



North Ayrshire Council  
Comhairle Siorrachd Àir a Tuath

# Community Asset Transfer Guidance Pack

November 2020

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## Foreword

Community ownership or control of assets can empower individuals and communities, helping them respond to local challenges by taking greater control of the land and buildings where they live. People can feel a sense of ownership and pride when they control their own assets and often the experience of doing so is inclusive, inspirational and rewarding.

Whilst it is not necessary to submit your Community Asset Transfer request using North Ayrshire Council's pro-forma, it is highly recommended you do so, to ensure that you provide all of the required information, meet the government conditions of governance and make the process as quick and simple as possible.

North Ayrshire Council work closely with Colleagues of the Development Trust Association Scotland - Community Ownership Support Service, who are an independent organisation providing help and support, to anyone exploring a Community Asset Transfer. Details of how to contact them are contained within an appendix at the end of the guidance pack.

# Introduction

North Ayrshire Council's Community Asset Transfer Policy recognises that transferring the ownership or stewardship of an asset to communities can play a valuable role in supporting and sustaining local communities in North Ayrshire.

This guide is for all community, voluntary and social enterprise groups / community controlled body, interested in acquiring assets owned by North Ayrshire Council (herein referred to as 'the Council') in order to develop and deliver services and/or generate benefits for their local communities.

This guide explains the scope of the Council's policy on community asset transfer, provides guidance to interested groups on how to apply, and explains how the Council will process applications.

This information and application forms, is also available on the Council's website, at <https://www.north-ayrshire.gov.uk/your-community/community-asset-transfer.aspx> (footnote 1.)

For further information on the Community Empowerment (Scotland) Act 2015 part 5 see <http://www.legislation.gov.uk/asp/2015/6/part/5> (footnote 2.) please also refer to the 'Asset Transfer under the Community Empowerment (Scotland) Act 2015 - Guidance for Community Transfer Bodies' document available on the Scottish Government's website, at <http://www.gov.scot/Resource/0051/00513211.pdf> (footnote 3.)

## What is Community Asset Transfer?

Community asset transfer involves the transfer of responsibility for an asset from the Council to any suitable community, voluntary or social enterprise group / community controlled body. This transfer can be facilitated in different ways, e.g. by the transfer of management responsibility through short or long term lease arrangements or through the transfer of outright ownership.

## Reasons for Community Asset Transfer

Community asset transfer provides an opportunity for people to be involved in developing and providing opportunities or services for their local communities. It may also allow groups to develop commercial proposals which will support community benefit. Asset transfer also may mean that public assets get used more frequently and more effectively. Community-led ownership may also allow additional opportunities for groups to secure extra funding or resources.

Where the Council transfers assets to community-based groups it will continue to promote and improve the contribution to North Ayrshire and will evaluate each proposal in terms of its ability to contribute to the following:

Community empowerment  
Local community benefits

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1. <https://www.north-ayrshire.gov.uk/your-community/community-asset-transfer.aspx>  
2. <http://www.legislation.gov.uk/asp/2015/6/part/5>  
3. <http://www.gov.scot/Resource/0051/00513211.pdf>

Building the capacity of, and encouraging a sustainable voluntary and community sector  
Economic development and economic well-being  
Social enterprise  
Social well-being  
Public health  
Environmental improvements, regeneration and environmental well-being  
Improvements to public services  
Value for money

## Suitability

For further information please refer to the 'Asset Transfer under the Community Empowerment (Scotland) Act 2015 - Guidance for Community Transfer Bodies' document, chapter 7.' (see footnote 3.)

### Assets Considered Suitable For Transfer

Any land or building (with exceptions) the public feel they could make better use of. Assets may include public halls, town halls, community centres, bowling greens, public conveniences, parks, play areas and small museums. Each application for transfer will be considered on a case-by-case basis against the criteria outlined within the Community Empowerment (Scotland) Act. (see footnote 2.)

