

**Angus Council**  
**Community Asset Transfer Policy**



## Contents

1. Introduction
2. Policy Statement On Community Asset Transfer
3. Reasons For Considering Community Asset Transfer
4. Local Policy Context And Links To Strategies
5. Meaning Of Community Body
6. Types Of Asset Transfer
7. Suitability
8. Benefits Of Community Asset Transfer
9. Asset Transfer Process
10. Asset Transfer Requests: Decisions
11. Timescales
12. Appeals Process
13. Things You Need To Think About Before Applying

- |                       |   |
|-----------------------|---|
| <b>Section 1:</b>     | <b>Suitability Assessment Process</b>                                       |
| <b>Section 2:</b>     | <b>Outline of Assessment Process</b>  |
| <b>Section 3:</b>     | <b>Elements Of The Business Case / Business Plan</b>                        |
| <b>Section 4:</b>     | <b>Asset Transfer Application- Technical Check</b>                          |
| <b>Section 5 (a):</b> | <b>Statement of Community Benefit which will result from Asset Transfer</b> |
| <b>Section 5 (b):</b> | <b>Reporting of Current Work and Contribution of Applicant Body</b>         |
| <b>Section 6:</b>     | <b>Stage One Application Form</b>   |
| <b>Section 7:</b>     | <b>Stage Two application Form</b>   |

## 1. Introduction

Over recent years legislation and national policy in Scotland has recognised the importance of, and been developed to support, strong, independent and resilient communities. In November 2013, the Scottish Government launched a consultation on detailed proposals for the Community Empowerment (Scotland) Bill. The Bill aims to make the most of the talents that exist in our communities; deliver high quality and improving public services; and support strong local democracy and local decision-making. As part of this, community ownership of assets has been identified as having a key role to play through inspiring people, creating opportunities and potentially transforming communities

The aim of this policy document is to set out a transparent, positive and proactive framework that enables and manages the transfer of assets from the Council to Voluntary and Community Organisations (VCOs) in order to bring about long term social, economic and environmental benefits to the community.

Community asset transfer involves the transfer of responsibility for an asset from the Council to a VCO. This transfer can be affected in different ways, e.g. the transfer of management responsibility through short or long term lease arrangements or through the transfer of outright ownership. Any lease will be subject to standard Landlord controls with regard to alterations, assignments etc. The council has in the past generally pursued long leasehold arrangements, with an appropriate rent, when considering community asset transfer.

Community asset transfer is not suitable for all properties or all organisations, and the Council will continue to work with VCOs to ensure that a range of tools, programmes and initiatives are in place to support the development of a strong and sustainable voluntary and community sector in Angus.

The Council's Community Asset Transfer Policy recognises that handing over the ownership or stewardship of an asset can have a valuable role in supporting and sustaining local communities in Angus. It can also provide communities with opportunities to supplement / compliment services that the Council currently provides.

This policy recognises that Voluntary and Community groups across Angus are at different stages of maturity and has made a commitment to promoting transfer options through awareness raising, outreach and support. Officers from a wide range of services are actively working with VCO's to build capacity and to provide them with the confidence and skills to take on the management of assets.

The transfer of council owned assets to the community can be very time consuming. Therefore, the Council recognises that it is necessary to put the marketing of assets on hold where a community interest has been expressed in order for the VCO to put their case together. However, where a business interest has already been expressed prior to marketing, the transfer of the asset to the community will not become an option until the business option has been fully explored.

## 2. Policy Statement on Community Asset Transfer

Angus Council is committed to community asset transfer that will bring benefits to communities and contribute towards achieving the Council's desired outcomes.

The Council recognises that community asset transfer can be a valuable part of supporting and sustaining local communities in Angus and it wishes to ensure council assets can be leased on long leases or on occasion owned and managed by the people who regularly use them. The Council is fully committed to using council assets to form long-term partnerships with VCOs that meet the Council's criteria, in order to create stronger, more cohesive and more sustainable communities.

The Council will react positively to all enquiries from VCOs concerning the potential for community asset transfers and will support such groups when required to develop business plans and to put in place arrangements for managing the assets.

A transparent process for Community Asset Transfer will be implemented with an agreed method of assessing requests. A multi-disciplined team of council officers forming the Community Asset Transfer Group (CATG) will assist applicants and assess applications.

The Council will consider transfer of an asset to a VCO that meets the criteria and makes a credible application (supported by an appropriate Business Plan) and demonstrates that it has the skills and capacity to manage the asset for the long term.

Whilst fully supporting the principle of asset transfer this policy also recognises that some assets must remain under Council ownership and management in order to support delivery of essential services, continue to provide an income stream to the Council or support economic activity in an area. This may also include the disposal of surplus assets to businesses in order to support economic development.

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, Common Good etc. Some restrictive Agreements can be lifted but this can take time. Ownership in a trustee capacity may also be considered as a disposal may require the consent of the Charity Commission and/or the Court of Session.

The Council will consider as part of the initial assessment of an application whether an asset should be retained by the Council or could be transferred.

