

10am, Thursday, 10 December 2015

## **Community Empowerment (Scotland) Act 2015: Update and Interim Community Asset Transfer Policy – referral from the Communities and Neighbourhoods Committee**

<b>Item number</b>	8.7
<b>Report number</b>	
<b>Executive/routine</b>	
<b>Wards</b>	All

### **Executive summary**

---

The Communities and Neighbourhoods Committee on 24 November 2015 considered an update report on the key areas of significance for the Council, the Cooperative Capital Framework and the Edinburgh Partnership as a result of the Community Empowerment (Scotland) Act 2015. Preparation was underway in advance of the release of ministerial guidance related to the Act, and in this regard, approval was sought for an Interim Community Asset Transfer Policy.

The report has been referred to Council for approval of the Interim Community Asset Transfer Policy, and to approve an adjustment to the Committee Terms of Reference and Delegated Functions to allow the Corporate Policy and Strategy Committee to determine appeals on community asset transfers.

### **Links**

---

<b>Coalition pledges</b>	See attached report
<b>Council outcomes</b>	See attached report
<b>Single Outcome Agreement</b>	See attached report

# Terms of Referral

## Community Empowerment (Scotland) Act 2015: Update and Interim Community Asset Transfer Policy

### Terms of referral

---

- 1.1 On 24 November 2015, the Communities and Neighbourhoods Committee considered an update report on the key areas of significance for the Council, the Cooperative Capital Framework and the Edinburgh Partnership as a result of the Community Empowerment (Scotland) Act 2015.
- 1.2 The report by the Deputy Chief Executive identified the preparation underway in advance of the release of ministerial guidance related to the Act, and sought approval for an Interim Community Asset Transfer Policy. Following release of the ministerial guidance, the Interim Community Asset Transfer Policy would be reviewed, and further co-production work would be undertaken in order to develop a final policy for consultation and approval in mid-to-late 2016.
- 1.3 The Communities and Neighbourhoods Committee agreed:
  - 1.3.1. To note the range of likely impacts arising from the Community Empowerment (Scotland) Act 2015, and that preparation was underway in advance of the release of ministerial guidance as set out in the report by the Deputy Chief Executive.
  - 1.3.2. To recommend approval of the Council's Interim Community Asset Transfer Policy as set out in Appendix 1 to the report by the Deputy Chief Executive.
  - 1.3.3. To refer the Deputy Chief Executive's report to Council for approval of the Interim Community Asset Transfer Policy, and to approve an adjustment to the Committee Terms of Reference and Delegated Functions to allow the Corporate Policy and Strategy Committee to determine appeals against the decision of the Finance and Resources Committee on community asset transfers.

## For Decision/Action

---

- 2.1 Council is asked to approve the Interim Community Asset Transfer Policy, and approve an adjustment to the Committee Terms of Reference and Delegated Functions to allow the Corporate Policy and Strategy Committee to determine appeals against the decision of the Finance and Resources Committee on community asset transfers.

## Background reading / external references

---

See attached report.

### Carol Campbell

Head of Legal and Risk

Contact: Ross Murray, Acting Committee Clerk

E-mail: [Ross.Murray@edinburgh.gov.uk](mailto:Ross.Murray@edinburgh.gov.uk) | Tel: 0131 469 3870

## Links

---

<b>Coalition pledges</b>	See attached report
<b>Council outcomes</b>	See attached report
<b>Single Outcome Agreement</b>	See attached report
<b>Appendices</b>	Community Empowerment (Scotland) Act 2015: Update and Interim Community Asset Transfer Policy – report by the Deputy Chief Executive

10.00 am, Tuesday 24 November 2015

## Community Empowerment (Scotland) Act 2015: Update and Interim Community Asset Transfer Policy

Item number  
Report number  
Executive/routine  
Wards

### Executive summary

---

This report provides an overview of the key areas of significance for the Council, the Cooperative Capital Framework and the Edinburgh Partnership as a result of the Community Empowerment (Scotland) Act 2015. It identifies the preparation underway in advance of the release of ministerial guidance related to the Act, and in this regard, seeks approval for an interim community asset transfer policy.

### Links

---

<b>Coalition pledges</b>	P23, P36
<b>Council outcomes</b>	CO26
<b>Single Outcome Agreement</b>	SO4

## Community Empowerment (Scotland) Act 2015: update and interim community asset transfer policy

### Recommendations

---

- 1.1 That Committee:-
  - 1.1.1 Notes the range of likely impacts arising from the Community Empowerment (Scotland) Act 2015, and preparation underway in advance of the release of ministerial guidance as set-out in the report;
  - 1.1.2 Recommends approval of the Council's interim community asset transfer policy; and
  - 1.1.3 To refer the report to Council for approval of the Interim Community Asset Transfer Policy, and to approve an adjustment to the Committee Terms of Reference and Delegated Functions to allow the Corporate Policy and Strategy Committee to determine appeals against the decision of the Finance and Resources Committee on community asset transfers.

### Background

---

- 2.1 The Community Empowerment (Scotland) Act 2015 ('the Act') passed into law on 24 July 2015. Each part of the Act will come into force separately following a Commencement Order from the Minister. These dates are yet to be announced or confirmed.
- 2.2 The Act builds upon, and consolidates, a range of public engagement and empowerment initiatives which have been a non statutory feature of local community planning and decision making in Scotland for a number of years.

### Main report

---

#### **The Community Empowerment (Scotland) Act 2015**

- 3.1 The following key areas of the Act are most relevant to Council and Edinburgh Partnership business:
  - a. community planning;
  - b. community participation requests;
  - c. community right to buy;
  - d. asset transfer requests;

- e. common good;
  - f. allotments; and
  - g. non domestic rates.
- 3.2 Further information on each area is outlined in this report, in order to update Committee prior to publication of more detailed ministerial guidance.

