

Community Asset Transfers



Asset Transfer Request Form

Guidance Notes

Table of contents

	PAGE
* Introduction	2 - 3
* Expression of Interest - pre-application	4
1 Information about the community transfer body	4 - 5
2 Information about the land and rights requested	5
3 Type of request, payment and conditions	5 - 6
4 Community Proposal	7
5 Level and Nature of Support	7
6 Funding and financial sustainability	7 - 8
7 Risk/ social impact	8
8 C.P.P./Single Outcome Agreement	8
* Other Information	8 - 9

ASSET TRANSFER REQUEST GUIDANCE NOTES

Introduction

Welcome to Argyll and Bute Council's Asset Transfer Request Pack for Community Transfer Bodies. We've put this pack together to assist you in making an Asset Transfer Request. Although we recommend using our pre application Expression of Interest (EOI), it is important to state that this is a single stage process and we will accept completed applications without prior consultation. Both the Scottish Government and ourselves recommend initial discussions before submitting a formal request.

Our process has been developed in line with the Community Empowerment (Scotland) Act 2015. In particular **Part 5** of the Community Empowerment (Scotland) Act 2015 which sets out the key rights and duties for Community Transfer Bodies and relevant authorities and provides a new framework for the asset transfer process.

Please note that this document provides guidance on how to complete the asset transfer form it is advisory only and should be read in conjunction with the relevant [Asset Transfer Guidance for Community Transfer Bodies](#) prepared by the Scottish Government. In addition, there are further independent advice links detailed on our [Asset Transfer Support webpage](#).

Background

Registered Community Transfer Bodies can now make applications to public authorities to acquire land and property which has not been listed for sale.

There is a presumption of approval – unless there are reasonable grounds for the council to refuse the request. The Act and associated Guidance does not specify what reasonable grounds for refusal would be – these would depend on the circumstances of each individual case.

In deciding requests the council would consider a range of factors:

- the reasons for the request
- supporting information
- whether agreeing the request would be likely to promote or improve:
 1. economic development
 2. regeneration
 3. public health
 4. social wellbeing
 5. environmental wellbeing
- whether agreeing the request would be likely to reduce inequalities
- any other benefits
- the benefits of any alternative proposal
- other matters that the council considers appropriate

Who can make a Transfer Request?

A request can only be made by a Community Transfer Body (CTB). This is defined in section 77 of the Act. It can be either a **community controlled body** or a body **designated by the Scottish Ministers**. To qualify as a community controlled body, the body's constitution, Articles of Association or registered rules must include the following:

1. (a) A definition of the community to which the body relates. The group may represent the community in a particular area or people who have a common interest or characteristic. The definition should be clear enough to show whether a person is a member of the community or not.
2. (b) provision that membership of the body is open to any member of that community

Note – For requests relating to ownership, the CTB. **must** be incorporated. For lease and other rights, the CTB does not need to be incorporated).

What do you need to tell us?

You need to tell us about your organisation so we can check you fit the requirements and we can designate you a CTB. You need to tell us about the services you propose to deliver. The Act emphasises that any applications for the transfer of an asset must be generated as a result of a demand to deliver services. This is not an opportunity to secure an asset and then consider how your organisation might make use of it.

There is a requirement to show the need for your project and how it will fill these unmet needs. We would expect to see who else you have engaged with to ensure that the project being proposed is supported and will deliver the hoped for community benefits. We would expect you to have identified similar projects or services in your area and be able to show how your proposal impacts on them.

We would expect you to have consulted with the wider community about your project/development ideas and be able to show that response in support or how you would mitigate against any concerns.

It is also helpful to know if you have been given any advice or support from other professionals or organisations in pursuing you plans.

You need to clearly identify the asset your request relates to and what you are requesting. A community transfer body may make a request:

- for land owned by the Council for ownership to be transferred to them;
- for land owned or leased by the Council to be leased or assigned to them, or;
- for the Council to confer rights of management or occupancy for a specific purpose.

The following guidance relates to, and should be read in conjunction with, the
Asset Transfer Request Form.

