





## PHASE 2 - Researching your ideas

Are there appropriate public buildings & land?

Who owns them?

Do you need an options appraisal?

It is essential that you identify at an early stage which property is the right one to deliver your project. Before you spend time and resources exploring the viability of a specific asset in detail, carry out your own site options appraisal.

Identify who owns the property or land you are interested in taking into community ownership. Check the relevant authority's Register of land, seek local knowledge, or refer to Registers of Scotland for a search on the information they hold.

For a list of relevant authorities from whom an asset transfer can be requested, see Schedule 3 of the Community Empowerment (Scotland) Act 2015.

Asset transfer  
All other routes

Consult free advisors

Community Right to Buy is available for property owned by Scottish public authorities and by private owners. Alternatively you may negotiate a sale with the owner.

Consult free advisors to access help and advice on business planning, options appraisals, funding, etc. [www.dtascommunityownership.org.uk](http://www.dtascommunityownership.org.uk) - So you want to take on an asset? Sections: Are you ready? And What Asset?

Open discussions with owner

After you have identified the owner, make contact with them and note contact details. Request information such as, title conditions, running costs, utilities, maintenance history and the relevant authority's valuation – for information only.

Have you consulted your community?

Community involvement should be planned from the start of the project and should be an ongoing part of the process. Effective community involvement is vital to ensuring your project is a success.

Involvement can range from informing and consulting to active engagement in taking decisions and implementing the project. The degree of involvement and the way of involving people has to be matched to your community, the needs of your project and the stage it is at.

Who are your potential partners/ stakeholders/ investors?

Are you engaging with them?

Establish a written plan of community engagement so you are able to keep people regularly informed of progress. [www.dtascommunityownership.org.uk](http://www.dtascommunityownership.org.uk) – Publications – Involving Your Community

Think about, and write down a list of the people and organisations that are already involved in the project, those groups that are likely to become involved as you develop and who might be interested in supporting you in the future. All of these are stakeholders in your project and some could be potential partners if you find a mutual interest or can provide mutual benefit.

Stakeholder/partner involvement is essential for building consensus on proposals and addressing objections or concerns in advance. From this point of view any local politicians, local community groups and organisations that are likely to support the idea of community owned land and buildings are essential to the process, particularly as asset project often takes a long time to implement. Identifying potential partners is also very important as it will lend weight to any business plan, sometimes actually making it viable and will show your willingness to work in partnership with others. If you plan to apply for grants speak to the funding bodies and/or agencies involved and outline your project - this will give you an early indication of what they will and won't fund.

Confirm interest in asset(s)

Confirm your interest in pursuing an asset transfer from the relevant authority.

Note that this is not the formal asset transfer request. If you decide to proceed that follows in Phase 4.

Does your project fit with local and regional plans?

How are you able to say your proposal impacts on economic development, regeneration, public health, social wellbeing or environmental wellbeing? You have your original ideas on paper and you will now have gathered more information on how these ideas could be developed further.

Refine your ideas for sustainable transfer

This is the time to go back to the original list of ideas and purposes and see if you need to refine anything. The main thing at this stage is to see if your original ideas will generate sufficient income to allow you to keep going in the longer term. This could include a combination of income from trading, service level agreements and other fundraising activities.

You also need to check at this stage that you have all the skills in your volunteer group to deliver what you want to do. If not, you may have to invite people with these skills into your group or find finance to employ someone to work with your group.

Ensure you have an appropriate legal structure

Now that you know what you are planning to do with the building/land and what services/enterprise activities you wish to run, it is time to either check that your current legal structure is appropriate or set up a new vehicle (legal entity) to allow you to deliver on your ideas. To qualify for an asset transfer from a relevant authority, community groups must take the following forms:

**Ownership:** SCIO (Scottish Charitable Incorporated Organisation), limited company or BenCom (all 20 + members); and for **Lease:** - no incorporation required. Note that the SCIO, company or BenCom must be controlled by the community. (See Section 19, Community Empowerment (Scotland) Act 2015).

There are many example model constitutions available for you to adapt and you may not require costly legal advice. It is, however, advisable to have a legal opinion to finalise documents. Further advice, templates and support on a variety of different legal structures suitable for community asset ownership is available from COSS for your area.

Consult free advisors to access help and advice on business planning, options appraisals, funding, etc. [www.dtascommunityownership.org.uk](http://www.dtascommunityownership.org.uk) - So you want to take on an asset? Sections: Are you ready? And What Asset?

Are you maximising the use of free support available?

## PHASE 3 - Developing your ideas

Apply for Development Funding and Identify Capital Funding

Once you have all of the information collected into a written initial assessment, identify and apply for the funding your group needs to develop the project. This can include funding for a detailed feasibility study, further consultation with your community and for business planning.

Connect at an early stage in your planning with appropriate organisations and funders to establish what support you will be able to access post transfer.

Conduct a detailed Feasibility Study

Once you have funding in place, tender for a detailed feasibility/community consultation/business plan. In some cases this can all be completed by your group/community. Depending on the scale of the project it is however, likely that you will need to engage a professional to bring the project to a point where you can apply for funding to secure and develop your land/building and deliver the project.

Consult/Appoint Professionals

It is best practice to have a design brief before you appoint professionals. Your project will need professional input, typically from architects, surveyors and other specialist services.

Are you keeping the owner up to date?

Ensure that the owner is made aware of any alterations to your proposal.

Are you informing your community?

Keep your community up to date with developments within the project. If changes need to be made or if the group feel that changes are appropriate, consult with the wider community and keep them involved as much as is feasibly possible. This is also a good time to go back to the community with recent developments to keep them informed.

Do you have commitment from stakeholders + partners?

As highlighted stakeholder/partners involvement is essential for building consensus about proposals and addressing objects or concerns in advance. Major decisions are likely to be taken and it is in everyone's interests that all parties are aware of these to ensure that any problems arising are identified at this stage and dealt with.

Discuss terms with owner

By now you will have a good idea of what you will be delivering, who with and what you need to ensure it is financially viable. These elements are all invaluable when negotiating the terms of the transfer.

Remember for this to be an ASSET TRANSFER there needs to be a financially viable building/land being proposed, otherwise this is potentially the transfer of a LIABILITY. The terms of the transfer are of immense importance.

## PHASE 1 - Getting started

Who are you?

Are you an individual or group of people who want to help organise others in your community to secure the potential benefits from the development of land and building assets? This could be saving a local building from closure or demolition, helping to meet the needs of the community through an asset or creating employment by developing the space for new enterprises.

What Community do you represent?

Define your community and be inclusive. Are you a geographic community or a community of interest? If you are a geographic community be clear from the beginning what area your community covers (this is sometimes defined formally in an organisation's constitution). It can be more challenging to define this in a larger urban area. For rural communities that cover a wide geographic area, including different distinct communities can also be challenging and you may have to treat separate settlements differently whilst conveying the same message.

Is there a need and how do you know?

When considering taking on an asset it is essential that you are sure that this asset is indeed necessary for the delivery of your project. What unique opportunities will owning this asset bring to the delivery of your project? What benefits might it bring for your group and community more widely? Be careful not to create wish lists - this is about being able to demonstrate a clear need.

What are your outline ideas?

You may be looking to take on an asset for any one of a number of reasons. Get your ideas down on paper so that you can relay them to others and gather support and new ideas too. Whatever your group's starting point and aspirations, it is important to be clear at the outset what the project aims to achieve and why. It does not mean that things can't change later but having the original idea written down will help you keep your purpose in mind as you progress.

Who do you need to involve?

Look at the people you currently have backing you. Think about carrying out a skills audit; this helps to identify skills gaps, allowing you to encourage others with the additional skills you need to come on board and help.

Check out other projects

Identify similar projects that have gone through this process and speak to them about their experiences. This is extremely important as it can speed up your processes and save you a lot of time. You can learn so much from what others regard as their mistakes!

Rules of the road

Asset Transfer is possible for all publicly owned assets

Presumption in favour of agreement

Assets may be transferred at less than market value

Communities can exit at any stage

Public land/buildings are eligible for asset transfer, whether these assets are listed in the Register of Assets or otherwise.

The relevant authority must agree to the asset transfer unless there are reasonable grounds for refusing.

Relevant authorities have the ability to transfer at less than market value where clear social, economic and environmental benefits can be demonstrated.

Communities can exit the asset transfer process at any stage prior to concluding the deal.

## PHASE 4 - The transfer

Develop and finalise your Business Plan defining outcomes and impact

Once you have your findings from the studies you have carried out and established your legal entity, all this relevant information should be added to your business plan along with any other changes which may be important. Ensure that you finalise your business plan prior to making your asset transfer request, and that you have clearly defined your outcomes, with emphasis on matters such as economic development, regeneration, public health, social wellbeing and reduction of inequalities of outcome.

Submit Asset Transfer Request

The relevant authority will require to have received all information necessary to fully consider the request. The information required by law is contained within the Guidance for Community Transfer Bodies. [website]

Relevant Authority Decision Notice

The relevant authority may either:

- agree to the transfer of the asset;
- refuse the asset transfer request;
- impose different terms and conditions than anticipated; or
- perhaps not issue a Decision Notice on time.

Apply for capital & further development funding to deliver the project  
Appoint Professionals

Capital funding is for any fixed costs such as purchase of the asset, construction or refurbishment. Development funding may be needed for further costings and structural reports. You may need further technical advice to make sure your project is sustainable. Appoint a lawyer to act on your behalf.

Keep Community engaged

As before, it is essential to keep your community informed and engaged. You should have a plan in place for communication with everyone so remember to provide updates on progress even if you are really busy with planning and development. You may want to deliver a presentation to you community at this stage to give the opportunity to clarify any queries and invite participation.

Appeal against Refusal

If the Asset Transfer Request has been refused, not decided within the time limit or the Decision Notice imposes materially different terms and conditions to your asset transfer request, you can:

- request a review by the local authority and if the local authority issues a refusal on review you may appeal to the Scottish Ministers; or
- appeal to the Scottish Ministers; or
- request a review by the Scottish Ministers (for property owned by them).

Allowed  
Dismissed

If the Scottish Ministers dismiss the appeal the Asset Transfer process comes to an end.

If the appeal or review is successful, a new Decision Notice will be issued and the Asset Transfer proceeds. See the Asset Transfer Flowchart at [www.dtascommunityownership.org.uk](http://www.dtascommunityownership.org.uk)

No transfer: time to think of next steps

There are many reasons why a community asset transfer does not proceed. For example, the asset may not be viable, or funding may not have been approved. Further, if an asset transfer request for ownership is refused, it might be possible, if appropriate, to submit a new request for a different form of transfer, such as a lease. You should, however, check out what funding would be available.

Finalise terms of transfer & conclude deal

You would submit your offer to the relevant authority, and if the contract is not concluded within 6 months of the offer date you have the right to appeal to the Scottish Ministers. The process that follows is complex.

See the Asset Transfer Flowchart and/or speak to a COSS advisor. [www.dtascommunityownership.org.uk](http://www.dtascommunityownership.org.uk)

Note that conclusion of the contract and settlement may take place simultaneously, or settlement (eg when the title/money is transferred and/or the keys are handed over) may be later.

Settlement & Celebrate!

All the legal documentation is complete and the transfer goes through. Once you take ownership, or lease, ongoing support can come from a variety of places.

Make plans and celebrate your success!