



# **Community Asset Transfer Policy**

**December 2017**

## **Contents**

<b>1</b>	<b>Introduction</b>	<b>3</b>
<b>2</b>	<b>Policy Statement on Community Asset Transfer</b>	<b>3</b>
<b>3</b>	<b>National Context of the Policy</b>	<b>3</b>
<b>4</b>	<b>Local Policy Context and Links to Other Initiatives</b>	<b>3</b>
<b>5</b>	<b>Aims of Community Asset Transfer</b>	<b>4</b>
<b>6</b>	<b>Scope of Policy</b>	<b>4</b>
<b>7</b>	<b>Principles of Asset Transfer to the Community</b>	<b>5</b>
<b>8</b>	<b>Assessment Process</b>	<b>5</b>
<b>9</b>	<b>Community Asset Transfer Process</b>	<b>5</b>
	• <b>Stage 1 – Full Asset Transfer Request</b>	<b>5</b>
	• <b>Stage 2 – Cabinet Decision</b>	<b>6</b>
	• <b>Implementation &amp; Handover</b>	<b>6</b>
	• <b>Review and Appeal Process</b>	<b>6</b>

# **1 Introduction**

1.1 This aim of this policy is to set out a transparent, positive and proactive framework that enables and manages the transfer of assets from the council to voluntary or community organisations in order to bring about long term social, economic and environmental benefits to the community.

1.2 The occupation and management of council assets by the voluntary sector is well established within North Ayrshire with a number of community assets currently run independently from the council.

## **2 Policy Statement on Community Asset Transfer**

2.1 North Ayrshire Council is committed to community asset transfer where that will bring benefits to communities and contribute towards achieving the Local Outcomes Improvement Plan.

2.2 The Council recognises that community asset transfer can be a valuable part of supporting and sustaining local communities in North Ayrshire and it wishes to ensure council assets can be owned and managed by local people, where appropriate.

2.3 This revised policy statement is designed to ensure North Ayrshire Council has in place a transparent process for the receipt, assessment, approval or rejection of Community Asset Transfer requests. Although the presumption will be in favour of a transfer in line with Government guidance, North Ayrshire Council require to satisfy themselves as to the sustainability and capacity of the applicant to deliver the outcomes within the transfer application. This policy includes an appeals process should a request be refused or unduly delayed.

2.4 Whilst fully supporting the principle of asset transfer, this policy also recognises that some assets must remain under Council ownership and management, in order to support delivery of essential services or support economic activity in an area.

2.5 Assessment will be given to the retention of assets which provide an income for the council, have restrictive covenants on them making them unsuitable for transfer or should be retained by the Council e.g. some property or land may be tied to the Councils Policy for raising capital receipts for investment in the capital programme, for the benefit of North Ayrshire residents more widely.

2.6 Any transfers involving Housing Revenue Account property assets will be subject to the approval of Scottish Ministers in terms of the Housing (Scotland) Act 1987.

2.7 Any property held within the Common Good asset register is subject to public consultation and may require to be brought before a Sheriff for legal determination.

## **3 National Context of the Policy**

3.1 The Community Empowerment (Scotland) Act 2015 and the subsequent Guidance for Relevant Authorities, issued on the 23<sup>rd</sup> January 2017, sets the context for the Councils Policy on Community Asset Transfer.

## **4 Local Policy Context and Links to Other Initiatives**

4.1 The policy is aligned with the outcomes of the wider Council/CPP strategies and initiatives:-

4.2 For the purposes of this policy an asset shall be considered to be land or buildings in the ownership of, or leased by, North Ayrshire Council. The policy applies to assets including town halls, village halls, community centres, bowling greens, public conveniences, country parks, etc.

4.3 Not all Council assets will be considered suitable for transfer. In particular, assets on the Council's commercial and industrial portfolio have a key role in generating rental income for the Council and supporting the economic development of the area.

