

### 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. In Leeds it helps the Council meet the City Priority Plan aim “All Leeds communities will be successful” and the principles of the Compact for Leeds.

This Community Asset Transfer Policy identifies the circumstances when Leeds City 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 developed and considered 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 Elected Members, officers, the third sector and communities understand what Community Asset Transfer can achieve.

It sets out a framework for considering Community Asset Transfer requests to enable Community Asset Transfer to be considered proactively to meet service and community needs.

#### Community Asset Transfer Policy

Community Asset Transfer is a relatively recent term for activity the Council has been undertaking for a long time. The Council has acknowledged the benefits from community ownership and management of assets, although has approached the area in a reactive, ad hoc manner. This policy allows the Council to work in a consistent and proactive manner, setting out why the Council engages with community organisations in this way, the process for engagement and the process for considering Community Asset Transfer requests.

Community ownership and management of assets has also 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.

The potential for community asset transfer to meet the localism agenda and to achieve service delivery improvements through working with the third sector sets the context for this assessment framework in the context of future management and ownership of public assets.

## **Community Asset Transfer**

Community Asset Transfer is the ‘transfer of land or buildings from Local Authority’s management or ownership, into the stewardship of local third sector organisations’. Depending on the social, economic or environmental benefits generated, transfers can be at market value or on a subsidised basis. This gives third sector organisations 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. The Council will assess the full market value of any Community Asset Transfer property so that any decision about transfer at less than best consideration for the asset is transparent with the value of the ‘subsidy’ known alongside the service value or gain that becomes possible as a result of the transfer. The Council will need to weigh up potential gain against the potential loss to its capital receipts targets and the continued delivery of the Councils agreed capital spend priorities. The Council will need to consider whether any proposed payment is realistically available and doesn’t overly burden the receiving organisations. Any subsidy will need to be balanced by clauses in the property’s lease. Disposals at full market value will be treated as commercial transactions and fall outside the scope of this part of the policy.

Community Asset Transfer aims to benefit local communities or communities of interest. Charities and social enterprises that operate in a specific field and/or aren’t set up for wider community benefit will not be able to benefit from community asset transfer unless the proposal would result in an asset that was genuinely for the benefit of the wider community.

## **Proposing a Community Asset Transfer**

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

- unincorporated charitable organisations (although would need to be incorporated to complete a transfer);
- 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 demonstrate that it:

1. generates social, economic or environmental benefits which directly benefit the people of Leeds;
2. has stated community benefit objectives;
3. has robust systems, governance and policies as evidenced by a management structure, constitution and appropriate quality mark;
4. has 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. operates through open and accountable co-operative processes with strong monitoring evaluation, performance and financial management systems.

Where proposals are very restricted to a particular group or have limited local community use the Council will need to consider, on a case by case basis, the rationale for the transition to ensure it meets service and equalities requirements.

Where the Council's current use is for specific service provision, the Council will need to look at the contribution the proposal could make to provide services in a new way which could improve quality, efficiency or outcomes for service users.

Buildings can be difficult and expensive to manage. A critical part of any Community Asset Transfer proposal will be the scale of the project in relation to the resources of the community group and its key staff. Proposals will be subject to a rigorous assessment procedure and although the Council will provide support and advice, ultimately in cases where the financial viability of a proposal can't be convincingly demonstrated, the proposal won't be supported.

Where proposals relate to existing community centres, the Council needs to also consider the impact of any transfer on any of its services using the facility or any other community organisations that currently receive subsidised use (even if that subsidy is not immediately clear eg. free use of space). If a building transfers to a community organisation the Council can't expect them to continue to allow free use while charging community users. The Council will make the necessary arrangements and, where necessary, transfer of budgets to ensure that services use can continue and be paid for. For subsidised community users the Council will not expect any group taking over the property to continue the subsidy. The Council will negotiate with all sides to develop a solution that meets all parties' needs.

If the Community Asset Transfer proposal will result in the reprovision of an existing Council service delivery, the saving to the Council and overall value for money will be considered as part of the assessment.

