

**REPORT TO:** Cabinet

**MEETING DATE:** 12 September 2017

**BY:** Chief Executive

**SUBJECT:** Community Empowerment (Scotland) Act 2015

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## **1 PURPOSE**

- 1.1 To make Cabinet aware of progress in implementing the Community Empowerment (Scotland) Act 2015, and to seek approval of relevant policy statements.

## **2 RECOMMENDATIONS**

- 2.1 Cabinet is recommended to:
- i) approve the draft overarching Policy Statement in relation to how the Council plans to implement the Act (Appendix A);
  - ii) note the document about Participation Opportunities which has been placed on the Council's website (Appendix B);
  - iii) approve the draft Asset Transfer Request policy and guidance (Appendix C);
  - iv) note that the Council's Asset Register has been published on the Council website in accordance with the Act.

## **3 BACKGROUND**

- 3.1 The Community Empowerment (Scotland) Act received Royal Assent in 2015, and its various sections have been brought into force at differing times since then, with associated statutory guidance from the Scottish Ministers.
- 3.2 The Act is intended to empower communities, and contains many provisions about local authorities and other public authorities including the Scottish Ministers. It covers:
- i) national performance outcomes;

- ii) community planning;
- iii) participation requests (by community bodies to participate in improving service outcomes);
- iv) community rights to buy land;
- v) asset transfer requests;
- vi) delegation of forestry commissioners' functions;
- vii) involving supported in the decision-making of football clubs;
- viii) common good property;
- ix) allotments;
- x) participation in public decision-making; and
- xi) schemes for the reduction and remission of non-domestic rates.

3.3 Council officers have set up a project team to put in hand the various requirements of the Act. The vast majority of the Act is now in force, the most notable exception being some of the provisions about Allotments.

3.4 This report concentrates on community planning, participation requests, and asset transfer requests.

### ***Community Planning***

3.5 Council had the opportunity at its meeting on 22 August to consider the terms of the draft East Lothian Plan, which on agreement by the East Lothian Partnership will constitute our area's Local Outcomes Improvement Plan under the Act. Council for its part approved the terms of the draft Plan. The Partnership is meeting next on 26 September when it is expected to finalise the Plan.

3.6 The East Lothian Partnership is reviewing its governance arrangements to bring them into line with the new duties and responsibilities on statutory Community Planning partners.

3.7 Work is also ongoing to ensure the Partnership complies with the new duty to publish Locality Plans with a focus on improving outcomes in areas of high levels of socio-economic deprivations. East Lothian's Locality Plans will be based around the Area Plans produced by the six Area Partnerships.

### ***Participation Requests***

3.8 Community empowerment and community engagement are not new concepts. In East Lothian the development of the Area Partnerships, the Council's support for Community Councils, Tenants and Residents Associations and service users involvement in co-developing policy in key areas are examples of community empowerment and engagement in action. However, the Act places new duties on local authorities to apply

certain specific processes to the way they engage with communities, in particular, around the concept of ‘participation requests’ from community organisations to contribute to improving outcomes.

- 3.9 A policy statement expressing the Council’s support for the principle of community empowerment and setting out how it is implementing the participation requests and other key parts of the Act. (Appendix A) Cabinet is asked to approve this statement.
- 3.10 It is important to put the Act’s requirements into context with the many things the Council already does to engage with residents. A useful guide to the [Community Participation Opportunities](#) supported by the Council has been published on the Council website. (Appendix B)

### ***Community Asset Transfer***

- 3.11 Community Asset Transfer is a significant part of the Act and is subject to a great deal of guidance from the Scottish Government. The Council’s Service Manager for Strategic Asset and Capital Plan Management has produced a suggested East Lothian Council policy and guidance for Community Asset Transfer. (Appendix C) Cabinet is asked to approve this policy and guidance.
- 3.12 Under the terms of the Act, a relevant body may seek a review if they are not happy with the decision on an application for asset transfer. For the Council, that review must be conducted by elected members. If a relevant body is unhappy with the outcome of a review, they can appeal to The Scottish Ministers. The Council will need to consider assigning responsibility to relevant members and to arrange appropriate training.
- 3.13 In terms of Community Asset Transfer, “assets” refers to land and to buildings on that land. A copy of the Council’s Asset Register has been published, as required by the Act, on the Council’s website.

## **4 POLICY IMPLICATIONS**

- 4.1 This report outlines how the Council and East Lothian Partnership are fulfilling their duties under the Community Empowerment (Scotland) Act (2015).

## **5 INTEGRATED IMPACT ASSESSMENT**

- 5.1 An Integrated Impact Assessment has been carried out on these policies and no negative effects have been identified.

## 6 RESOURCE IMPLICATIONS

- 6.1 Financial – the Act has potentially significant financial implications but it has not been possible to quantify them at this time. The Scottish Government attached no new funds to the implementation of this Act for public authorities.
- 6.2 Personnel – considerable staff time in participating in the Project Team and producing draft policies; the processes themselves will involve further staff time, for example in assessing Asset Transfer Requests.
- 6.3 Other – none identified at present.