## 3. Reasons For Considering Community Asset Transfer

Community asset transfer is not about off-loading assets the Council no longer needs. Instead, it provides an opportunity to engage people in providing services in their local communities. It may also allow a group to develop a Community Interest Status Company which will support community benefit and delivery of agreed outcomes. These outcomes include:

### **COMMUNITIES THAT ARE PROSPEROUS AND FAIR**

1. We have a sustainable economy with good employment opportunities
2. Angus is a good place to live in, work in and visit

### **COMMUNITIES THAT ARE LEARNING AND SUPPORTIVE**

3. Our children and young people are confident individuals, effective contributors, successful learners and responsible citizens
4. Adults maximise their potential through learning opportunities
5. Individuals and families are involved in decisions which affect them
6. Individuals are involved in their communities

### **COMMUNITIES THAT ARE SAFE AND STRONG**

7. Our communities are safe, secure and vibrant

### **COMMUNITIES THAT ARE CARING AND HEALTHY**

8. We have improved the health and wellbeing of our people and inequalities are reduced
9. Individuals are supported in their own communities with good quality services

### **COMMUNITIES THAT ARE SUSTAINABLE**

10. Our communities are developed in a sustainable manner
11. Our natural and built environment is protected and enjoyed
12. Our carbon footprint is reduced

The Council's physical assets include land, buildings and other structures and these are used for a variety of different social, community and public purposes.. For example, Council approval was given in December 2013 for the transfer of Newtyle Pavilion to the VCO, Newtyle and Eassie Playgroup, in order to allow them to develop a dedicated base from which to operate and further develop their very successful local playgroup. In considering future potential asset transfers, the Council will evaluate each proposal in terms of its ability to contribute to the following:

- Community empowerment
- Area and local community benefits
- Building the capacity of voluntary groups and encouraging a sustainable voluntary sector
- Economic development and social enterprise
- Improvements to local services
- Value for money

The community ownership of assets can make an important contribution to the range of innovative, bottom up solutions which community groups can develop to address local needs. Importantly, these solutions not only meet the needs of the local people, they can also contribute to the delivery of council and national strategic priorities.

As part of the council's commitment to Community Asset Transfer a Communities officer will be allocated to assist the VCO in the process.

#### **4. Local Policy Context and Links To Strategies**

Angus Council has in place a number of policies, strategies and strategic actions in support of community engagement.

Community Planning is a process which helps public agencies to work together with the community to plan and deliver better services which make a real difference to people's lives. Effective engagement with, and capacity building of, communities is at the heart of community planning.

The following link provides further information for applicants on the Councils Outcomes and Priorities.

<http://www.angus.org.uk/pdfs/communityplans/AngusCommunityPlanandSingleOutcomeAgreement2013-2016.pdf>

When considering an asset transfer, it is important to consider how the transfer will benefit the community. Reference should also be made to the template in Section 3 which can be used as a framework for VCO's to relate their activities to outcomes.

## 5. **Meaning of Community Body/Voluntary Community Organisation (VCO)**

A “community body” is a company which has a Constitution and the articles of association include the following—

- definition of the community to which the company relates
- provision enabling the company to exercise the right to buy, or otherwise acquire rights, in relation to land
- provision that the majority of the members of the company is to consist of members of the community provision that the members of the company who consist of members of the community have control of the company provision that any surplus funds or assets of the company are to be applied for benefit of the community to which the company relates
- provision that, on the winding up of the company and after satisfaction of its liabilities, its property (including any land, and any rights in relation to land, acquired by it as a result of an asset transfer request under this Act) passes to such other community body as may be approved by the Scottish Ministers, or if no other community body is so approved, to the relevant authority from whom any such land or rights were so acquired or to such other relevant authority as the Scottish Ministers may direct.
- The articles of association of a company which is a community body may provide that its property may, in the circumstances mentioned in that paragraph, pass to another person only if that person is a charity.
- “Charity” means a body entered in the Scottish Charity Register.

## 6. Types of Asset Transfer

When declaring a property surplus to the Council's requirements, the Community Asset Transfer Group will consider whether the asset will be made available for community asset transfer or to be sold on the open market, and submit recommendation to committee for approval. The process is outlined in the flow chart in Section 1. The Council will advertise assets that have been considered suitable for community asset transfer on the council website at:

<https://www.angus.gov.uk/Community Asset Transfer>.

If a surplus asset is identified as suitable for transfer to the community, VCO's will have a period of two months to consider whether to make an application for Community Asset Transfer. On completion of this two month period the property will be marketed for sale with no further applications for Community Asset Transfer being considered

### Long Term Lease

In some situations the use of a long term lease may be the most appropriate form of tenure. This may be linked to assets which are of such strategic or historic significance that retaining ownership and therefore control by Angus Council would be required. It may also be the case that Angus Council does not own clear title of these assets with historic burdens and covenants in place. In these situations the provision of a long term lease may not inhibit communities' ability to attract external funding. In addition, where the application for the transfer of the asset involves a new development in the first instance transfer will be offered on a lease basis. For example, the application is to construct a new building on council land. Thereafter, if the community group wishes to apply for transfer of ownership, this will be considered by the council.

These types of transfers will usually be on the basis of a long lease of between 25 and 99 years, assessed on a case-by-case basis. However, in special circumstances a lease at up to 175 years may be considered (the maximum possible under Scots law). Any lease will be subject to standard Landlord controls with regard to alterations, assignments etc.

The rent from the property will usually be at market level. However the Council may consider setting a rent for the asset below what could be reasonably obtained on the open market if the interested organisation is able to demonstrate appropriate benefits to the community through the delivery of a service that contributes to meeting at least one of the council's desired outcomes

### Short Term Lease

From a community's perspective short term leases can be an effective interim step to full ownership. It can provide a range of benefits through-

- Enabling the community group to confirm they have the necessary support of the wider community to develop the building and services – increasing levels of participation from volunteers and other interested parties.
- Sustaining patterns of usage within the building while the business plan is being developed and assumptions tested.
- Building confidence within the group.
- Demonstrating that the group has the operational capacity and capability to run and manage the facility.
- Keeping the building occupied and heated minimising the potential for deterioration of the asset.

Rent will normally be set at market level for the property.

### Sale of Asset

The Council is prepared to consider the transfer of ownership where there is a strong case that such a transfer will assist in ensuring that the transfer will be sustainable and that the agreed outcomes will continue to be met in the long term.

Disposal of an asset does not necessarily mean on concessionary terms, just that it may be off-market.