### **Advice on Community Asset Transfer at the Council**

Community Asset Transfer is the responsibility of the Executive Member for City Development and is managed on a day to day basis by Asset Management within City Development Directorate. Any proposal will be assessed by the Community Assets Officer, who will provide information and assistance and to guide Council colleagues supporting the proposed transfer. The support of a sponsoring service within the Council will be needed for proposals to progress and the Community Assets Officer can help identify which the most suitable service is.

Local Ward Members and Area Support Teams will play an important role in Community Asset Transfer. They will be able to support the organisation to show how its proposal fits with local

priorities and to provide a connection into other local activity. In circumstances where the proposal is a general community proposal the Area Support Team may be the sponsoring service.

If necessary, independent advice can be sought from a number of different support organisations. The Community Assets Officer can provide referrals to such support, including the £19m Community Ownership of Assets programme recently launched by DCLG. At the local level Area Support Officers can provide advice and guidance as well as local third sector support organisations such as Voluntary Action Leeds. There are also a number of large voluntary and community organisation in Leeds that have benefited from Community Asset Transfer and the Council may be able to broker in advice and support from these organisations.

### **Ownership terms of a Community Asset Transfer**

Under the current approach for Community Asset Transfer, the Council will provide long term leases normally of between 25 and 50 years, the terms of which will be agreed at the time of each individual transfer. This guarantees that the asset can be used for the purpose for which it was provided (and possibly subsidised) and also provides a fall back position should the venture prove to be unsuccessful over time. It also allows the Council to 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.

### **Buildings current and continued 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.

Service transformation proposals from Council service areas may include use of property as a means to improve service delivery or achieve efficiency savings. Where decisions have been taken for the service to continue in this way, consideration can be given to the future of the property, but where any agreement is time limited so will any property lease. Charges for occupancy may be balanced against efficiency savings and viability cases.

In circumstances where a Community Right to Challenge expression of interest is submitted, it may be that the challenging organisation wants to continue to run the service from the same property. However, any resulting contract will be on a strictly time limited basis (usually 3-5 years) so any agreement for the property to be used would need to be limited to the same period of time. Additionally, due to the open market competitive nature of Community Right to Challenge no subsidy could be provided just to the community organisation, so any agreement would have to either be at market value or use of the property at nil charge included as part of the procurement offer to all bidders, regardless of their sector. Otherwise we would be unfairly subsidising organisations and may cause difficulties with State Aid.

If a decision has been taken that the Council will no longer provide or fund a particular service from a building or in a locality, then it is not appropriate for Community Asset Transfer of any

associated building to be considered for the same use. However, a Community Asset Transfer for local community benefit could be considered in line with the other criteria set out in this policy.

### **Links to Community Right to Bid**

If a community organisation is able to pay market value for a property, but needs time to raise funding, then Community Right to Bid legislation within the Localism Act will give an automatic entitlement to a six month period to raise this funding, assuming the asset has been listed as an Asset of Community Value. Extensions to this timeframe could only be granted in circumstances there is a strong possibility that an extension will enable the funding required to be raised.

### **Associated services**

In some circumstances the transfer of a building may have wider implications and result in the requirement for Council staff to transfer to the community organisation under Transfer of Undertakings (Protection of Employment) (TUPE) provisions. Usually this will not be the case, but if the building is going to continue to be used for the same purpose it may apply. This is particularly likely for purpose built buildings such as sports centres. In such circumstances Council staff may have rights under TUPE regulations. This will require the community organisation to employ any staff affected on the same terms and conditions as they currently have. This can be a burden on community organisations, particularly the requirement to provide pension protection that is the same as, broadly comparable to, or better than the pension provision while employed by the Council. This issue requires careful consideration and staff in the Council's Human Resources service will be able to advise if TUPE applies and the implications.

### **Funding availability and viability**

Viability is a key consideration in Community Asset Transfer and is often the major barrier preventing a community from taking over a property. The business plan will need to show that the proposal is viable over a period of at least three years. In circumstances where viability cannot be achieved without subsidy support, the sponsoring service may decide to provide revenue support to enable the proposal. Any such decision would be for the relevant budget holder on a case by case basis.

Council officers have the skills and expertise to assess the viability of business plans submitted in support of a Community Asset Transfer proposal. The sponsoring service may have particular expertise in this area. If the business plan is not viable, these officers will provide advice and guidance on how the viability case can be improved. Tools such as Fit For Purpose Healthcheck from Locality can be used by community organisations to assess their abilities and readiness for Community Asset Transfer, including business plan assessment.