### **Community Planning**

- 3.3 It is already a statutory requirement for each local authority area in Scotland to have formal Community Planning Partnerships ('CPP'), and for the Council to lead on the support and development of the CPP, as a result of the provisions of the Local Government (Scotland) Act 2003. Significantly, the Act makes further legal requirements on other key statutory bodies to participate in CPPs, and extends the range of requirements on such bodies.
- 3.4 The Act aims to improve the achievement of outcomes resulting from, or contributed by, the provision of public services, with a significant emphasis on tackling socio-economic inequalities.
- 3.5 The requirement of CPPs to produce a Local Outcomes Improvement Plan (LOIP), and for CPPs to provide regular and publicly available progress reports, is a significant development. The Council and Edinburgh Partnership are well placed in this regard, with the publication of the Edinburgh Partnership Community Plan 2015/18.
- 3.6 In addition, CPPs must produce Locality Improvement Plans, with a focus on 'place' and 'neighbourhoods', accounting for inequalities of outcome between them. Each locality plan must set out the improvements the CPP will effect, and a schedule for achieving them. These must also be reported on and revised in line with the overall Local Outcomes Improvement Plan. Again, the Council and Edinburgh Partnership is well placed with regard to the 12 Neighbourhood Partnership Local Community Plans, and the transformation programme proposal to establish four Locality Leadership Teams, who will develop and publish four larger area locality improvement plans.
- 3.7 In September 2015, the Edinburgh Partnership received an update from the Scottish Government on duties for; (i) local outcome improvement plans, (ii) locality improvement plans, and (iii) participation requests. The Edinburgh Partnership agreed to progress action following release of related ministerial guidance in early 2016.
- 3.8 The requirements of the Act also form part of the Council's strategic planning and performance framework. This framework provides a common thread connecting the commitments, and actions agreed by the Council, with its community planning partners, and detailed operational action plans for the delivery of frontline services.

- 3.9 This approach is set out in the Council Business Plan for 2015-18, which presents the Council's vision for the city alongside the strategic direction needed to focus the work of all Council services towards this vision. Within the plan, a core priority for the Council is the delivery of transformational change across the organisation, specifically the Citizens and Locality project. This project aims to build an organisation centred on place based approaches where a focus on partnership and co-production, citizen and community empowerment, and improving outcomes in areas of deprivation are central.

### **Community Participation requests**

- 3.10 The Act requires Councils and CPPs to enable communities to take a proactive role in how services are planned and delivered. This requirement aligns with the Council's decision in November 2014 to mainstream co-production, as a result of the Cooperative Capital Framework annual report.
- 3.11 In this regard, the Act makes provision for community interest groups to make a formal request to be included in such processes. The requests must demonstrate that the Group meets certain requirements relating to structures, membership and purpose. The Council must agree to such requests unless there are reasonable grounds to refuse.
- 3.12 Ministerial guidance will provide more detail about the procedural regulations relating to such requests. In the interim, further work is taking place to identify best practice with regard to co-production across the City, and on how best the Council and the CPP can facilitate and consider these requests. Changes to the Committee Terms of Reference and Delegated Functions, and the Scheme of Delegation to Officers, may be necessary to determine whether to accept or refuse such requests.

### **Community right to buy and asset transfer**

- 3.13 The Act includes an amendment to the Land Reform (Scotland) Act 2003, and extends the existing 'community right to buy' to urban and rural areas. A new provision is also included to allow community bodies to purchase land which is abandoned or neglected, and where the owner is not willing to sell. The purchase must be in the public interest and support the sustainable development of the land.
- 3.14 The Act also includes a provision for asset transfer requests from community bodies, which identifies the right to request an agreement to purchase, lease, manage or use land or buildings that belong to local authorities or other public bodies. In addition, local authorities need to create and maintain a register of land and assets that can be made available to community bodies.
- 3.15 Given the Act provides a reasonable detailed framework for community asset transfer, subject to final guidance, the Council and a range of third sector bodies and community planning partners, have been co-producing an interim

policy (attached at appendix 1) that provides for an initial response to such requests. The interim policy includes:

- a. requirements for initial and full submissions from community bodies, including sustainable business case proposals;
- b. ten key principles for transfer; and
- c. use of leases.

3.16 Following release of the ministerial guidance, the interim community asset transfer policy will be reviewed, and further co-production work will be undertaken, in order to develop a final policy for consultation and approval by Committee in mid-to-late 2016.

### **Common Good**

3.17 The Act places a statutory duty on local authorities to establish and maintain a register of all property held for the common good. This duty also requires local authorities to publish proposals and consult community bodies before disposing of, or changing the use of, common good assets.

### **Allotments**

3.18 The Council will have to take reasonable steps to provide more allotments if the waiting list exceeds half the total number of allotments available. The Act allows the size of an allotment to be agreed between the person requesting an allotment and the local authority.

3.19 There may be a need to allocate land for new allotments, which includes site maintenance and utility costs. Aligned to this, local authorities need to have a Food Growing Strategy. The Council already meets this requirement through [Cultivating Communities: A Growing Challenge - An allotments strategy for the City of Edinburgh 2010 – 2015](#) and [Edible Edinburgh](#).

### **Non domestic rates**

3.20 The Council can determine and fund their own localised business rate-relief schemes to better reflect local needs and support communities.

### **Next Steps**

3.21 It is expected that the accompanying ministerial guidance, on both application and implementation of the Act, will be released on a phased basis over the next 12-18 months. Initial guidance will concern the duties being applied to community planning partnerships. As yet, there is no timescale on implementation of the remaining components of the Act. Consequently, further reports to comply with the Act will be submitted to the relevant Committee as appropriate, specifically, any financial impacts arising from such guidance.