Where disposal involves selling the asset at open market value, the Council will consider giving the

voluntary and community organisation 'first refusal' on the asset by protecting the asset from the open market for an agreed period. This could enable the group to raise the required capital to complete purchase. The valuation of the property will be provided by the Councils retained external Estates consultants.

Where transfer of outright ownership is concerned the Council will consider the case for disposal at less than the best consideration that can reasonably be obtained where community benefit can be clearly demonstrated. This could result in transferring the asset at a reduced price. In setting the price regard will be had to the group making the application, social, economic and environmental benefits generated by the transfer and the savings to the council. Liaison with local Councillors and local groups is required

In most cases councils are prohibited from disposing of an asset for a consideration that is below the best price that can reasonably be obtained. However in certain circumstances, where community benefit can be demonstrated, a transfer at less than best consideration can take place.

Changes in legislation mean that councils are no longer required to obtain best consideration (full market rent or price) when disposing of assets where a VCO has been able to make a robust case showing how the transfer is likely to benefit the local community. The transfer may help to promote or improve the economic, social or environmental well-being of the area.

The actual procedure for such transfers is set out in the 'Disposal of Land by Local Authorities (Scotland) Regulations 2010'. Further details can also be found in the Community Empowerment Bill. In order to allow transfers to take place at a lower price the Council has to be satisfied that these terms can be appropriately met. In such cases the level of discount to be applied will be determined by a range of factors/criteria including the costs to the Council, the strength of the group's business case, the potential benefits to the community, access to funding and the risks involved.

Note :- If the Council wishes to dispose of a property at a consideration less than the best that can reasonably be obtained and the best that can reasonably be obtained is less than £10,000, the Council can proceed with the disposal if it so wishes without having to meet any further criteria.

## **OR**

If the Council wishes to dispose of a property at a consideration less than the best that can reasonably be obtained and the consideration at which it wishes to dispose is less than 25% below the best that can reasonably be obtained, the Council can proceed with the disposal if it so wishes without having to meet any further criteria For the avoidance of doubt, if either of the above are satisfied there is no need to consider further criteria.

In circumstances when a VCO wishes to acquire or lease the asset following a decision of the Council to dispose of a surplus or under- performing asset, the Council will agree to a period of six months (or longer with agreement) to enable the VCO to raise the required capital to complete purchase.

Under this policy the key requirement for the transfer of any asset is that it be used primarily by VCOs to meet the Council's strategic outcomes.

It is the responsibility of the VCO to set out in the business case which supports their application, the reasons why they think ownership of the asset should be transferred to them.

The Council has developed a procedure for assessing the discount that may be applied. This takes into account the potential contribution to the Council's outcomes generated by the proposed transfer.

When there are a number of interested parties in an asset that is made available for transfer, the Council will aim to encourage collaboration.

If a service is to be transferred with the asset issues such as TUPE, equalities etc will also need to be discussed together with consideration of how the service will be provided and managed ( e.g. under a service level agreement or commercial contract), procedures for non-compliance etc. Angus Council's HR section will require to be consulted with regard to any service/ staff transfers.

All community asset transfer applications will be managed by the Council's Community Asset Transfer Group (CATG) which includes officers from relevant Council departments. Where an asset transfer application is rejected, there is an appeals process which is outlined in further detail in section 12 of this document.



## **7. Suitability**

### **Assets Considered Suitable For Transfer**

- The policy only applies to assets held on the Council's General Fund. These may include public halls, town halls, community centres, bowling greens, public conveniences, country parks, play areas, caravan parks and small museums.
- Other assets identified by the Council as being surplus to requirement or under-performing (in terms of condition, suitability, usage or energy efficiency) may also be considered.
- Each application for transfer will be considered on a case-by-case basis against the criteria outlined in the policy.

### **Assets Considered Unsuitable For Transfer**

- There are some assets that must remain under Council ownership in order to support the delivery of essential services, continue to provide an income to the Council 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, Common Good etc. Some restrictive Agreements can be lifted but it can take time.
- Ownership in a trustee capacity may also be considered as a disposal may require the consent of the Charity Commission and/or the Court of Session.
- 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 and promote economic growth.
- Assets which have the potential to generate significant capital receipts for the Council may not be considered suitable for transfer.
- Assets held on the Housing Revenue Account (HRA) such as council houses and garages are excluded from the community asset transfer policy. Other land and buildings held on the housing Revenue Account may be considered on a case by case basis

## **8. Benefits Of Community Asset Transfer**

### **Benefits to the Local Community:**

For local communities the process of community asset transfer can:

- Contribute to local outcomes
- Devolve power to neighbourhoods in an effort to encourage citizen involvement and community action.
- Contribute towards the regeneration of communities and can act as a catalyst for social, environmental and economic regeneration (including the development of community enterprise).
- Provide 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 and ensuring more effective and more intensive use of local resources.

- Stimulate the involvement of local people in shaping and regenerating their communities, and can be a catalyst for local volunteering and increasing community cohesion.
- Provide new opportunities for local learning and community capacity building and can support the creation of community leaders, and inspire others to improve their community.
- Instil a heightened sense of civic pride and responsibility.

### **Benefits to VCOs**

There are clear benefits to VCOs owning or managing community assets such as village halls, community centres, building preservation trusts and community enterprises.

Community ownership of assets can:-

- Generate long term sustainable revenue streams for VCOs 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, otherwise unavailable to Angus Council, and expand the level of community activity.
- Improve the quality of the relationship between the citizen, the community and the Council.
- Provide opportunities for the creation of new partnerships with access to resources not available to the Council.

