB:	Within 6 months of a review request being received.

8. Actions required of the Council upon receipt of an application

When the Council receives a valid asset transfer request, there are certain actions it requires to undertake. These actions are summarised as follows.

Acknowledgement

Once the council is satisfied that all the required information has been provided, an acknowledgement will be sent to the community transfer body. The acknowledgement will include the following information:

- the validation date – this is the date on which the last of the required information was received. This is the date from which other time limits will be calculated.
- an explanation of the timescale for the council to issue the decision notice. The council must issue a decision notice within 6 months after the validation date, unless a longer period is agreed.
- information about the right to appeal to the Scottish Ministers or request a review, as appropriate.
- whether another asset transfer request has already been made in respect of the same land (or part of the same land).
- whether the council considers that it is prohibited from disposing of the asset to any other party.

Publication of documents

The council will make copies of each asset transfer request and any documents or information accompanying it will be available online, until the request process is completed. Any representations made about the request will also be put online. In order to comply with data protection requirements, any personal information will be redacted from these documents before they are published.

The council will maintain an archive of completed requests online. In particular, this will help community transfer bodies to know if previous requests have been made, and refused, for the same property.

Notification and representations

It is the responsibility of the council to formally give notice that a request has been received and to invite representations. The council will make third parties aware that an asset transfer request has been made, and of how they can make representations about it, as soon as practicable after the validation date.

This will involve direct notification of any tenant or occupier of the land the request relates to. This would include any group which has an agreement for regular use of the land or building, including the owner, if the council leases the land.

Notice of the asset transfer request will also be published online, and put up at the site. It is also required for it to be displayed at a public place in the vicinity of the land to which the asset transfer request relates.

Notices sent to tenants, occupiers and owners and those published online and near the land must:

- state that an asset transfer request has been made
- identify the community transfer body making the request and the land to which the request relates
- give a brief description of the nature of the rights requested and how the community transfer body propose to use the land
- say how the asset transfer request and associated documents can be inspected
- say how representations about the request may be made, and by what date. This must be at least 20 working days after the notice is given or published
- advise that all representations will be copied to the community transfer body for their comments, and published

If any representations are received in response to these notices, the council will send copies to the community transfer body and inform them how and by what date they can make comments about them. The date must be at least 20 working days from the date on which the copy is sent. Any personal information will be redacted from representations before they are copied to the community transfer body or published online.

Prohibition on disposal of land

Once an asset transfer request has been formally made, the council is not allowed to sell, lease or otherwise dispose of the land it relates to, to anyone other than the community transfer body that made the request, until the whole process is completed.

The process is completed when:

- a contract for the transfer is concluded;
- the request is refused and the community transfer body has followed all routes of appeal without success, or
- the community transfer body fails to take the next action in the process within the time required. For example, if it does not make an offer, or does not request a review or appeal if the request is refused.

The prohibition on disposal does not apply if, before the asset transfer request is made, the land has already been marketed for sale or lease, or the council has entered into negotiations or begun proceedings to transfer or lease the land to another person. Marketing can also occur to establish other interests in the property with which the asset transfer application can be evaluated against.

The council's position is that any written communication between the council and another party relating to the proposed sale, lease or transfer of the land will be considered to be demonstrable evidence that such negotiations / proceedings have begun. For clarity, such correspondence shall be between delegated officers and that other party only.

In these cases, an asset transfer request can still be made, but it will not prevent negotiations or proceedings continuing with, or bids being made by, any other person.

Where an asset transfer request is received under these circumstances, that request will be considered in the same manner as any other. It will be considered first by the CATB and a report submitted to the ATC. The ATC will then determine the application and a decision notice will be issued thereafter. The applicant may request an internal review of that decision and thereafter appeal it to the Scottish Ministers in accordance with the provisions of the Act.

9. What information should the application contain?

It is recommended that all applications are made using the council's Community Asset Transfer Application Form. That form must be completed in full and submitted along with the following mandatory supporting documentation:

- Constitution of the organisation
- Business Plan
- Audited accounts (if the organisation has been operating for less than one year a financial projection should be provided)
- Annual Reports (where available)

If information is missing or incomplete, the application may be rejected.

Since most of the required information should be contained in these documents, the council is looking for a concise summary to be provided in the application form. Applicants are encouraged to cross-reference each section in the application form to the relevant section in any supporting documents.

10. Key points for consideration in preparing an application

The provision of information in the following areas is key to ensuring that applications can be properly assessed. Applicants should carefully consider each aspect and provide sufficient information via their completed application form and its supporting documentation.

The Business Plan

If proposals are to be successful in delivering long term community benefit, both the viability (i.e. having the financial resources to become established and to continue operating) and the sustainability (i.e. being run by people with the right skills, knowledge and aspirations to succeed) of the project are fundamental. In order to demonstrate that a proposal is viable and sustainable, and has been thoroughly and competently developed, there is a requirement for a Business Plan.

