

## **Draft Community Asset Transfer Policy**

### **Introduction**

Community Asset Transfer involves leasing or selling property to third sector organisations (voluntary, community and faith), sometimes on a subsidised basis, to enable local people to play a stronger role in meeting the needs of their communities.

This Community Asset Transfer Policy, identifies the circumstances where the Council could consider the transfer of assets and how local communities could register an interest in taking over a Council owned property. Community asset transfer proposals would need to be assessed against a potential sale or alternative disposal methods in each case, before a decision is reached on any transfer.

The purpose of this policy and framework is to ensure that the Council, Elected Members, officers, the third sector and communities understand what community asset transfer can achieve.

It sets out a framework for assessing community asset transfer requests to enable community asset transfer to be considered on proactively to meet service needs.

### **Why have a community asset transfer Policy?**

Community ownership and management of assets has been strongly promoted by Governments over the last four years, most recently as part of the Big Society concept. The agenda was made prominent by the Department for Communities and Local Government (DCLG), who commissioned the Quirk Review 'Making Assets Work – Community Management and Ownership of Public Assets. This sets out the clear benefits to local groups, which own or manage public assets – such as community centres, building preservation trusts and community business enterprises. The review found and recommended that:

- The social or community benefits of community management and ownership of public assets can outweigh the risks and often the opportunity costs in appropriate circumstances;
- A major programme of awareness raising and capacity building for the evaluation of benefits and risks needs to be generated;
- Local authorities and other public bodies should take a more corporate approach to their asset portfolio and their relationship with the community sector.

In considering the future management and ownership of public assets, reconciling a very challenging spending settlement for the Council within the Coalition Governments approach to localism and the 'Big Society' means that the Council will increasingly need to consider asset transfer as an enabler to achieve its corporate aims. Leeds City Council is responding to this through the development and approval of this community asset transfer Policy, by considering the options for the transfer of assets through leases and operational management to third sector organisations, for purposes that benefit the communities they serve.

### **What is a community asset transfer?**

Community asset transfer is the 'transfer of land or buildings from the Council's management or ownership, into the stewardship of third sector organisations'. Depending on the social, economic or environmental benefits generated, the transfer will be at market value or on a

subsidised basis. This gives third sector organisations (voluntary, community or faith) the opportunity to play a stronger role in meeting the needs of their local communities.

Community use of council assets can take place under different forms of agreement, such as a:

- Management agreement
- Licence to occupy
- Short term lease
- Long term lease

Community asset transfer can be at full market value or at a subsidised rate depending on individual circumstances. Our starting position will be to request full market value and for any subsidy to be a matter for negotiation. We will need to consider the Council's requirement to achieve its capital receipts target with the community and service benefits brought about by the community asset transfer project and ensuring that any charges payable are affordable in the business plan and do not become overly burdensome. Any subsidy will be protected by clauses in the property's lease.

### **Who can propose a community asset transfer?**

Organisations that can be considered are community organisations that are not for private profit such as:

- Unincorporated charitable organisations
- Companies limited by guarantee with charitable status
- Community Interest Company (CIC) limited by guarantee
- Community benefit Industrial & Provident Society with an asset lock
- CIC limited by shares

Each organisation applying for a community asset transfer can be of any size and need to:

1. Generate social, economic or environmental benefits which directly benefit the people of Leeds
2. Have stated community benefit objectives
3. Have robust systems, governance and policies as evidenced by a management structure, constitution and appropriate quality mark;
4. Have the capacity to manage the asset and have directors or committee members who have the relevant experience and skill and a demonstrable financial plan moving forward
5. Operate through open and accountable co-operative processes with strong monitoring evaluation, performance and financial management systems

Buildings can be difficult and expensive to manage so the proposal must make clear the benefits to the local community and the Council. A critical part of any assessment will be the scale of the project in relation to the resources of the community group and its key staff.

When proposals relate to existing community centres, we will need to also consider the impact of any transfer on any of our services that use the facility or any other community organisations that currently receive subsidised use. If a building transfers to a community organisation we can't expect them to continue to allow us free use while charging community users. We will make the necessary arrangements and, where necessary, transfer of budgets to ensure that service use can continue and be paid for. For subsidised community users we will not expect any group taking over the property to continue the subsidy. We will negotiate with all sides to develop a solution that meets all parties' needs.

If the community asset transfer proposal will result in the re-provision of an existing council service delivery, the saving to the council and overall value for money will be considered as part of the assessment.

### **Who can provide advice on community asset transfer at the Council?**

Community asset transfer is the responsibility of Asset Management within the City Development Directorate. Any proposal will be allocated a Community Assets Officer to provide information and assistance and to guide Council colleagues supporting the proposed transfer. The support of a service within the Council will be needed for proposals to progress and the Community Assets Officer can help you identify which the most suitable service is.

If necessary, independent advice can be sought from a number of different support organisations. The Community Assets Officer can provide referrals to such support.

### **What are the ownership terms of a community asset transfer?**

Under the current approach for community asset transfer, assets or land holding will generally be by means of a long term lease (between 25 and 99 years), the terms of which will be agreed at the time of each individual transfer. This protects the future of these assets and ensures that the asset is protected should the venture fail or that the Council can veto future changes in use and occupation of the facilities during the lifetime of the lease, should that use no longer meet the requirements set out in the business plan. Freehold transfer will only be considered where full market value is paid.

### **Must buildings continue to be used for their current purpose?**

Properties must be used for the benefit of the local community, although this doesn't necessarily have to be for their current use. It may be that the community's desire is actually to continue to provide the service, but there is a more suitable property in the area. Part of any assessment process will be to determine what it is that makes the community value the property and in circumstances where the request is actually service driven, alternative properties will be considered.

### **Links to Assets of Community Value?**

If a community organisation is able to pay market value for a property, but needs time to raise funding, then Assets of Community Value legislation within the Localism Act will give an automatic entitlement to a six month period to raise this funding, assuming the asset has been previously registered as an Asset of Community Value. Extensions to this timeframe will only be granted in circumstances where the community organisation can show there is a strong possibility that a short extension will allow them to raise the funding required.

### **Funding availability and viability**

If an organisation can't ultimately raise the finance necessary to purchase the property and carry out any capital works and convincingly show that they can cover the ongoing revenue costs through income generation, then the request for asset transfer will be refused. Depending on the circumstances the property will either continue in operation, or if the request was for a surplus property it will be considered for sale in line with current procedures for property review. We won't hold onto buildings indefinitely while continuing funding applications are submitted. Timescales will be agreed at the start of the proposal.

It is especially important to consider within any business plan the ongoing maintenance liability of any property. All community assets transfer projects will include that the organisation taking ownership/occupation will be responsible for:

- Upkeep, repair and maintenance of the asset
- All running costs, including insurance
- Compliance with statutory inspections and health and safety requirements.

### **Other lease conditions**

In all cases involving transfer of ownership/occupation, appropriate legal mechanisms will be put in place to protect the financial position of the Council, such as restrictions on use and break clauses. For example break clauses under which the asset would revert back to the Council, such as:

- In the case of bankruptcy/insolvency
- In the case of corruption
- In the case of non payment of rent (if applicable)
- In the case of none performance of other terms such as serious repairs and maintenance (if applicable)
- If the transfer agreement is breached
- If the organisation wishes to develop and move into bigger premises

### **Sponsoring Service**

Any request for a community asset transfer on a 'less than best' basis will require the support of a sponsoring service. This will establish early on, whether or not the proposal makes a significant contribution to the strategic priorities of the Council identified within the Leeds Strategic Plan, the Council's approved corporate Asset Management Plan, a Service Plan, a Service Asset Management Plan or Area Delivery Plan.

