

Aberdeen City Council – Asset Transfer Request Approach

The Community Empowerment (Scotland) Act 2015 seeks to empower communities by recognising the role that The Ownership or control of land and buildings can have in assisting communities to drive change and achieve their own goals. The Act has moved asset transfer from a voluntary approach by public bodies to one which introduces a right for community bodies to make requests for ownership, lease, management or use of publicly owned buildings or land whether or not they are available for sale or deemed surplus to requirements by the owning body.

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 following documentation summarises the process for submitting an Asset Transfer Request to Aberdeen City Council, what is expected of your organisation and how you can expect your request to be dealt with. We are encouraging groups to submit an initial Expression of Interest Form in order to understand your interest, direct you to appropriate supports and provide you with a contact for accessing any relevant information that you may require in order to submit a complete Asset Transfer Request.

Who can make an asset transfer request?

Under the terms of the Act, to make an asset transfer request, an organisation needs to be a "community transfer body". There are different requirements depending upon if the organisation wishes to own an asset or to manage/lease it.

A community transfer body has to be a **Community-Controlled Body** which means a body (whether corporate or unincorporated) which has a written constitution or articles of association that includes the following: —

- (a) a definition of the community to which the body relates;
- (b) provision that the majority of the members of the body consists of members of that community;
- (c) provision that the members of the body, who consist of members of that community, have control of the body;

- (d) provision that membership of the body is open to any member of that community;
- (e) a statement of the body's aims and purposes, including the promotion of a benefit for that community; and
- (f) provision that any surplus funds or assets of the body are to be applied for the benefit of that community.

In addition, if the organisation wishes to request ownership, the community transfer body has to be:

- A Scottish Charitable Incorporated Organisation (SCIO) or,
- A Community Benefit Society (BenCom), or
- Incorporated as a company

And have articles of association or a constitution that includes provisions that:

- a) the transfer body must have not fewer than 20 members; and
- b) on the winding up of the body and after satisfaction of its liabilities, its property (including any land, and any rights in relation to land, acquired by it passes to another community transfer body, or charity with a similar structure and aims.

Stage 1 – Expression of Interest

Role of the Community Transfer Body

- Complete the expression of interest form. This will set out the interest of your organisation. You do not have to have completed an Expression of Interest Form prior to submitting a formal asset transfer request, however we recommend that you do as this will help to ensure that you have the appropriate information to be able to complete a valid asset transfer.
- Provide a copy of your constitution.
- Submit the form to Aberdeen City Council by email to CAT@Aberdeencity.gov.uk

Role of the Aberdeen City Council

- To assess the Expression of Interest and allocate this to a named officer. This will be the named contact for the organisation. The named contact will ensure appropriate ATRs are progressed and engage with the community transfer body to provide information as appropriate.

- Ownership – we will determine whether the asset is owned by the Council and also an indication of the potential to transfer.
- Status of the Community Transfer Body – we will advise whether you currently have the right status to apply for an asset transfer or whether you would need to change.
- Signposting – we will advise and signpost you to organisations who will be able to support you in developing your asset transfer.

Stage 2 – Assessment and Consideration

Role of the Community Transfer Body

Submit a completed Asset Transfer Request. You do not have to have completed an Expression of Interest Form prior to submitting a formal asset transfer request, however we recommend that you do as this will help to ensure that you have the appropriate information to be able to complete a valid asset transfer.

All the required information must be provided before the request can be validated. Any request should be submitted on the Asset Transfer Request form at and must include:

- Organisation constitution and evidence of the type of organisation you are
- Details of the asset being requested and what type of transfer - ownership, management, leasing or use.
- What you intend to use the asset for
- A business plan of how you propose to fund the purchase/lease of the asset and the ongoing associated revenue costs. You should also provide an indicative price.
- What benefits you believe this will bring to your community:- economic, regeneration, health, social wellbeing, environmental or whether it will tackle inequalities
- You need to outline and demonstrate community support for the ATR

Role of the Aberdeen City Council

ATR Check

- Your named contact will check that the ATR is complete and confirm this with you. We will have 6 months from this date to respond to your request.

