

**NORTH LANARKSHIRE COUNCIL
REPORT**

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| To: POLICY & RESOURCES (REGENERATION & INFRASTRUCTURE) SUB COMMITTEE | | Subject: Community Asset Transfer Policy |
| From: HEAD OF PLANNING & REGENERATION | | |
| Date: 20th February 2014 | Ref: 1753/YMcB | |

1. Purpose of the Report

1.1 The purpose of this report is to seek the approval of committee to consult on a draft new Council Community Asset Transfer (CAT) Policy (Appendix 1) and to select for pilot, a number of community asset transfer project(s) which will inform the final NLC CAT policy.

2. Background

2.1 The vision for this new CAT policy is about developing plans and processes to further deliver community regeneration and unlock potential for local projects and services via the council's assets. The policy requires to be delivered in accordance with the current legislation framework including Local Government (Scotland) Act 2003 (LGSA) and the subsequent Disposal of Land by Local Authorities (Scotland) Regulations 2010. CAT is currently being used in other local authority areas as a vehicle to support the redesign of public services locally and to deliver on community empowerment and enterprising activity.

2.2 In January 2010, NLC, as part of its asset management plan, prioritised a number of community based facilities for closure. At the same time Development Trusts Association Scotland (DTAS), called for expressions of interest for a number of CAT demonstration projects across Scotland. A North Lanarkshire CAT Pilot was led by NLC Learning & Leisure Services was approved; with two pilot areas identified (Holytown and Bargeddie).

2.3 Although both pilot CAT projects failed to progress, the experience from these pilots has informed the development of a NLC CAT Policy linked to the key themes as defined in the Development Trust Association (DTA) Asset Transfer guidance.

2.4 NLC has always maintained a programme of leasing and disposal of surplus Council properties. The Council has, over the years, had a number of requests from third sector organisations to take over the management and running of council assets. Lessons from the pilot reported through Regeneration Committee on 18th May 2011 and P&R Property Committee on the 26th May 2011 concluded that:

- any potential CAT to a third sector organisation should take place via an application process (supported by a robust business plan), which demonstrates clear benefits to the council, third sector and communities,
- appropriate capacity building and business supports need to be in place to support organisations through the CAT process,
- Further policy developments are required to deliver strategic priorities on asset transfer

2.5 A new North Lanarkshire Social Enterprise Framework 2013-2015 has been also been approved, which sets out Council and Partners' commitment to *developing community assets*. A particular action within this framework is to:

- Develop council policy to support community asset transfer and as part of this policy.
- Pilot successful community asset transfer projects.

2.6 NLC recognises the importance of the social economy and, in particular, the contribution that social enterprise make to delivering economic growth, supporting disadvantaged communities and delivering local services and providing jobs.

3. **Developing the Policy**

3.1 The draft policy will require wide consultation and input from across NLC and the voluntary sector to enable it to be supported by robust processes and guidance.

3.2 The North Lanarkshire Council CAT Policy will be developed in consultation with partners as set out below.

| Date | Action |
|----------------------------|---|
| February 2014 | Initial draft policy to NLC P&R (Regeneration & Infrastructure) |
| October 2013 to March 2014 | Information gathering and visits to other CAT projects |
| March 2014 to May 2014 | Wider NLC service, voluntary sector and elected member consultation |
| March 2014 onwards | CAT pilot projects identified |
| August 2014 | Final draft policy to NLC P&R (Regeneration & Infrastructure) |

4. CAT Processes

- 4.1 Committee should note that not all of NLC's assets (buildings and land), which have been declared surplus, are considered as suitable for CAT. This could be due to the condition, listed status of the building, scale of the asset, etc. NLC Planning & Regeneration will work with colleagues across council services to identify those surplus assets which would be suitable for consideration under the CAT Policy.
- 4.2 Planning & Regeneration will work with colleagues across NLC to finalise section 3.3. 'The Asset' to ensure that the policy fits with the existing council surplus and disposal procedures and policy or any necessary adjustments to existing policy are delivered within the agreed timescale.
- 4.3 Processes to be developed that will take account of the following:
- The business objectives of the proposed CAT project are developed and aligned to NLC's key themes and priorities.
 - The community organisation has the capacity to manage the asset.
 - NLC officers have the capacity to effectively support the asset transfer.
 - The community organisation(s) have funds to purchase / refurbish / sustain the asset.
 - The community organisation has knowledge of the asset (especially when considering a listed building) and the potential costs involved.
 - State Aid rules will be considered and inform public financial support for the project.
 - Asset to be used in the public interest.