Such a plan will demonstrate that a proposal has merit and is consistent with the council's own aspirations. Applicants will need to submit a Business Plan alongside any application for external funding support, and applicants may want to consider this when they are drafting a Business Plan in support of their application, to avoid duplication of effort.

The following outlines the structure of a Business Plan, which we expect applicants to follow:

1. Project Objectives:

- A statement of the objectives/outcomes the project is to accomplish;
- The plan for reaching them and the reason why they are attainable;
- Consistency with Council objectives/outcomes;
- Means of measuring performance against objectives/outcomes (tell us what the benefits are perceived to be, and how these will be measured).

2. Project Feasibility:

An assessment of whether and how the proposed project can be developed / delivered to meet its objectives given the demand for it, the context it will operate in, and the resources available. Feasibility will also outline the steps that need to be taken to progress the proposal from idea to reality. It should demonstrate:

- The level of demand;
- Prove that the proposed project will not duplicate activities, services or facilities already provided in the local community;
- The potential to generate income;
- Copies of recent accounts (if available);
- Appropriate financial forecasts;
- The availability of financial support for implementation (if required);
- An understanding of what is needed (skills, finances and other resources) to run and maintain the project when complete;
- The level of involvement of volunteers;
- An assessment of the extent of existing provision in the local market (where the applicant is engaged in a commercial venture);
- The approach to managing the design and construction process if the proposal includes capital works.

3. Constitution and Governance

- Outlining the legal structure of the body that will take forward the proposal (who makes the decisions and how these are made)
- Providing information on the capacity and skills of the organisation to manage and implement the proposal (including CV's where appropriate);
- We also need information on what would happen to an asset if the applicant's organisation ceases to exist.

4. Viability

- Demonstration of how the project will cover all its costs with income over a specified period. Usually three to five years, although this may need to be longer depending on the nature of the project (e.g. if loans are proposed for capital works) including a financial breakeven and sensitivity analysis);
- Setting out how assets will be managed to a high standard (covering insurance, statutory compliance, security, Health and Safety etc.).

5. Sustainability

- Demonstrating how the asset will be maintained and operated by the organisation for the foreseeable future, showing how the project can continue in the long term. In considering an application we will want to know that applicants have the ability and capacity to maintain and operate the asset for the foreseeable future, including succession planning.

It is expected that the initial assumption in any Business Plan will be that the asset will transfer at market value. It will be incumbent on the applicant to demonstrate, through the Business Plan, why there is a financial deficit that results in a requirement for transfer at less than market value.

How the applicant intends to use the asset

Applicants must clearly demonstrate that the transfer of the asset is to provide services or facilities that will meet the needs of the local communities or directly benefit local residents. The council will expect each proposal to explain the proposed use of the building and how the asset transfer would enable and enhance the activities within the community; i.e.:

- Demonstrate that the asset will support community and voluntary activities in the area.
- For assets that are still in use, we may want to know how existing users would be able to continue their use of a property;
- Outline the future opportunities for enhancing the use of the asset as a community facility that transfer would bring;

- Identify opportunities for using the assets to develop and provide new and innovative services, which may be linked to current council service provision.
- Applicants will need to give us details of how they intend to alter the property, and how they will pay for this.

Demand for the proposed use, and the support of the local community

We expect applicants to identify a clear community/social demand for the transfer, and to demonstrate how that demand has been identified through engagement and consultation in the local community. We will be looking for evidence of community support for the transfer. This has to be obtained through consulting any existing building users, other community groups and other stakeholders from within the community. Applicant's research should demonstrate that the proposal is the best approach to address the identified demand.

There may be differences of opinion within communities, and the council do not expect unanimous support for a proposal. However, one of the intended benefits of community ownership and community-led activity is to increase community cohesion and resilience. A scheme that attracts substantial opposition and causes division in the community may not have a net benefit.

If the request is from a body representing a community of interest, they must show how they have engaged with the geographic community in the area where the asset is located.

The applicant's organisation

To make an asset transfer request, an organisation needs to be a community transfer body, as defined in Section 77 of the Act. Beyond that basic legal requirement, we will have to be satisfied that the applicant has the necessary expertise and resources to deliver the project/activities outlined in the application. Applicants must:

- Demonstrate that they have the skills and capacity to manage the asset.
- Show that they have good governance and robust financial systems in place, and be able to demonstrate that all necessary policies expected of a community group, such as training plans, Health and Safety policies, compliance with relevant equalities legislation, etc., are in place.
- Show that they fully understand the risks associated with the project, and that they have the expertise and processes in place to manage them.

Alignment to Council's priorities and functions

The council will consider how any benefits relate to other matters the authority considers relevant, including, in particular, the functions and purposes of the authority. In many cases, the proposed benefits of an asset transfer request will contribute to achieving the council's outcomes or to national outcomes more generally. However, there may be cases in which agreeing to the request would have an unacceptable impact on the council's ability to deliver its functions (including a loss in revenue and/or capital income). This could be a direct impact, for example because the proposed activities would physically interfere with the council carrying out its operations. There may also be cases where the community transfer body's proposals conflict with a policy of the council.

