This document aims to provide guidance to communities interested in requesting a Community Asset Transfer from Falkirk Council for a property currently owned by the Council.

For a comprehensive guide on Community Asset Transfer, please refer to [the Scottish Government Guide to Community Asset Transfer](https://www.gov.scot/policies/community-empowerment/asset-transfer/).

## **What is a Community Asset Transfer?**

A Community Asset Transfer can happen when an eligible community-based organisation engages with a relevant authority, such as a Council, and requests an asset be transferred to them. An eligible group is called a Community Transfer Body. See *‘Who can make a Community Asset Transfer request?’* for further information.

The term ‘transfer’ can mean:

* Full ownership of an asset
* Long, medium or short-term lease of an asset
* Management control of an asset
* Access to and use of an asset

The Community Asset Transfer system enables a Community Transfer Body to submit formal requests that will be evaluated by members of Falkirk Council. If a request is turned down, the concerned group has the right of appeal.

Please be aware that leases or similar agreements between community bodies and other parties do not necessarily need to follow the full Community Asset Transfer process as outlined in the [Community Empowerment (Scotland) Act 2015](https://www.legislation.gov.uk/asp/2015/6/contents/enacted). If both parties are happy to negotiate and make arrangement independently, they can continue to do so.

## **Who can make a Community Asset Transfer request?**

[Part 5 of the Community Empowerment Act (Scotland) 2015](https://www.legislation.gov.uk/asp/2015/6/part/5/enacted) provides clear guidelines regarding the eligibility criteria for groups seeking to make an Asset Transfer request.

A group requesting the **transfer of ownership** of an asset must be one of the following:

* Scottish Charitable Incorporated Organisation (SCIO): The group should be a SCIO with a two-tiered structure, consisting of a community-based membership comprising at least 20 members, and a board of trustees elected by the membership at Annual General Meetings, OR
* Community Benefit Society: The groups should be a registered Community Benefit Society with established rules that include a provision requiring the society must have a minimum 20 members, OR
* Company limited by guarantee: The groups should be a company limited by guarantee with constitutional clauses that satisfy the following conditions:
	+ The company has at least 20 members who have an interest in the community.
	+ In the event of the charitable company being wound up, its assets are transferred to another Community Transfer Body or a charitable organisation with similar objectives and suitable standing to manage and maintain those assets.

Under the provisions of the Act, a community group seeking to establish a lease must meet **one of the previously mentioned legal entity** criteria, OR be a **community controlled constituted group** that fulfils the following requirements:

* Clearly defines the community to which the group is related.
* The majority of the members of the group are members of that community, whether it is a community of interest or geography.
* The members of the group, who are members of that community, have control over the group. This means that the management committee is elected by the membership through a democratic voting process during Annual General Meetings.
* Membership of the group is open to any member of that community.
* The group has a stated set of aims and purposes, which includes promoting benefits for the community.
* Any surplus funds or assets of the group are to be utilised for the benefit of that community.

Additionally, the Scottish Government holds the authority to designate an organisation as a Community Transfer Body.

It should be noted that individuals and private companies do not have the right to make a Community Asset Transfer request under the current legislation. However, they can enquire about purchasing or leasing an asset through the Asset Management team.

Prospective applicants are strongly encouraged to consult the [Guidance for Community Transfer Bodies](https://www.gov.scot/publications/asset-transfer-under-community-empowerment-scotland-act-2015-guidance-community-9781786527509/pages/5/) provided by the Scottish Government. This document will provide clarity on whether your group is eligible to submit a Community Asset Transfer request application. It will also help you determine the type of asset transfer you intend to pursue, such as a lease agreement or full ownership transfer.

## **Finding the appropriate asset**

It may be the process starts with the asset itself e.g. a community hall. Alternatively, your group may have a particular activity in mind that requires a property or piece of land.

You can search for assets [on our asset register](https://www.falkirk.gov.uk/services/people-communities/community-asset-transfer/assets.aspx). The database contains information on buildings and land that may be available for Community Asset Transfer. It should be noted many of the assets are currently in active use by the Council or leaseholders.

While theoretically all Falkirk Council assets could be considered for Community Asset Transfer, the Community Transfer Body must demonstrate that its plan offers greater community benefits than the current and existing use of the asset.

Consequently, assets like schools, core administrative buildings, and other operational structures are highly unlikely to be viable candidates for successful asset transfer.

## **Making the decision and finding the help**

After reviewing the guidance, your group needs to make several key decisions:

* Determine if your group qualifies as a Community Transfer Body under the provisions of the Act and its accompanying guidance (as described above).
* Assess whether there are valid reasons for pursuing a Community Asset Transfer that benefit both the applicant group and the broader community.
* Evaluate if your group has the necessary funding and skills required to effectively operate the asset.
* Ensure confidence in your ability to gather all the essential information required to create a well-defined and feasible proposal.

If all these considerations are met, it is time to express your interest in acquiring an asset from us!

## **Expression of Interest form**

After you have selected an available asset and decided that you do want to request an asset transfer, you have the option to submit an Expression of Interest form. The form provides the Community Asset Transfer team with sufficient information to advise you on the next steps.

The form will undergo assessment by Falkirk Council's Community Asset Transfer team to ensure compliance with the Community Empowerment (Scotland) Act 2015 and determine if it can proceed to the next stage.

Once the assessment is complete, the Community Transfer Body will be informed whether they can proceed with a full Community Asset Transfer request or, if there are compliance issues, what steps they need to take to initiate a legal asset transfer request.

To obtain a copy of the Expression of Interest form visit [www.falkirk.gov.uk/CAT](http://www.falkirk.gov.uk/CAT) or email Strategicpropertyreview@falkirk.gov.uk.

## **Asset transfer request**

After the Expression of Interest form has been evaluated and the Community Transfer Body has been given the green light to proceed, the next step is to complete a Full Asset Transfer Request form and gather all the necessary supporting documentation.

Prior to this, our Community Asset Transfer Co-ordinator will contact the group to arrange a meeting. During this meeting, instructions will be provided on how to proceed, and guidance given as to where the Community Transfer Body can seek help and advice with regards:

* completing an application for full asset transfer
* business planning
* potential funding streams to help with legal and professional fees associated with the process

Under normal circumstances, the Community Transfer Body will have a period of 6 months from the initial full request meeting to prepare their full request form and additional documentation.

If circumstances arise during the process that could potentially delay progress, the Community Transfer Body can request an extension to the timeline. Such extensions may be necessary if the Community Transfer Body needs to obtain a building warrant, planning permission, or conduct surveys.

It is important to note that any such surveys, investigations, consultations or permissions are the sole responsibility of the Community Transfer Body. The intention is to ensure that the Community Transfer Body is willing and able to take on the asset and in doing so it will not burden the group with onerous expenses or difficulties.

The Community Transfer Body will need to provide a detailed business plan that shows how the asset will be used to benefit the community, such as tackling inequality, enhancing health and wellbeing in the community, improve the economic development or regeneration of the area, improving sustainability and the environment.

It is also important to that the Community Transfer Body show how the asset will generate enough money to support its own upkeep, sources of funding, any planned changes or renovations etc.

Statutory documentation relating to works (building warrants) or planning consents will also need to be included. In addition, if the asset is a listed building or the site designated or protected in some way, suitable permissions for any changes or works must also be sought and provided.

**Example** - A Community Transfer Body wants to acquire a listed historic building to serve as their operational base. To make it suitable for their intended purpose, the building requires renovations. To cover the upkeep costs, the Community Transfer Body plans to invite other tenants to rent rooms within the building. To do this, the Community Transfer Body would need to seek permissions from Historic Environment Scotland, get a building warrant, find out if they need planning permission, seek funding for the renovation work, and ensure sufficient interest from groups willing to rent the rooms to make the endeavour financial sustainable. All this information would need to be incorporated into the business plan or submitted as supplementary documents.

As part of the business planning process, community consultation should be undertaken. This will focus on what the Community Transfer Body plans to do. This consultation is to provide the community with a say in what happens to a local asset that they may use. It’s important to include all stakeholders and provide them with an opportunity to express their opinions. The consultation will also help generate local interest in the plan, encouraging people to actively engage and use the asset that may come under the control and management, be that through lease or through transferred ownership, of a Community Transfer Body.

Throughout the application process the Community Asset Transfer team is on hand to provide support and advice. This could include signposting to potential funding streams that may help cover the cost of any legal and/or professional fees associated with the application. The Community Asset Transfer team can be contacted via Strategicpropertyreview@falkirk.gov.uk.

## **Information About Assets**

To develop a robust business plan, it is important that a Community Transfer Body has access to reliable information about the asset in question. This includes details such as property valuation, running costs, state of repair, and existing tenants.

Some of this information can be obtained from Falkirk Council, and we will make every effort to provide interested parties with as much relevant information as possible regarding the asset.

It is important for the Community Transfer Body to ensure that the asset under consideration is suitable for their intended purpose and its condition will not become a financial burden to the group.

**Example** – A Community Transfer Body is interested in taking on a building that is old or has not been used for a while. To ensure their business plan is as accurate as possible, they should undertake their own independent condition survey, using qualified professionals so they know exactly what might need to be repaired or renovated before submitting their business plan and application for consideration to Falkirk Council’s Executive committee. Depending on the circumstances, additional survey or investigative works may be necessary, such as geological, environmental, ecological, structural, asbestos, or others.