5. Conclusion

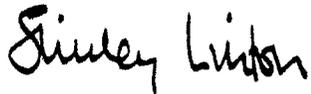
- 5.1 NLC recognises that community asset transfer can contribute towards stronger, cohesive and sustainable communities as set out in our Economic Regeneration Strategy and Community Plan / Single Outcome Agreement.
- 5.2 As a result of continuing austerity measures and council savings, there is a requirement to identify innovative ways to deliver public services more efficiently. Working with local community organisations to deliver CAT, empowers communities and contributes to building resilient communities as well as supporting NLC to draw in new finance and expand community activity.
- 5.3 The draft policy development will require wider consultation and testing to ensure that the policy is both transparent and robust.
- 5.4 Governance structures (annex 4) will be finalised following consultation and presented with the final draft policy to committee in August 2014.

6. Recommendations

It is recommended that Committee:

- (i) Approves the draft policy for consultation as outlined in the report

- (ii) Delegates to the Head of Planning & Regeneration in conjunction with the Convener, the authority to identify two or three CAT projects for trial, to inform the final draft Policy
- (iii) Seeks a further report with an updated CAT policy for approval and guidance informed by consultations and lessons learned from the pilot work undertaken.



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Local Government Access to Information Act: for further information please contact Yvonne McBride, Planning & Regeneration on 01236 632682

Appendix 1

COMMUNITY ASSET TRANSFER POLICY – DRAFT FOR CONSULTATION

1. Our Vision

North Lanarkshire Council (NLC) has a long history of partnership working and support to the third sector organisations (TSOs) and recognises the important contribution that the sector makes to the regeneration and sustainable economic growth of North Lanarkshire through delivery of local services, job creation and working with some of the most marginalised members of our community.

NLC recognises that community asset transfer can have a significant impact on realising opportunities for community empowerment, enterprise and community led regeneration in North Lanarkshire. NLC is committed to working with the third sector on community asset transfer (CAT) as a mechanism for encouraging community ownership and involvement in local service delivery.

NLC is fully committed to maximising its assets, building on existing partnership working with TSOs, against an agreed set of criteria in order to deliver on its regeneration themes and agreed social, economic and environmental priorities.

This policy will support community asset transfer as a mechanism by which NLC will demonstrate its continued commitment to engagement and partnership working with the third sector to deliver effective local services.

NLC fully supports the underpinning principles of community asset transfer; whilst recognising that some assets must remain in council ownership to support the delivery of essential services, generate income or support the economic activity in the area. The Council will consider and assess the financial impact from any loss of a capital receipt from sale or rental income, as a result of CAT, before making any final decision to transfer the asset. Each case will be considered on its merits and the final decision will be at the discretion of the Council.

2. Strategic Context

The aim of the policy is to set out a consistent approach and clear guidance for consideration of transfer of assets (including land and buildings) by the council to third sector organisations in pursuit of community led regeneration.

Community Asset Transfer involves the transfer of ownership of an asset from the Council to a third sector organisation. In assessing proposals for CAT, NLC will consider the relative benefits and risks of the following options in order to reach its decision:

- Cost of doing nothing
- Expenditure on other services made possible as a result of disposal on the open market
- The benefits generated by CAT of the asset to NLC, the TSO and the wider North Lanarkshire community

The policy will be implemented in-line with the key themes and priorities set out in NLC's key strategies. All CAT proposals must demonstrate that they contribute to at least one of the council's priorities as detailed in the following:

- NLP Community Engagement Strategy 2008-2011.
- Community Plan / SOA 2013-2016.
- NL Economic Regeneration Strategy 2013-2015.
- NLP Voluntary Sector Strategy 2013-2016.
- NLP Social Enterprise Framework 2013-2016.

3. Key Policy Criteria

NLC will consider community asset transfer to a third sector organisation via an application process (supported by a robust business plan), which can demonstrate clear benefits to the council, third sector and communities. The application will be considered at Stage 1 and subject to 'in principle agreement' this will progress to Stage 2 'business planning' as further detailed in section 4.1

NLC will proactively consider any enquiries from TSOs regarding community asset transfer. Additional NLC support to the TSO will be considered at the earliest opportunity and in line with current business support programmes.

