

Appendix 4 – Procedure

Housing Revenue Account (HRA) Disposal of Land and Granting of Servitude Rights of Access Policy

1. This procedure is designed to be used by Angus Council staff administering a request from a member of the public to purchase HRA land or be granted a servitude right of access over HRA ground. The procedure for both types of application are generally the same, although any requests for servitude rights of access will take account of the previously approved policy (R28/14 – Communities Committee 21/01/14). This is the current procedure but a digitised version to improve efficiency is being explored.
2. When an initial enquiry is received, details of the process and costs involved in purchasing an area of ground/servitude right of access are provided to the customer. Details of how to make a formal request are also provided. This information is available on the Council website.
3. When a formal request is received, initial checks are made to determine if ground is held on the HRA. Requests may be forwarded on if the ground is held on another service's account, or the customer may be advised that the ground does not appear to be council owned. If the ground is HRA, the customer must sign a mandate agreeing to meet the costs incurred by the Housing Service in connection with their request before any further progress.
4. The information provided by the customer allows officers from the Community Housing Team (CHT) to determine if the ground is surplus to requirements. Comments from Roads, Planning and Parks are taken into consideration, as well as any impact on current and future tenants and estate management. If the ground concerned forms part of another tenancy, the current tenant must agree to formally relinquish it from their tenancy before a request may proceed.
5. If CHT officers determine the ground to be surplus, the CHT Manager and Service Leader should be advised to allow any concerns with the decision to be highlighted.
6. If the ground is not considered to be surplus to requirements, the customer is advised, giving reasons for the decision. As this service is not a statutory obligation for the council, and there is a robust process in place for determining if ground is surplus, there is no right of appeal. Customers will, however, have the option to make a complaint to the council or the Scottish Public Services Ombudsman if they think their request has not been dealt with in a suitable manner.
7. If the ground is determined to be surplus to requirements, pre-sale legal checks are made to ensure there are no impediments to the disposal/servitude. If not, the customer is advised that their request is provisionally approved, subject to formal approval by the Service Leader for Housing and all incurred costs being met by them. If the ground is valued at over £10,000, the sale must also conform to Scottish Government Ministerial Guidance. If the customer does not wish to proceed further, they are invoiced for costs incurred (pre-sale legal fees and an administration fee).
8. If the customer wishes to proceed to the valuation stage, the Council's appointed valuer is instructed to value the ground at current market value, taking into account any development potential. A deed plan is also prepared.

9. If valuation of ground/servitude is over £10,000, consult with Scottish Ministers (Disposal of Assets from Housing Revenue Accounts - Guidance on Scottish Ministers' Consent 2015).
10. The Service Leader for Housing formally approves request, taking the valuation into account.
11. The customer is advised of valuation, and that their request has been formally approved. If the customer wishes to proceed, they should confirm the details of the solicitor who will act on their behalf. If the customer does not wish to proceed, they are invoiced for costs incurred (pre-sale legal fees, valuation fee, deed plan fee and administration fee).
12. If disposal is to proceed, Legal Services are instructed to begin acting on Housing's behalf in the sale of ground or granting of servitude right of access. If disposal/servitude relates to ground that forms part of a tenancy, the current tenant signs a Variation of Tenancy agreement.
13. When the transaction is complete, the area is removed from the Parks maintenance Service Level Agreement (SLA), if relevant. Other council officers are advised that the ground is sold or servitude right of access granted so this can be taken into account when planning future works, for example.
14. Details of the disposal/servitude are recorded on a monitor spreadsheet. Details of any request that proceeds beyond the initial enquiry stage are also recorded for statistical information and also to ensure that decisions made can be followed consistently for future requests. Customer's personal information is held for a period of 5 years as per GDPR statement.