## **Measures of success**

---



- 4.1 In the absence of ministerial guidance, possible measures of success could include (i) the number of assets transferred to the community on a sustainable basis; (ii) the number of community participation requests dealt with that lead to improved services and citizen satisfaction; (iii) publication of local outcome improvement plans and locality improvement plans; or (iv) publication of common good register and land and assets register.

## **Financial impact**

---

- 5.1 Specific financial and resource impacts remain to be quantified, as some of the costs are going to be driven by demand, and will depend on the circumstances relating to each of the individual requests received by the CPP and/or the Council.
- 5.2 Resources for the operation of the interim policy are proposed to be broadly contained within existing service area budgets. However, this may need to be readdressed depending on the volume of additional work the new policy generates.
- 5.3 The Committee is asked to note that with the development of the property and asset investment strategy there may be affordability issues in regards to community asset transfer. In addition, should leases be granted, this may put further pressure on investment in third parties currently the subject of reductions.

## **Risk, policy, compliance and governance impact**

---

- 6.1 Key risks identified as a result of implementing the interim community asset transfer policy are associated with achieving the relevant Capital Coalition Pledges. These are mitigated by the current approaches to co-production that have been applied to shaping the many recent policy and service developments in this area.
- 6.2 The primary impacts on council governance and Edinburgh Partnership arrangements and policies have been identified in the report, and work is underway to manage these.
- 6.3 In summary, it is assessed that the Council is in a good position to comply with many of the new legal duties, as a result of previous, current and proposed approaches to partnership working, community empowerment, co-production, asset transfer and community planning.

## **Equalities impact**

---

- 7.1 The development and implementation of the interim asset transfer policy (which includes requirements to observe equalities and rights issues) will assist the Council to deliver key equality and rights outcomes, and meet the Equality Act 2010 public sector equality duties to (i) eliminate unlawful

discrimination, harassment and victimisation, (ii) advance equality of opportunity and (iii) foster good relations.

- 7.2 An Equalities and Rights Impact Assessment (ERIA) has been undertaken in regards to the establishment of the interim policy. No specific concerns have been highlighted as a result.

## Sustainability impact

---

- 8.1 The development and implementation of the interim policy enables the Council to meet the Climate Change (Scotland) Act 2009 public sector duties, and contributes to the delivery of Sustainable Edinburgh 2020 objectives, in particular the advancement of vibrant flourishing communities, social and economic wellbeing and an efficient and effectively managed city.

## Consultation and engagement

---

- 9.1 Eight meetings of the Asset Transfer Policy Co-production Steering Group have taken place April 2014 – June 2015
- 9.2 The formation of the asset transfer policy framework was considered by the Communities and Neighbourhoods Policy Development Sub-Committee in September 2014.
- 9.3 The formation of an asset transfer policy has implications for the Council and will be influenced also by Council Transformation Programme's Property and Asset Management Strategy and development of the Common Good Register.
- 9.4 There have been numerous meetings with community planning partners, and papers to the Edinburgh Partnership Board, identifying developments within the Act and consequent impacts.

## Background reading/external references

---

- [Property and Asset Management Strategy](#), Finance and Resources Committee, 24 September 2015
- [Common Good Assets Register](#), Corporate Policy and Strategy Committee of 4 August 2015
- [Council Asset Transfer Policy: Progress and Principles presentation](#) to the Communities and Neighbourhoods, Policy Development and Review Sub-Committee of 24 September 2014
- [Community Empowerment \(Scotland\) Bill 2014](#), City of Edinburgh Council, 6 February 2014

**Alastair Maclean**

**Deputy Chief Executive**

Contact: Peter Watton, Head of Property

E-mail: peter.watton@edinburgh.gov.uk | Tel: 0131 529 5962

Contact: Kirsty-Louise Campbell, Strategy and Governance Manager

E-mail: kirstylouise.campbell@edinburgh.gov.uk | Tel: 0131 529 3654

## Links

---

<b>Coalition pledges</b>	<b>P23</b> - Identify unused Council premises to offer on short low-cost lets to small businesses, community groups and other interested parties <b>P36</b> - Develop improved partnership working across the Capital and with the voluntary sector to build on the “Total Craigroyston” model
<b>Council outcomes</b>	<b>CO26</b> – The Council engages with stakeholders and works in partnership to improve services and deliver on agreed objectives
<b>Single Outcome Agreement</b>	<b>SO4</b> - Edinburgh's communities are safer and have improved physical and social fabric
<b>Appendices</b>	Appendix 1 – interim Council Community Asset Transfer Policy

# Interim Council Community Asset Transfer Policy

**Implementation date: 24 November 2015**

## Control schedule

<b>Approved by</b>	Communities and Neighbourhoods Committee
<b>Approval date</b>	24 November 2015
<b>Senior Responsible Officer</b>	Alastair Maclean
<b>Author</b>	Graeme McKechnie
<b>Scheduled for review</b>	November 2016 (or following publication of ministerial guidance)

## Version control

Version	Date	Author	Comment
1	28-10-15	Graeme McKechnie	Final draft interim policy to CLG

## Committee decisions affecting this policy

Date	Committee	Link to report	Link to minute
24-11-15	Communities and Neighbourhoods Committee		
21-11-13	City of Edinburgh Council	<a href="#">A framework to advance a Cooperative capital 2012-17 – year one report. Report to Council 21<sup>st</sup> November 2013</a>	<a href="http://www.edinburgh.gov.uk/download/meetings/id/41665/minute_of_21_november_2013">http://www.edinburgh.gov.uk/download/meetings/id/41665/minute_of_21_november_2013</a>

# Interim Council Community Asset Transfer Policy

## Policy statement

---

- 1.1 The policy responds to the framework for community requests on asset transfer within the Community Empowerment (Scotland) Act 2015
- 1.2 The interim policy provides the basis upon which the Council will manage requests for the transfer of assets (buildings / land owned by the Council) from community interests in the City.