Applicants must show how the proposal contributes to the strategic objectives and outcomes of the council and the Community Planning Partnership Single Outcome Agreement. Details of these can be found on the council's website or upon request from the Council's Asset Manager.

Obligations and restrictions

Another matter to be considered are any obligations that may prevent, restrict or otherwise affect the council's ability to agree to the request, whether these arise from legislation or otherwise. These will be explained to the community transfer body as early as possible, as they may influence their decision if the property is suitable for their needs.

If an obligation imposes an absolute ban on the transfer of the rights sought by the community transfer body, or on the use they propose for the asset that would be reasonable grounds for refusal.

If it would be inclined to agree to the request, and, if appropriate, considers it would meet the requirements for removing the restrictions, the council can then investigate the possibility of doing so.

Community Benefits & Transfer Value

Changes in legislation mean that councils are no longer required to obtain best consideration (full market rent or price) when disposing of assets where a community-led applicant has been able to make a robust case showing how the transfer is likely to benefit the local community. However, any transfer must contribute to the promotion or improvement of one, or more of the following:

- Economic development or regeneration
- Public health
- Social well-being
- Environmental well-being
- Reducing inequalities of outcomes for socio-economic disadvantage

The procedure for such transfers is set out in the 'Disposal of Land by Local Authorities (Scotland) Regulations 2010 (the Regulations). In order to allow transfers to take place at less than best consideration, the council has to be satisfied that the provisions of the Regulations can be appropriately met. In such cases the level of discount to be applied will be determined, principally, by the potential benefits to the community.

As noted above we expect the proposal to have the support of the local community. If an application seeks the transfer of the asset at less than the established market value, we will also need a demonstration of the projected community benefit. This will result in a financial figure that must equal the difference between the established market value and the suggested transfer value.

The exact model for evaluating community benefit will vary to ensure it is proportionate to the scale of the proposed transfer. Advice and support can be offered by council officers in the pre-application discussions on the form of evaluation and the level of detail that will be required in any community benefit evaluation, but the following criteria is designed to give an indication of the scale of reporting required.

- **Assets with a market value below £10k (or annual rental value of £1,000)** – Evaluations must include a narrative clearly demonstrating that community benefits will be delivered that fit under one or more of the following headings: economic development or regeneration, public health, social well-being, environmental well-being or reducing inequalities of outcomes for socio-economic disadvantage. It is not expected that a financial evaluation of these benefits will be included.

- **Assets with a market value between £10k and £200k (or annual rental value of £1,000 to £20,000)** – Evaluations must include a narrative to clearly demonstrate that community benefits will be delivered that fit under one or more of the following headings: economic development or regeneration, public health, social well-being, environmental well-being or reducing inequalities of outcomes for socio-economic disadvantage. A financial evaluation of these benefits must be included. The exact model used to conduct the evaluation will be determined by the community transfer body, and ideally will have been agreed by both parties at the pre-application stage. The evaluation may choose to involve elements of Social Return on Investment, Social Accounting and Audit, or Social IMPact measurement for Local Economies.
- **Assets with a market value over £200k (or annual rental value of over £20,000)** – Evaluations must include a detailed narrative to clearly demonstrate that community benefits will be delivered that fit under one or more of the following headings: economic development or regeneration, public health, social well-being, environmental well-being or reducing inequalities of outcomes for socio-economic disadvantage. A financial evaluation of these benefits must be included. The exact model used to conduct the evaluation will be determined by the community transfer body, and will have been agreed by both parties at the pre-application stage. The evaluation must include evaluation based on Social Return on Investment, Social Accounting and Audit, or Social IMPact measurement for Local Economies.

Terms of the asset transfer (Tenure)

The tenure under which an Asset transfer may include:

- the transfer of management responsibility for an asset through a service level or management agreement;
- a short or long term lease arrangement, or
- transfer of outright ownership.

The selected means of transfer will reflect the requirements of both the applicant and the Council, so each proposal will be different. In all cases involving transfer of ownership/occupation, appropriate legal mechanisms will be put in place to protect the Council's responsibilities as stewards of public assets. This may include restrictions on changing the use of the asset from the purpose for which transfer was originally intended.

From the date of any transfer, by whatever means that transfer takes place, the community transfer body will become immediately and entirely responsible for the payment of all costs associated with their occupation and use of the property. The council shall cease to have any financial or operational commitments relative to the property from the date of transfer. This will include generally, but will not be limited to, costs relating to the following:

- the upkeep, repair and maintenance of the asset;
- alterations or improvements to the asset;
- all running costs (including utilities, rates liabilities and insurances);
- statutory compliance and health and safety requirements.

If the request is for land which is leased to the Council by another relevant authority, in certain circumstances restrictions in the lease do not apply. The circumstances are that:

- the land is leased by one relevant authority, or a company wholly owned by a relevant authority, to another relevant authority
- the request is for lease or a right of occupancy of the land, and
- no other person is entitled to occupy the land.

