



# Scottish Government Guidance for Relevant Authorities - Part 4 - Summary of Asset Transfer under Community Empowerment Act

## Appendix 4

Agenda Item 8

National Park Authority Board Meeting

26 September 2022

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### Contents

4. Summary of asset transfer under the Community Empowerment Act ..... 1

<https://www.gov.scot/publications/asset-transfer-under-community-empowerment-scotland-act-2015-guidance-relevant-9781786527493/pages/4/>

#### 4. Summary of asset transfer under the Community Empowerment Act

- 4.1. Part 5 of the Community Empowerment (Scotland) Act 2015 allows a community transfer body to make an asset transfer request to a relevant authority. [Chapter 5](#) of this guidance explains the requirements for being a community transfer body. A list of relevant authorities is in [chapter 6](#).
- 4.2. A request can be made in relation to any land which is owned or leased by the relevant authority. (In law, "land" includes buildings and any other structure on the land, such as a bridge, wall or pier.) [Chapter 7](#) explains the information that relevant authorities have to publish or provide on request about their property.
- 4.3. The community transfer body 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.

- 4.4. [Chapter 8](#) sets out the information that a community transfer body must include in its request. This includes the reason for making the request, the benefits of the proposals, and the price they are prepared to pay. [Chapters 11](#) and [12](#) give guidance on valuation of the property and deciding on a price.
- 4.5. There is a process for the relevant authority to acknowledge the request, notify others who may be interested, and allow them to make representations. This is explained in [chapter 9](#).
- 4.6. Where an asset transfer request has been considered and refused (including any review or appeal), the relevant authority does not have to accept another similar request for the same property if it is made within two years of the first. The relevant authority can accept a repeat request if it wishes, for example if it is from a genuinely different group or the proposal has been improved. More guidance on this point is provided from paragraph 9.5.
- 4.7. Once an 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 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. This is explained in more detail from paragraph 9.22.
- 4.8. In deciding whether to agree to or refuse the request, the relevant authority must 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

- 4.9. The relevant authority must compare the benefits of the proposal in the request to the benefits of any alternative proposals, whether those come from the authority itself or anyone else, and consider how the potential benefits relate to the functions and purposes of the authority, and any other matters they consider relevant. More detail is provided in [chapter 10](#).
- 4.10. [Chapters 11 to 14](#) provide some advice on how to obtain a valuation of the property, how to assess non-financial benefits, and on using conditions to protect any discount given, if required.
- 4.11. When the relevant authority has made its decision, it must issue a "decision notice" setting out its reasons for agreeing or refusing. Details of what must be included in a decision notice are given in [chapter 15](#).
- 4.12. If the relevant authority agrees to the request, there is a process to negotiate the final contract, which is explained in [chapter 16](#). This can allow time for the community body to confirm funding before the final transfer takes place.
- 4.13. There are various options for review or appeal if:
- the request is refused,
  - no decision is given within the time allowed, or
  - the community transfer body does not agree with conditions imposed by the relevant authority.

Details of the review and appeal processes are set out in [chapters 17 to 20](#).

- 4.14. At the end of each financial year, each relevant authority must publish a report on the number of requests it has received and the number which have been agreed, refused, appealed etc. It must also report on action it has taken to promote the use of asset transfer requests and to support community transfer bodies to make requests. Guidance is provided in [chapter 21](#).

Summary of Asset Transfer process below:

