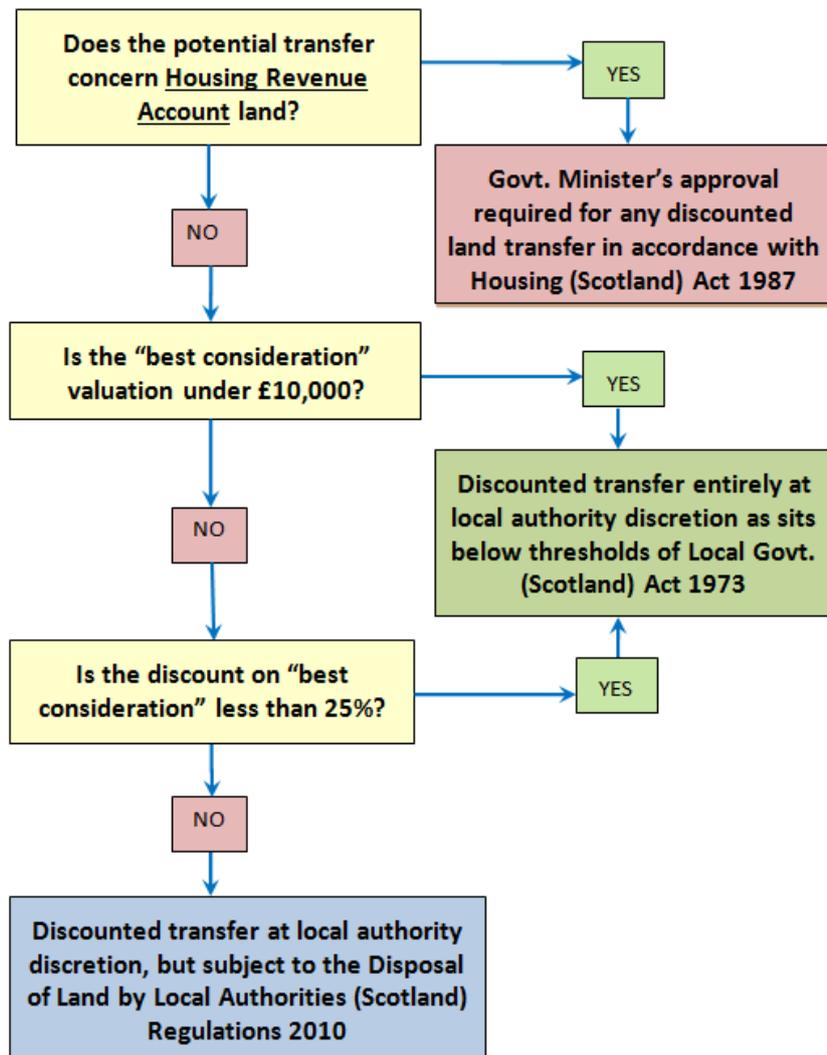


Community Asset Transfer at Discounted Value - Local Authorities

The Local Government (Scotland) Act 1973 requires that local authorities generally achieve the best “consideration” (i.e. price/return) “that could reasonably be achieved” when disposing of their assets. The same Act, however, also requires local authorities to secure “best value”; a wider measure that includes responsibilities to “make the best use of public resources, including land and property” and “demonstrate responsiveness to communities, citizens, customers, and other stakeholders, where relevant”.

Community asset transfers will often therefore present circumstances where it is appropriate for local authorities to consider the disposal/transfer of assets for a discounted or nominal “consideration” or price, in order to achieve this wider “best value”. This note aims to brief community groups on the topic so they are in an informed position to argue the case for discounted value asset transfers from local authorities, and to assist local authorities with any required internal processes.

Since June 2010 local authorities have had comprehensive delegated powers to take decisions on discounted asset disposals, and the range in local authority discretion on this matter is set out in the following flow-chart.



The chart illustrates that local authority disposals/ transfers of low-value assets (under £10k valuation), and those with lower discounts (less than a 25%) on valuation, are not subject to statutory procedures when agreeing any discounted value at transfer (green box).

All other potential discounted value asset transfers will require a formal appraisal process before decisions can be taken by the local authority (blue box) – or, in the case of Housing revenue Account Land, by Scottish Ministers (red box). The rest of this note considers the procedures required of local authorities for asset transfers that fall within the blue box.

The Disposal of Land by Local Authorities (Scotland) Regulations 2010

The Disposal of Land by Local Authorities (Scotland) Regulations 2010 sets out the circumstances and criteria under which local authorities may dispose of assets for a financial return that is less than the “best consideration that could reasonably be achieved”, and sets outline procedures for discounted value community asset transfers. This is but a summary briefing note on the topic, and full details of the Regulations, with guidance and explanatory notes, can be accessed at <http://www.scotland.gov.uk/Publications/2010/07/26124543/0>.

The Regulations are clear that discounted value asset transfers can only be considered and agreed by local authorities under circumstances where two criteria have demonstrably both been fulfilled:

- 1. the disposal is likely to contribute to the promotion or improvement of any of i) economic development or regeneration, ii) health, iii) social wellbeing, or iv) environmental well-being.**
- 2. the local authority is satisfied that disposal at the (discounted) consideration/ value is reasonable;**

Most well considered/ planned community asset transfer project proposals **should readily be able to assure local authorities that the first criterion is fulfilled** - particularly as the project needs only to contribute to one of the four objectives listed.

The second criterion, concerning the “reasonableness” of the discounted (or even nominal) transfer value, can however present local authorities with a challenge as detailed guidelines are not provided, and nor is this the type of exercise council staff will likely be familiar – or particularly comfortable - with. Local authorities will essentially have undertake **a broad-based cost/ benefit analysis of the proposal, and compare this with any other options available for the asset.**

This is clearly not simply a narrow exercise considering short-term financial parameters, as asset transfers are about benefits for the long term, and many of the wider benefits to the community will be difficult to quantify, far less to price. The exercise will inevitably involve subjective judgements, but that should not prevent local authority staff from arriving at, and presenting, a recommendation regarding the “reasonableness” of a discounted or nominal value asset transfer. Factors that will require taking fully into account in the analysis include the following:

- The wider community benefits identified for the first criterion;
- Any local authority Community Asset Transfer policy / wider asset strategy;
- Scottish Govt. policies on regeneration and community empowerment;
- Best consideration valuation that reflects constraints on use/disposal of asset;
- The long term financial viability of the project proposal;
- The sustainability/ viability of the organisations taking forward the transfer project.