The sponsoring service will play an important role in appraising any less than best asset transfer request by:

- Confirming the Strategic fit of the community asset transfer
- Providing specialist advice in relation to the Business Plan
- Assessing the suitability of the asset for the proposed purposes.

The sponsoring service will advise on the proposal in the context of a 'less than best' transfer using a scoring matrix, developed as part of this policy. A copy of this scoring matrix can be found at Appendix 1.

### **What are the criteria for a community asset transfer?**

There are two key factors to be considered within the community asset transfer Policy criteria. These are:

- The benefit/s to the local community to be gained by transferring the asset;
- The ability of the voluntary or community to sustain the use of the asset over the lease period.

Therefore the community asset transfer Policy requires all proposals to meet the following, before being considered against alternative disposal options:

- The proposed use of an asset reflects the outcomes and objectives of the Vision for Leeds, the Council's Corporate Plan and the Council Business Plan;
- The proposed use of the asset is genuinely for the benefit of the local community and offers real potential for the development of sustainable, successful and independent community organisations;
- The asset has an open access policy for all local groups and should be compliant with the Disability Discrimination Act (DDA);
- Environmental sustainability is at the forefront of any future refurbishment plans. Energy efficiency should be considered as a priority and the use of good quality, environmentally sustainable materials and construction practices used where possible;
- The uses of the asset would enable communities have access to facilities and opportunities that more respond to their needs.

The Council WILL NOT consider applications for community asset transfer in respect of:

- Proposals that will accommodate third sector groups that have restricted or limited local community use and don't benefit the wider local community
- Assets that accommodate continuing fixed or core services (e.g. schools, social care establishments, customer contact centres)
- Assets that have been identified as having a potential significant capital receipt and the Council has already identified the asset for disposal
- Assets that will mainly be used for religious worship
- Assets that are required by the Council.

The Council has to generate a significant amount of funding every year through its capital receipts programme. This is generated through the sale of the land and property. Government's continuing reduction in funding provided to the Council means that the capital receipts programme needs ambitious income targets. Any asset transferred to the community will potentially have a detrimental impact on the capital receipts programme. The impact of the individual transfer and the overall impact of transfers approved and proposed will be considered in each community asset transfer appraisal.

The suitability of the asset for the proposed use and the potential for utilisation of other community assets will form part of any community asset transfer assessment. Just because an asset has been used to provide a service of community benefit does not necessarily mean that it is the best property for that use.

### **What are the aims and objectives of the community asset transfer policy?**

Leeds City Council recognises that community asset transfer can be a valuable part of supporting and sustaining the third sector on the city and we are committed to community asset transfer where it will bring benefits to our communities.

As a Local Authority we are committed to supporting the development and sustainability of a thriving voluntary and community sector across the city. This Policy, as part of a wider package of support to community organisations aims to provide a transparent framework to enable the transfer of assets.

The Policy is underpinned by the following principles:

- The Council will use its assets to form long term partnerships with community organisations to achieve community asset transfer's that will enhance community engagement and empowerment
- A strategic approach will be taken to community asset transfer with assets to be transferred identified through regular reviews of the Council's asset base;
- The process for responding to requests for individual asset transfers will be open and transparent
- There will be a clear timescale established for dealing with asset transfers
- The decision to transfer an asset will not be considered as setting a precedent. Each asset transfer will be judged on its own merits and transfer arrangements developed through assessment of benefits and individual negotiation.

### **What are the benefits of community asset transfer?**

There are many benefits to all parties to pursuing a community asset transfer. These are:

- The harnessing of voluntary sector energy and local knowledge to provide community benefit and social value;
- Supporting community empowerment, giving local organisations control, encouraging pride of place and generating wealth in Leeds' communities;
- Opening up access to external funding opportunities, not available to the Council or providing access to loan finance using the value of the asset;
- It can be a catalyst for local volunteering and increase community cohesion;
- Developing organisational, financial, training and entrepreneurial skills within social and community enterprise;
- Assisting community organisations to become sustainable and self financing;
- It can be a stimulus for partnership working between community groups, the Council and other partners and can improve the provision and accountability of services within communities;
- Saving revenue costs for the Council whilst achieving community benefit.