In this case, any restrictions in the lease which restrict the ability of the Council to sub-let or share occupancy of the land, or restrict how the land may be used, do not prevent the Council agreeing to lease the land to the community transfer body or allow them to occupy the land. This does not affect any restrictions on the power of the Council to assign or transfer rights and liabilities under the lease, and the Council continues to be subject to any obligations under the lease.

Terms of the asset transfer (Funding)

Applicants will be compelled from the pre-application stage onwards to undertake investigations into how the asset transfer will be funded both in terms of capital and revenue requirements. Funding sources should be fully investigated and exhausted prior to any funding support being sought from the council. Any approaches for council funding will require to recognise the following :

- The council can only be considered as the funder of last resort and applicants will be required to demonstrate that they have exhausted all other avenues of potential funding support.
- The applicant must demonstrate the reasons behind the funding gap, and that costs have been thoroughly reviewed and cannot be reduced.
- The council's contribution to capital costs will only be up to a maximum of 5% of the total initial project capital costs.
- Any proposals for borrowing or annual revenue support must be demonstrated as affordable, i.e. contained within any annual savings that can be achieved that are in excess of those that have already been programmed. Annual revenue support should relate only to operational property costs.
- Projects will not be eligible for additional financial support from the council within a period of 10 years from the date of transfer.

State Aid Considerations

All asset transfers must comply with State Aid rules. A disposal at less than market value may constitute state aid, if it provides an economic advantage to a trading entity. There are tests that need to be considered in order to establish whether a measure constitutes state aid, this includes whether any intervention is likely to affect trade between Member States. Applicants should liaise with council officers to clarify and state aid implications of proposals.

The council will have to consider whether any reduction from market value is allowed under the state aid rules. However, if any assistance is found to have breached the rules, it is the organisation that received the assistance that has to pay it back, so it is important for both parties to be clear about the position in relation to State Aid.

Costs & Council Officer Support

The council will work in partnership with community transfer bodies to help them through the asset transfer process. This will include the provision of guidance and the support of the Key Liaison Officer (KLO). The KLO will have particular experience in the particular field of activity that will be delivered from the asset by the application (i.e. sports, community, health etc).

It is recognised that there will be costs associated with any asset transfer proposals and applicants will be expected to pay these. Costs may include:

- Valuation fees (cost of initial joint market valuation will be shared equally);
- Feasibility studies;
- Architects' fees;
- The applicants legal fees;
- Consultancy fees.

These are the costs that the community transfer body may incur when contracting independent, professional advisors to help them with the transfer. These must be considered when developing a plan for community asset transfer along with the ongoing costs of maintaining an asset.

There are a range of funding options available which can enable community groups to purchase assets from the council. These can involve grants, borrowing and fundraising and it is important that a group investigates these in full. Where commercial borrowing is considered, repayments will need to feature in the Business Plan. A lenders requirement for security may also influence the method by which an asset is transferred.

In each case the council can help applicants to identify the appropriate sources of financial help, or guide them towards those who may provide help.

Other issues

There are a range of other issues that need to be considered and community groups should take independent advice on these before proceeding with their application. These include:

- Skills and experience to manage statutory requirements of property ownership with public access
- Tax liability in respect of VAT and corporation tax
- Nature of any contractual relationship to be entered into with the council for the provision of goods and services
- Application of EU Procurement Rules which are likely to be inherited from the council by taking over an asset
- Issues involving EU State Aid as this applies to all forms of public grant assistance
- Voluntary / community organisation taking on staff 'assigned' to an existing organisation or contract (or part of).

11. Criteria for Assessing Requests

How the Council will assess an application

The council has put in place a consistent and transparent corporate process for assessing the benefits, costs and risks of the transfer of responsibility associated with asset transfer. That evaluation process considers how the proposed asset transfer request contributes to the established themes of Best Value set out in Tables 1a below. Each one of those themes will be explored with the evidence provided used to evaluate the strength of the case being made (see Table 1b), including the sustainability of the proposal in the longer-term.

During this process the council will engage with applicants to ensure a clear understanding of the exact nature of the proposals. An assessment of the benefits of the proposal will be prepared by the CATB, which will form the basis of the Asset Transfer report to the ATC.

The process will be led by the Council's Asset Manager. During this process the Council will engage with applicants, through dialogue and/or meetings, to ensure a clear understanding of the exact nature of the proposals.

An assessment of the benefits of the proposal will be prepared by the Asset Manager, and may include:

- Contribution to the criteria specified in The Regulations – i.e. economic development or regeneration; health; social well-being; or environmental well-being – where a transfer at less than Market Value is proposed.
- An options appraisal for the asset
- An assessment of the proposals compliance with the European Commission's State Aid rules, and the Accounts Commission's Code of Guidance on funding external bodies and following the public pound (as appropriate)
- A financial assessment of the benefits to the Council and its community partners arising from the proposal, where an asset transfer at less than best consideration (i.e. market value) is proposed.