NLC fully supports the underpinning principles of community asset transfer; whilst recognising that some assets must remain in Council ownership to support the delivery of essential services, generate income, or support economic activity in the area. Any proposed asset transfer must support the requirement to contribute towards NLC's corporate and strategic priorities and demonstrate best value to the council.

Requests for the transfer of council owned assets will be considered against the criteria set out in 3.1 to 3.4 of this report.

3.1 Proposed Use

The proposed use must demonstrate extensive reach into the community. This can apply to both geographic communities and community of interest and in all cases TSOs will be required to evidence that they are democratically accountable to their community.

3.2 Viability

The proposal must evidence that the community management and ownership of the asset directly supports the council's social, economic and environmental key priorities.

The proposed CAT project must demonstrate financial viability and sustainability, e.g. through generating income, development of social enterprise and increasing the use of the asset.

The TSO is required to set out and provide detail on how the premises will be managed on a day-to-day basis, how much space is required to deliver its activity and how they (TSO) will maximise the use of the asset.

There must be clear evidence of need and demand for the activities being proposed within the local community.

For our communities in North Lanarkshire, the process of community asset transfer will deliver on:

Community engagement and community empowerment

- Ensuring local people have a meaningful stake in the future development of the place in which they live and work.
- Greater community involvement, improving the quality of relationship between the individual, the wider community and North Lanarkshire Council and
- Devolving greater power to communities and supporting community involvement / community action

Supporting neighbourhood regeneration

- Supporting the sustainability and growth of the social economy which in turn can deliver on our economic, social and environmental priorities and act as a catalyst for enterprise within communities.
- Ensuring effective use of buildings and land and realising opportunities to widen the use of our assets to deliver local services and
- Improve community cohesion through increased community involvement and volunteering opportunities.

3.3 The Asset

The council's community asset transfer policy will be implemented in accordance with the terms of the council's approved land and sales, property policy.

Where an asset has yet to be formally declared surplus by the council (and subject to the initial assessment by the CAT Panel (see para 6) and approval for the CAT to progress); formal approval of the council will be sought for the disposal with the appropriate procedural steps for the surplus process to be undertaken. This will be progressed, in tandem with the final negotiations for the transfer of the asset to the TSO.

Where an asset has been declared surplus by the council and the asset is advertised within the Surplus Property Bulletin: it is proposed, as part of this policy development, that the council will now extend circulation of this bulletin to the voluntary sector.

Where transfer of ownership is being considered under CAT and the application has progressed to Stage 2 (full business planning - see para 4), the Council may consider a staged process whereby a short term lease is granted.

This staged process is on the proviso that the TSO continues to work in partnership with the council and can demonstrate that good progress is being made to finalise the necessary community consultation, business planning and development and fundraising etc.

The existing Disposal of Land by Local Authorities (Scotland) Regulation 2010 currently gives the local authority discretion to take into account community benefit. This new CAT Policy will ensure that where CAT is being considered, the council will always take into consideration community benefit (outlined in section 3.2). This will inform the assessment and decision making process (benefits generated by the transfer of the asset – see para 4), including securing the best price as can reasonably be obtained.

The council's assessment of a CAT request and any subsequent decision to proceed will take into account the condition, usage, value of the asset, the availability of other suitable premises from which the proposed activity could take place and value for money offered by the proposal. The price regard will be informed by the social, economic and environmental benefits generated by the CAT.

3.4 The Applicant TSO

The Third sector Organisation (TSO) must be a legal entity which:

- Is operating as a bone fide third sector organisation and not for private profit. This would include but not be exclusive to unincorporated charitable organisations, companies Ltd by guarantee with charitable status, community interest companies, industrial and provident societies.
- Is properly constituted and operating within the scope of their constitution / memorandum of articles of association.
- Demonstrates a clear community / social demand for the proposed community asset transfer.
- Has the capacity to manage / own the asset and evidence that directors or management committee members have the necessary experience and skills.
- Has established systems and processes in place to ensure good governance, robust financial systems, relevant policies and quality systems. Or if newly formed, the TSO is working towards ensuring good governance, systems and policies are in place.
- Can demonstrate that the project contributes to the priorities set out in the community plan/Single Outcome Agreement, North Lanarkshire's Economic Regeneration Strategy and the Social Enterprise Framework.
- Can demonstrate that the project does not duplicate activities, services or facilities already provided in the local community and that there is a genuine need evidenced through the business plan process.

