

Asset Transfer under the Community Empowerment (Scotland) Act 2015: Consultation on Draft Regulations

Version 1

RESPONDENT INFORMATION FORM



Please Note this form **must** be returned with your response.

Are you responding as an individual or an organisation? (required)

- Individual
 Organisation

What is your name or your organisation's name? (required)

Scottish Borders Council	01835 825155
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What is your phone number?

What is your address?

Council Headquarters Newtown St Boswells Melrose
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What is your postcode?

TD6 0SA

What is your email?

dscott@scotborders.gov.uk

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference: (required)

- Publish response with name
 Publish response only (anonymous)
 Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Government to contact you again in relation to this consultation exercise?

- Yes
 No

Asset Transfer under the Community Empowerment (Scotland) Act 2015: Consultation on Draft Regulations

Questionnaire

Q1: Do you agree that the types of land set out in the draft Community Empowerment (Registers of Land) (Scotland) Regulations 2016 need not be included in relevant authorities' registers?

Yes No x

If not, please explain what you would change and why.

Registers should not include land and buildings used for the core operational needs requirements of local authorities and other public bodies. This is because they would affect the core delivery of public services and have a detrimental impact on the wider public and local communities.

Q2: Are there any other types of land that relevant authorities should not have to include in their register? Please explain what should not be included and why.

Following the response the Question 1 these would include buildings and land used for Council offices, schools, residential homes, operational depots/premises for road maintenance etc. Local authorities as democratically elected bodies should have the flexibility to define its own strategic list of land and buildings that are needed for core operational service delivery.

Q3: Do you have any comments on the proposals for guidance on what information registers should contain and how they should be published?

No

Q4: Is there any information you think a community transfer body should be able to request from a relevant authority, that it would not be able to obtain under FOISA or the EIRs?

No

Q5: Do you think the proposed additional requirements for making an asset transfer request are reasonable?

Yes x No

If not, please explain what you would change and why.

The proposed additional requirements of information from community bodies are important. This is because it is important that any land and property transferred can be managed in a financially and operationally sustainable manner in the short, medium and long term by the community transfer body. This is vital for both for the local authority or public body which is transferring the land or buildings and for the community transfer body because it is in the interests of all to achieve a positive outcome for the wider public and local community.

Q6: Is there any other information that should be required to make a valid request?

It is considered that the community transfer body should also provide a 3-5 year business case to the local authority or public body on how it will use the land and buildings. The business case should set out what would happen to buildings and land if the proposed business outcomes are not achieved. Also the proposed arrangements for the future insurance of the land and buildings should be included in the business case.

It is also considered that it is very important that a pre-application interview and discussion stage takes place between the community transfer body and the local authority or public body before a request is made to discuss the proposed request and process for dealing with it.

Q7: Do you have any comments on the proposals for acknowledgement of requests?

The acknowledgement should also include information on the process the local authority or public body will use for deciding on the application. (see answer to question 9).

Q8: Do you have any comments on the proposed requirements for notification and publication of information about a request?

The timescale should be at least 28 working days for the date of notice being given and published; and at least 28 working days for the community transfer body to comment on responses to any notices.

Q9: Do you think 6 months is a reasonable length of time for the relevant authority to make a decision on an asset transfer request? (This time may be extended if agreed with the community transfer body.)

Yes No X

If not, how long should the period for making a decision be?

Practical experience suggests that sometimes this process could take up to 3 years as it involves discussions between the community transfer body and local authority or public body to ensure a sustainable approach for the future of the land and buildings is achieved.

It is considered that the wording should be changed to say that normally the process should take place within a year but there can be extensions based on the mutual consent of both the local authority or public body and the community transfer body.

Q10: Do you agree with the proposals for additional information to be included in a decision notice?

Yes X No

If not, please explain what you would change and why.

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Q11: Do you agree that the Scottish Ministers should be required to appoint a panel of 3 people to consider reviews of Ministers' own decisions?

Yes x No

If not, how do you think these reviews should be carried out?

Q12: Do you agree that a local authority should be required to make a decision on a review within 6 months?

Yes No x

If not, how long should the period for making a decision be?

The wording should be normally 6 months but there may be exceptions due to complexity of the transfer request in relation to the understanding financial, operational and/or public interest impacts.

Q13: Do you have any other comments about the draft Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016 or draft Asset Transfer Request (Appeals) (Scotland) Regulations 2016?

No

Q14: Do you agree that the Scottish Ministers should appoint a single person to consider an appeal where no contract has been concluded?

Yes No x

If not, how do you think these reviews should be carried out?

As mentioned in relation to question 11 it is considered that a panel of three people should consider appeal. It is considered that a panel of three people would maintain the fairness of the Appeal.

Q15: Do you agree that the documents should not be published in relation to appeals where no contract has been concluded?

Yes x No

Please explain your reasons.

Yes, as there could be information in these documents that might be used for

commercial purposes by others.

Q16: Do you agree that no third party representations should be allowed in relation to appeals where no contract has been concluded?

Yes x No

Please explain your reasons.

It could complicate the Appeal process significantly.

Q17: Do you have any comments on the proposed procedures for appeals where no contract is concluded?

No

Q18: Do you have any comments on the proposed procedures for applications to Ministers for Directions?

No