If an organisation can't raise the finance necessary to purchase the property, 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 declined. Depending on the circumstances, the property will either continue as Leeds City Council operational property, or it will be considered for sale in line with current procedures. The Council won't hold onto buildings indefinitely while continuing funding applications are submitted. Timescales will be

agreed at the start of the proposal to allow the community organisation and the Council to plan ahead, although extensions will be given where progress has been made.

It is especially important to consider within any business plan the ongoing maintenance requirements of the property. All Community Asset 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.

Usually the Council will not refurbish or improve the condition of a building prior to transfer, unless there is a particular reason that it makes sense to carry out improvements in this way. However, in circumstances where the transfer will lead to a direct saving for public spending and the building requires investment to bring it back into use, the Council will consider requests for a proportion of the saving to be used to improve the facility or towards start up costs. However, any such support is likely to be time limited. The business plan will need to show a requirement for the funding and that the funding is not available through other sources. Any decision on such funding will be taken by the budget holder on a case by case basis.

Occasionally, a building that is subject to Community Asset Transfer may have particular heritage status or other features that could cause significant liabilities if repairs were needed which would almost certainly be beyond the means of a community organisation, especially a relatively new one. In such circumstances the organisation will need to consider establishing a sinking fund to cover future maintenance likelihoods. On its own this should not prevent an asset transfer and the Council may come to an agreement with the community if necessary about how this risk is managed.

### **Other lease conditions**

In all cases involving transfer of ownership/occupation, appropriate legal mechanisms will be put in place to protect the Council's financial position, such as restrictions on use and break clauses. For example forfeiture/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 non 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.

However, any such condition will be in line with the community's proposal and will need to be agreed between both the Council and the community organisation.

### **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 strategic or service priorities identified within the Leeds Strategic

Plan, the Compact for Leeds, the Council's approved corporate Asset Management Plan, a Service Plan, a Service Asset Management Plan, Area Delivery Plan or Neighbourhood Plan.

The sponsoring service will play an important role in appraising any Community 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 2.

### **Community Asset Transfer criteria**

There are three key factors to be considered within the Community Asset Transfer Policy criteria. These are:

1. The benefit/s to the local community to be gained by transferring the asset.
2. The ability of the voluntary or community organisation to sustain the use of the asset over the lease period.
3. Impact of the proposed transfer on the Council's scope to fund its future capital spending priorities, or its potential alternative use of the asset.

Assessment of proposals will take into account these factors, considering both the likelihood and impact of failure.

The Community Asset Transfer Policy requires all proposals to meet the following criteria:

1. The proposed use of an asset reflects the outcomes and objectives of the Vision for Leeds, the Council's Corporate Plan, the Council Business Plan and Neighbourhood Plan.
2. 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.
3. The asset will have an open access policy for all local groups, relevant to the purpose of the transfer, and should be compliant with the Equality Act 2010 (if not already compliant it will be the responsibility of the community organisation to ensure compliance).
4. 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.
5. The uses of the asset will enable communities have access to facilities and opportunities that more respond to their needs.

The Council will need to then consider whether they are potentially competing uses for the asset so that the opportunities cost to the Council is clear. The Council is also unable to consider applications for Community Asset Transfer in respect of:

- proposals that will accommodate groups that are considered to be too restrictive in their access policies or offer limited local community use and don't sufficiently benefit the local community (as this could conflict with the Council's legal duties under the Equalities Act 2010);
- assets where there is a continued need by the Council for fixed or core services (e.g. schools, social care establishments, customer contact centres), although there may be circumstances where the relevant service proposes to offer such assets, for example as part of service transformation;
- assets that have been identified as having a potential significant capital receipt value, especially if the Council have already identified the asset for disposal (Council officers can advise if this is the case), unless a proposal is developed that shows that the benefits of transferring such an asset outweigh the capital receipt value;
- assets that will mainly be used for religious worship;
- assets that the Council needs to retain for ongoing service delivery.

The Council has to generate a significant amount of funding every year through its capital receipts programme. This is partly generated through the sale of the land and property and targets are set to achieve a minimum capital receipts. Any asset transferred to the community reduces the potential scale of 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, including an assessment of the property's value on the open market.