Through the community asset transfer Policy however, the greatest benefit to the Council will be achieving the Vision that Leeds will 'be fair, open and welcoming and that all Leeds communities will be successful.'

### **What is the process for applying for a community asset transfer?**

The process of asset transfer may be initiated in 2 ways:

1. by the Council identifying an asset as appropriate to transfer either to sustain the current building and/or the service delivery, or where a building has been deemed surplus
2. a request from a voluntary or community sector organisation

### **Submission of Expression of Interest**

In the case of the latter, an expression of interest needs to be submitted. This initial approach for a community asset transfer should state:

- Why the asset is needed
- Why this particular asset
- Aims and objectives of the organisation and the project
- The nature of support from others

- Demonstrate effective management of the asset (where the organisation applying for a community asset transfer already occupies the property.)

In most cases this initial expression of interest will cover 2-3 sides of A4.

### **Submission of Business Plan**

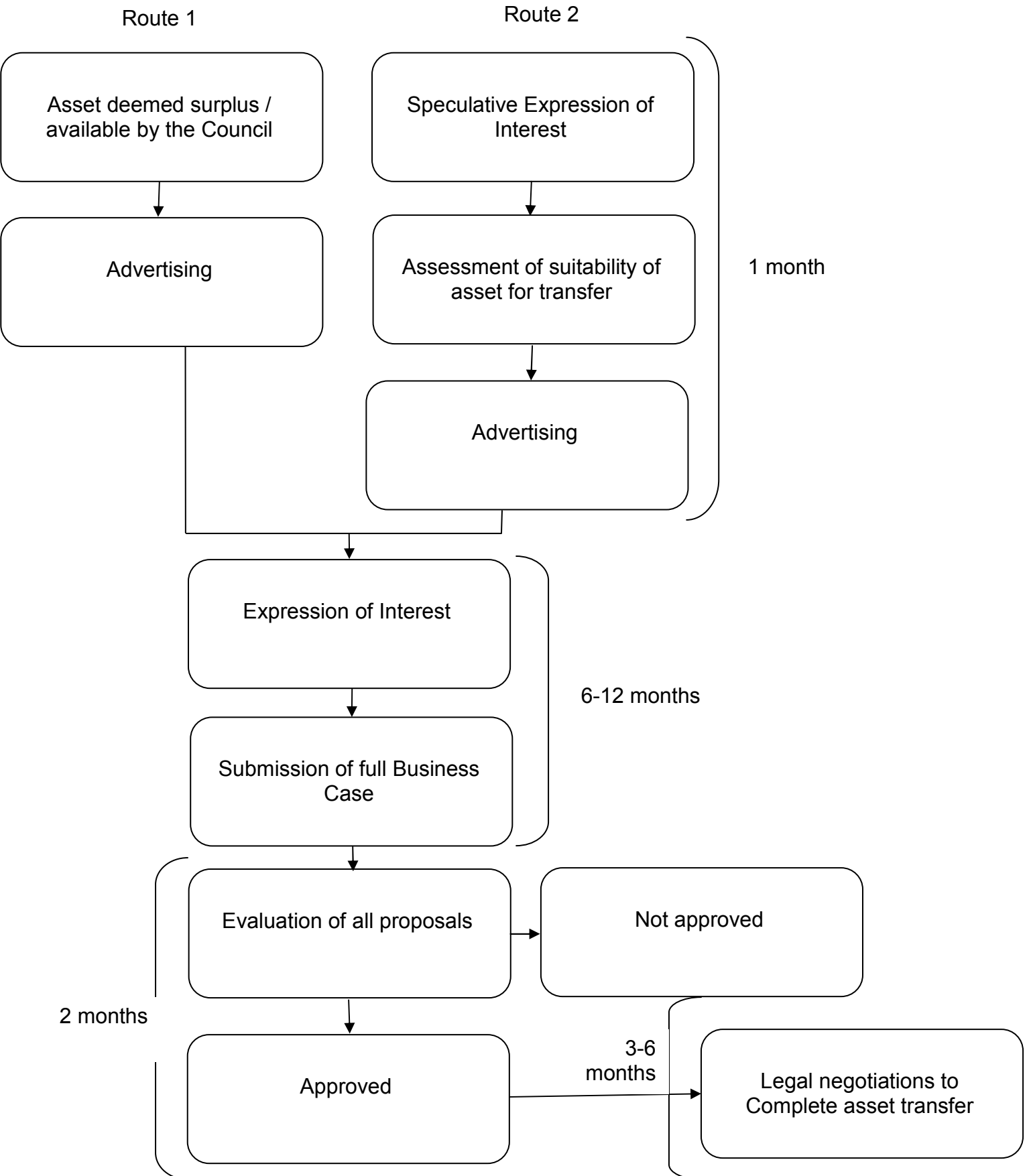
Once your initial expression of interest has been considered and we ask you to submit a full Business Plan. The list below is a guide for community organisations to use when preparing a full Business Plan. It is not an exhaustive list but not all of the items listed will necessarily be relevant to each particular case.

For a full Business Plan in support of a community asset transfer the following need to be addressed:

- Aims, objectives and mission statement of the organisation and the community asset transfer
- The legal form/entity of the organisation (social purpose, registered charity, private etc)
- Demonstrable compliance with a suitable quality assurance system
- Details of
  1. how the asset will be used
  2. who the stakeholders are
  3. what the core activities will be
  4. details of any proposed projects
  5. services and/or products and how they will be delivered
  6. organisational management (structures, numbers, portfolios, posts
  7. robustness of governance
  8. proposals for partnership working, user and community involvement
  9. experience and/or track record, including expertise held by board members
  10. financial projections including a 5 year cash flow forecast, projected income and expenditure
  11. realistic funding opportunities with an indication of likelihood of funding or risk assessment
  12. non-monetary considerations – social, economic and environmental benefits – for both the organisation and the Council
  13. projected utilisation rates
  14. who the expected beneficiaries will be including details of any equality groups
  15. what the expected outcomes will be
  16. how the community asset transfer would contribute to Council Policies, the Vision for Leeds and other local priorities
- sitting tenants should also demonstrate that they:
  1. have effectively managed the asset in the past
  2. have an existing effective bookings system
  3. have suitable occupancy agreements for tenants
  4. have effectively maintained the asset in the past
  5. have adequate insurance cover in place
- a needs analysis for the area
- a SWOT analysis of the proposals
- a risk assessment for the project and the whole organisation

### Key stages and timescales

#### Community Asset Transfer





## **How long will a lease be granted for?**

When assessing an organisation's application for a community asset transfer, the Council will carefully consider the specific needs of the community organisation applying, the condition of the asset and the requirements of any potential funders or lenders. The length of the lease term will be based on the needs that are clearly supported by the organisation's Business Plan and its capacity to manage the asset.

Proposals from community organisations and those that include the co-location of several services (a community hub) will be encouraged in this context. In certain cases a phased transfer could be considered, depending on the organisation's resources.

Based on the anticipated requirements of most charitable funders, the following is a guide to the length of term that may apply to new community asset transfers:

- a management agreement or licence will normally be granted for 12 months
- a lease of up to 25 years
- a lease longer than 25 years but up to 99 years may be appropriate if supported by a business case that demonstrates special circumstances or requirements from funders or lenders

Once granted, a lease can usually be restructured or extended at a point in time, to meet the community group's circumstances or funder's requirements.

Leases will normally only be granted if the community organisation has an 'asset lock' and will contain clauses that prevent the asset being assigned or sold on for unintended financial gain and the loss of the agreed benefits. Leases will contain suitable clauses to ensure the return of the asset to the Council if the terms of the lease and/or any Service Agreement are not met, or in the case of dissolution, insolvency or corruption.