### **Benefits to the Council:**

The potential benefits of asset transfer for the Council include:-

- Providing a more accessible and responsive base from which to deliver outcomes.
- Strengthening “community anchors”
- Restoring “iconic” buildings
- Delivering social, economic and environmental benefits
- Providing a catalyst for inward investment and local multipliers through local purchasing and employment
- Solving building management problems and lowering ongoing costs
- Helping to progress Community Planning priorities
- Providing opportunities for long term working between different interests.
- Creating the opportunity for investment in the asset that may not be possible within Council ownership
- Bringing back into use properties deemed surplus to requirement or under-performing (in terms of condition, suitability, usage or energy efficiency)

Benefits can be measured in terms of the economic, social and environmental well-being of the community. In considering potential asset transfers, the Council will evaluate each proposal in terms of its ability to contribute to the following:-

- Community empowerment
- Area and local community benefits

- Building the capacity of voluntary groups and encouraging a sustainable voluntary sector
- Economic development and social enterprise
- Improvements to local services
- Value for money for the community and the council
- Meeting objectives set out in Local Community Plans
- Financial and non-financial risk will form part of the assessment matrix

## **9. Asset Transfer Process**

### **Asset Transfer Requests**

An asset transfer request is a request in relation to land owned by Angus Council, for ownership of the land to be transferred to the community body, or in relation to land owned or leased by the relevant authority

- for the land (or part of it) to be leased to the body, or
- for the authority to confer rights in respect of the land (or part of it) on the body (including, for example, rights to manage or occupy the land or use it for a purpose specified in the request).

An asset transfer request must be made in writing.

A community body/VCO making an asset transfer request must specify in the request

- the land to which the request relates,
- the price that the body would be prepared to pay for the transfer of ownership of the land
- the amount of rent that the body would be prepared to pay in respect of any lease resulting from the request
- the duration of any such lease
- any other terms and conditions that the body considers should be included in any such lease
- any other terms or conditions applicable to the request,
- the reasons for making the request
- the benefits which the body considers will arise if the authority were to agree to the request.

A flow chart detailing the four stages of the application process is given in Section 2.

### **Stage 1 Initial Application / Suitability**

#### **See Section 6 (Stage 1 application Form)**

The VCO will not be encouraged to undertake substantial and expensive feasibility or business planning work until an “in principle” decision has been taken by the Council that the asset could be made available for transfer. The first stage in the process results in a decision on whether to proceed to the more detailed assessment at Stage 2. The first stage allows the VCO to submit its proposals in outline.

### **Stage 2 Detailed Assessment**

#### **See Section 7 (Stage 2 Application Form)**

At this stage the community group will be offered the opportunity to submit a detailed application for the asset including proposals for taking it over and running it. The application should be based on the business plan for the asset. Section 3 summarises the elements that should be included in a business plan. These are based on the information that must be submitted by any VCO when making an application for funding. Additional supporting information, which may not be included in the business plan will be checked, as detailed in Section 4 (technical check list). At this stage the applicant will be given a period of 3 months with the option to extend for another 3 months with Council agreement, to

enable the stage 2 application to be completed. Interested parties in the Private Sector will be advised that the marketing of the property has been suspended whilst the Community Asset Transfer Policy is being followed.

This stage will require a viable business plan to be fully developed, along with detailed plans for the management of the asset once in community ownership. This information is needed in order to complete the application form. The application should again be sent to the CATG along with the business plan and any other appropriate supporting documentation. Applicants may find the tables given in Section 5a and 5b helpful in considering the benefits of their proposal whilst working up their stage 2 application.

The amount of information required at this stage will vary depending on the type of asset to be transferred. In summary, this application must:

- Be based on a well-prepared business plan – this will include a review of potential options for meeting the identified need in different ways
- Demonstrate a clear community benefit and social demand for the transfer
- Show that there is community backing for the transfer and that consultation has taken place within the community
- Demonstrate that the group has the capacity to manage the asset and has members who have the necessary skills and experience
- Show the group has good governance and robust financial systems and demonstrates that they have identified suitable funding opportunities.
- . Show how the group's aims for a project will contribute to the achievement of the Council's corporate and strategic outcomes
  - Demonstrate that the proposed project will not displace activities, services or facilities already provided in the local community

### **EU State Aid Rules**

Angus Council must be satisfied that where disposal of an asset to a VCO at less than market value there is no breach of State Aid rules

The EU State Aid rules are wide-reaching and somewhat complicated to deal with. They apply to not-for-profit organisations and activities as well as commercial businesses. It is not the type of organisation which receives support that is important but the nature of the activities that they carry out.

The following paragraph explains the position:-

When public funds are provided it is necessary to establish whether EU State Aid is involved. State Aid is concerned with creating a level playing field across member states with respect to trading activities and it applies to all forms of public grant assistance irrespective of who the grant recipient is whether or not their intention is to make a profit. If the assistance is deemed to be State Aid, then any public financial assistance must be compatible with EU State Aid Rules and financial limits.

State Aid can arise in the sale of land or buildings where the owner of the land (the Council) does not get full market value for it. This can be said to be giving a competitive advantage to the community group.

Where the group carries out activities that might be the subject of competition across Europe and cannot be shown to be purely local in nature the State Aid Rules might apply – it will depend on the amount of aid involved and the nature of the activity. It is best for all concerned to take Legal Advice on this matter, in consultation with the Council's External Funding Team, before finalising transfer.

The European Commission must be notified of all schemes involving State Aid. State Aid granted without Commission approval is viewed as unlawful and may be subject to repayment by the aid recipient, not the public body giving assistance.

Further information on specific cases should be sought from the Scottish Government State Aid Unit.

See [www.stateaidscotland.gov.uk](http://www.stateaidscotland.gov.uk)

Applications will not proceed to assessment at Stage Two without confirmation from the applicant that the Scottish Government State Aid Unit has confirmed that there will be no breach of State Aid rules. Applicants are advised that timescales may be lengthy in terms of confirmation regarding State Aid compliance. Therefore, contact should be made as a priority when applying for an asset transfer.