This assessment, along with the review of the Business Plan, will inform both the legal means by which a transfer can take place (including the value at which the asset can be transferred), and the Community Asset Transfer Board's report to the Asset Transfer Committee.

The council will fully consider all asset transfer requests on their own merits in accordance with Scottish Government guidelines. As suggested in those guidelines, an application is likely to be recommended for refusal when the benefits of the asset transfer request are judged to be less than the benefits of an alternative proposal (including existing use or potential disposal in the case of surplus assets), or where agreeing to the request would restrict the council's ability to carry out its functions.

Asset transfer requests that would result in the council losing existing or projected revenue or capital income may result in a recommendation to the ATC for refusal on the grounds that any loss of income will restrict the council's ability to carry out its functions.

Table 1a: Framework for Evaluation of Community Asset Transfer Requests

Theme	Summary	Information Required
Vision and Leadership	An organisation will have in place a clear vision and plan for what it will do to contribute to the delivery of improved local and/or national outcomes. This may be linked to one or more local or national priorities.	A clear plan for achieving the intended outcomes, ideally showing links to local or national priorities. Members of the community transfer body would also show that they have the relevant skills and experience to deliver the intended objectives.
Effective Partnerships	An organisation will show how it, and its partnerships, provides a collaborative approach to the challenges that communities face.	The detail of any partnerships in place to help ensure successful delivery of the intended benefits. Community support is vital and can be shown through a variety of metrics such as surveys, consultations or ballots.

Governance and Accountability	An organisation will demonstrate structures, policies and leadership behaviours that support the application of good standards of governance and accountability.	An outline to illustrate that the appropriate structures and policies are in place to help ensure success in the longer-term.
Use of Resources	An organisation will show how its effective management of all resources (including staff, assets, and information) is contributing to the delivery of specific outcomes, highlighted in the national outcomes.	Explain how the body's current and future resources will be used as part of a medium to long term plan (5-10 years). This could include the numbers of employees or volunteers and the maintenance of any asset. This could also include the funding requirements of the group and the sources of funding already in place.
Performance Management	An organisation will ensure that robust arrangements are in place to monitor the achievement of its desired outcomes as well as any reporting arrangements.	Outline the way in which a community transfer body will be able to monitor the achievement of its objectives, whether that be recording volunteers time or the amount of benefit achieved as part of the overarching vision. To demonstrate openness and transparency it will be important to report performance to the community.
Sustainability	An organisation will demonstrate an effective use of resources in the short-term and an informed prioritisation of the use of resources in the longer-term in order to contribute to sustainable development. The goal of Sustainable Development is to enable all people throughout the world to satisfy their basic needs and enjoy a better quality of life without compromising the quality of life of future generations.	There are five broad principles of sustainability: <ul style="list-style-type: none"> • promoting good governance; • living within environmental limits; • achieving a sustainable economy; • ensuring a stronger healthier society; and using sound science responsibly. A community transfer body could demonstrate how its future funding or self-financing arrangements are to be achieved. Any proposal could also include any positive impact on the natural environment.
Equality	An organisation will demonstrate that consideration of equality issues is embedded in its vision and strategic direction and throughout all of its work.	The community transfer body should establish that the different groups within the community have had their different needs taken into account. Any request should include where a proposal may be reducing inequalities of outcome from socio-economic disadvantage.

Alignment with Council objectives	The organisation will demonstrate what its proposed outcomes are and how these align with the council's own stated priorities.	The community transfer body will identify each of the outcomes it aims to deliver from the proposed project and will demonstrate how these outcomes align with the council stated priorities (with reference to such documents as the Corporate Plan, Single Outcome Agreement, Local Outcome Improvement Plans, management plans and corporate strategies).
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Table 1b: Evaluation of the strength of the case being made

Evidence	Overview
Very strong	Governance and financial arrangements are strong and sustainable. Best Value characteristics are evidenced and contained throughout the overall approach. Related projected benefits are very robust and demonstrate value for money: suitability, effectiveness, prudence, quality, value and the avoidance of error and other waste.
Strong	Governance and financial arrangements are sound and sustainable. Best Value characteristics are in evidence in the proposal. Related projected benefits are demonstrated well and represent value for money.
Moderate	Governance and financial arrangements are in place and acceptable. Best Value characteristics have been considered as part of the proposal. Related projected benefits are acceptable and could lead to value for money.
Weak	Governance and financial arrangements are weak. Best Value characteristics are not well demonstrated in the proposal. Related projected benefits are not based on robust information and demonstrates questionable value for money.
Poor	Governance and financial arrangements are poor. There is little evidence of Best Value characteristics in the proposal. Related projected benefits are ill defined and/or unrealistic and do not demonstrate value for money.

Understanding Best Value

The council has a requirement to ensure resources are being put to good use by demonstrating 'Best Value'. Best Value is the requirement to make arrangements to secure continuous improvement in performance whilst maintaining an appropriate balance between effectiveness and economy. It also requires due regard to equal opportunities requirements, and to contribute to the achievement of sustainable development.