## **What Happens after a community asset transfer has been completed?**

Firstly an organisational development plan will be agreed with the organisation based on the Business Plan and a skills audit and any support required identified. The organisation will also receive ongoing support from the Council's Asset Management Service and other service areas identified through the Business Plan or lease.

There will be an annual review of the Service Agreement targets and the benefits measured. Where it is applicable there is a renewal of the service agreement or lease.

## Appendix 1 – Community Asset Transfer Framework

### Community Asset Transfer Framework

This framework should be used in line with the Community Asset Transfer Policy. Answering “Yes” to all of the questions in this framework does not necessarily mean that a proposal for asset transfer will be approved or even recommended. Answering “No” to one or more questions does not necessarily mean that an asset transfer will not be possible. This framework is intended as a guide to help inform decisions and is to be used as an appendix to any decision report. There will be other issues to be considered outside of this framework. Community asset transfer is discretionary and subject to the decision of the relevant decision making body.

Answer all questions Yes or No. Please comment on all No answers. Comments may also be inserted for Yes answers if required.

<b>Council Objectives</b>	<b>Yes</b>	<b>No</b>	<b>Comments</b>
Is there a sponsoring service for the asset transfer proposal?			
Does the asset transfer align with the service’s planning objectives, and therefore link into LCC strategic outcomes?			
Had a need for the service to be provided been identified prior to the request for asset transfer?			
Will the sponsoring service monitor service delivery?			
Does the asset transfer link to any contract, service level agreement or other formal agreement with the sponsoring service or other LCC service?			
<b>Local Objectives</b>	<b>Yes</b>	<b>No</b>	<b>Comments</b>

Are local ward members supportive of the proposal?			
Will the proposal provide clear benefits to the local community?			
Will these benefits improve the social, economic or environmental well being of local residents?			
Has local consultation been carried out with the local community?			
Does the consultation show clear community support for the proposal?			
Have alternative buildings been considered that could be more suitable for the proposal and is this the most suitable building?			
<b>Business Plan</b>	<b>Yes</b>	<b>No</b>	<b>Comments</b>
Has a business plan been produced that is realistic and shows the proposal to be viable?			
Is the proposal free from the requirement of ongoing grant subsidy from third parties?			
Are contracts in place for income generating activities?			

Has an independent assessment been undertaken that shows the business plan to be viable?			
<b>Funding</b>	<b>Yes</b>	<b>No</b>	<b>Comments</b>
Is the proposal free from reliance on third party capital funding?			
If not, is the required funding already in place?			
Is the funding sufficient to bring the building into suitable repair for the proposal?			
<b>Organisation</b>	<b>Yes</b>	<b>No</b>	<b>Comments</b>
Is the organisation already established rather than being set up primarily for this proposal?			
Does the organisation have the capacity to manage the building and project?			
Have written governance measures been provided?			
Does the organisation have recognised not for profit legal status?			
If approved would this be the organisation's first successful request for community asset transfer?			

<b>Financial Objectives</b>	<b>Yes</b>	<b>No</b>	<b>Comments</b>
Has alternative development potential of the site been considered?			
Would the proposal have no significant impact on the capital programme?			
Would this transfer be supportable when considered alongside other proposals approved recently and currently proposed?			
Will transfer of the asset achieve costs savings for LCC?			
<b>Other Considerations</b>	<b>Yes</b>	<b>No</b>	<b>Comments</b>
Will the project avoid State Aid issues?			
Has an equality, diversity, cohesion and integration impact assessment been carried out?			
Does the organisation have an open access policy that welcomes access for all sections of the community and that will applied at the subject property?			
Does the organization have a safeguarding policy?			
Has the property been registered as an asset of community value under the Assets of Community Value provisions?			

<b>Total Count Yes/No</b>			
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