### **Stage 3 Implementation**

It is recognised that each transfer will have a unique set of considerations so timescales will vary.

A partnership agreement will be drawn up between the community group 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 advice, or advice on management of the asset to ensure it is effectively maintained. Ideally the agreement should empower the group to take on the full legal responsibility for the asset transferred over a period of time.

If the group taking on an asset will be providing a service to the Council a Service Level Agreement will be required to safeguard the requirements of service users. The lease will set out the terms and conditions for using the asset and will define the responsibilities of the VCO and Council with regards to management and full maintenance of the asset.

The conditions of sale if transferring ownership will set out what the VCO can do with the asset and what restrictions may apply if the group wishes to sell on the asset.

During this stage the VCO will work to secure the necessary funding. Support can be provided by the Communities team and the Council's External Funding team to identify funding streams and assist with grant applications. Council officers will also work with the VCO to finalise legal aspects of the transfer and to advise on issues such as insurance, etc. Once funding is in place the process of transfer to the VCO will commence.

At any stage in the process, a community group can cancel a transfer if their circumstances change and they no longer wish to pursue the issue. In this instance, notification to the Council should be made immediately.

### **Payment Arrangements**

The Council is not a financing institution as it is neither a bank nor a provider of credit facilities. The Council's position is therefore that a single payment should be made for the full value required to allow the asset transfer to complete. It is however recognised that the asset transfer policy is in place to empower communities and in certain circumstances it may therefore be possible, in some instances, to agree a short term payment plan, up to a maximum of three years, where a community group has to raise a significant sum in order to allow the transfer to take place. Community groups would have to make a case for why a single payment could not be made for the full value and each case will be assessed on its own merits, with this including reviews of accounts and discussions with the community group. Where a short term arrangement is considered appropriate, this would be expected to be completed in no more than 3 financial years; and legal transfer of the asset would not take place until the full payment has been received.

### **Stage 4 Handover**

At this point the asset transfer will be completed and the VCO will begin using the asset to deliver the benefits described in the business case. The Council will monitor the performance of the project and will provide appropriate support as necessary to ensure the transfer is successful as per the Business Case. The necessary mechanisms will be put in place to recover possession of the property should it not be adequately maintained or operated.

## 10. Asset Transfer Requests: Decisions

The application will then be evaluated by the CATG with a recommendation made to the Councils Communities Committee on whether to proceed with the asset transfer or not.

The decision on the outcome of the application will be conveyed in writing to the voluntary and community organisation as soon as possible.

If a service is to be transferred with the asset issues such as TUPE, equalities etc will also need to be discussed together with consideration of how the service will be provided and managed ( e.g. under a service level agreement or commercial contract), procedures for non-compliance etc. Angus Council's Personnel section will require to be consulted with regard to any service/staff transfers

The Council must decide whether to agree to or refuse the request.

In reaching its decision, the authority must take into consideration the following matters

- the reasons for the request,
- any other information provided in support of the request (whether or not such other information is contained in the request or otherwise provided),
- whether agreeing to the request would be likely to meet a number of the council's outcomes:

### **COMMUNITIES THAT ARE PROSPEROUS AND FAIR**

1. We have a sustainable economy with good employment opportunities
2. Angus is a good place to live in, work in and visit

### **COMMUNITIES THAT ARE LEARNING AND SUPPORTIVE**

3. Our children and young people are confident individuals, effective contributors, successful learners and responsible citizens
4. Adults maximise their potential through learning opportunities
5. Individuals and families are involved in decisions which affect them
6. Individuals are involved in their communities

### **COMMUNITIES THAT ARE SAFE AND STRONG**

7. Our communities are safe, secure and vibrant

### **COMMUNITIES THAT ARE CARING AND HEALTHY**

8. We have improved the health and wellbeing of our people and inequalities are reduced
9. Individuals are supported in their own communities with good quality services

### **COMMUNITIES THAT ARE SUSTAINABLE**

10. Our communities are developed in a sustainable manner
11. Our natural and built environment is protected and enjoyed
12. Our carbon footprint is reduced

- any other benefits that might arise if the request were agreed to
- any benefits that might arise if the authority were to agree to or otherwise adopt an alternative proposal in respect of the land to which the request relates,
- how such benefits would compare to any other benefits the authority may adopt
- how any benefits relate to other matters the authority considers relevant (including, in particular, the functions and purposes of the authority any obligations imposed on the authority, by or under any enactment or otherwise, that may prevent, restrict or otherwise affect its ability to agree to the request
- such other matters (whether included in or arising out of the request or not) as the authority considers relevant.
- the applicant group's ability to manage the asset

For further information please refer to the document at:

<http://www.angus.org.uk/pdfs/communityplans/AngusCommunityPlanandSingleOutcomeAgreement2013-2016.pdf>

**Note:-** If the Council wishes to dispose of a property at a consideration less than the best that can reasonably be obtained and the best that can reasonably be obtained is less than £10,000 the Council can proceed with the disposal if it so wishes without having to meet any further criteria.

OR

If the Council wishes to dispose of a property at a consideration less than the best that can reasonably be obtained and the consideration at which it wishes to dispose is less than 25% below the best that can reasonably be obtained the Council can proceed with the disposal if it so wishes without having to meet any further criteria.

For the avoidance of doubt, if either of the above are satisfied there is no need to consider further criteria.

However, if neither of the above apply, in order for the Council to dispose of a property at a consideration less than the best that can reasonably be obtained it must appraise and compare the costs, cost benefits and disbenefits of the proposal AND satisfy itself that the disposal for that consideration is reasonable AND the disposal is likely to contribute to ANY of the following purposes in respect of the whole or any part of the area of the Council or any persons resident or present in its area.