## 7 BACKGROUND PAPERS

- 7.1 Appendix A: Community Empowerment and Engagement - East Lothian Council policy statement
- 7.2 Appendix B: A Guide to Community Participation Opportunities 2017
- 7.3 Appendix C: East Lothian Council Community Asset Transfer Policy and Guidance
- 7.4 Scottish Government: background and guidance on the Community Empowerment (Scotland) Act 2015:  
<http://www.gov.scot/Topics/People/engage/CommunityEmpowermentBillFAQs>
- 7.5 Council's Asset Register:  
[http://www.eastlothian.gov.uk/downloads/file/12335/community\\_asset\\_register](http://www.eastlothian.gov.uk/downloads/file/12335/community_asset_register)

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<b>DATE</b>	22 August 2017

DRAFT

**Community Empowerment and Engagement**

**East Lothian Council policy statement**

East Lothian Council's Vision is for our area to be even more prosperous, safe and sustainable with a dynamic and thriving economy that enables our people and communities to flourish.

In line with this Vision, the Council seeks to support and enhance community life. For information about the many opportunities for communities and individuals to engage with the Council to help develop and enhance vibrant and cohesive community life, please see [link to Participation Opportunities]

The Community Empowerment (Scotland) Act 2015 [link] created new responsibilities and powers for the Council and other public bodies to help empower communities. In particular, the Council is currently working to put in place the provisions of the Act concerning Community Planning, Participation Requests, Asset Transfer Requests, Common Good Property and Allotments.

The Council is preparing its policy documents to fully implement the Act, and will place these on its website when complete. In the meantime, if you have any queries, please use the following contacts:

**For Community Planning matters or Participation Requests**

[contact details]

**For Asset Transfer Requests or Common Good Register**

[contact details]

**For Allotments or Food Production Strategy**

[contact details]





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# A Guide to Community Participation Opportunities 2017

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Getting Involved,  
Making Your Voice  
Heard

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## Introduction

East Lothian Council's Vision is for an East Lothian that is even more prosperous, safe and sustainable, with a dynamic and thriving economy that enables our people and communities to flourish.

Community Participation makes an important contribution towards achieving this Vision. When we talk about community participation we are referring to ways in which individuals and communities can get involved in shaping the things that affect their lives, including the provision of services by the Council.

**This Guide provides information on the many opportunities that exist for communities and individuals to engage with the Council to help develop and enhance vibrant and cohesive community life.**

There are three sections in this Guide covering:

- (i) [General Participation Opportunities](#)
- (ii) [Participation Opportunities with Specific Council Services](#)
- (iii) [The Community Empowerment Act](#)

## General Participation Opportunities

### Councillors

There are 22 Councillors in East Lothian who are responsible for agreeing policies about the provision of services and how the Council's money is spent. Councillors are elected by East Lothian residents who are eligible to vote at Council elections which usually take place every four years.

Local Councillors are there to represent their local communities. They also have a responsibility to help individuals with difficulties that the Council may be able to assist with.

You can contact your Councillor by phone, email or post or you can go along to one of their surgeries. Surgeries provide an opportunity to talk to your councillor face to face and take place in local venues at regular intervals.

[Find out about your local Councillor, their contact details and surgery arrangements here.](#)

### Community Councils

Community Councils are the most local tier of statutory representation in Scotland. Community Councils are made up of local people and play a key role in representing the views of the local community to the Council and other public sector organisations.

Community Councils often also get involved in things like fundraising, organising community events and other activities aimed at benefitting the local community.

Elections to Community Councils take place every 4 years. Casual vacancies can occur between elections when elected members resign or leave, Community Councils are responsible for filling these vacancies themselves.

You can become involved with your local Community Council by:

- Attending one of its regular public meetings
- Contacting them by phone, email or letter
- Becoming a Community Council member

[Contact details for local Community Councils.](#)

### Elections

Registered voters can vote at Council, Scottish Parliament, UK Parliament, European Parliament and Community Council elections. You can find out about these elections via the [Election page](#) on our website. [You can check whether you are registered to vote by contacting the Electoral Register Officer.](#)

## Area Partnerships

Six [Area Partnerships](#) were set up across East Lothian in 2014 to be the “local voice” of [East Lothian Partnership](#). Area Partnerships provide an opportunity for local communities to influence service planning and delivery in their area.



Area Partnerships develop Local Plans based on local knowledge and the needs and aspirations of the local community.

Members of Area Partnerships include local Councillors, representatives of Community Councils, Tenants and Residents Associations and Parent Councils. Other key local groups are also represented (this varies according to the area).

The Council devolves part of its annual budget to Area Partnerships, in 2016/17, this allocation amounted to £1.85 million. Each Area Partnership makes decisions on how best to use their part of the allocation to deliver local projects and initiatives.

You can get involved in your Area Partnership as a representative of one of the groups listed above or as someone with an interest in one of the Area Partnership's sub groups. You can find out more by emailing [areapartnership@eastlothian.gov.uk](mailto:areapartnership@eastlothian.gov.uk)

## East Lothian Citizens' Panel

The East Lothian Citizens' Panel is made up of around 1,200 local people who have signed up to take part in regular surveys to help inform the work of East Lothian Council and other public sector partners including the Police, Fire and Rescue Service and Health Services. Panel members are also occasionally invited to take part in other activities such as focus groups and workshops.