4.4 Community Transfer Bodies and Community Organisations should note that where the Council has already started to market the asset for sale or lease; entered into negotiations to transfer or lease the land; or proceeds further with a proposed transfer initiated before an asset transfer request was made, the Council will continue this process and the asset may be disposed of prior to the conclusion of the CAT process.

4.5 Full transfer of ownership will only be agreed with community transfer bodies which the Council considers to have the capacity to succeed in the long term. Each request will have to demonstrate an ability to promote, deliver or improve economic development; regeneration; public health; social or environmental wellbeing.

## **5 Aims of Community Asset Transfer**

5.1 The Council's Asset Portfolio includes buildings, land, playing fields and other facilities and structures which are used for a variety of different social, community and public purposes. They are used to support service delivery by partners such as the voluntary sector, and stimulate economic activity and regeneration. The transfer of assets to, or management by, the Community aims to enable community empowerment, allow access to new sources of finance and extend the use of existing facilities.

### **5.2 Benefits to the Local Community**

- Community empowerment
- Regeneration of communities
- Extend the use of an asset, adding value in relation to the number of people benefitting and the range of opportunities it offers
- Stimulate the involvement of local people in shaping and regenerating their communities,
- Retention of asset in the community otherwise at risk of closure
- Provide new opportunities for local learning and community capacity building and participation
- Promote a sense of civic pride and responsibility.

### **5.3 Benefits to Voluntary or Community Groups**

- Generate long term sustainable revenue streams for groups making them more sustainable.
- Provide local people with a meaningful stake in the future development of the place in which they live and/or work.
- Be used as leverage to draw in new funding and expand the level of community activity.
- Provide opportunities for the creation of new partnerships with access to resources not available to the Council.

### **5.4 Benefits to the Council**

- Providing a more accessible and responsive base from which services can be delivered.
- Restoring iconic buildings
- Delivering social, economic and environmental benefits
- Providing a catalyst for inward investment and local multipliers through local purchasing and employment
- Helping to progress Community Planning priorities
- Providing opportunities for long term working between sectors
- Creating the opportunity for investment in the asset that may not be possible within Council ownership
- Bringing back into full use properties deemed surplus to requirement or underperforming.

## **6 Scope of Policy**

6.1 This policy applies to assets that are owned by or under stewardship of the council and are designed for community use.

6.2 The Council will welcome an expression of interest from applicants in the transfer of any Council owned asset which has been identified as suitable for transfer. Assets that are key for the delivery of essential services will not be considered suitable for transfer. In addition assets that are supporting economic activity within an area or have restrictive covenants on them may also not be suitable for transfer. For suitable assets potential transfers will be considered on a case-by-case basis against the criteria outlined in this policy.

6.3 Assets will not be transferred to individuals or private sector businesses to be used as vehicles for commercial ventures. In addition assets will not be transferred to individuals or groups for party political or religious use.

6.4 There is no comprehensive definition of the types of community or voluntary group covered by this policy. Applicants may take many forms and can also adopt different types of legal structures. The key thing is not the precise model but that they are recognised in their communities as important, open organisations.

6.5 For the purpose of this policy community, voluntary and social enterprise groups will have the following characteristics:-

- Be formally-constituted
- Have sound management and governance arrangements
- Have their own decision-making system and accountability to independent trustees or their own members or constituents
- Do not distribute any surplus to owners or members but applies it to serving its basic purpose
- Are non-political and are not engaged in supporting candidates for political office
- Have an element of involvement of volunteers.

6.6 The Council will consider transfer of assets to established, stable and secure formal organisations and will also consider transfers to newly formed community groups provided they can demonstrate they have the necessary expertise and experience to manage the asset and have a sound business proposal in place.

## **7 Principles of Asset Transfer to the Community**

7.1 The Council's policy on Community asset transfer is underpinned by the following principles:-

### **7.2 Proactive Strategy**

The Council will seek to implement the policy proactively through support in order to encourage appropriate groups to adopt an asset.