The purposes are:-

- Communities that are Prosperous and Fair
- Communities that are Learning and Supportive
- Communities that are Safe and Strong
- Communities that are Caring and Healthy
- Communities that are Sustainable

### **Agreement to asset transfer request**

This section applies where the Council decides to agree to an asset transfer request made by a VCO.

The decision notice relating to the request will specify:

- the terms on which the Council is prepared to transfer ownership or lease
- the property to which the request relates
- if the VCO wishes to proceed, it must submit to the Council an offer to acquire ownership of the land or building or lease the land or building.
- the period within which such an offer is to be submitted. This period will be at least 6 months beginning with the date on which the decision notice is given.

An offer for property

- will reflect any terms and conditions specified in the decision notice,
- may include such other reasonable terms and conditions as are necessary or expedient to secure the transfer of ownership or the lease
- will be made before the end of the period specified in the decision notice

## **11. Timescales**

Indicative timescales for the application and assessment process are as follows:

### **Stage 1**

- Acknowledge receipt of application 5 working days
- Assess suitability of application 6 weeks
- Notify community group of outcome 1 week from date of decision

### **Stage 2**

- Acknowledge receipt of application 5 working days
- Assess suitability of application and submit recommendation to Communities committee: within 3 months ( dependent on timescale of committees)
- Notify community group of outcome 1 week from date of decision

### **Stage 3**

- As long as reasonably necessary to complete negotiations and put funding in place. However this will not normally exceed a period of 9 months from the date of the group being advised of a successful application.

#### **Stage 4**

- The business case should make clear the duration of the project. The aim is for the group to be self-sustaining in managing an asset over the long term.

## **12. Appeals Process**

### **Stage 1**

If a Stage 1 application is rejected on the grounds that the VCO is not properly constituted or that the outline proposal for the use of the asset does not appear to be well thought through, they will be given the opportunity to resubmit their application at a later date once the issues have been addressed. Officers from the Council can provide advice and guidance on the development of a constitution and governance arrangements or on the development of an outline business case.

If a Stage 1 application is rejected on the grounds of suitability the VCO can write to the Community Asset Transfer Group asking that the decision be reviewed. The VCO will be notified the outcome of this review within 30 working days.

### **Stage 2**

The decision on CAT will be made by the Communities Committee of the Council. The VCO will be informed of the decision in writing and if their application is rejected, the reasons for the refusal.

The VCO will be given the opportunity to address any concerns raised by Committee and resubmit their application at a later date.

## **13. Things You Need To Think About Before Applying**

### **Evidence of Community Support**

When assessing the Stage 2 application, the Council will be looking for evidence of community support for the transfer. This has to be obtained through consulting existing building users, other community groups and other stakeholders from within the community. The views of elected members should also be sought.

Where two or more community organisations have an interest in the asset, the Council would expect them to work together and come to an agreement on the way forward. This may involve a joint bid.

### **Costs**

The Council will work in partnership with the voluntary and community organisation to help them through the process. However there will be costs associated with any asset transfer and voluntary and community organisations will be expected to pay their share of these.

Costs may include:

- Valuation fees – the Council will obtain their own valuation for any asset to be transferred and the applicants can either accept this or arrange their own independent valuation.
- Feasibility studies
- Architects' fees
- Legal fees



- Consultancy fees

These are the costs that the community organisation may incur when calling on independent, professional advice to help them with the transfer. These must be considered when developing a plan for community asset transfer along with the ongoing costs of maintaining an asset.

### **Securing funding**

There is a range of funding options available which can enable community groups to purchase assets from the Council. These can involve grants, borrowing and fundraising and it is important that a group investigates these in full. Commercial borrowing is another option but repayments would need to feature in the business plan.

The Council may also be able to help with some of the costs associated with the transfer, however it is important that the level of support needed is established at an early stage in the process. The Council may be able to identify some funding from current revenue to support a transfer if there is a long term benefit to the Council and the community arising from the transfer going ahead.

### **Management of associated risks**

Risk management is the process of identifying risks, evaluating their potential consequences and implementing the most effective way of controlling and monitoring them. The intention is to turn uncertainty to an organisation's advantage by constraining threats and taking advantage of opportunities.

It is important that any voluntary and community organisation fully understands the risks involved in undertaking asset transfer and should take a systematic approach to considering these at an early stage.

Transfer of Undertakings (Protection of Employment) Regulations (TUPE)

VCO's wishing to take over services previously provided by the Council must consider the rights of employees currently employed to support an asset. This can be discussed in detail between groups and the council officer engaged with them in the transfer process. If employees are to be assigned to the asset post transfer their employment rights must remain protected.

### **Procurement**

This is a complicated area but it appears likely that if an asset is transferred under specific conditions that services are to be delivered, and there is a binding obligation on the VCO receiving the asset to provide those services, then there is a strong likelihood that this would be considered a contract. For example, a Service Level Agreement may be put in place. In this case, the contract will need to be procured using an EU-compliant procurement process.

### **Other issues**

There are a range of other issues that need to be considered and community groups should take independent advice on these before proceeding with their application. These include:

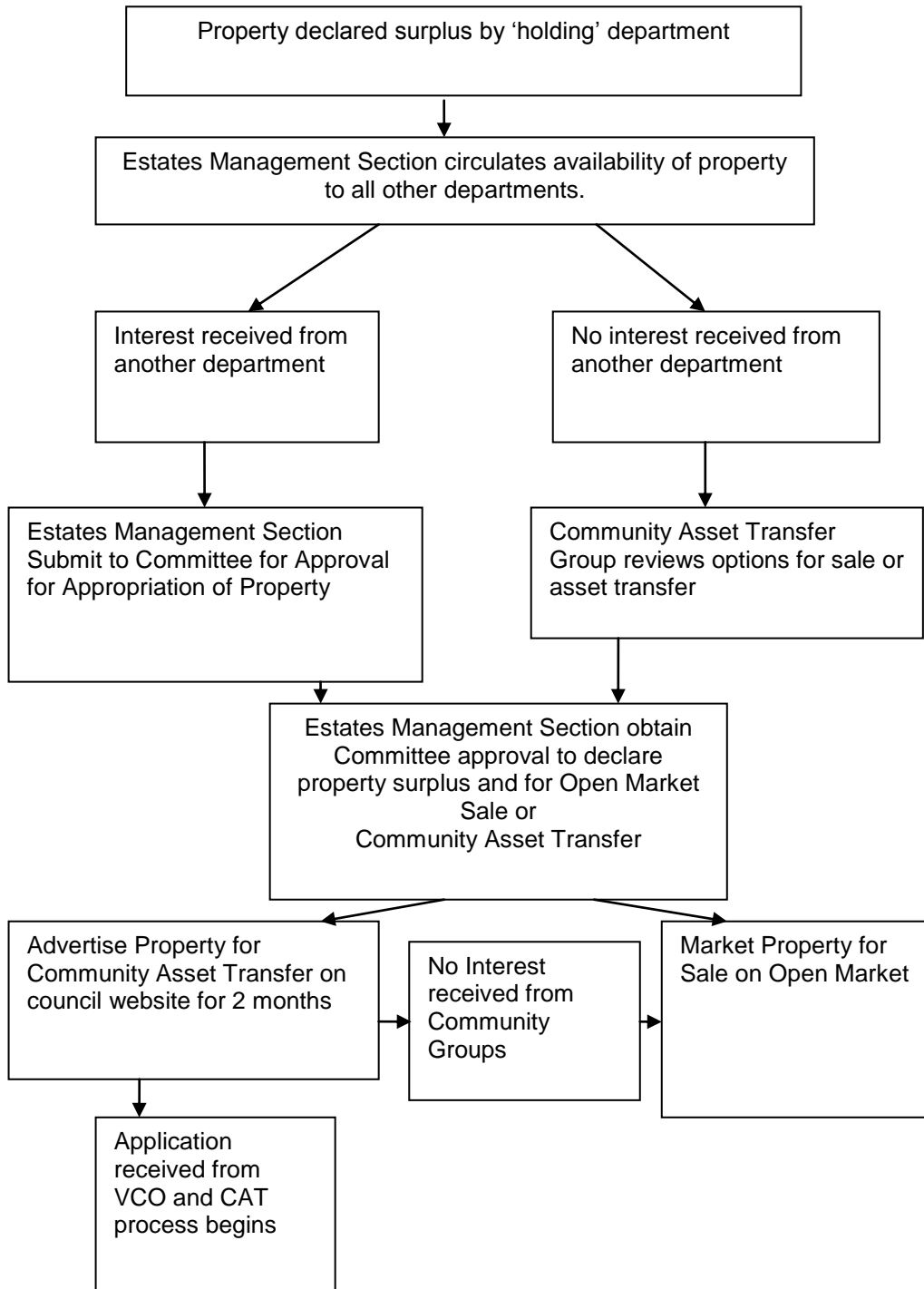
Tax liability in respect of VAT and corporation tax

Nature of the contractual relationship to be entered into with the Council for the provision of goods and services

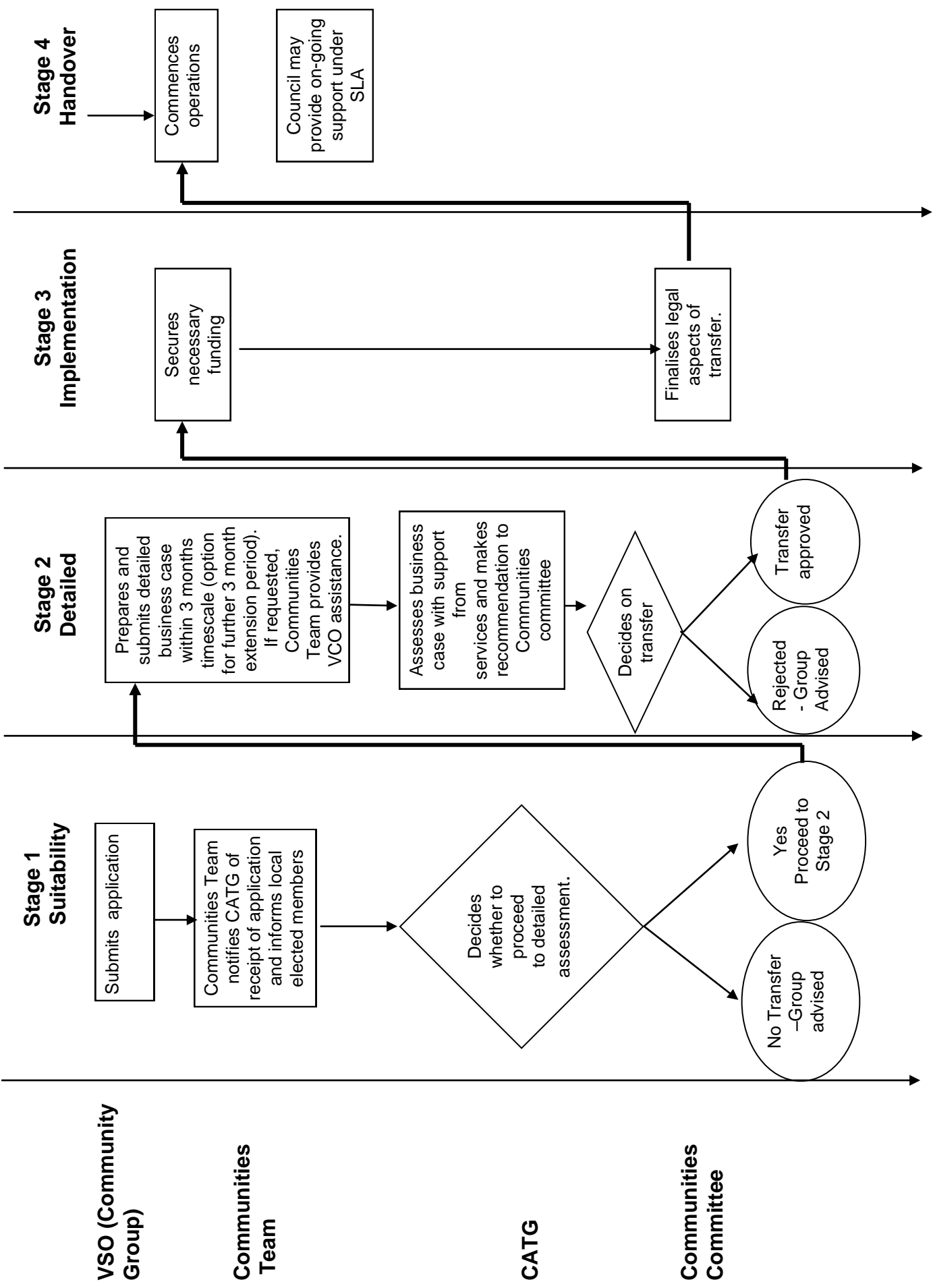
Community and Voluntary Groups can obtain more detailed advice and guidance from the Development Trusts Association Scotland (DTAS) [www.dtascot.org.uk](http://www.dtascot.org.uk)