Panel membership is open to anyone aged 16 or over living in East Lothian. [Find out more, including how to sign up as a member.](#)



## Residents Reviews

Residents Reviews are a new approach which we've been developing to encourage local people to have their say in relation to services that we provide.

Residents Reviews involve a small group of volunteers exploring how we deliver a specific service. During the process the volunteer Review Team gathers evidence on the service through site visits, interviews, group discussions and the examination of service data. Feedback from the Review Team then forms the basis of a report which highlights both positive and negative aspects of the service and includes a set of recommendations.

Up until now, Residents Review volunteers have been recruited via the Citizens Panel, however, we are, looking to open up this opportunity to other local people. If you are interested in finding out more email [consultations@eastlothian.gov.uk](mailto:consultations@eastlothian.gov.uk)



## The East Lothian Consultation Hub

You can find out about consultation / engagement exercises that might interest you by visiting the East Lothian Consultation Hub. The Hub contains information on consultations run by East

Lothian Council, but also on some of those run by organisations such as the Police, Fire & Rescue and Health Services.

We report the outcomes of consultation / engagement exercises on the Hub in the 'We Asked, You Said, We Did' section.

[Visit the East Lothian Consultation Hub.](#)

## You Pay, Have Your Say – Annual Budget Consultation

For a number of years the Council has carried out a community consultation exercise prior to setting its budget. This consultation exercise gives local people an opportunity to set out their own priorities when it comes to providing local services and facilities.

We carried out [our more recent budget consultation](#) in late 2016 / early 2017. When a budget consultation is underway you can find out more and take part via our [Consultation Hub](#).

## Petitions

Local residents or organisations can raise petitions relating to:

- Council services or activities, or
- The general wellbeing of the East Lothian community

A Petitions Committee usually meets four times a year to consider petitions.

[Find out more about Petitions.](#)

## Comments, Complaints & Compliments

If you have a comment, complaint or compliment in relation to any of the services we provide you can let us know by contacting our Feedback Team. [You can do this over the phone, online or in writing.](#)

We use the feedback we receive to help us to improve our service provision.

The East Lothian Council website also allows members of the public to report a variety of issues online through the '[Report it](#)' section. Issues you can report include fly tipping, broken street lights, road faults and antisocial behaviour.

## Residents Survey

The Council has carried out a number of large scale Residents Surveys. The most recent survey took place in early 2017. The 2017 survey gathered the views of around 1,500 local residents on a range of issues through face to face interviews in their homes.

## Volunteering

Volunteering is one way in which many people get involved in their local communities. There are many and varied opportunities for people to volunteer in East Lothian – you can find out about these via the [STRIVE website](#).

The Council itself benefits from the contribution that volunteers make in relation to a number of its activities; there are examples of these throughout this guide.

Involving volunteers not only helps enhance what the Council can provide, but also offers a valuable opportunity to engage with individuals and communities.

## Social Media

We currently use social media in a number of ways to share news and information. We are looking to develop our use of social media further so that we can use it more effectively to engage with local people and communities.

[Find out how we use social media including Facebook and Twitter here.](#)



## Participation Opportunities with Specific Services

### Housing

#### Tenant Participation

We are fully committed to ensuring that tenants can get involved and actively influence the services we deliver.

There are a range of options for tenants to get involved either as individuals or as part of a tenants and residents group or through the East Lothian Tenants & Residents Panel. There is a very active tenants' movement in East Lothian which has been developed in partnership with the East Lothian Tenants and Residents Panel (ELTRP).

Since the introduction of the Scottish Social Housing Charter we have also been developing opportunities for tenants to get involved in scrutiny activity.



You can read more about the opportunities for tenant participation in our [Tenant Participation Strategy](#). Or get in touch by email [tenantconsultation@eastlothian.gov.uk](mailto:tenantconsultation@eastlothian.gov.uk) or telephone 01620 827 526.

#### East Lothian Tenants and Residents Panel

East Lothian Tenants and Residents Panel (ELTRP) is the independent umbrella organisation for tenants and residents groups in East Lothian. They promote and represent the rights of tenants and tenants in East Lothian. You can get more information about ELTRP on their website [www.eltrp.co.uk](http://www.eltrp.co.uk) or contact them by email [tenantspanel@hotmail.com](mailto:tenantspanel@hotmail.com) or telephone 0131 665 9304.

#### Children & Families

[East Lothian Partnership's Children and Young People's Services Plan](#) outlines the Council and other partners' commitment to involving children and young people. The Plan itself was developed in close consultation with children, young people and families.

In 2015, the Children's Strategic Partnership approved the 'Golden Rules for Participation' <http://www.sccyp.org.uk/education/golden-rules>. These golden rules have been developed by the Scotland Commissioner for Children and Young People in consultation with children and young people from across Scotland.

There are a number ways in which children, young people and their families can participate in the planning and delivery of services:

**East Lothian Champion's Board** was launched in May 2015. It provides a platform for young people with care experience to have their voice heard.