There are seven Best Value themes and public bodies across Scotland have a duty to secure Best Value for public money and can sell, or lease, at less than market value where there are wider public benefits to be gained from a transaction. The matters which the council must consider include the following types of benefit:

- Economic development
- Regeneration
- Public health
- Social wellbeing
- Environmental wellbeing
- Reducing inequalities of outcome from socio-economic disadvantage
- Any other benefits that might arise through the alternative use of the asset.

Asset transfer at less than market value is justified when these additional benefits empower communities and align with local and national priorities to enable the delivery of Best Value across the public sector as a whole. Such benefits are likely to align with one or more of the Scottish Government's National Outcomes, which all Scottish public authorities are required to have regard to in carrying out their functions. They may also contribute to the council's policy objectives or local priorities are determined through Community Planning, but the value of benefits should be judged on a broad basis, not only in relation to the particular authority to which the request is made.

When the price offered in an asset transfer request is less than the market value of the property, the council will need to consider whether the proposed benefits to be delivered by the community transfer body justify the proposed discount. This will be based solely on the analysis of the information included in the request. The benefits of the request should be proportionate to the value of the asset and the level of discount, with an appropriate level of information to support the application. Any decision to transfer an asset must represent good use of public resources.

The information provided in the asset transfer request should demonstrate that the project has clear objectives, including the projected outcomes and impacts sought by the community transfer body alongside any associated dependencies, constraints and risks identified.

Best Value themes should be explored with the evidence provided on those relevant to the application used to evaluate the strength of the case being made, including the sustainability of the proposal in the longer term. The request should include information on both qualitative and quantitative benefits that will be delivered as part of the proposal.

Assessment of outcomes

It is recognised that measuring the value derived from community activity is not straightforward, especially for qualitative outcomes which may only be apparent in the long term, or cannot be directly attributed to one particular intervention. A number of methodologies have been developed for measuring social impact, including Social Return on Investment, Social Audit and others.

In reviewing each request the following matters, though not exhaustive, will be considered:

1. Value to council in existing use
 - feasibility and cost of relocation of services elsewhere
 - potential revenue savings arising from transfer
2. Value for alternative use/redevelopment
3. Value for proposed and other community purposes
4. Level of community benefits
 - extent of community served
5. Nature of benefits to be delivered
 - links to council's corporate priorities and outcomes
 - community need/demand for the services
6. Likelihood that benefits will be delivered over a 5-year period

- strength of organisation
- sustainability of business plan/project
- sources and level of funding support

7. Impact of project failure

- to surrounding local environment
- to reputation of the parties
- to the service users/Council's objectives

The strength of the proposals will then be considered against the financial implications of any decision both for short-term budget planning and long-term asset strategies. This will include the consideration of the current use of the asset and any consequent implications that could arise from the transfer of the asset. A larger discount will require a stronger and more detailed case to be made with an appropriate level of benefits demonstrated effectively.

12. Multiple requests for the same property

While we expect community-led organisations to work together to achieve locally agreed objectives it is recognised that there may be occasions when two or more organisations are interested in the same asset. In these circumstances each will be expected to complete an application, and demonstrate engagement with, and the support of the local community for their proposal.

Each asset transfer request that is received must be processed in line with the procedures and timescales, even if further requests are received for the same land before the first has been concluded. There is no provision for the council to delay a decision on one request until it has considered another, unless the community transfer body making the first request has agreed to an extension of the timescale. Ideally, all community transfer bodies interested in a particular property would work together to submit a single request, but this is not always practical.

Each asset transfer request that is received prohibits the council from disposing of the land to anyone other than the community transfer body making that request, until it has been completed. Where there are multiple requests for the same land, this could result in overlapping prohibitions. The ultimate disposal of the land could not take place until all requests have been concluded, including any appeals.

The prohibition on disposal does not apply if the land has already been marketed or negotiations for transfer have begun before any asset transfer request is received. In this situation the council will keep the community transfer body informed of the progress of that process, so they can understand how this may affect their request.

13. Power to decline repeat requests

The Act allows the council to choose not to consider a request which is the same or very similar to a previous request which was refused. This applies if the new request relates to the same land or building, and seeks the same type of transfer, as a request made in the previous two years, which was refused. Declining to consider a request under these circumstances does not count as a refusal of the request and therefore is not eligible for appeal or review. Where a repeated request is declined, the council will write to the community transfer body to advise them of the situation and the reason for declining the request.

14. Decision Notice

Having made its decision, the council must issue a decision notice to the community transfer body setting out its decision and the reasons for it. This must be done within six months from the validation date, or a longer period if agreed between the council and the community transfer body. If no decision notice is issued within this time, the community transfer body has the right to request a review or appeal to the Scottish Ministers, as appropriate.

Longer periods may be required for complex requests or where another process is required to remove a restriction on the relevant authority. In such cases the council will advise the community transfer body of any potential delays at the earliest opportunity, and seek their agreement to an extension to the time period. An extension should always be agreed before the prescribed period expires.