The Council will also consider applications from TSOs that do not have a track record but are operating as a legal entity and can demonstrate the necessary skills and capacity to deliver on the CAT project.

NB. National Organisations whose remit is regional or national will not be considered for CAT

4. Assessing Community Asset Transfers

Community asset transfer can apply to buildings and land. This may include community centres, advice centres, community halls, libraries etc.

A two-stage process (Appendix 1) is proposed which will inform eligibility for progression through the CAT process. The first stage is an initial screening process which will be used to assess the organisations capacity and suitability in order to determine whether the application can progress.

Each application will be assessed using a scoring matrix at stage one and stage two of the CAT process.

The CAT decision involves the assessment of the proposal against a range of criteria including:

- Sustainability of the proposal – the business case.
- Benefits generated by the transfer of the asset (to the council, to the TSO, to the community).
- The potential to raise capital receipts from the sale of the asset.
- Reduction of future revenue / capital costs for the council and
- Loss of any existing or potential future income

The assessment and decision making process will be managed by a panel of experts from across the council with the final decision to transfer an asset to an applicant TSO taken by the Council's Policy & Resources (Regeneration & Infrastructure) Committee. Specialist advisors may provide advice and inform the decision making process.

4.1 Stage One (In Principle Agreement)

Applicant organisations will be required to submit an outline proposal detailing how the asset will be used, proposed services / products planned and how these will be delivered. Outline proposals would demonstrate the following:

- Strategic fit against the priorities set out in the strategies listed at Section 2 above,
- Details of project beneficiaries and how the proposed activity will address current gaps complement / add value to existing service provision and
- Previous relevant experience of the organisation including any previous asset management experience.

The CAT Panel will assess the initial 'stage one' proposal, taking into account ward elected member feedback as well as any objections received from other interested parties, the community and stakeholders. Any proposal would need to demonstrate comprehensive consultation with relevant bodies and partners.

If the stage one proposal meets the criteria as set out in Appendix 2, the CAT Panel will formally respond to the TSO and request in writing a full business plan to enable progression to 'stage two' outlined in section 4.2 below.

Failure at Stage 1 may arise where there are insufficient grounds for CAT, or where the results from scoring matrix demonstrate that the community benefits do not demonstrate best value to the council.

The TSO will be advised in writing if the application is refused and can re-submit their proposal via the appeal process outlined in Appendix 3.

4.2 Stage Two

Subject to 'stage one' approval by the CAT Panel; the applicant organisation will be invited to progress to 'stage two' and will be required to submit a full business plan with the appropriate back up information and supporting evidence. This will include any statutory consents required for the project (e.g. planning permission, building warrant etc.)

Should the full business plan be rejected at this stage, the applicant organisation may resubmit their proposal via the appeal process outlined in Appendix 3.

At stage two of the application process, the TSO must clearly evidence and demonstrate strong financial management, good governance and appropriate policies including health & safety, equal opportunities. The TSO must evidence that they have considered the key risks and how these will be managed.

4.3. Approaches to Managing Risk

North Lanarkshire Council recognises that there are inherent risks to community asset transfer both for TSOs and for the council, and has in place mechanisms to ensure a consistent approach to managing these. Each project will be considered on a case by case basis against robust criteria. The assessment and decision making process will help to manage and minimise risk and support the CAT process.

NLC will work with the TSO applicant organisation at the earliest opportunity to identify risk as well as drawing on the good practice examples of where risk management has successfully been used.

The council will support and where appropriate, sign-post TSOs to the relevant local and national supports for advice/ resources in managing the risks involved and to support and facilitate successful asset transfer.

4.4 Asset Information

North Lanarkshire Council may provide information which it holds on the asset to the applicant TSO. The council will consider such requests (at stage two of the application process) submitted in writing, where this information is readily available and deemed to be useful to the progression of the CAT process. NLC advises that all applicant TSOs seek (and fund) independent legal and technical advice on the CAT process and any subsequent transfer approvals.