## Scope

---

- 2.1 The interim policy should be applied by council staff receiving requests for asset transfer and/or managing an opportunity for an asset transfer.
- 2.2 The policy also provides guidance to communities in regards to the process to be applied by the Council in dealing with requests for an asset transfer and/or managing an opportunity for an asset transfer.

## Definitions

---

- 3.1 Community asset transfer (AT).
- 3.2 Community benefit (CB).
- 3.3 The 'Act' means the Community Empowerment (Scotland) Act 2015.

## Policy content

---

- 4.1 The Act provides the framework (pending ministerial guidance on commencement and application) including:
  - the transfer of assets;
  - improving and extending 'Community Right to Buy'; and
  - for communities to take ownership or make more effective use of land and buildings.
- 4.2 AT refers to the policies and associated procedures that public authorities may use to transfer the ownership of an asset to a community based organisation.
- 4.3 AT can occur in a range of different ways:
  - new management agreements for an existing facility;

- long-term leases (including; maintenance of the property/land in accordance with lease terms and conditions) of periods of five years and upwards; and
- transfer of ownership.

#### Community benefit objectives and eligibility

- 4.4 The transfer of an asset, i.e.; a building or land that the City of Edinburgh Council wholly owns, should seek to deliver the following community benefit objectives:
- contribution to a developing and sustainable community;
  - involved and empowered communities;
  - equality of access and influence;
  - improved quality and efficiency of community service(s);
  - social (added) value demonstrated and enhanced;
  - partnership and collaboration is characterised; and
  - assists the community to achieve aspirations.
- 4.5 As the transfer of an asset is for community benefit and enterprise, the following types of organisations are eligible to make a request:
- a not-for-profit community controlled organisation;
  - an unincorporated voluntary body for outline requests, with full submissions required from legal entity (incorporated) organisations;
  - cooperative society's/community mutual's,
  - registered charities, (charitable incorporated orgs must not have fewer than 20 members);
  - not-for-profit companies, enterprises and company's limited by guarantee;
  - social enterprises, including those that have an asset lock, charities with trading enterprises, Community Interest Companies (CICs), etc.;
  - enterprising voluntary and community organisations; and
  - community trust(s) and foundations.
- 4.6 Companies or other organisations established for profit, for the benefit of private share-holders or to generate equity through 'for profit' objectives, are not eligible to apply for asset transfer whether in part or as a whole.
- 4.7 The Equalities Act 2010 Specific Duties (Scotland) Regulations 2012 complement the Community Empowerment (Scotland) Bill. The Council's Equalities and Rights and Poverty and Inequalities Frameworks require that due diligence be taken in regards to impacts upon people with protected characteristics and those suffering poverty and inequality. Proposals forms as part of the policy should from the outset address these requirements through an appropriate impact assessment.

## 10 Key Principles to Enable Asset Transfer

- 4.8 The following form the basis for the Council's policy in dealing with requests concerning asset transfer:
- a. the Council welcomes community interest and requests to improve use and potential for building and land assets;
  - b. options to transfer assets for community benefit/interest will be investigated by the Council in consultation with community interests as part of the process towards disposal, but prior to being released into the commercial market with information provided, if available on; (i) potential running costs, (ii) liabilities on a best estimate basis, and (iii) any required community benefits;
  - c. expressions of interest (Stage 1) and fully developed sustainable business cases (Stage 2) for a Council asset will be considered on a case-by-case basis and will therefore have different terms of agreement/commercial features on each occasion;
  - d. the consideration of expressions of interest and fully developed requests for transfer of an asset will occur in a partnership context which should continue beyond any potential handover;
  - e. proposals should initially demonstrate the benefits of the proposed transfer in line with the objectives identified in 4.4 above and be from the type of organisations as indicated in item 4.5;
  - f. fully developed sustainable business proposals should demonstrate; (i) the need for the community to own /operate the asset in order to be able to deliver services, (ii) strong governance arrangements to ensure sound management and quality service delivery, (iii) strong community input and ongoing benefit and value;
  - g. in order to mitigate risk to the Council and the owner/lease-holder, options for an asset transfer will apply with a gradual transfer procedure in the spirit of partnership;
  - h. long-term leases can be applied as a form of asset transfer and that a process (reflecting the approach in item b above) be made available for this;
  - i. should a full asset transfer be deemed as not appropriate, the Council's Finance and Resources Committee can consider alternative approaches and /or an alternative solution, for example; use of leases, use of licenses, delegation of management and programming responsibilities, varying hand-over periods to mitigate and minimise risk and set appropriate conditions for the transfer to occur; and
  - j. the Council should operate a process to (i) take account of outline expressions, (ii) fully developed business cases and (iii) use of leases which can be assessed in a transparent, accountable, fair and equal treatment and which takes account of any unintended consequences.

## Implementation

---

- 5.1 Items 4.4 - 4.7 above identifies the eligibility criteria to be applied in operating the policy.
- 5.2 Item 4.8 defines a series of principles for how the policy will operate and how the Council will both consider submissions and proactively make assets available for community benefit.
- 5.3 Applications from organisations, enquiring about an asset or in response to an AT opportunity on the Council website will be required as follows: (i) an initial expression of interest and if progressed (ii) submission of a full sustainable business case proposal.
- 5.4 Proposals for asset transfer will be considered by the Finance and Resources Committee. This is in order for the Committee to consider budget implications, capital receipt and revenue requirements and to ensure that any arrangements for asset transfer comply with previous decisions of the Council, e.g., the Asset Management Strategy approved by the Finance and resources Committee on 24 September 2015.
- 5.5 Should Committee refuse an asset transfer proposal, the rationale for this will be fully explained to the group making the request.
- 5.6 Any appeal (required by the Act) in respect to a decision concerning a request for an asset transfer by the Finance and resources Committee will be received and considered by the Corporate Policy and Strategy Committee.