**Family Led Information Point (FLIP)** is a forum for parents and carers who have a child / relative with additional support needs. FLIP meets once a month and has an active Facebook page.

**Viewpoint** (Computer Assisted Interviewing Technology) is used to gather the views of looked after children and young people. Results are fed into individual children / young people's plans and reviews, but are also used to inform service providers.

**Student Evaluation of Experience Survey** is carried out by the Education Service on an annual basis. Primary 6 and Secondary Year 2 pupils are surveyed on a range of subjects including their local community, community safety, participation, child protection and the environment. The findings help to inform service planning.

**Pupil Councils** are made up of pupil representatives and are in place in all East Lothian secondary schools. Pupil Councils consider aspects of how the school is run. Similar arrangements are in place in primary schools.

**The East Lothian Youth Council** provides a forum for young people across the county to discuss and campaign on issues affecting them. The Youth Council links with Scottish Youth Parliament national campaigns.

East Lothian young people are also represented in the **Scottish Youth Parliament**. Three young people are elected every two years to represent East Lothian.

Increasing use is being made of **Social Media** as a tool to engage with young people and their families. Facebook and Twitter provide popular forums where young people can access news and information and share their views. Young people can also engage through the **Young Scot [website](#)**.

We are currently developing a new **Parental Involvement Strategy** which will cover the range of ways that parents can get involved in their child's education – this will be available on our website once completed. In the meantime, you can find out more about Parental Involvement by emailing [vmcintyre@eastlothian.gov.uk](mailto:vmcintyre@eastlothian.gov.uk)

**Parent Councils** are just one of the ways in which parents and carers can be actively involved in their children's schools. Parent Councils have a key role to play in many school decision making processes. You can find the contact details for Parent Councils [here](#).



**Support from the Start (SFTS)** provides friendly, free, high quality support and activities to help parents of babies and young children. There are six SFTS groups in East Lothian, each focused on what's needed locally. Parents are actively encouraged to get involved in helping to shape what is provided in each area.

You can contact Support from the Start by emailing [supportfromthestart@eastlothian.gov.uk](mailto:supportfromthestart@eastlothian.gov.uk) or find them on Facebook.

**The Child & Adolescent Mental Health Service (CAMHS) Team** makes use of user feedback questionnaires and focus groups to help review and develop the service provided. 'Tier 4' service users are also supported by individual and group advocacy provision.

## Health & Social Care

The East Lothian Health and Social Care Partnership is developing an Engagement Strategy outlining how it will engage with local communities, service-users, carers, providers and other stakeholders. This will be available on the East Lothian Council website later in 2017.

Engagement in relation to health and social care often involves contact with organisations that represent specific interest groups. These organisations include, for example, [Carers of East Lothian](#), [East Lothian Community Care Forum](#), [Partners in Advocacy](#), [East](#)

[Lothian Consultation and Advocacy Promotion Service](#) and [East Lothian Young Carers](#).

There is also an **East Lothian Learning Disability Joint Planning Group** in place which includes representation of service users, carers, service providers and housing, health and social work staff. The Group meets once a month to gather views on the planning and delivery of services and to monitor Strategic Priorities.

**East Lothian Carer's Joint Planning Group** meets once a quarter, there and includes representation from Carer's of East Lothian, East Lothian Young Carers, Area Manager and representation from the NHS.

## Planning

### Strategic Planning

Local people and communities have the opportunity to be consulted in relation to planning that takes place at a strategic level. A good example of this is the extensive public consultation that has taken place in the preparation of the Local Development Plan. The current Local Development Plan was submitted to Scottish Ministers in spring 2017, but public and stakeholder consultation began as early as spring 2012.





Find out more about the Local Development Plan [here](#). Other strategic planning consultations are advertised in the local press and posted on the [East Lothian Consultation Hub](#).

### Planning Applications

Anyone can make comments in relation to planning applications. These can take the form of objections, support or observations about the application. Comments can be made online via [Planning Online](#) or by email or in writing.

You can find out about planning applications underway via Planning Online or through the local press. Or if the planning application is within 20 metres of your property you will receive 'neighbour notification'.

Developers often carry out consultation exercises in relation to developments they are intending to apply for planning permission for (for example, housing developments). These will usually be held and advertised locally, but it is worth noting that the Council is **not** part of this process.

### Libraries & Museums

Museums run by East Lothian Council benefit from the involvement of a number of groups – these include:

- Friends of the John Gray Centre
- Dunbar and District History Society
- Coastal Communities Museum Trust
- Musselburgh Museum and Heritage Group

- Dunbar Town House Working Group
- Prestongrange Railway Society
- Friends of John Muir's Birthplace
- John Muir's Birthplace Charitable Trust
- Good Memories Café

Community groups also have the opportunity to stage their own exhibitions at the John Gray Centre and at Dunbar Town House Museum and Gallery.

In addition, there are opportunities for individuals to participate in the Museum Service as volunteers (in relation to collections, events and activities).

Similarly, libraries in East Lothian benefit from the involvement of volunteers in many of the groups they run, for example, the home library service, Bookbug sessions, homework clubs and Lego clubs.