5. Timescales for Decision Making

Indicative timescales for decision making and information for each stage of the CAT process are detailed in Appendix 1.

6. Remit of CAT Steering Group, CAT Panel & Appeals Panel

The CAT Steering Group is responsible for overseeing the development of the CAT policy and strategic direction.

This group will be made up of officers from across the council with practical experience and understanding of regeneration and community assets. There is the option to co-opt partners who have particular knowledge and expertise and include representation from the third sector.

The CAT Panel, made up of council officers will assess applications at both stage one and stage two of the process against the criteria set out in the community asset transfer policy. The Panel will consider policy, legal and financial risk to the council.

The Appeals Panel will consider an initial refusal or refusal of a resubmitted improved application and all available information. The Appeals panel will be formed by the CAT Steering Group.

7. Policy Review

NLC will review the North Lanarkshire Council Community Asset Transfer Policy following an initial twelve month pilot stage and /or pending new guidance from the Scottish Government on *Community Asset Transfer*.

KEY STAGES AND INDICATIVE TIMESCALES

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| STAGE 1 | 2 months | <p>Requests for community asset transfer could come from NLC design & Property Services, an Executive Service from within the council, or from a TSO.</p> <p>If the request comes from a TSO, the organisation will be required to complete an initial expression of interest pro-forma as outlined in Appendix 2.</p> <p>On submission of the above, the CAT Panel will undertake an initial assessment of the application and confirm that the transfer would be taken to the next stage.</p> <p>Contact should be made with NLC Planning & Regeneration Service to establish the proposed use of the land and or building is compatible with the Local Development Plan in-order to identify any issues around planning consent.</p> |
| STAGE 2 | 3 months | <p>If the transfer request is made by NLC Design & Property Services or a NLC Executive Service as part of a wider asset management review, CAT would be considered in accordance with the Council's <i>surplus process</i> and the Council's Land & Property Sales policy 2010.</p> <p>The submitted project business plan will be assessed against the CAT criteria outlined in section 4 above.</p> <p>Work may also need to be undertaken by the Lead Service to verify the credentials of the TSO and to ensure the wider community has been consulted / are aware of the project.</p> <p>In the event of competition for the same asset, the TSOs will be encouraged to collaborate in the first instance and specific business support & advice / signposting will made be available for consortium development.</p> |
| STAGE 2 | 3 months | <p>If the CAT request has been made by NLC Design & Property Services or a NLC Executive Service, the Lead Service will seek permission to initiate the CAT process. The current NLC 2 stage bid review process may be initiated at this point</p> |
| | 2 months | <p>If support for a transfer is agreed and Policy & Resources Committee (Regeneration & Infrastructure) has given 'in principle' approval, the next step is to proceed with exploring the feasibility of the transfer and progress the business planning phase and associated business development process which will determine the cost, lease</p> |

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| | | <p>arrangements etc.</p> <p>Other issues which may need to be resolved at this early stage include; State Aid, TUPE, external funding etc. North Lanarkshire Council may also choose to set other conditions at this time to manage / minimise identified risks. TSO engagement with NLC Planning is advised at this early stage.</p> |
| STAGE 2 | 6 months | <p>Moving to the detailed development stage to enable substantial work to be undertaken towards a robust business plan. The TSO and the Lead Service will work closely with the council's business support service to ensure that the business plan meets the required standards for financial viability. North Lanarkshire Council will assist the process where possible by providing supporting information and documentation pertaining to the asset e.g. conditions survey, historical running costs, site plans etc. In all cases the TSO will be advised to seek independent legal and technical advice.</p> <p>During this period, the TSO will be working closely with the council to progress in-principle agreement around the heads of terms, planning consent, cost, etc.</p> |
| STAGE 2 | 1 months | <p>Following comment from the CAT Panel, there will be submitted a report to Policy & Resources (Regeneration & Infrastructure) recommending community asset transfer and outlining the terms and conditions.</p> |
| APPROVAL | 6 months | The formal legal Transfer process will be initiated |
| MONITORING | 6 months | Ongoing partnership and support in the form of technical support and advice, business support etc will continue beyond the transfer with a commitment to ongoing dialogue and support to strengthen the sustainability of the CAT. |

Timescales will run consecutively.

TSOs will be expected to seek their own independent advice throughout the process.