Applicants who currently lease the relevant property from Angus Council will continue to meet all lease obligations, including payment of market rent, until the Community Asset Transfer process has been concluded.

**Section 1 Procedure for Surplus Property & Community Asset Transfer**



**Section 2 Outline of Assessment Process**



### **Section 3 Elements of The Business Case/Business Plan**

Evidence of need and lack of service provision in area – Needs Analysis

List of benefits that will be derived from the asset transfer and how these will be measured.

Include details of expected beneficiaries.

Capacity of the VCO to acquire and manage the asset.

Include:-

- Details of stakeholders
- Core activities
- Organisational management structure
- Robustness of governance
- Demonstrates that the VCO is committed to the delivery of council outcomes
- Evidence of partnership working
- Evidence of community involvement
- Experience and/or track record including expertise held by board members
- Financial stability of the group
- Breakdown of projected costs for the asset for three operating years
- Revenue budget for managing and maintaining the asset on the basis of a full repairing and insuring lease.
- Projected income/cash flow.
- Arrangements for on-going business planning
- Sources of funding – detail funding acquired and funding applied for
- Type of asset transfer sought and why
- Arrangements to be put in place to ensure effective management of the asset and compliance with all relevant statutory regulations

#### **Type of contract sought with Council if proposing to take over an existing service**

- Capacity building plan and how this will be delivered
- Details of how it is proposed to use the asset and how these activities will be monitored
- SWOT Analysis ( Strengths, Weaknesses, Opportunities, Threats)
- Risk Management and details of fall-back arrangements should the transfer prove not to be sustainable.

**Section 4 Asset Transfer Application- Technical Check**

Ref No	Applicant
Asset name	

**Attachments checklist**

	Checked date	Comment	Cleared date
<b>Copies of...</b>			
Constitution or Articles and Memorandum			
List of Committee Members or Directors			
Committee meeting minutes			
Most recent Bank Statement (please provide for all accounts held)			
Most recent Accounts (If new organisation: Projection of income and spend)			
Equal Opportunities Policy/Statement			
Child Protection Policy			
Other Policies referred to (H&S, Recruitment etc)			
Confirmation of Other Funding if available			
Evidence of Research or Consultation			
Planning permission or other form of regulatory compliance or consent			
Business Plan			
Other - please detail e.g. letters of support, press cuttings			
Confirmation from Government State Aid Unit			

**Organisation**

	Y/N	Comment
Type of organisation		
VAT registered		
Charitable Status		

**Application Form**

	Checked date	Comment	Cleared date
Is the application form complete?			
Is the form signed by an appropriate signatory?			
Are all attachments included?			
Are electronic copies provided?			

**Eligibility Criteria**

	Checked date	Comment	Cleared date
Organisation/applicant is eligible			

**Concerns raised and actions taken:**

**Assessors Allocated**

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Completed by \_\_\_\_\_ Date: \_\_\_\_\_

**Section 5a**

**Statement of Community Benefit which will result from Asset Transfer**

<b>Group Name:</b>		<b>Asset applied for :</b>		
<b>Key Activities</b> <i>what new or different activities will your group organise following a successful asset transfer? (e.g. taster sessions, training courses or community events)</i>	<b>Outcomes</b> <i>what will these activities result in? (e.g. number of people taking part, number of events organised)</i>	<b>Community Benefits</b> <i>what overall benefits will the whole community receive as a result of these activities? (e.g. , more local people are involved, reduction in social isolation, improved health )</i>	<b>Impact on Angus Outcomes</b> <i>having considered the list of 12 Angus Outcomes, please state which of these outcomes your activities will contribute to</i>	<b>Additionality</b> <i>state why the proposed activity cannot go ahead without the asset transfer</i>
1.				
2.				
3.				
4.				

**Section 5b Reporting of Current Work and Contribution of Applicant Body**

<b>Key Activities</b> <i>what has your group done over the past 12 months? (e.g. offered taster sessions, training courses or community events)</i>	<b>Outcomes</b> <i>what have these activities produced? (e.g. number of people taking part, number of events organised)</i>	<b>Community Benefits</b> <i>how has the whole community benefited from this? (e.g. group is more sustainable, health , greater community spirit)</i>	<b>Impact on Angus Outcomes</b> <i>having considered the list of 12 Angus Outcomes, please state which ones this activity contributes to</i>
1.			
2.			
3.			
4.			