### Parks and Open Spaces

East Lothian Council owns or manages many of the best wildlife locations and popular countryside destinations in the county. Five of these sites are managed through advisory groups which include local representatives. Management Plans for all sites are reviewed every five years, offering an opportunity for public consultation.

A strong network of volunteers help out with a range of tasks related to managing sites, this includes volunteer path wardens,

ecological surveyors, livestock checkers, litter pickers and Junior Rangers. Many of East Lothian's public parks benefit from the support of 'Friends of' groups made up of local volunteers and 'In Bloom' groups are also very active in a number of towns.

You can find information on this type of volunteering [here](#).

## Roads

Amendments to Traffic Regulations and new Traffic Regulation Orders are published on the ['Tell Me Scotland'](#) website. Where a consultation is being carried out, details are also published on the [East Lothian Consultation Hub](#).

The Roads Service carries out statutory consultation when required, but also regularly carries out non statutory consultation exercises to inform planning and decision making.

## Community Centres

Community Centre Management Committees give local communities an opportunity to be involved in the running and development of their local Community Centre.

Management Committees are often made up of representatives of Community Centre user groups, although individuals with specific skills are also often sought as Committee members. Management Committee members are all volunteers and are supported by Community Development Officers and at time

other advisors. Committees tend to meet every 4 to 6 weeks to discuss any issues, plan for the future and monitor the organisation's financial position.

Find out about your local Community Centre and contact details for the relevant Community Development Officer by emailing [cldmusselburgh@eastlothian.gov.uk](mailto:cldmusselburgh@eastlothian.gov.uk)

## Community Organisations

East Lothian Council's Community Learning & Development Service supports a wide range of voluntary / third sector organisations in East Lothian. These organisations often provide an opportunity for local people to get involved – some examples include Lamp of Lothian Trust, DadsWork, First Step Community Project, East Lothian Roots & Fruits, West Barns Village Hall and East Lothian Play Association.

You can find out more about local voluntary / third sector organisations you may be interested in by contacting your [local Community Development Officer](#) or by visiting the [STRiVE website](#).

## Leisure & Sports

Community Sports Hubs bring together sports clubs and other local partners who want to develop and grow sporting opportunities



within their local community. The aim is to ensure community sport is 'locally driven, locally planned, locally owned and widely supported.' There are [Community Sports Hubs in each of the six East Lothian cluster areas](#).

A number of Council sports assets / facilities are leased and managed by community groups including golf clubs, tennis courts, bowling greens, 3G pitches and pavilions.

Getting involved as a volunteer in a local sports club is one way that many people engage in their local community. You can find out more about sport / leisure activities generally and opportunities to volunteer by visiting the [Active East Lothian](#) website.

## **Community Safety**

Community and Police Partnerships (CAPPs) provide an opportunity for members of the public to meet with Police representatives to identify local community safety related issues. Feedback from CAPPs is used to help inform the deployment of local Police resources and can also guide the deployment of the Council's Community Wardens and Youth Outreach Workers.

Problem Solving Partnerships (PSPs) are a tool used by the Council to help resolve local antisocial behaviour issues. PSPs bring together Police and Council officers, local Councillors and at least one member of the local community.

## The Community Empowerment Act

**The Community Empowerment (Scotland) Act 2015** is a significant piece of legislation which will further enhance opportunities for the active participation of communities. The Act created new responsibilities and powers for the Council and other public bodies to help empower communities.

The Council is currently working to put in place the provisions of the Act concerning Community Planning, Participation Requests, Asset Transfer Requests, Common Good Property and Allotments. Some of the opportunities for communities are briefly described below, you can find out more by visiting the [Scottish Government website](#).

### Participation Requests

The introduction of 'participation requests' by the Community Empowerment (Scotland) Act 2015 provides communities with a new mechanism for having their say in relation to how public services are planned and delivered. Community groups can make a participation request to the Council (as well as to other public service providers) to open a dialogue on issues they feel are important, with a view to improving outcomes.

As demonstrated in this guide, there are already a wide range of opportunities for communities and individuals to participate in Council services. Participation requests are a more formal way of doing this and are available to community bodies rather than individuals. If there is something you want to change about Council services, please speak to a service manager first.

To find out more about participation requests, email [cdora@eastlothian.gov.uk](mailto:cdora@eastlothian.gov.uk)

### Asset Transfer

Under the Community Empowerment Act, communities have the right to make requests to local authorities, Scottish Ministers and a range of other public bodies for the transfer of land or buildings they feel they could make better use of. This can include requesting ownership, leasing or other rights.

More information is available on the [Scottish Government website](#), or email [jplacido@eastlothian.gov.uk](mailto:jplacido@eastlothian.gov.uk)

### Community Right to Buy

The Community Empowerment Act extends the community right to buy land to cover both urban and rural land and changes some of the procedures previously introduced by the 2003 Land Reform Act. The Act also makes provision for communities to buy land that is abandoned, neglected or detrimental to the environmental wellbeing of the community, where the owner is not willing to sell the land.

More information is available on the [Scottish Government website](#).