### Assets Considered Unsuitable For Transfer

There are some assets that must remain under the Council ownership in order to support the delivery of essential services or to support economic activity in an area. There are also some assets that may be considered unsuitable for transfer because of restrictive covenants e.g. assets gifted to the Council for educational purposes, etc. The Council must also balance the needs of the community and its commitment to community asset transfer against its need to generate capital receipts in order to invest in essential capital projects. Assets which have the potential to generate significant capital receipts for the Council may not be considered suitable for transfer. A community transfer body has the right of appeal against a decision of the Council not to release land or property for Asset Transfer. A link to NAC website which contains information on NAC register of land and property will be created to assist community transfer bodies.

## Applicants

Applications will be welcomed from community, voluntary and social enterprise groups / community controlled body – see chapter 5 of the Scottish Government Guidance for Community Transfer Bodies. (see footnote 3.)

To make an asset transfer request, your organisation needs to be a “community transfer body”. This is defined in section 77 of the Community Empowerment Act. (see footnote 2.) It can be either a community controlled body (defined in section 19) or a body designated by the Scottish Ministers.

A community controlled body does not have to be incorporated, but it does have to have a written constitution.

A community controlled body which wants to make an asset transfer request for ownership must also be incorporated as a company, a SCIO (Scottish Charitable Incorporated Organisation) or a BenCom (Community Benefit Company), with a minimum of 20 members and provision for transfer of its assets on winding up. This is set out in section 80 of the Community Empowerment Act. (see footnote 2.)

Appropriate groups may be area-based, based around particular social groups or have some other shared interest. Applicants should meet the following essential criteria:

- Be an appropriately constituted voluntary and community sector organisation or social enterprise;
- Be able to demonstrate good governance;
- Be able to demonstrate sustainability/viability;
- Ensure the proposed use can demonstrate community benefit. This includes organisations which serve a particular interest group or geographical area;
- Have the skills and capacity to effectively deliver services and manage the asset to be transferred; and
- Be aware of any need to build capacity within their organisation and demonstrate how they intend to do this.

Community controlled/transfer bodies will be expected to demonstrate how they will contribute to the North Ayrshire Local Outcomes Improvement Plan 2017 – 2022 which is an agreement between the Scottish Government and the Council, and sets out how Community Planning Partners will work in the future towards improving national outcomes for the local people in a way that reflects local circumstances and priorities.

## North Ayrshire Local Outcomes Improvement Plan priorities are:

A Working North Ayrshire

**To have created the most improved economy in Scotland by 2026.**

A Healthier North Ayrshire

**All people who live in North Ayrshire are able to have a safe, healthy and active life.**

A Safer North Ayrshire

**North Ayrshire is a safer place to live, residents feel safer and communities are empowered.**

A Thriving North Ayrshire

**We want you to have the best start in life and for North Ayrshire to be the best place in Scotland to grow up.**

Council cross cutting themes are:

Building stronger communities – by this we mean enabling communities to increase control over their lives, being supported to do things for themselves and having their voices heard in the planning and delivery of services.
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Prevention – by this we mean tackling issues early to stop things from happening in the first place or from getting worse.
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## How to apply for an asset

The Council is committed to processing any request for asset transfer in an open and transparent way in partnership with the organisation concerned.

Please feel free to contact us by email at [communityassetteam@north-ayrshire.gov.uk](mailto:communityassetteam@north-ayrshire.gov.uk). Community bodies would then know whether they had support from the Council before undertaking the substantial work to produce a full asset transfer request or applying for funding.

Community bodies will have the right to submit an asset transfer request without going through any 'pre- application' stage, or if their outline proposals have not been supported.

A list of what information is required and guidance on what you should consider is explained in chapter 8 of the Scottish Government guidance document. (see footnote 3.)

Alternatively the questions that the Council require answers to are contained in the Community Asset Transfer – Initial Enquiry Form (IE-1), available on the Council website (see footnote 1.)