The information to be provided in a decision notice must do the following:

- state the date on which the asset transfer request was made
- identify the community transfer body which made the request
- identify the land to which the request relates
- set out the council's decision to agree to or refuse the request
- set out the council's reasons for its decision
- contain notification of the right of appeal or review, how an appeal or application for review may be made, and the date by which it must be made.

And if the request is agreed:

- specify the terms and conditions on which the council is prepared to transfer ownership, lease the land or confer the rights requested
- state that, to proceed with the process, the community transfer body must submit an offer,
- specify the period within which the offer must be submitted (this must be at least 6 months from the date of the decision notice)

An asset transfer request must be agreed unless there are reasonable grounds for refusal: it is the decision notice that will set out those grounds, and if the community transfer body does not believe they are reasonable they may appeal or seek review of the decision. In particular, if a request is refused because an alternative proposal is preferred, the decision notice will describe the alternative proposal and how it was considered to provide greater benefits. The council's intention is for this process to be as transparent as possible and reasons will be given for any key information that is withheld, for example on grounds of commercial confidentiality.

If the request is agreed, the reasons may simply be that there were no reasonable grounds for refusal. However, if there were alternative proposals for the property, or objections to the transfer, the reasons might set out why the community transfer body's proposals were favoured.

The decision notice will be sent to the community transfer body at the contact address, and published online. The council will also inform anyone who made representations (and provided an address) of its decision and where the decision notice can be seen.

Notification of the right of appeal or review

As with the acknowledgement letter, the decision notice will advise the community transfer body of the type of appeal or review that is available to them. This notification will explain the circumstances, in which the appeal or application for review can be made, i.e. if the request has been refused, or if it has been agreed, in case the terms and conditions are significantly different from those in the request. Notification will also state who the appeal or application for review should be made to, with the address it should be sent to, and refer the community transfer body to the guidance on how to make the application. Any appeal must be made within 20 working days beginning with the date of the decision notice.

Terms and conditions for transfer

The terms and conditions (including price or rent) on which the council would be prepared to agree to the transfer may be the same as or different from, any terms and conditions set out in the request, or may add to those in the request. However, if they are significantly different the community transfer body may apply for a review or appeal against them.

The terms and conditions set out in the decision notice form the basis of the offer to be made by the community transfer body, and subsequent negotiations to conclude the contract for transfer. They will therefore be detailed enough for the community transfer body to decide whether or not they are willing to agree, and to write a meaningful offer.

The terms and conditions set out in the request will cover any issues that are key to the community transfer body's proposal; those set out in the decision notice will add anything the Council considers essential. They will also clearly include anything that may affect the community transfer body's ability to deliver their proposals or secure funding, such as any restrictions on use or conditions requiring repayment if benefits are not delivered.

The decision notice may be conditional on a range of factors, such as the community transfer body securing funding, planning permission or confirmation of charitable status.

15. After agreement

Community Transfer Body's Offer

The Act sets out the next steps after a relevant authority has issued a decision notice agreeing to an asset transfer request. The same process applies whether the request was agreed to initially or following a review or appeal.

In response to the decision notice, the community transfer body must submit an offer to take ownership of the land, lease it or take up the rights covered by the request. They must do this by the date stated in the decision notice, which has to be at least 6 months from the date of the decision notice. The offer must reflect the terms and conditions set out in the decision notice; if those terms and conditions are significantly different from those included in the request, and are not acceptable to the community transfer body, they can appeal or request a review. The offer can also include other reasonable terms and conditions that may be needed to make sure the transfer goes ahead within a reasonable time.

If no offer is made by the date set in the decision notice, (and the community transfer body did not appeal or request a review in relation to the terms and conditions within 20 working days of the decision notice), the process is at an end. The agreement to transfer the property to the community transfer body has no further effect, and the authority is free to keep it or dispose of it as it wishes.

The community transfer body can, of course, submit their offer at any point after the decision notice is issued. It may take much less than six months in straightforward cases.

Conclusion of contract

Once the council has received the community transfer body's offer, there can be further negotiations between both parties to conclude the contract. If the request is for ownership or a long-term lease this will be like any other property transaction, with exchanges between lawyers to agree the final wording, although for other rights the process may be much simpler.

The contract must normally be concluded within 6 months of the date of the community transfer body's offer. This does not mean the transfer has to take place within that time, but the date for the transfer, the price or rent and any other terms and conditions must be agreed. The contract may be conditional on other factors that are needed to allow the community proposals to go ahead, such as confirmation of funding or planning permission.

No contract concluded

If no contract is concluded within 6 months of the offer, and no other action is taken, the process is at an end. The community transfer body has no further claim on the property, and the council can keep it or dispose of it as they wish. Sometimes this is by mutual consent – circumstances may change, funding or other requirements may not be secured, and it may no longer be practicable to take the project forward. However, if the community transfer body believes there is still progress to be made, they can take action to keep the request alive.