## **APPENDIX C: East Lothian Council Community Asset Transfer – Policy and Guidance**

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This policy and guidance is prepared in the context of the Community Empowerment (Scotland) Act 2015, which enables community transfer bodies to request to:

- buy land or a building owned by the Council
- lease land or a building owned by the Council
- occupy or use the land or building owned by the Council for a particular purpose

A request can be made whether or not the asset is available for sale or deemed surplus to requirements.

### **1. Policy statement**

East Lothian Council holds its property assets as a resource to be used in the delivery of services and to support the delivery of the East Lothian Partnership outcomes. The Council also has a duty to secure Best Value for public money and a decision to transfer an asset must represent good use of public resources.

The Council recognises the role which community ownership of assets can play in regenerating communities and will work with and advise voluntary and community organisations who wish to explore the possibility of asset transfer. The Council will consider the transfer of assets to well-run community organisations which can deliver a wide range of benefits to the local community. These include empowering local communities to address local needs, stimulating opportunities for volunteering and skills development, developing community enterprise and local income streams, thereby contributing to supporting and sustaining local services. A key objective to community ownership of assets is that they contribute to the delivery of local and national strategic outcomes for communities and this will form a critical part of the appraisal of requests for asset transfer, for example whether agreeing to the request would be likely to promote or improve:

- economic development,
- regeneration
- public health
- social wellbeing
- environmental wellbeing
- reducing inequalities of outcome from socio-economic disadvantage

The Council has in place a process for consideration of requests for asset transfer in accordance with the Scottish Government Guidance for Relevant Authorities, dated January 2017.

## 2. Guidance

This guidance is for community bodies interested in acquiring or leasing an asset belonging to East Lothian Council. It is designed to make the process clear and ensure that organisations provide the information needed for the Council to understand the purpose of the request and how it will bring about benefit for the community in a viable and sustainable way. The guidance provides information on what interested community bodies must do in making an application to lease or purchase land or property from the Council and explains how the Council will assess and determine an application.

### 2.1 Key Principles in consideration of transfer of assets

- Community asset transfer is driven by the delivery of services and their outcomes and not by the availability of assets. The Council is committed to ensuring that all assets are used effectively to deliver sustainable services whether or not they are owned by the Council or controlled by community bodies.
- The Council will be proactive in supporting community bodies who wish to develop proposals for asset transfer or lease to ensure their reasons for request are likely to improve services for their communities. A group of senior staff from cross Council services will provide information and advice throughout the process.
- The Council will compare the benefits of the proposal in a request to the benefits of any alternative proposals, including those from the Council itself. This may include the continued use of an asset by the Council to deliver a service rather than approve a transfer request. It may also include the disposal of a surplus asset on the open market, if this is assessed to be a better outcome and achieves Best Value.
- The Council will assess asset transfer requests transparently against criteria which will include evidence of the ability of the community body to fund and sustain the asset in the long-term and without ongoing Council commitment.
- The Council will consider whether the cost of transfer would affect the Council's budget to the extent that it reduced its ability to deliver its functions, even after taking account of the proposed benefits.
- It is important that community transfer bodies should not assume that asset transfers will be at a nominal sum and will normally be priced at market value although assets may be transferred at less than market value. This is explained in Section 14 of the Asset Transfer Guidance for Community Bodies ([hyperlink](#)). Where appropriate, the Council and the community transfer body will obtain a joint valuation to obtain a figure on which discussions will be based.

## 2.2 Eligibility requirements for bodies making a request for transfer of an asset for ownership or lease.

To make an asset transfer request, the Act requires an organisation to be a 'community transfer body', which means it is either a 'community controlled body' or alternatively a body specifically designated by the Scottish Ministers as a community transfer body.

To qualify for **ownership** of an asset as a 'community controlled body' and a 'community transfer body', the group must be:

- a Scottish Charitable Incorporated Organisation (SCIO) or a Community Benefit Society, the registers rules of which include provision that the organisation must have no fewer than 20 members, or
- a company with written constitution or articles of association which has provision that:
  - the company has no fewer than 20 members and has
  - provision for transfer of assets if the community controlled body is wound up, to make sure the asset is passed on to another community or charitable organisation or other approved body as the Scottish Ministers may direct.

For **lease, management and other rights**, the group has to be a Community Controlled Body which has a written constitution which includes the following:

- a definition of the community to which the body relates
- provision that the majority of members of the body consists of members of that community
- provision that the members of the community body have control of the body
- provision that membership of the body is open to any member of that community
- a statement of the body's aims and purposes, including the promotion of a benefit for that community
- provision that any surplus funds or assets of the body are to be applied for the benefit of that community.

Essentially, community transfer and controlled bodies may take many forms with a range of legal structures and are visibly open, inclusive and accountable organisations.