Internal Assessments

We will undertake a range of assessments in order to assess your Asset Transfer Request. These may include:

- Property – on the ability for the Council to transfer and the potential impact on Council assets.
- Legal – to check the governance of the organisation and any legal title
- Finance – financial assessment of the business plan and sustainability
- Community Benefit – assessment of the level of community benefit and the level of community support for the ATR.
- HR – should the asset requested be currently in use and have staff members

Evaluation Panel

An evaluation panel will be formed to consider the information provided in the ATR and supporting documents. This panel will comprise of officers from various teams within the Council who assess the information provided. Once they have completed the evaluation a recommendation regarding the ATR will be put to the Finance & Resources Committee.

Committee Consideration

The Council's Finance & Resources Committee will be asked to consider the request and either approve or refuse the request. Any approval will include any conditions which the Council has chosen to place on the transfer of the asset.

Decision Notice

A Decision Notice will be issued following the Committee Decision.

If the Decision is to Approve, the Decision Notice will also set out any conditions of the transfer.

Member Asset Review Panel

Community Transfer Bodies have the right to appeal if:

- The request has been refused.
- There was no decision given within the correct timescale
- They disagree with the conditions set out in the Decision Notice to approve

Any appeal should be made within 20 days of the decision notice.

The ATR will be re-assessed by a Member Asset Review Panel. The Panel will have the option to confirm the decisions already taken or, if they disagree, they can refer it back to the Finance & Resources Committee for further consideration.

Stage 3 – Negotiation of Contract

Role of the Community Transfer Body

Engage in the process to agree contractual terms. This will include agreeing legal, financial and any legacy elements.

You will also need to finalise any financial arrangements during this stage of the process.

You have the right to appeal to Scottish Ministers if the contract has not been agreed within 6 months and there has been no mutual agreement to extend the period.

Role of the Aberdeen City Council

The Council will work to agree final terms of transfer of ownership/lease.

This process should be concluded within 6 months, although this can be extended by mutual agreement. 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.

Summary of Asset Transfer Approach

Asset Transfer Request Stage	Community Transfer Body Role	Aberdeen City Council role
<p>Phase one – expression of interest</p>	<p>Complete Expression of Interest Form</p> <p>Email submission to CAT@aberdeencity.gov.uk</p> <p>Provide the constitution</p>	<p>The CAT contact will ensure appropriate ATRs are progressed, and the information is shared across the appropriate teams within the Council to enable engagement with community organisation.</p> <p>Determine ownership – needs to be determined re. ability to potentially transfer – indication not a formal judgement.</p> <p>Status of the organisation – is the body suitable as defined in the Act – legal team.</p> <p>Signposting – CAT officer to signpost group to external organisations e.g., COSS, who can support the organisation to develop their ATR</p>
<p>Phase 2 Assessment and Consideration</p> <p>Asset Transfer Request Submitted</p> <p>Time period of 6 months from complete asset transfer request</p>	<p>Submit a completed Asset Transfer Request. This must include:</p> <ul style="list-style-type: none"> ● Constitution ● What is being requested – ownership, management, leasing or using? ● What price is being offered? ● What the organisation wants it for ● Business Plan - How the organisation proposes to fund the purchase/lease and ongoing revenue costs. ● Outline and demonstrate community support for the ATR. 	<ol style="list-style-type: none"> 1. ATR Check – CAT officer to check that ATR is complete. If yes, confirm with Community Organisation 2. Internal Assessments <ul style="list-style-type: none"> ● Property – on the ability for the Council to transfer and the potential impact on Council assets. ● Legal – to check the governance of the organisation and any legal title ● HR – should the asset requested be currently in use and have staff members ● Finance – financial assessment of the business plan and sustainability ● Community Benefit – assessment of the level of community benefit and

	<ul style="list-style-type: none"> ● Describe the benefits this will bring to the community: - economic, regeneration, health, social wellbeing, environmental; or tackle inequalities 	<p>the level of community support for the ATR</p> <ol style="list-style-type: none"> 3. Evaluation Panel – to consider ATR and accompanying assessments: <ul style="list-style-type: none"> ● Recommendation made to Committee whether to refuse, accept or amend requested terms asset transfer request. 4. Committee Consideration - Environment, Development & Infrastructure Committee to consider recommendation from Evaluation Panel. 5. Member Asset Review Panel – right of review if refused at Committee.
<p>Phase 3 – Negotiation of Contract</p> <p>Time period – 6 months maximum, can be extended on agreement.</p>	<p>Engage in agreement of contract terms – legal, terms, costs, legacy</p> <p>Group needs to finalise financial arrangements</p>	<p>Property, legal and finance support to agree contract terms</p>