ASSESSMENT CRITERIA

STAGE 1

Applicants are required to submit an outline proposal detailing the following:

1. Applicant Details.
2. Applicant Organisation Status.
3. Confirmation that the organisation is operating as a 'not-for-profit'.
4. Details of the asset to be transferred including type of asset to be transferred required.
5. Details of proposed future use of the asset including services / products planned; how these will be delivered; evidence of demand /need.
6. A statement indicating funding / finance in place or identified in support of this transfer.
7. Management Structure including names and addresses of members / board of directors.
8. Organisational capacity to deliver this project including FTE staffing details / details of FTE volunteers, experience of staff / volunteers.
9. Organisational structure detailing lines of accountability, decision making and reporting.
10. Anticipated planning consents required for the project (e.g. planning permission, building warrant etc where a significant change of use is planned).
11. Details of any wider consultation, discussions with community and stakeholders and summary of feedback.

STAGE 2

Applicants are required to submit the business plan with appropriate back-up information / supporting documentation including:

- Details of funding / finance in place or identified in support of this transfer.
- Details of economic, social and environmental benefits anticipated including any research / consultation which have been undertaken as part of the development phase and how progress against objectives will be recorded /monitored and reported on through the lifetime of the project.
- Details of anticipated statutory consents required for the project (e.g. planning permission, building warrant etc).

APPEALS PROCESS

Stage One

In the event that the Stage One, initial proposal is unsuccessful, the TSO may submit in writing an appeal in relation to the reasons for refusal set out by the Council. This appeal must be submitted in writing to the CAT Appeal Panel within 12 weeks of the date of the initial refusal letter, with evidence supporting why the TSO considers the refusal to be unsubstantiated.

Stage Two

In the event that the Stage Two business plan is refused, in the first instance, the reasons for refusal will be discussed between the TSO and the Lead Service within the council to set out why the stage two has failed. The Lead Service will advise how the business plan may be strengthened and suggest further work which may be required by the TSO to strengthen the business case for a successful CAT.

The TSO must resubmit a revised business plan within 6 months of any refusal, this would then be reassessed and a decision given in writing, including the reasons in the event of a refusal. If the resubmitted 'revised business plan' is refused, then the TSO can appeal to the CAT Appeals Panel within 12 weeks of the date of the initial refusal letter, with evidence supporting why the TSO considers the refusal to be unsubstantiated.

The decision of the CAT Appeals Panel will be final.

Governance

NLC Policy & Resources Committee (Regeneration & Infrastructure)

Final decisions will be made on the transfer of council assets under the CAT policy.

CAT Steering Group

The Steering Group will be made up of representatives from relevant council services with practical experience and knowledge of council assets and regeneration; including representation from the voluntary sector interface (VANL). This group will oversee the strategic policy development and development of supporting guidance and processes.

CAT Panel

The Cat Panel, which will comprise of at least three council officers for the project, is responsible for the overall assessment process. The Panel will assess CAT applications at 'stage one' and 'stage two' against the criteria set out in the CAT policy. The Lead Service (see below) will also sit on the CAT Panel alongside relevant specialist and/or technical advisors co-opted to provide advice and to inform the decision making process.

Where a CAT has been given 'in-principle approval' (stage one) and selected to move to 'stage two', the Panel will invite the TSO to submit a full business plan. The CAT Panel will assess the project to ensure sound financial management, good governance, risk assessment and to ensure the applicant TSO has appropriate policies in place. The CAT Panel's recommendations will be included in the report to the NLC Policy & Resources Committee (Regeneration & Infrastructure) committee.

Should the business plan be rejected at this stage; the TSO may re-submit a revised business plan via the process outlined in Appendix 3.

CAT Appeal Panel

The CAT Appeals Panel will be appointed by the CAT Steering Group

The Lead Service

The Lead Service for the CAT project would be NLC Planning & Regeneration Service with full support from the council service(s) with the most appropriate links to the organisation requesting the asset. The council service(s) supporting, would be identified in a number of ways including:

- An existing SLA / commissioned service.
- Details in the completed expression of interest pro-forma.
- Type of service provided by the TSO.
- Responsibility for the asset

It is the responsibility of the Lead Service to co-ordinate the council's response to the request for an asset transfer, including preparation of reports to Policy & Resources (Regeneration & Infrastructure) as part of the decision making process.