### **7.3 Respond Strategically**

The Council will respond to requests for asset transfer by exploring the strategic implications of a transfer.

### **7.4 Transparent and Consistent**

The Council will have a transparent corporate process for asset transfer which includes a clear point of first contact and clear stages and timescales for each party. We will be proportionate and measured in our assessment against a fixed set of criteria.

## **8 Assessment Process**

8.1 Any applicant seeking to take on a Council asset must be able to:-

- Provide a well-prepared and sustainable business proposal
- Demonstrate a clear community/social demand for the proposed activity to be delivered from the asset
- Demonstrate that they have the capacity to manage the asset and have directors or management committee members who have the necessary skills and experience
- Show they have good governance and robust financial systems in place along with all necessary policies expected of an organisation such as training plans, health and safety policies, comply with relevant equalities legislation, etc.
- Show how their proposal contributes to the achievement of the Council's outcomes
- Prove that the proposed project will not duplicate activities, services or facilities already provided in the local community.

## **9 Community Asset Transfer Process**

9.1 The process of making a formal application for transfer is set out in the following two stages with timescales:

### **Stage 1**

#### **Full Asset Transfer Request**

9.2 Interested parties can submit their full request by completing the North Ayrshire Council Request Form (RF-S1) Sections 1 to 5 available on the Council website or alternatively as described in the Scottish Government guide. Forms should be sent to [communityassetteam@north-ayrshire.gov.uk](mailto:communityassetteam@north-ayrshire.gov.uk) and will be reviewed by the Community Asset Transfer team; a group of representatives from services across the council who will consider the suitability of assets and applicants.

9.3 Assistance with preparation for submitting a full request may be available (especially if all the required information is not initially provided).

9.4 Applicants will be allocated a Single Point of Contact (SPOC) who will act as key contact throughout the process.

## **Stage 2**

### **Cabinet Decision**

9.5 The report to Cabinet will recommend the preferred application in the event that there is more than one application a decision notice on the outcome of the application will be conveyed in writing to the applicant and will

- include the reasons for the decision;
- contain notification of the right of appeal or review;
- be publicised on the Council website.

9.6 If the request is agreed, the decision notice will specify the terms and conditions for transfer.

## **Implementation & Handover**

### **(Submission of Offer to Proceed by Community Transfer Body)**

9.7 If the community transfer body wishes to proceed, it must submit an offer to North Ayrshire Council. This offer must reflect the terms and conditions in the decision notice. You 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.

9.8 For successful applications the SPOC will continue to support the transfer of the asset. Representatives from Property, Management and Investment (PM & I), Economic Development and Finance will work with the applicant and SPOC to negotiate the precise terms of transfer.

9.9 A contract will be drawn up between the applicant and the Council setting out the support being provided by the Council to enable the group to meet its responsibilities. Such support may include financial, business or governance advice, or advice on the management of the asset to ensure its sustainability.

9.10 If the property is to be transferred by way of lease, a contract will set out the terms and conditions for using the asset and will define the responsibilities of the community group and the Council with regard to the management of the asset (Terms and Conditions).

9.11 Conditions of sale if transferring ownership will set out what the organisation can do with the asset and what restrictions may apply if the group wishes to sell on the asset.

9.12 Both the applicant and the Council will each be responsible for their own legal and negotiating fees and expenses. In accordance with the Local Authorities (Scotland) Regulations 2010 it may be possible where wider public benefits are to be gained to transfer an asset at less than market value. In such cases the Council's reasonable legal and negotiating fees and expenses may be recoverable from the community body.

9.13 At any stage in the process, an organisation can cancel a transfer if their circumstances change and they no longer wish to pursue the asset.

9.14 At any stage in the process, the Council can cancel the transfer where suitable justification exists.

## **Review and Appeal Process**

9.15 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
- no decision notice is issued within the required period

9.16 For full details of the Process of Asset transfer please refer to the Community Asset Transfer Guidance Pack.