Sec	Question	Advice note
	Pre-Request EOI	<p>Expression of Interest (EOI)</p> <p>While the statutory scheme requires a full request to be made to initiate the transfer process, we welcome informal outline proposals as part of our Expression Of Interest pre-application stage (EOI). This helps us to give Community Transfer Bodies support and guidance from the Council before undertaking the substantial work to produce a full Asset Transfer Request, or in identifying and applying for funding.</p> <p>Any group has the right to submit an Asset Transfer Request without going through an EOI pre-application stage. Community Transfer Bodies have a right to submit an Asset Transfer Request without any previous discussion and we will process it in accordance with the requirements of the Act.</p>
	Transfer Request Form	
Sec 1	1.1 – 1.3 1.4 – 1.7	<p>Information about the community transfer body</p> <p>To be able to complete an Asset Transfer Request you need to be a designated Community Transfer Body (CTB).</p> <p>This is defined in section 77 of the Act. It can be either a community controlled body or a body designated by the Scottish Ministers.</p> <p>To qualify as a community controlled body, the body’s constitution, Articles of Association or registered rules must include the following:</p> <ul style="list-style-type: none"> a) A definition of the community to which the body relates. The group may represent the community in a particular area or people who have a common interest or characteristic. The definition should be clear enough to show whether a person is a member of the community or not. b) Provision that membership of the body is open to any member of that community <p>Membership of the body must be open to anyone who is a member of the defined community. There must not be any additional requirements.</p> <p>It is for each relevant authority to decide whether a community organisation is eligible to make an Asset Transfer Request, either as a community controlled body or as a designated body.</p>

		<p>We need to know the status of your organisation to establish if we can accept your Asset Transfer Request form.</p> <p>The Scottish Ministers can designate a body to be a Community Transfer Body. They will do this by making an order. Ministers can either designate an individual body, or could designate a class of bodies, if they decided in future that all organisations of a particular type should be able to make asset transfer requests. A designated Community Transfer Body is only entitled to make a request for ownership if the designation order states that it is allowed to do so. 1.5 and 1.6 give you a space to explain if you are this kind of organisation.</p> <p>1.8 Please explain in summary what your organisation does. This will be used is assessing your transfer request.</p> <p>1.9 We need to be assured you have a valid management structure and competent governance in place. This should be clear in your governing documents but a simple explanation of how your organisation is run is what we are looking for. This section also gives space to explain any reasons you may have a gap in your structures.</p> <p>1.10 – 1.14 Please explain who runs your organisation and their skill set. You must also attach your governing documents. A request cannot proceed without them.</p>
<p>Sec 2</p>	<p>2.1 – 2.2</p>	<p>Information about the land and rights requested</p> <p>This question asks you to identify the land to which this Asset Transfer Request relates to. Depending on what type of asset your answer could be a quite simple explanation. If the request was a smaller part of a larger asset you would have to be more specific. It is important to be clear and to check we understand exactly what is being requested.</p> <p>You must provide sufficient information about what is being requested. We can provide support to help before you submit your request. Failure to clarify the land requested can stop your request being accepted.</p>
<p>Sec 3</p>	<p>3.1</p>	<p>Type of request, payment and conditions</p> <p>This question deals with what kind of transfer you are asking for. Sometimes a Community Transfer Body may wish to take over a building or land and the services which are delivered by the relevant authority 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.</p> <p>We do not recommend using both types of request together.</p>

- If the community body wants to **run a service** which is tied to the particular premises, and does not want to use the premises for any other purpose, this should be addressed through a **Participation Request**. A lease or other arrangement in relation to the premises can be negotiated as part of the agreement to provide the service.
- If the community body wants to **take control of the asset** in order to develop the service on its own terms or use the property for other purposes, this should normally be addressed through an **Asset Transfer Request**.

An Asset Transfer Request can be accompanied by negotiations for Argyll and Bute Council to contract with the Community Transfer Body to continue to provide a service, as a source of income.

Part 5 of the Community Empowerment (Scotland) Act 2015 allows a CTB (Community Transfer Body) to make an Asset Transfer Request to Argyll and Bute Council. A request can be made in relation to any land which is owned or leased by the council. The CTB can ask to buy or lease the land, or to have other rights, for example to occupy or use the land for a particular purpose.

Section 3 asks you to state clearly if you are requesting

- a) ownership,
- b) lease or
- c) other rights.

You **must** complete this question and its relevant sub question 3A, 3B, 3C

You **must** tell the council what you wish to pay for the asset to allow them to make an informed decision that the discount you are asking for can be justified in terms of “Best Value” of public assets. (You may find it helpful to discuss this the council before submitting your full Asset Transfer Request).

Once a formal Asset Transfer Request has been made, the relevant authority is not allowed to transfer the property to anyone else until that request process has been completed, including any review/appeals. (This does not apply if the property was advertised for sale, or negotiations had started to transfer it to someone else, before the Asset Transfer Request was made.)

(The process to review the request and deliver a decision should take no longer than 6 months. The CTB will have a further 6 months to complete the transfer or appeal the decision.)

