

Appendix 1.

Orkney Islands Council

Community Asset Transfer Policy

September 2017

1. Introduction

1.1.

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

1.2.

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

1.3.

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

2. Our Policy

2.1.

Orkney Islands Council supports the principle of Community Asset Transfer and will support communities to make it happen.

2.2.

All requests for asset transfer will be considered against the potential benefits to the community. The potential benefits of a Community Asset Transfer can be measured in terms of the economic, social and environmental wellbeing of the community.

2.3.

In considering potential asset transfers, the Council will evaluate each proposal against the benefits based on the submission of a business plan. Requests will not be refused unless there are reasonable grounds to do so.

2.4.

Assets held on the Housing Revenue Account such as council houses need not be included in the register of land owned and leased which the Council is required to maintain under the Act, but this exclusion does not apply to property which has been declared surplus to operational requirements. However, an asset transfer request may be made for any land owned or leased by the Council, including land which is not included in the register.

3. National Context

3.1.

The Scottish Government is committed to increase the pace of public service reform and to empower more communities in Scotland “...through the ownership of assets and by strengthening their voices in the decisions that matter to them”.

3.2.

This forms part of the Scottish Government's response to the recommendations of the Christie Commission on the future delivery of public services and the Scottish Government's and COSLA's review of Community Planning. The Community Empowerment (Scotland) Act 2015 makes it easier for communities to take responsibility for public assets.

4. Rationale

4.1.

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

4.2. Benefits to the Local Community

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

- Devolving power to neighbourhoods can encourage citizen involvement and community action.
- Contributing towards the regeneration of communities can act as a catalyst for social, environmental and economic regeneration (including the development of community enterprise).
- Transferring ownership or management offers opportunities to extend the use of a building or the piece of land, increasing its value in relation to the number of people benefiting and the range of opportunities it offers.
- Stimulating the involvement of local people in shaping and regenerating their communities can be a catalyst for local volunteering and increasing community cohesion.
- The process of community asset transfer can build confidence and capacity amongst the individuals involved, and can support the creation of community leaders and inspire others to improve their community.

4.3. Benefits to Community Bodies

Community control of assets can:

- Generate long term sustainable revenue streams for Community Bodies, 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 finance and expand the level of community activity.
- Result in the creation of new organisations (and potentially Council/Community Body joint ventures) with the ability to lever in additional resources which would be unavailable to the Council acting independently.
- Create stronger, more sustainable Community Bodies, which can deliver a wide range of benefits for the communities they serve. An asset can provide a Community Body with financial security, recognition, and management capacity.

4.4. Benefits to the Council

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

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

5. How to make a request

5.1.

Any Community Body which is interested in making a request under the Community Asset Transfer legislation is strongly encouraged to approach the Council to discuss their options before they make a request. This will allow for informal discussion between the Community Body and the Council, and the opportunity to see if there are any other ways to achieve the desired outcome. The Council should be contacted on property@orkney.gov.uk.

5.2.

If the Community Body decides to proceed with the application then requests are made using a two-stage process:

5.2.1.

The first stage is an expression of interest. The expression of interest stage is intended to support Community Bodies in exploring what will be required to make an Asset Transfer Request, and to enable the relevant Council services to begin gathering any necessary information prior to the formal start of the Asset Transfer Request.

5.2.2.

The second stage is a detailed application form, which constitutes the legal start of the Asset Transfer Request. The two stages are described in detail in the guidance accompanying this Policy. There is a simple flowchart outlining the process which is attached at Annex 1 to this Policy.

5.3.

Community Bodies will be offered support at any stage in the process. The Council will provide the Community Body with a named Single Point of Contact who will have

responsibility for liaising on behalf of the Community Body with the different services of the local authority. Their remit is described in the guidance accompanying this Policy.

6. Making the decision

6.1.

Community Asset Transfer requests will be determined by the Asset Management Sub-committee.

6.2.

In order to meet the timescales, set out in legislation, the decision will be taken within six months of the legal start of the request, unless the Community Body has agreed to an extension.

6.3.

A small team will be formed to work on each Asset Transfer Request and the Estates Manager will liaise with all relevant services including Legal Services, the operational service team (if any) and Finance. All relevant services will contribute to developing a recommendation to the Sub-committee and a report will be written for consideration by the Sub-committee.

6.4.

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

7. Appealing against the decision

7.1.

The presumption within the legislation is that unless there is a very good reason for the application to be rejected, it will be agreed. However, as outlined above, the decision will be made by the Asset Management Sub-committee and the outcome cannot be guaranteed. It may be that the application is agreed in full, it may be agreed in part, it may be agreed but with conditions, or it may be rejected.

7.2.

In the event that a decision is not made within the permitted six-month timescale, or if the decision is to refuse or to agree the request but on different terms to those set out in the asset transfer request, the applicant has 20 working days, beginning with the date of issue of the Decision Notice to ask for a review.

7.3.

If no decision has been made and the six-month deadline has passed, the applicant has 20 working days from the deadline for the decision to request, in writing, that a review be carried out by the Council.

7.4.

A review of an Asset Transfer Request decision must be carried out by elected members, it cannot be delegated to officers. This impacts on how initial decisions must be taken to make sure that any Councillors involved in the original decision are not involved in the review.

Annex 1.

Flowchart outlining the process, from the Scottish Government Guidance.