### Council Outcomes

- 5.7 At both stages 1 and 2, proposals will be required to demonstrate how the proposed asset transfer will be commensurate with Council outcomes and related service objectives.

### Assessment of proposals for asset transfer

- 5.8 Applications to the Council will use an assessment/scoring system for the business plan/case which includes the situations when there are competing bids for an asset.



- 5.9 Requests will be assessed by a panel consisting of Council officers and community leaders and representatives. The panel will provide advice and guidance to the Council in regards to Stage 1 - Expression of Interest and Stage 2 – Full Sustainable Business Case proposals and involve the Collaborative Asset Group and other inputs.
- 5.10 The operation of the interim policy will provide an opportunity to examine the time taken to manage stage 1 and stage 2 requests.
- 5.11 The interim arrangement will also establish the strength of capacity-building support for community organisations submitting proposals. A range of support (both free and at cost for detailed work) is available from within the City and from national organisations.

## **Roles and responsibilities**

---

- 6.1 The policy will be implemented by staff in the corporate governance directorate, in particular property services, corporate policy and strategy and finance. These staff working with service areas and other partners will coordinate submissions to the Finance and Resources Committee.
- 6.2 Stage 1 proposals will be jointly assessed with key community partners including neighbourhood partnership and third sector representatives.
- 6.3 For stage 2 applications input will be sought from strategic partnerships and the cross-agency Collaborative Asset Management Group.
- 6.4 Appendices 1 and 2 describe the process to be applied in considering requests for asset transfer from community organisations.

## **Related documents**

---

- 7.1 [The Community Empowerment \(Scotland\) Act 2015](#)
- 7.2 [Property and Asset Management Strategy](#), Finance and resources Committee, 24 September 2015
- 7.3 [Community Empowerment \(Scotland\) Bill 2014](#), City of Edinburgh Council, 6 February 2014

## **Equalities impact**

---

- 8.1 The development and implementation of the interim policy (which includes requirements to observe equalities and rights issues) will assist the Council to deliver key equality and rights outcomes, and meet the Equality Act 2010 public sector equality duties to eliminate unlawful

discrimination, harassment and victimisation, advance equality of opportunity and foster good relations.

- 8.2 An Equalities and Rights Impact Assessment (ERIA) has been undertaken in regards to the establishment of the interim policy. No specific concerns have been highlighted as a result.

## **Sustainability impact**

---

- 9.1 The development and implementation of the interim policy enables the Council to meet the Climate Change (Scotland) Act 2009 public sector duties, and contributes to the delivery of Sustainable Edinburgh 2020 objectives, in particular the advancement of vibrant flourishing communities, social and economic wellbeing and an efficient and effectively managed city.

## **Risk assessment**

---

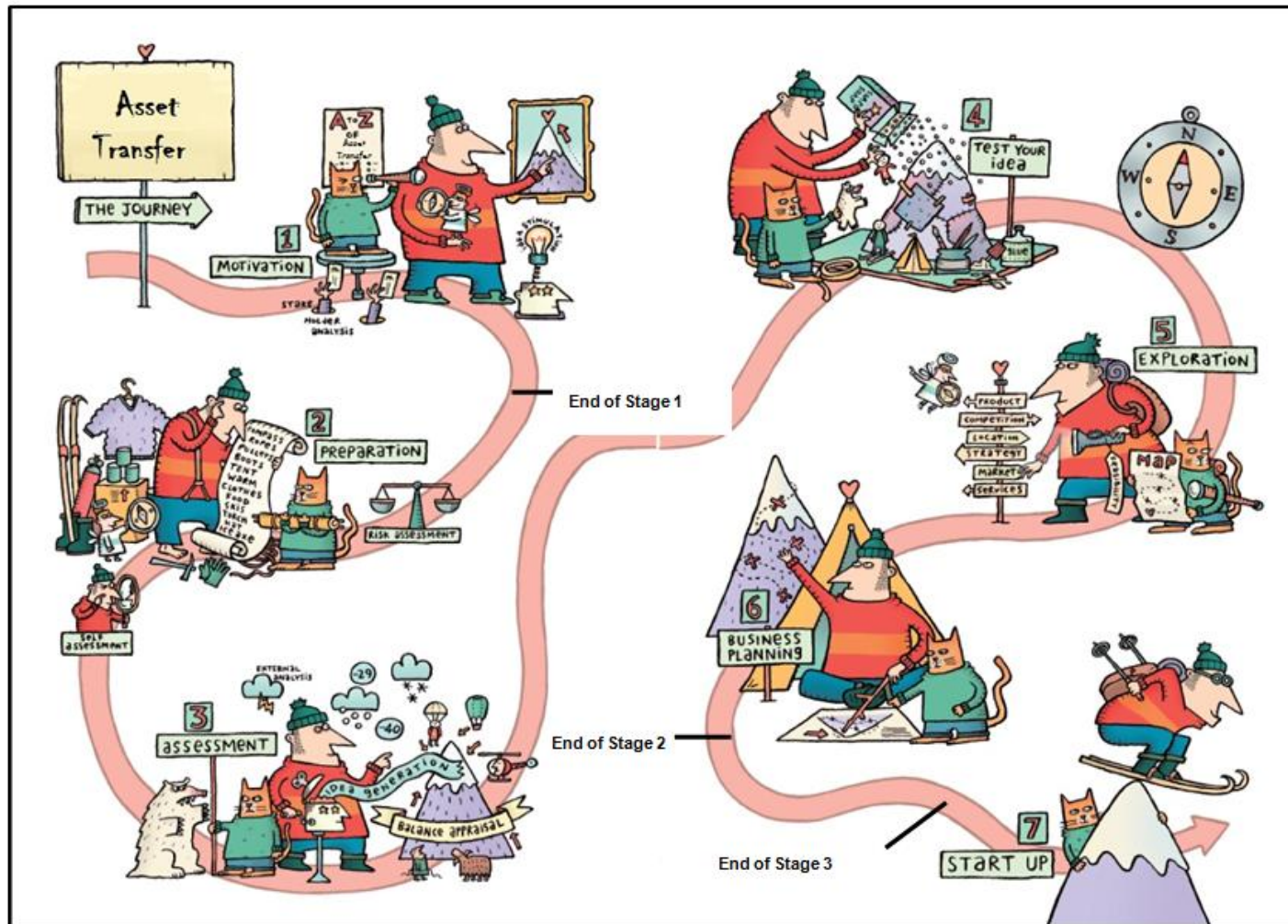
- 10.1 Key risks within the interim community asset transfer policy are associated with achieving the Capital Coalition Pledges. This is mitigated by the joint and collaborative efforts of the coproduction approach that has been applied to shaping the policy proposals and the partnership-based approach and practical steps as outlined.

