

Appendix 1 to Report 210/18 – CAT Review Procedure & Guidance

Reviews and Appeals

- 1.1 A community transfer body can ask for their asset transfer request to be re-examined in certain circumstances. This can either be in the form of a **review** (where the asset transfer request is considered again by the Council) or an **appeal** (where the asset transfer request is considered by the Scottish Ministers).
- 1.2 A community transfer body can seek a review or appeal if:
- their request is refused,
 - the terms and conditions in the decision notice are significantly different from those in the request
 - no decision notice is issued within the required period.
- 1.3 A community transfer body cannot seek a review or appeal in relation to the terms and conditions in the decision notice if it has already made an offer, unless it first withdraws that offer. If the community transfer body makes an offer after submitting an appeal or application for review, the appeal or review is treated as having been withdrawn.
- 1.4 A community transfer body can also appeal to the Scottish Ministers if a request is agreed, but no contract is concluded within the required time limit of 6 months. In all cases the final decision lies with the Scottish Ministers. There is no further route of appeal beyond them (except by judicial review).

Review of a request made to the Council

- 1.5 If the Council declines the initial request or if any of the other circumstances listed in para 1.2 above apply), a community transfer body can apply for an internal **review** by the Council. Applying for a review must take place within **20 days** beginning with the date of the deadline for a decision (6 months from the validation date, as given in the acknowledgment of the request letter).
- 1.6 An application for review must:
- include the name and contact address of the community transfer body;
 - specify the land to which the asset transfer request relates;
 - include a statement setting out the community transfer body's reasons for requiring a review of the case and by what, if any, procedure (or combination of procedures) the community transfer body considers the review should be conducted;
 - be accompanied by a list of all documents, materials and evidence which the community transfer body intends to rely on in the review.

Written submissions

- 1.7 The application for review must also include a copy of all documents, evidence and materials listed in the list described above, other than the materials already submitted to the Council as part of the original request.
- 1.8 If the Council considers that the review documentation provides sufficient information to enable a decision to be made, the review will proceed as set out below. However, the Council may decide that further procedure is required and can, at any stage of the review process, determine that further representations should be made or information supplied.

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- 1.9 Regulation 5 requires all these review documents to be published on the local authority's website. Any personal information should be redacted before publication.
- 1.10 The Council will send an acknowledgement of the application for review to the community transfer body within 10 working days of receiving it. The acknowledgement must state the date on which the application was made, and tell the community transfer body how the review documents can be inspected.

Notification of interested parties

- 1.11 Also within 10 working days of receiving the application for review, the Council will give notice of the review to anyone who made representations on the original asset transfer request. These people are described as interested parties. Notice must be sent by post to any interested party who is a tenant or occupier of the land or building to which the request relates, or an owner if the relevant authority leases it. Other interested parties may be notified by post, or by newspaper advertisement. Every interested party should have given a name and address with their original representation, but newspaper advertisement will be used if there are large numbers to be notified.
- 1.12 Interested parties may make representations to the Council within 10 working days of the date of the notice. After this they may not bring forward any further matters or evidence unless the Council requests it.
- 1.13 The Council will send a copy of any representations received to the community transfer body, and inform them how and by what date they may make comments to the CAT Decision Review Committee (the Angus Council equivalent of a Hearing Panel). This will be at least 10 working days from the date of sending the copy to them.

The Review

- 1.14 In carrying out a review, the Council must consider the request in the same way as the original process and taking account of the same factors and benefits of the request and any alternative proposals. The CAT Decision Review Committee is made up of Councillors not involved in the original decision.

CAT Decision Review Committee

- 1.15 Requests for Review of CAT decisions made by the Council's Policy & Resources Committee will be heard by the Council's CAT Decision Review Committee. Meetings of the Committee will be arranged by giving written notice to the community transfer body and any other relevant people and anyone intending to attend the Committee will have **10 days** to acknowledge the written notice and state their intention. Notice for the date of the Committee will be at least **10 days** from the deadline for acknowledgement. The CAT Decision Review Committee will be arranged in communication with all relevant parties to find a mutually agreeable time and date. Meetings of the Committee will normally be held in Forfar.
- 1.16 Once notice has been acknowledged, the community transfer body will be asked to provide a statement supporting the reasoning behind their review request and any additional documentation they intend to rely on at the CAT Decision Review Committee. This period also affords the Council an opportunity to request any further information, which should be provided by the community transfer body. This should be submitted at least **7 days** prior to the date of the CAT Decision Review Committee.

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The Review Decision

- 1.17 Having carried out the review, the CAT Decision Review Committee may confirm the original decision, modify it or any part of it (including the terms and conditions set out in the decision notice) or substitute a different decision. The Council must issue a new decision notice, which replaces the previous decision notice.
- 1.18 If the outcome of the review does not resolve the issue, or if no decision is made within the required period, the community transfer body can appeal to the Scottish Ministers. The required period for decision will be **6 months** from the date of the application for review.