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.

### **Aims and objectives of the Community Asset Transfer policy**

The Council recognises that Community Asset Transfer can be a valuable part of supporting and sustaining the third sector in the city and is committed to Community Asset Transfer where it will bring benefits to local communities.

The Council is 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 is prepared to consider using its assets to form long term partnerships with community organisations to achieve Community Asset Transfers that will enhance communities and / or local service provision. The form of partnership will vary on a case by case basis, but could vary from regular updates and monitoring through to formal Service Level Agreements;
- 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 Community 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.

## **Benefits of Community Asset Transfer**

There are many benefits to all parties to pursuing a Community Asset Transfer. These are:

- achieving the vision that Leeds will 'be fair, open and welcoming and that all Leeds communities will be successful.'
- 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 whilst achieving community benefit.

## **Applying for a Community Asset Transfer**

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

1. By 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. At this stage the proposing organisation must be able to demonstrate that its outline plans are realistic and viable. If the Council's opinion is that the plans are not realistic or viable then the expression of interest will be declined.

## **Advertising**

In circumstances where the Council has identified an asset as appropriate to transfer, expressions of interest will be sought by advertising the property's availability on the Community Asset Transfer page on the Council's website and through third sector support organisations.

## **Submission of business plan**

Once the initial expression of interest has been considered the next stage is for a submission of 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.

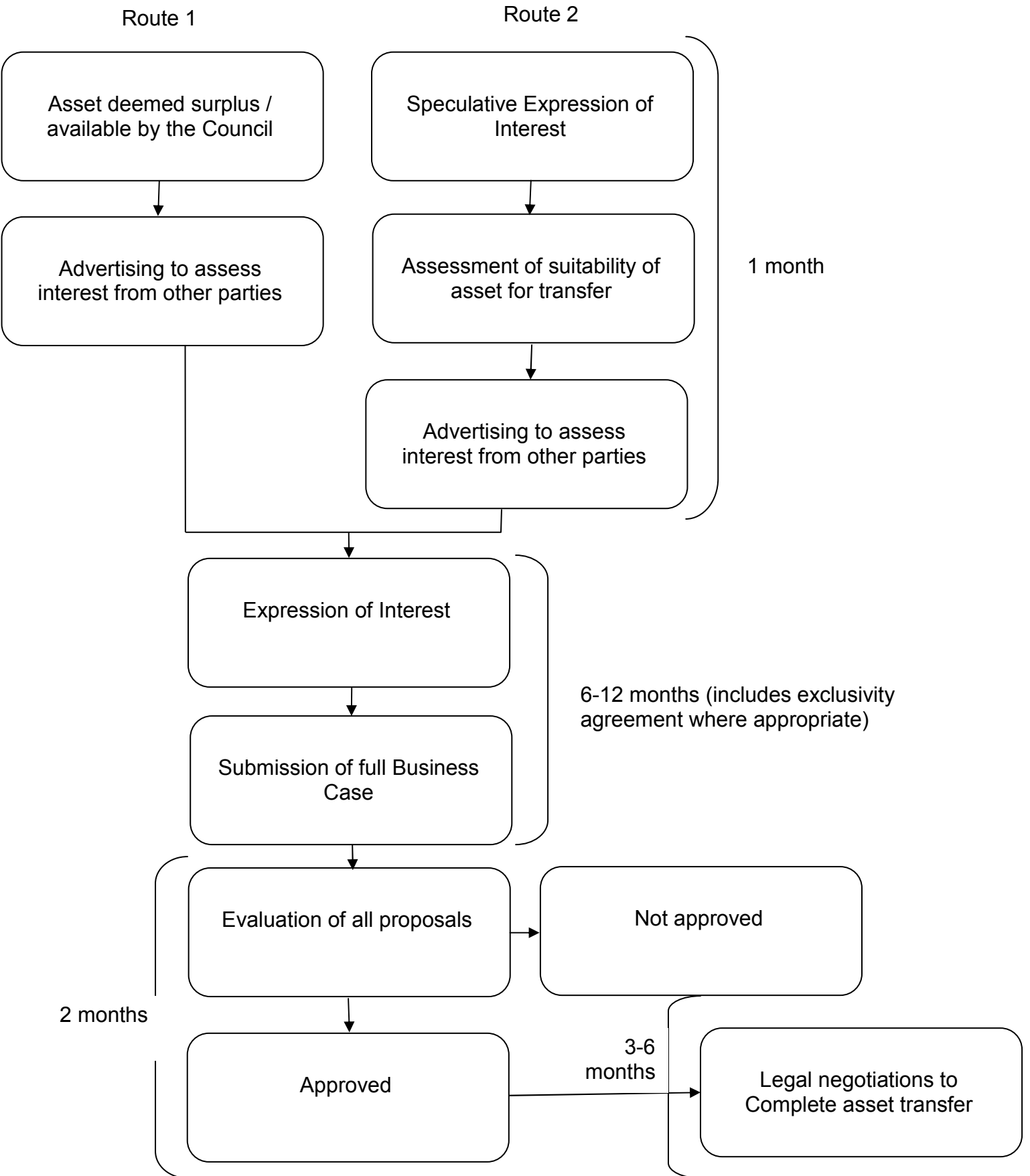
For a full business plan in support of a Community Asset Transfer the following need to be addressed:

- 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 3 year cash flow forecast, projecting income and expenditure broken down into relevant headings.
  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 and demand/need from the local community
  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



## **Duration of lease granted**

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 lease of up to 25 years;
- a lease longer than 25 years but up to 50 years, or in exceptional circumstances longer, may be appropriate if supported by a business case that demonstrates special circumstances or requirements from funders or lenders.

Lease term length will be considered alongside previous Community Asset Transfer projects, to ensure consistency. Generally, straightforward Community Asset Transfers are for 25 years. In circumstances where the community organisation can show significant capital investment in and improvements to a property then terms of normally up to 50 years can be considered. Only in exceptional circumstances would a lease of longer than 50 years be considered.

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.

Short term agreements will be considered in the form of management agreements or short term leases to allow organisations to practically identify and manage risks.

Long term leases will 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.

## **Completed Community Asset Transfers**

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 Asset Management Service and other service areas identified through the business plan or lease. There will be an annual review of any service agreement targets and the benefits measured. Where it is applicable there is a renewal of the service agreement or lease, although in most cases there will be no automatic right to renew.

From time to time organisations that have successfully taken over property under this policy may be asked to provide help and advice to other organisations who are developing Community Asset Transfer proposals.

## **When things go wrong**

In the first instance contact should be made (at the earliest opportunity) with the Asset Management Service or the sponsoring service for the project, who will be able to either provide advice or refer to specialist support available from third sector support organisations. It may be that previous agreements or conditions in the lease need to be renegotiated to allow additional income to be generated. In these circumstances the Council will be willing to negotiate and help. However, consideration will need to be given to the rationale for previously imposed conditions and the impact of any changes on both the Council, and the community. A formal decision will need to be taken. In the event of project failure, conditions in the lease will ensure that the property returns to local authority ownership. However, in the event of external funders securing investment on the property, there may be assignment or step in rights allowing them to take over or possibly seek a third party to take over the property. Conditions in the lease will ensure that the property can only continue to be used for community benefit purposes.

## **Sources of further information**

Asset Transfer Unit – [www.atu.org.uk](http://www.atu.org.uk). The Asset Transfer Unit is a national body delivered by Locality in association with Community Matters and the Local Government Association, and funded by the Department for Communities and Local Government. It helps to empower local people and organisations to transform land and buildings into vibrant community spaces whilst supporting the development of a thriving third sector.

Voluntary Action Leeds – [www.val.org.uk](http://www.val.org.uk). Voluntary Action Leeds is the Council for voluntary service in Leeds. They provide innovative and direct support, services and specialist advice to hundreds of third sector organisations across Leeds, helping them to carry out their work and ensuring they are well represented in partnership work.

[www.leeds.gov.uk/assettransfer](http://www.leeds.gov.uk/assettransfer). Up to date information on the Councils Community Asset Transfer activity, including details of any properties the Council are seeking expressions of interest in.

[www.leeds.gov.uk/righttobid](http://www.leeds.gov.uk/righttobid). Details of Community Right to Bid in Leeds, including the List of Asset of Community Value.