Engaging in survey and investigative work at an early stage is crucial as it may influence the Community Transfer Body's plan, financing options, and their ability to attract users. Therefore, these activities should be undertaken as part of the initial stages of the process.

## **Finalising the Application**

The Community Transfer Body should submit the finalised documentation to the Community Asset Transfer team by the agreed deadline. It is important for the Community Transfer Body to note that the asset transfer request is considered complete on the date when the last of the required items or information has been provided. Falkirk Council will confirm this completion to the applicant group by letter.

Once the full request has been submitted to the Community Asset Transfer team, it will be reviewed during the next meeting of the Community Asset Transfer Board. If any additional information is required, the applicant will be notified immediately, and a new timeframe established.

The request is deemed complete, compliant with the Community Empowerment Act (Scotland) 2015, and considered valid during the assessment, the following steps will take place:

* **Notification**: Falkirk Council will publish a notification about the request on the Community Asset Transfer section of its website and in a publicly accessible location near the land or building that is the subject of the request. This ensures the public is duly informed about the Community Transfer Body’s intentions and can make representations regarding the Community Asset Transfer request.
* **Sharing of representations**: Falkirk Council will provide copies of any representations to the Community Transfer Body and specify the date they should respond to the Council regarding the representations.
* **Distribution of documentation**: Falkirk Council will distribute copies of the Community Asset Transfer request form and all associated documentation to any other users of the property. Additionally, these documents will be published on Falkirk Council’s website.
* **Evaluation and decision**: The full request, along with its associated documentation, will be presented at a meeting of Falkirk Council’s Executive committee for its final evaluation and decision. The evaluation will consider various factors, including:
	+ Is the plan financially sustainable, logical, and comprehensive?
	+ Will the proposed plan keep the asset concerned in community usage and will it be an ongoing success?
	+ Are all necessary permissions, funding, and partnerships in place?
	+ Does the request contribute to the economic development of the area?
	+ Does the request help to regenerate the area?
	+ Does the request benefit the public health of the area?
	+ Does the request help to improve the social wellbeing in the area?
	+ Does the request contribute to environmental wellbeing in the area?
	+ Would the request reduce inequalities resulting from societal disadvantage in the area?
	+ If there is more than one request for an asset, how these competing plans might help the community, and which plan offers the greatest community benefit? Consideration will be given to the current usage of the asset under Council control and how the asset might be utilised by competing asset transfer schemes.
	+ How the plans will affect the Falkirk Council.
	+ Whether there is anything that would stop Falkirk Council from selling or leasing the land to the Community Transfer Body such as any restrictions on the use of the asset, designations, or listing.
	+ What is the level of community need and support for the asset transfer? Is there a genuine desire or necessity within the community for the plan to proceed?

Under the Community Empowerment Act (Scotland) 2015, the relevant authority, which in this case is Falkirk Council, is expected to approve the asset transfer request unless there is a valid reason not to do so. The decision made by the Council will be communicated to the Community Transfer Body through a decision note, which will outline the details of the decision and provide an explanation of the reasons behind it. Falkirk Council has a maximum period of 6 months to reach a decision and inform the Community Transfer Body of the outcome.

## **Final negotiations**

If Falkirk Council agrees to an asset transfer request, the decision notice will include the terms and conditions to include in the contract. The Community Transfer Body must make an offer for the land or buildings, based on those terms and conditions. After the offer, the two sides work together to agree the final contract for the transfer. At this stage it is very likely that the Community Transfer Body will need to engage the services of a lawyer.

## **Reviews and Appeals**

If Falkirk Council’s Executive committee decide not to allow the asset transfer in terms of Part 5 of the Act, the Community Transfer Body will be notified immediately. The Community Transfer Body retains the right to appeal the decision within a period of up to 6 months from the time the decision is made and communicated to them.

Reviews and appeals are ways of asking someone to look again at a decision. A Community Transfer Body can ask for a review or appeal if:

* Falkirk Council does not agree to their asset transfer request,
* Falkirk Council does not make a decision by the time it should have,
* the Community Transfer Body does not agree with the terms and conditions in the decision notice.

If this happens, please contact the Community Asset Transfer team for further information.

## **Making Contact**

All Community Asset Transfers are co-ordinated and monitored by Falkirk Council’s Asset Management Team who can be contacted.

You can contact the team via:

* **Email**: Strategicpropertyreview@falkirk.gov.uk
* **Phone**: 01324 504816 and ask for the Community Asset Transfer Co-ordinator.
* **Post**: Community Asset Transfer team, Asset Management team, Floor 1, The Falkirk Stadium, 4 Stadium Way FK2 9EE