## **Review**

---

- 11.1 The interim policy will be reviewed in November 2016 to incorporate (i) publication of ministerial guidance which may occur, and / or (ii) required practice changes.

Appendix 1: Transfer of Council buildings or land to community organisations



With thanks to Forth Sector who originated this slightly amended diagram

Appendix 2: Section 1 – Flowchart for considering requests for transferring a Council building or land

Steps	Elements	Assessors/Decision makers	Timescales
<p>Stage 1: Expression of interest received.</p> <p><i>(The group does not need to be a legal entity.)</i></p>	<p>Presentation of information which:</p> <ul style="list-style-type: none"> <li>• clearly identifies the legal status the applicant – only at stage 1 can applications be received from unconstituted interest groups</li> <li>• assesses strategic fit with the asset and the bidding organisation</li> <li>• says why the asset is needed and what partnership arrangements are needed;</li> <li>• examines the capabilities, skills and objectives of the bidder;</li> <li>• demonstrates potential and realising sound management of the asset.</li> </ul>	<p>This stage focuses upon an informal discussion.</p> <p>Together Council officials and organisational representatives come together to discuss the business prospects and feasibility. (item 6.2)</p> <p>Identify legal hurdles e.g. Common Good, State Aid and/or better long-term leasing opportunities – if leasing the process below should apply.</p> <p>Financial implications for the Council including consideration of capital receipt/ rent requirements</p>	<p>Minimum of 6 weeks</p>
<p>Stage 2:</p> <p>If successful at Stage 1, the lead organisation submits a detailed business and sustainability plan.</p>	<p>Provides evidence of:</p> <ul style="list-style-type: none"> <li>• a legal entity with clear governance and operational arrangements;</li> <li>• interface with the Disposal Of Land by Local Authorities (Scotland) 2010</li> <li>• benefits – community, health, social well-being, environmental well-being, economic development or regeneration, sustainability, E&amp;R impact, social or environmental.</li> <li>• product/service delivery;</li> <li>• partnership working, needs analysis</li> <li>• experience, capacity. risk analysis</li> <li>• projected income/expenditure and cash flow forecasts</li> </ul>	<p>Assessment of evidence by a panel – drawn from a range of city interests (items 6.2 and 6.3)</p>	<p>Assessment by panel should be between eight and sixteen weeks</p> <p><i>(However may take longer of complex)</i></p>

<p>Stage 3:</p> <p>If approved at Stage 2 a full assessment and testing of the business case and delivery model is undertaken.</p>	<p>Evaluation of:</p> <ul style="list-style-type: none"> <li>• benefits to the wider community and Council;</li> <li>• comparisons with existing service providers/facilities;</li> <li>• test against local policies/priorities – e.g. Localised approaches, Neighbourhood Partnership Plan;</li> <li>• commencement with National policies/priorities and legislation – such as the Community Empowerment (Scotland) Act 2015, Local Government (Scotland) Act 2003, etc.</li> </ul>	<p>Consultation with Neighbourhood Partnerships.</p> <p>Consultation with localised services and service area managers.</p> <p>Investigate legal advice</p> <p>Formal decision by Finance and Resource Committee</p> <p>Written notification of the Council decision</p>	<p>Minimum of 8 weeks</p>
<p>Stage 4</p>	<ol style="list-style-type: none"> <li>1. If agreed by the Finance and Resources Committee: <ul style="list-style-type: none"> <li>• Agree support plan and finalise legal contracts</li> <li>• Completion of documents</li> </ul> </li> <li>2. If not agreed by the Finance and resources Committee: <ul style="list-style-type: none"> <li>• Notification is made to the applicant organisations stating the reasons for the decision;</li> <li>• Further work is undertaken to address the Committee's concerns and the Council is notified of any further intent by the applicant organisation.</li> </ul> </li> </ol>	<p>Council staff and successful organisation (including legal teams) work closely together to avoid delays</p> <p>Council staff issue the decision of the Committee and are available to further assist if required.</p>	

## Appendix 2: Section 2 – Required features of a Sustainable Business Plan and Assessment Criteria

The following sets out what the Council expects to see in a business plan that requests transfer of a Council asset, how requests will be assessed and sources of guidance and information. The arrangements apply to Stage 2 only following appraisal on the outline case.