Sec 4		Community Proposal
	4.1	This question will be used in assessing your request. Please explain/ justify the reasons for making the request and how the land or building will be used.
	4.2	Please explain you plan for the asset being requested. We would expect you to tell us the reasons behind the project, why what you have requested is necessary or suitable and in general terms what will take place if the request was successful.
	4.3	Please explain if there are any restrictions on the use or development of the land.
	4.4	Please tell us of any changes you have envisaged for the asset and if you have undertaken research to the feasibility of such a change. Please tell us of any negative consequences that might arise from your actions and how you might minimise them.
	4.5	This question will be used to assess your organisation’s ability to deliver on your plans for the asset. This will help us assess the risk of failure of achieving your plans.
Sec 5		Level and Nature of Support
	5.1	In deciding whether to agree to or refuse the request we will use any details of the level and nature of support for your request, from the community and, if relevant, from others.
Sec 6		Funding and Financial Sustainability
	6.1	Please explain the financial sustainability of your request. This section is weighted quite heavily in the scoring matrix.
		Outline how you propose to fund the price or rent you are prepared to pay for the land, and your proposed use of the land.
		You should show your calculations of the costs associated with the transfer of the land or building and your future use of it, including any redevelopment, ongoing maintenance and the costs of your activities.
		Please detail the proposed operating costs and how they would be met.
		All proposed income and investment should be identified, including volunteering and donations.

		<p>Please state whether you have been in receipt of a Council grant over the last five years.</p> <p>If you intend to apply for grants or loans you should demonstrate that your proposals are eligible for the relevant scheme, according to the guidance available for applicants.</p>
<p>Sec 7</p>	<p>7.1</p> <p>7.2</p>	<p>Risk/Social Impact</p> <p>Please detail any information you feel would explain whether any other organisation/business in your area will be affected by your operational proposals, how you will monitor the benefits of the asset transfer and what barriers or challenges to your project succeeding you have identified.</p> <p>We need to be assured your organisation complies with state aid rules.</p>
<p>Sec 8</p>	<p>8.1 – 8.2</p>	<p>Community Planning Partnership/Single Outcome Agreement</p> <p>Use these sections to show how your project contributes to the Council and CPP (Community Planning Partnership) outcomes. Being able to show how your request will support our outcomes will help in supporting your request.</p>

How do we decide on your request?
Please read the following information carefully.

In deciding whether to agree to or refuse the request, the Argyll and Bute Council will consider the following things:

- the reasons for the request,
- any other information provided in support of the request
- whether agreeing to the request would be likely to promote or improve
 - economic development
 - regeneration
 - public health
 - social wellbeing
 - environmental wellbeing, or
- whether agreeing to the request would be likely to reduce socio-economic inequalities
- any other benefits that might arise if the request were agreed to
- how the request relates to the relevant authority’s duties under Equalities legislation
- any obligations that may prevent, restrict or otherwise affect the authority’s ability to agree to the request

It is not a requirement to use our [Transfer Request Form](#) to make your request. In this form we have laid out a way to present your request that will help us to compare the benefits of your proposal. By providing as much information as possible you will be strengthening your case. Support is available from the Argyll and Bute Council to assist applicants, where possible, to fully complete the request form.

While the statutory scheme requires a full request to be made to initiate the Asset Transfer Process, we welcome informal outline proposals as part of our [Expression Of Interest](#) pre-application stage (EOI). This helps us to give Community Transfer Bodies support and guidance from Argyll and Bute Council before undertaking the substantial work to produce a full Asset Transfer Request, or in identifying and applying for funding.

Any group would still have the right to submit an Asset Transfer Request without going through an EOI pre-application stage. Community Transfer Bodies have a right to submit an Asset Transfer Request without any previous discussion and we will process it in accordance with the requirements of the Act.

To submit an asset transfer request;

- a) You need to be a [Community Transfer Body](#) (CTB)
- b) A community controlled body does not have to be incorporated, but it must have a written constitution
- c) 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.
- d) An Asset Transfer Request must be accompanied by a copy of the CTB's constitution or other governing documents.
- e) An Asset Transfer Request will be judged on the benefits it will deliver, not on the community it represents. We will also take into account the impact on other groups, such as any loss of facilities, and any wider benefits or potential for conflict. CTB's representing communities of interest should engage with and seek support from the local community.
- f) The decision process provides for a comparison between the benefits of the CTB's proposal and the benefits of any alternative, including the current use.

Ultimately it is the responsibility of the CTB to ensure it has **all the necessary and relevant information to develop its proposals**.

There is no requirement for Argyll and Bute Council to obtain information or commission reports to provide to the CTB, which it does not already have.