If necessary, the Council will share all available information on the asset, including details of its condition, running and maintenance costs, and title deed restrictions, to help community bodies to decide whether to submit a full asset transfer request. If a Transfer Body requires a significant level of information and support, a reasonable charge may be applied by the Council for the provision of that information.

The process of making a full request for asset transfer is set out in the following two stages.

## Stage 1: Full Asset Transfer Request

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 (see footnote 1.) or alternatively as described in the Scottish Government guide. (see footnote 3.) 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.

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

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1. <https://www.north-ayrshire.gov.uk/your-community/community-asset-transfer.aspx>  
2. <http://www.legislation.gov.uk/asp/2015/6/part/5>  
3. <http://www.gov.scot/Resource/0051/00513211.pdf>

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

Your Asset Transfer request should:

provide responses in the application relative to the asset under consideration;  
demonstrate a clear community/social demand for the transfer;  
demonstrate that the group has the capacity to manage the asset and has members who have the necessary and appropriate skills, experience and qualifications to deliver the project, or has plans for engaging people who do;  
show the group has good governance and robust financial systems;  
show how the group's aims for a project will contribute to the achievement of the Council's priorities;  
prove that the proposed project will not duplicate activities, services or facilities already provided in the local community.

## Acknowledgement

Once the Council is satisfied that all the required information has been provided, it will send you an acknowledgement in writing. This will include the following information:

the validation date for your request – this is the date on which the last of the required information was received by the Council (the date the request was received if it was complete). This is the date from which other time limits will be calculated;  
an explanation of the timescale, i.e. the time period for the Council to notify you of its decision – this is 6 months from the validation date;  
information about the appeals process and the right to request a review by the Council or appeal to the Scottish Ministers, as appropriate.

At this stage the Council will publish the notice of request and notify other parties (i.e. owner / tenants / occupiers) therefore you are agreeing to the name of your organisation being published on the Community Asset Transfer page on the Council website. Personal information will be redacted prior to publication.

In some instances there may be more than one request received with interest in the same asset. Each asset transfer request that is received will be processed in line with the procedures and timescales set out. In this situation we may support all community transfer bodies interested in a particular property to work together to submit a single request, however this is not always practical. Should this occur, the criteria found in document AC-1 Assessment Criteria, available on the Council website (see footnote 1.), will be used to inform the decision in relation to the more suitable request.

## Decision Making Process

The request will then be evaluated by the Community Asset Transfer team, using a scoring/evaluation system (see Sections 6 – 10 on the Council Request Form RF-S1).

During this process representations may be received about this request from other parties (within 20 working days of publication), these will be copied to the organisation making the transfer request.

Community transfer bodies will have 20 working days to make comments on any representations received.

Further information may be sought by the Council throughout this process if required, to support the decision-making process. The process of evaluation used in 6.6 will also apply where there are numerous interested parties and a final recommendation will be made to North Ayrshire Council Cabinet on whether to proceed with the asset transfer.

Subject to any pre-standing requirements or preclusions, such as Common Good, please be advised this may impact on the decision-making progress and timescales.

## Stage 2: Cabinet Decision

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.

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).

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.

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.

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.

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).

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.

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.

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.

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

At this point the asset transfer will be complete and the applicant will begin using the asset to deliver the benefits described in the business proposal.

The Council may continue to monitor the progress of the project in a manner appropriate to the proposal where detailed in the Terms and Conditions. Tenants may be obliged to submit annual accounts and details of community use on an annual/periodic basis and we would seek to agree a minute of agreement between both parties.

If you are subject to monitoring, the Council will write confirming the name of the Officer undertaking the visit with the date and time of visit.

## Review and Appeal Process

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

### Review

The community transfer body can apply for an internal review by NAC, as set out in section 86 of the Community Empowerment Act. (see footnote 2.)

An application for review must be made in writing addressed to North Ayrshire Council within 20 working days of receipt of the decision notice and sent by post to Community Asset Team, Community Development, North Ayrshire Council, 2nd Floor West Cunninghame House, Irvine, KA12 8EE or by email to [communityassetteam@north-ayrshire.gov.uk](mailto:communityassetteam@north-ayrshire.gov.uk)

The application for review must include the name and contact address of the community transfer body, and specify the asset to which the transfer request relates. It must also include a statement setting out the reasons for requiring a review.

The community transfer body must cover all matters which the community transfer body intends to raise in the review and may provide/submit new information only with the Council's approval.

An acknowledgement of the application for review will be sent to the community transfer body within 10 working days of receiving it.

## Decision of Review

The review will be carried out in accordance with the Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016. The review process may include requesting further information, holding a hearing or deciding the case on the basis of the information provided within the asset transfer application.

Following the review the original decision may be confirmed, modified in whole or in part or a different decision substituted.

A new decision notice will be issued and will replace the previous decision notice. The new decision notice will be given within 6 months of the date the application for review was made.

## Appeal to Scottish Ministers

A community transfer body can appeal to the Scottish Ministers as set out in the Scottish Government 'Guidance for Community Transfer Bodies'. (see footnote 3.)

For further information on Review or Appeal process please refer to chapters 17 – 19 of the Scottish Government 'Guidance for Community Transfer Bodies' document. (see footnote 3)

# Glossary of Terms - Community Empowerment (Scot) Act

## Glossary of Terms:

Relevant Authority in the context of this policy is North Ayrshire Council.

A Community (controlled) Body is an organisation or group which meets the criteria. To qualify as a community controlled body, your constitution, Articles of Association or registered rules must include the following things:

A definition of the community to which the body relates.

Your group may represent the community in a particular area or people who have a common interest or characteristic (see below for more on "communities of interest"). You should make sure you define the community clearly so you can know whether a person is a member of your community or not - this is important for the membership requirements.

Provision that membership of the body is open to any member of that community.

Membership of your body must be open to anyone who is a member of the community you have defined. There must not be any additional requirements.

Asset: For the purpose of this policy an asset shall be considered to be any land or buildings which are owned or leased by North Ayrshire Council.

Community Asset Transfer involves the transfer of the responsibility for an asset from the Council to a Community Body through either a transfer of management responsibility, short or long term lease, or through the transfer of ownership. It should be noted that only Community Bodies which meet the criteria can request a transfer of ownership of land.

For a successful application a Community Body must have a written constitution which:

Defines the community to which the Body relates

Provides that a majority of the members of the Body must be members of that community

Provides that the members of the Body who are members of the community control the Body

Provides that membership of the Body is open to any member of the community

Sets out the Body's aims and purposes, which must include promoting community benefit

Provides that any surplus funds or assets are used for community benefit

A Community Body requesting a transfer of ownership of an asset:

Must be a company whose articles of association provide that it should have no fewer than 20 members and that, on winding up, its assets are to transfer to another Community Body or a charity, or

Must be a Scottish Charitable Incorporated Organisation (SCIO) whose constitution provides that it must have no fewer than 20 members, or

Must be a community benefit society whose registered rules provide that it must have no fewer than 20 members, or

If it is a body designated by order of the Scottish Ministers, the order must specify that the body may request a transfer of ownership of land.

Validation Date this is the date on which the last of the required information was received by the Council and accepted as complete. This is the date from which other time limits will be calculated.

Decision Notice – Having made its decision, the relevant authority must issue a decision

notice to the community transfer body, under section 82(7) of the Act, 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 relevant authority and the community transfer body.