Steps	<p>Sources of business support advice and guidance on asset transfer:</p> <ul style="list-style-type: none"> <li>• <a href="#">Development Trust Association Scotland</a></li> <li>• <a href="#">Edinburgh Business Gateway</a></li> <li>• <a href="#">Edinburgh Third Sector Interface</a></li> <li>• <a href="#">Community Shares Scotland</a></li> <li>• Council and Community Development services</li> </ul>	<p>Sources of further information and reference</p> <p><a href="#">SME Business Planning Toolkit</a></p> <p><a href="#">Starting a Social Enterprise – Business Planning</a></p> <p><a href="#">A business planning guide to developing social enterprise</a></p> <p><a href="#">Business planning – 8 critical success factors</a></p>
	Elements	Key criteria to be applied in assessing the business plan
The following only applies if an invitation to submit a more detailed proposal (stage 2) is made from the Council.	In submitting proposals for an asset transfer a detailed Sustainable Business Plan is required in order to ascertain whether the applicant organisation has the necessary capacity, capabilities and skills to make the asset a success. This requires that the plan includes a core number of elements, these are:	<p><u>Assessment of the market and operational environment</u></p> <ul style="list-style-type: none"> <li>• Is there a strong business-fit between the applicant organisation and the proposed use of the asset?</li> <li>• Is there a clear plan to develop and grow the asset to ensure operational sustainability, if so is this a realistic prospect in regards to current operational capacity and turnover?</li> <li>• Is there evidence of strong governance in regards to the leadership and skills of the Board and Staff to maximise the prospects of the asset?</li> </ul>

<p>The narrative opposite identifies the key elements expected to be included in proposals for use of the asset and how the request will subsequently be assessed.</p>	<p><u>Market and operational environment</u></p> <ul style="list-style-type: none"> <li>• strategic fit between the business objectives of the with bidding organisation and the proposed use of the asset;</li> <li>• why the asset is needed and the purpose that the asset will be used for;</li> <li>• impact of taking on the asset on current and future capacity and capability;</li> <li>• the skills of the organisation that will enable sound management and productive use of the asset;</li> <li>• the strength of partnership to take on a make the asset a success, in particular clear identification of the community benefits to occur through the transfer of the asset;</li> <li>• current capacity and the what partnership arrangements are provided for to enhance the prospects for medium and long-term success of the asset;</li> <li>• is there a clear business growth plan and marketing plan in place in order to maximise the use and income generation prospects;</li> <li>• clarity on the motivations for the asset and intended use and resonance with local policy, strategy and community needs;</li> <li>• defining the economic, social and environmental benefits of the asset and the advantages in this regard of the proposal;</li> <li>• engaging with the wider community in order to ascertain usage and success of the proposal;</li> <li>• managing risk, accounting for unforeseen circumstances and avoiding putting at risk the core organisation/partners;</li> <li>• clarity on the strength of commitments by</li> </ul>	<ul style="list-style-type: none"> <li>• Is there evidence of market awareness, research and application of price-points in regards to the operational financial policy for the asset?</li> <li>• Is there clear, unambiguous evidence of long-term, i.e.; more than five years, of community benefit arising as a result of the proposed asset transfer?</li> <li>• Does the organisation currently have the operational capacity to manage and maximise the asset, if yes is this described, if not, will this occur over the next five years?</li> <li>• Has the applicant organisation demonstrated a history of; (i) delivering good quality services and (ii) sustainable growth?</li> <li>• Is there evidence that proposals for the use of the asset have strong and wider community backing i.e.; support from more than stakeholders in the applicant organisation?</li> <li>• Has the applicant taken into account the requirements of the Equality Act 2010 in relation to the operational proposals?</li> <li>• Is there evidence of a strong partnership context to the submission and if so, is this influencing the operational arrangements for the asset?</li> <li>• Is there clear governance arrangements which provide for operations of the asset, out-with the core services of the applicant organisation?</li> <li>• Is there evidence that the applicant delivers good quality services which meets the needs of the community and city?</li> <li>• Does the request take account of the influence of local and city market forces and if so are there plans in place to ensure competitive operations in order to ensure a sustainable future?</li> <li>• Will the proposal enhance the existing use of the asset?</li> <li>• Is there marketing and development plans in place for the asset for the next five years and, if so, what is the financial implications for the Council?</li> <li>• Is there evidence of support from the appropriate Neighbourhood Partnership, Councillors and other community leaders and other relevant interests?</li> <li>• Are there any objections to these proposals?</li> </ul> <p><u>Assessment of Budget and Income Proposals</u></p> <ul style="list-style-type: none"> <li>• Is the proposed income dependent upon; (i) a single income source, (ii) a dominant income source or (iii) multiple, but inter-dependent sources of income?</li> </ul>
--	--	--

	<p>interested parties;</p> <ul style="list-style-type: none"> <li>• most advantageous delivery model and governance structure to manage the asset during/post transfer.</li> </ul> <p><u>Budget and income</u></p> <p>Provides evidence of:</p> <ul style="list-style-type: none"> <li>• revenue costs are known and plans take this into account;</li> <li>• required fabric and other improvements to the asset are taken into account to reflect the business proposition;</li> <li>• projected income/expenditure plan for five years which identifies a range of sustainable income streams;</li> <li>• financial risks to both the asset and applicant organisation;</li> <li>• projected utilisation cash flow forecasts;</li> <li>• market analysis, USP and mitigation of financial risks for partners and wider community;</li> <li>• available investment to put into the asset.</li> </ul>	<ul style="list-style-type: none"> <li>• Are the sources of income sustainable, i.e.; likely to persist over the next few years, or are short-term, or will there be a need for subsidy from the parent organisation or public funds?</li> <li>• Is there evidence of trading and other efforts to generate income, or a preponderance of public sector grants/contracts?</li> <li>• Has the applicant organisation (i) generated an operational surplus, and if so (ii) have they met their governance requirements in regards to the treatment of these funds?</li> <li>• Does the applicant organisation currently have operational capital, if yes is this being applied as part of the request, if no, will the proposed asset provide for financial asset or liability?</li> <li>• Is the request for asset transfer being made in order to add to an existing property asset portfolio for the purposes of continued trading?</li> <li>• Have examples been provided which demonstrate the financial aspects of the proposals being successfully applied elsewhere?</li> <li>• Is there evidence of cash-flow or financial capacity issues that may impact upon the request – if so, what mitigation will be required is successful?</li> <li>• Does the applicant organisation or partners attract income from the Council, if so what is the purpose and will this continue reflecting the timescale of the request?</li> <li>• Does the applicant organisation provide for alternative forms of income and/or alternative business model should income streams not continue?</li> <li>• Is there a plan to deal with the asset should the organisation incur operational difficulties or cease to trade?</li> <li>• Has the applicant suitably taken into account the revenue costs for the asset and in addition the repair, maintenance and insurance requirements</li> </ul> <p><u>Assessment Scoring</u></p> <p>A scoring matrix will be applied in the assessment of proposals and these will separate the proposed use and financial arrangements for the asset.</p> <p>The following scoring will be applied:</p>
--	--	--