There are three options available to the community transfer body to keep the asset transfer request going beyond 6 months after the offer date:

- agree an extension with the council,
- apply to the Scottish Ministers for a direction to extend the period, or
- appeal to the Scottish Ministers, under section 83(6), to determine the terms and conditions of the contract, which the relevant authority can be required to accept.

An application to the Scottish Ministers for an extension must be made between 6 weeks and 4 weeks before the end of the 6 month period. The community transfer body must first try to agree an extension with the Council, so this may be raised around 4 months into the negotiations. An extension can be agreed at any point, and need not be used if the contract is concluded sooner than expected. There is no limit on how long the extension may be, but there must be an end date.

If the end of the period is reached, either the original 6 months or an extended period, and no contract has been concluded, the community transfer body can appeal to the Scottish Ministers. This must be done within 10 working days of the end of the period.

Application to Scottish Ministers for an extension

The community transfer body can apply to the Scottish Ministers for a direction to extend the time allowed to conclude a contract in relation to an asset transfer request. The community transfer body must make its application between 30 working days (6 weeks) and 20 working days (4 weeks) before the end of the period of 6 months from the date of the community transfer body's offer.

At the same time as making the application to the Scottish Ministers, the community transfer body must send a copy of the application to the council. The council will have 10 working days to send any comments to the Scottish Ministers and the community transfer body.

Having considered the application and any comments made by the council, the Scottish Ministers will decide whether or not to make the direction as requested. The direction will be copied to both the council and the community transfer body, and will state the period within which the contract must be concluded.

16. Reviews and Appeals

A community transfer body can seek a review or appeal if:

- their request is refused,
- the request is agreed, but the terms and conditions in the decision notice are significantly different from those in the request,
- no decision notice is issued within the required period or
- once an asset transfer request has been agreed, no contract has been concluded within the period allowed.

The community transfer body can apply for an internal review by the council's Asset Transfer Review Body (ATRB). That application for review must be made in writing to the council within 20 working days of the date of the council's decision notice and the ATRB must undertake its review and issue a further decision notice within 6 months of the date of review application.

If the outcome of the internal review does not resolve the issue, or if no decision is made within the required period, the community transfer body can then appeal directly to the Scottish Ministers. The community transfer body must send a notice of appeal in writing to the Scottish Ministers within 20 working days of the date of the council's decision notice. There is no defined timescale for the determination of appeals by the Scottish Ministers.

In all cases the final decision lies with the Scottish Ministers. There is no further route of appeal beyond them (except by judicial review).

17. Annual Reporting

The Act requires the Council to publish an annual report setting out the numbers of asset transfer request received and their outcomes. The report must state:

- how many asset transfer requests were received
- how many requests were agreed to or refused
- for requests agreed to, whether they resulted in transfer of ownership, lease or conferral of other rights
- for appeals relating to requests made to the relevant authority, how many have been allowed, dismissed, or have resulted in any part of the authority's decision being reversed or changed
- where decisions made by the authority have been reviewed, how many have been confirmed, modified or substituted by a different decision.

The report must also describe anything the relevant authority has done to promote the use of asset transfer requests and support community transfer bodies to make requests.

Annual reports cover each year from 1 April to 31 March and must be published by 30 June. The report will show the number of requests received in that year and the numbers agreed to or refused in that year.

18. Useful Contacts

West Lothian Council

- **Corporate Estates Manager**, Paul Kettrick, paul.kettrick@westlothian.gov.uk Direct Dial: (01506) 281836
- **Active Schools & Community Sports Manager**, Paul Stark, paul.stark@westlothian.gov.uk Direct Dial: (01506) 281755
- **Customer & Community Service Manager**, Ralph Bell, ralph.bell@westlothian.gov.uk Direct Dial: (01506) 282774
- **NETs Land & Countryside Services Manager**, Andy Johnston andy.johnston@westlothian.gov.uk Direct Dial: (01506) 776675
- **Regeneration & Employability Team Leader**, Laura Wilson, laura.wilson@westlothian.gov.uk Direct Dial: (01506) 281085
- **Community Business Growth Advisor**. Martin Thomson, martin.thomson@westlothian.gov.uk Direct Dial: (01506) 283089

The Community Ownership Support Service (COSS)

COSS is a Scottish Government funded service that helps community-based groups in Scotland take on land or building assets for the benefit of their community. COSS also support local authorities and other landowners wishing to transfer a building or land asset into community ownership. COSS's service includes independent expert advice, information on good practice, and training.

For further information contact coos@dtascot.org.uk, Tel. (0131) 225 2080, or visit their website at <http://www.dtascommunityownership.org.uk>

Voluntary Sector Gateway West Lothian (VSGWL)

VSGWL aims to build capacity in the voluntary sector; to support the development of both individuals and social enterprise. They can provide advice on issues such as: funding, governance, training, legal structure, start-up, staff and volunteer recruitment, monitoring and evaluation, and networking.

VSGWL is located at 36–40 North Bridge Street, Bathgate and is open Monday to Friday, 9am to 5pm. Alternatively VSGWL can be reached by email: vsg@vsgwl.org; or Tel. (01506) 650111.