## 2.3 Initial expression of interest

The Scottish Government has published separate Guidance for Community Transfer Bodies which describes how organisations should apply for transfer or control of assets. (*Asset Transfer Guidance for Community Transfer Bodies.*) The Council encourages groups to discuss their ideas and proposals in the first instance with their local Area Partnership Manager who will provide guidance with the preparation of a request and the completion of an initial Expression of Interest Form. This will

facilitate an exchange of information and discussion and will assist groups to decide whether it is appropriate for them to move on to submit all of the information required for an Asset Transfer Request under the Act. This stage of engagement will also support organisations to ensure that if and when a request for asset transfer is made, it contains the relevant information and can be validated. At this stage, the Council may provide a range of information about the land or buildings, which, if available, could include an indication of the approximate value of the asset of interest to the community transfer body. The Expression of Interest Form is available on the Council's website. ([Asset Transfer - Expression of Interest Form](#))

## **2.4 Making a request for Asset Transfer**

There is a formal process defined by the Community Empowerment (Scotland) Act 2015, which needs to be followed and timescales for responding to requests are also set out in the Act. Groups are strongly recommended to follow the Asset Transfer Guidance for Community Transfer Bodies, prepared by the Scottish Government. An asset transfer request to the Council must be made in writing using the Asset Transfer Request Form on the Council's website. ([hyperlink](#)) The application must include the following information:

- that the request is being made under Part 5 of the Community Empowerment (Scotland) Act 2015
- the name and address of the community transfer body
- confirmation that the application is made by a community controlled body and has community support
- the land or building to which the request relates
- the reasons for making the request
- how the proposal will be funded
- the benefits which the community transfer body considers will arise if the authority were to agree to the request
- if the request is for ownership, the price offered for the land or building, or if the request is for a lease or other, the rent, duration and if relevant, the nature and extent of rights sought.

The Council will not sell the land or building to any other party until the request is dealt with. We will also advise those who own, rent or use the land or building of the asset transfer request and publicise the request on the Council's website. There is a period of 4 weeks after this for public comments on the request to be made to the Council.

## **2.5 Assessing asset transfer requests**

All applications will be assessed by the Council's Capital Investment and Asset Management Group, which is a cross Council group of officers from relevant services. The Council will follow Scottish Government Guidance in assessing requests, taking the following matters, into consideration:

- the reasons for the request



- the value to the authority in the existing use of the asset
  - feasibility and cost of relocation of services elsewhere
  - potential revenue savings arising from the transfer
- the value for alternative use/redevelopment
- whether agreeing to the request would be likely to reduce inequalities of outcome which result from socio-economic disadvantage
- the level of community benefits
  - extent of community served
  - nature of benefits to be delivered as set out in the Policy Statement in section 1 above.
  - links to the Council's corporate priorities and outcomes
  - community need/demand for the services
- the likelihood that benefits will be delivered over a 5-year period
  - strength and sustainability of organisation's governance and financial arrangements
  - sustainability of business plan/project
  - sources and level of funding support
- the impact of project failure
  - to surrounding environment
  - to reputation of the parties
  - to the service users / relevant authority's objectives
- 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
- how the request relates to the Council's duties under Equalities legislation
- how Best Value characteristics are evidenced and contained throughout the overall approach.

The strength of a proposal will also be considered against the financial implications of any decision both for short-term budget planning and long-term asset strategies including for future growth. This will include the consideration of the current use of the asset and any consequent implications that could arise from the transfer of the asset.

The information provided should demonstrate that the project has clear objectives, including the projected outcomes and impacts sought by the community transfer body alongside any associated dependencies, constraints and risks identified.

### **3. How long will the process take?**

When a request is received, the Council will check that it contains all the required information and that the organisation making the request qualifies as a community

transfer body. After a request has been validated, the Council will issue a decision to the community body setting out the reasons for its decision within six months from the date that the asset transfer request was validated. There may be reasons why a decision cannot be made within 6 months, for example for a complex request, and a longer period may be required. This will to be agreed between the Council and the community transfer body as quickly as possible and before the 6 month period expires.

#### 4. Decision

The Council will issue a decision notice to the community body making the request setting out the reasons for its decision within the timescales set out above.

If the request is *agreed*, the notice will:-

- specify the terms and conditions on which the Council is prepared to transfer ownership, lease the land or confer other rights requested
- state that the community body must submit an offer to proceed with the process, and
- give the date by which the offer must be submitted (this will be at least 6 months from the date of the decision notice).

If a request is *refused*, the decision notice will set out:-

- the reasons why the Council has refused the request
- explain that an application for review or an appeal can be made
- explain how and to whom an application for review or an appeal to the decision may be made
- that the appeal application must be made within 20 working days from the date of the decision notice

#### Notification and Publishing

The Council will send the decision notice to the Community Transfer body and publish it online. It will also advise those who made representations of the decision.

#### 5.0 After Agreement

The Community transfer body must submit an offer to take ownership of, or lease of the land or building, based on the terms and conditions set out in the decision notice. The Council will continue to work with and support the community transfer body during this period to agree a final contract for the transfer. However, if no offer is made by the date set in the decision notice (and no appeal has been received from the community transfer body in relation to the terms and conditions within 20 days of the decision notice) the process is at an end and the Council will be free to make a decision about the future of the asset.

#### 6.0 Reviews and Appeals

The Council will follow the procedures set out in Sections 17 and 18 of the Asset Transfer Guidance for Community Transfer Bodies.