# Sources of Support – including Key Documents

## Scottish Government

Community Empowerment (Scotland) Act 2015 -  
[www.legislation.gov.uk/asp/2015/6/part/5](http://www.legislation.gov.uk/asp/2015/6/part/5) Guidance for Community Transfer  
 Bodies - [www.gov.scot/Resource/0051/00513211.pdf](http://www.gov.scot/Resource/0051/00513211.pdf)

## National

Development Trusts Association Scotland - [www.dtascot.org.uk/](http://www.dtascot.org.uk/)  
 Community Ownership Support Service - [www.dtascommunityownership.org.uk/](http://www.dtascommunityownership.org.uk/)  
 Community Woodlands Association - [www.communitywoods.org](http://www.communitywoods.org)  
 Community Energy Scotland - [www.communityenergyscotland.org.uk/](http://www.communityenergyscotland.org.uk/)  
 Community Land Advisory Service Scotland - [sc.communitylandadvice.org.uk/](http://sc.communitylandadvice.org.uk/)  
 Forestry Commission Scotland – [scotland.forestry.gov.uk/managing/get-  
involved/communities](http://scotland.forestry.gov.uk/managing/get-involved/communities) National Standards for Community Engagement -  
[www.scdc.org.uk/what/national-standards/](http://www.scdc.org.uk/what/national-standards/) Communities Channel Scotland -  
[www.communityscot.org.uk/](http://www.communityscot.org.uk/)  
 Community Land Scotland - [www.communitylandscotland.org.uk/](http://www.communitylandscotland.org.uk/)  
 Community Funds - [www.gov.scot/Topics/Built-  
Environment/regeneration/communityfunds](http://www.gov.scot/Topics/Built-Environment/regeneration/communityfunds) Scottish Council of Voluntary  
 Organisations - [www.scvo.org.uk/](http://www.scvo.org.uk/)  
 Social Enterprise Scotland - [www.socialenterprisescotland.org.uk/](http://www.socialenterprisescotland.org.uk/)  
 Co-operative Development Scotland - [www.scottish-  
enterprise.com/services/develop-your-organisation/co-  
operative-development-  
scotland/overview](http://www.scottish-enterprise.com/services/develop-your-organisation/co-operative-development-scotland/overview)

## North Ayrshire

[https://www.north-ayrshire.gov.uk/your-community/community-asset-  
transfer.aspx](https://www.north-ayrshire.gov.uk/your-community/community-asset-transfer.aspx) [https://www.north-ayrshire.gov.uk/your-community/community-  
funding.aspx](https://www.north-ayrshire.gov.uk/your-community/community-funding.aspx)

NAC Community Asset Transfer Team - The team will facilitate the Asset Transfer process and support Third Sector, community and voluntary organisations to reach an informed choice regarding the viability or liability of proposals.

Please contact: [communityassetteam@north-ayrshire.gov.uk](mailto:communityassetteam@north-ayrshire.gov.uk) Community  
 Development  
 2nd Floor West, Cunninghame House, Irvine. KA12 8EE Tel: 01294 324475

North Ayrshire for Business - For information and support with Business Plans  
 Tel: 01294 449944; website: [www.northayrshireforbusiness.com/home.aspx](http://www.northayrshireforbusiness.com/home.aspx) or  
 email: [business@north-ayrshire.gov.uk](mailto:business@north-ayrshire.gov.uk)

The Ayrshire Community Trust - TACT provides support to local voluntary sector

1. <https://www.north-ayrshire.gov.uk/your-community/community-asset-transfer.aspx>

2. <http://www.legislation.gov.uk/asp/2015/6/part/5>

3. <http://www.gov.scot/Resource/0051/00513211.pdf>

organisations to help them grow and develop. Tel: 01294 443044; website:  
www.theayrshirecommunitytrust.co.uk/ or email:  
info@theayrshirecommunitytrust.co.uk  
Cunninghame Housing Association - Tel: 01294 468360; website:  
www.cunninghame-housing.org/ or email: enquiries@chaltd.org

North Ayrshire Social Enterprise Network - supports the growth of development potential of established social enterprises in North Ayrshire who have ambitions to grow and diversify their activity. Website: www.se-networks.net/shownetwork.php?org=8864