		<p>0 – Unacceptable; no response in regards to the submission</p> <p>1 – Marginal; the submission contains only minor detail</p> <p>2 – Acceptable; the submission provides a level of detail which enables understanding</p> <p>3 – Good; the submission provides sufficient evidence that the issue has been taken into account</p> <p>4 – Excellent; the applicant has included the issue in the submission and has provided additional information which enables detailed understanding</p>
--	--	---

Appendix 2: Section 3 - The following sets out what the Council expects to see in a community organisation's request for a lease.

Steps	Elements	Key criteria to be applied and decision-making (these would apply to <u>both</u> new applicants and requests for continued support)
1	<p>A formal application for a lease requires to demonstrate how the leasing organisation will:</p> <p>(i) assist in delivering city outcomes and priorities; and</p> <p>(ii) assist in delivering Council service plan</p>	<ul style="list-style-type: none"> <li>• demonstrate community/social demand and related community benefit for the proposed premises alongside the requirement for a premises;</li> <li>• evidence existing capacity to manage the premises in particular meeting the conditions of let, for example, repairs and maintenance throughout the life-time of the lease;</li> <li>• evidence contribution to city, council and community outcomes and priorities;</li> <li>• undergo a financial assessment to identify affordability;</li> <li>• sustainable community connections and partnership working; and</li> <li>• options identified which effectively deal with rent reviews and potential</li> </ul>

	outcomes.	increases.
2	<p><u>Budget and income</u></p> <p>The following identifies the key components to financial planning in this regard:</p> <ul style="list-style-type: none"> <li>• the business plan sets out the case for the requirement of a premises as part of the organisation’s activities;</li> <li>• revenue costs including meeting the full lease costs of the premises are known and the impacts upon organisational activities have been taken into account;</li> <li>• required fabric and other improvements to the premises/asset have been taken into account to reflect the business proposition;</li> <li>• projected income/expenditure plans for at least five years are identified which details efforts to secure sustainable income;</li> <li>• financial risks to both the premises/asset and applicant organisation have been taken into account in business planning and cash-flow and for the wider community.</li> </ul>	<p>Key criteria to be applied in assessing a request for a lease (the use of the term Council priorities includes those reflected in neighbourhood plans):</p> <ul style="list-style-type: none"> <li>• Are there strong connections between the core business of the organisation and City and Council strategic priorities?</li> <li>• Will service delivery proposals, which require the proposed premises, assist in delivering City and Council strategic priorities?</li> <li>• Is the use of the proposed premises central to the service proposals, if yes how, if not are there alternative approaches that could be considered?</li> <li>• Are the sources of income sustainable, i.e.; likely to persist over the next few years, or are short-term,?</li> <li>• Is there evidence of trading and other efforts to generate income, or a reliance upon public sector grants/contracts?</li> <li>• Has the applicant organisation (i) generated an operational surplus, and if so (ii) is there potential for paying full market lease?</li> <li>• Does the applicant organisation currently have operational capital, if yes is this being applied as part of the request, if no, will the proposed lease provide for financial asset or liability?</li> <li>• Is there evidence of affordability of full market lease?</li> <li>• Has the applicant suitably taken into account the revenue costs for the asset and in addition the repair, maintenance and insurance requirements</li> <li>• Proposals to award a lease will be undertaken by the Council’s Finance and Resources Committee for approval – however, it is possible that agreement to approve a lease may be delegated by the Committee.</li> </ul> <p><u>Assessment Scoring</u></p> <p>A scoring matrix will be applied in the assessment of proposals for a lease and these will separate; (i) the proposed use, (ii) contributions to City and Council</p>

		<p>service objectives and (iii) financial arrangements for the asset.</p> <p>The following scoring will be applied:</p> <p>0 – Unacceptable; no response in regards to the submission</p> <p>1 – Marginal; the submission contains only minor detail</p> <p>2 – Acceptable; the submission provides a level of detail which enables understanding</p> <p>3 – Good; the submission provides sufficient evidence that the issue has been taken into account</p> <p>4 – Excellent; the applicant has included the issue in the submission and has provided additional information which enables detailed understanding</p>
<p>Stage 3</p>	<p>3. If agreed by the Finance and Resources Committee:</p> <ul style="list-style-type: none"> <li>• Agree support plan and finalise legal contracts</li> <li>• Completion of documents</li> </ul> <p>4. If not agreed by the Finance and resources Committee:</p> <ul style="list-style-type: none"> <li>• Notification is made to the applicant organisations stating the reasons for the decision;</li> <li>• Further work is undertaken to address the Committee’s concerns and the Council is notified of any further intent by the applicant organisation.</li> </ul>	<p>Council staff and successful organisation (including legal teams) work closely together to avoid delays</p> <p>Council staff issue the decision of the Committee and are available to further assist if required.</p>