#### 6.1 Reviews

A community transfer body can seek a review if:

- the Council refuses the request
- the request is agreed, but the terms and conditions in the decision notice are significantly different from those in the request, or
- no decision notice is issued by the Council within the required period

A request for a review must be made in writing to the Council within 20 working days from the date of the decision notice as set out in Appendix 2. The Council will notify anyone who made representations on the original asset transfer request within 10 working days of receipt of the request for review.

The community transfer body must state the reasons for their request for review and all of the documents related to the review will be published on the Council's website. To assist the review process, the Council may ask interested parties for more information and arrange a hearing session if required.

The review of an asset transfer decision will be carried out by the Council's elected Councillors as required by the Act.

## **6.2 Appeals**

A community transfer body can appeal to the Scottish Ministers if

- they are unhappy with the outcome of the Council's review
- following agreement to an asset transfer request, the Council has not concluded the contract within the agreed time period as set in Appendix 3.

A request for an appeal must be made in writing to the Scottish Ministers within 20 working days from the date of the decision notice as set out in Appendix 2.

The procedures for appeals to the Scottish Ministers are set out in Section 20 of the Asset Transfer Guidance for Community Transfer Bodies.

## **Appendices to be incorporated**

Appendix 1  
Summary of Asset Transfer process - flowchart

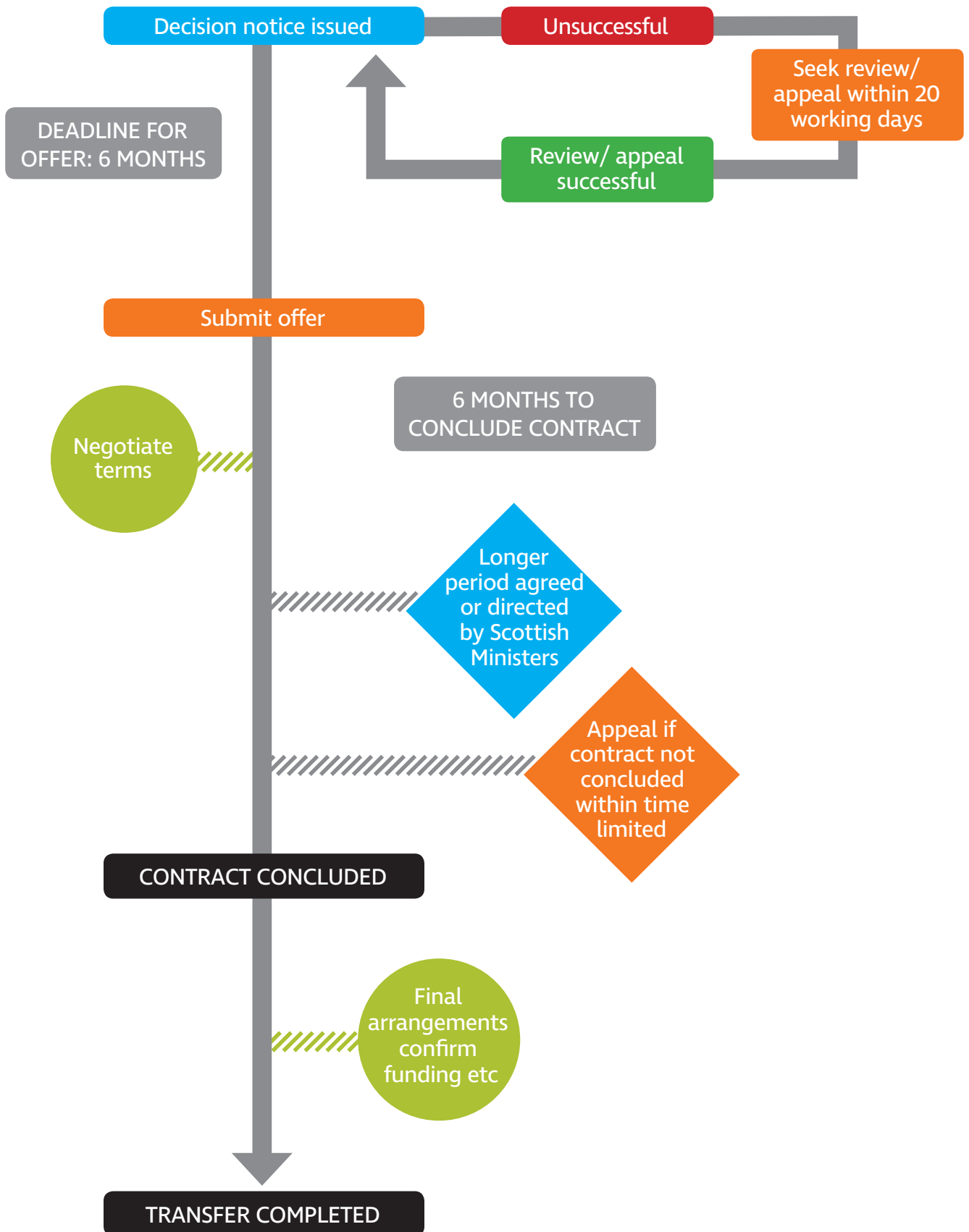
Appendix 2  
Summary Process following Decision - flowchart

Appendix 3  
Appeal where no contract is concluded - flowchart





# Post-decision process overview



# Appeal process where no contract concluded

