

Introduction

The Localism Act 2011 requires local authorities to have a community asset transfer policy. In addition, the Council recognises the role of community asset transfer as an enabler for delivering services and activities in the city that are key part of the Team Leeds approach set out in the Best City Ambition. This document is a refresh of the policy approved in 2012. The policy has been reviewed to take on board experience and learning acquired from over ten years of managing community asset transfers, to coordinate the process more closely with input from key partners and to make it reflective of current estate management strategies and challenges.

The policy establishes a revised framework for 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. It also sets out the process that will be followed.

Community Asset Transfer proposals need to be developed and considered against a potential sale or alternative disposal methods in each case. The revised policy includes a new process for identifying assets to be made available for community asset transfer and for dealing with interest from appropriately constituted organisations. It also includes scope within the community asset transfer process for the Council to work collaboratively with the voluntary and community sector representatives in the city to explore community asset transfer proposals.

Community Asset Transfer is the responsibility of the Executive Member for Resources and the process is managed by the Strategic Asset Management team within City Development Directorate. The support of a sponsoring service within the Council may be required for proposals to progress. Decision's relating to community asset transfer rest with the Director of City Development in consultation with the Executive Member for Resources.

What is a Community Asset Transfer?

A Community Asset Transfer (CAT) is a term used to describe the transfer of public-owned land or buildings from the local authority to a community organisation on a long-term lease. CAT is typically a means for charities and social enterprises to support local communities by making the case for taking over a building or land where services or activities have been provided within a local community , either historically or in the present. This is a key distinction between a CAT and other forms of lease agreement.

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 transfer at less than best consideration is transparent with the value of the 'subsidy' known alongside the service value or gain that becomes possible as a result of the transfer. A subsidy control assessment will also be undertaken to ensure compliance with the Subsidy Control Act 2022.

Some further characteristics of Community Asset Transfers are:

- They are typically a long lease (usually between 25 and 99 years).
- The building is transferred as seen – there is no obligation for the Council to undertake any repair or maintenance works to the property to support a transfer, although the Council may be able to access or signpost to grant funding in certain circumstances.
- The local authority retains the freehold of the asset and will act as landlord.
- Under a lease, the recipient organisation takes on full responsibility for the asset, including maintenance, repair, insuring and on-going compliance with EPC legislation. The Council will usually provide the most recent condition schedule it holds for a building which provides transparent account of the state of repair of the asset being considered for transfer.
- Terms are included within the lease that guarantee the use of the asset for the purpose for which it was transferred and 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 reflect the initial objectives of the transfer.

Aims and objectives of the Community Asset Transfer policy

The Council recognises that Community Asset Transfer can be a valuable tool for supporting the contribution of the voluntary and community sector to the city and the delivery of services and activities supporting local residents. As part of the community asset transfer process the Council will work in collaboration with representatives of the voluntary and community sector to explore proposals that align closely with the criteria set out in the policy and the City Ambitions.

It is also recognised however that there is an ever-increasing pressure on the Council to generate funding year-on-year to fund services through its capital receipts programme which is generated through the sale of the land and property. A decision to make an asset available for community asset transfer must be considered alongside the value of the asset to the capital receipts programme .

In what circumstances is a CAT considered?

Community Asset Transfers may be considered in the following circumstances:

- The asset must be in the ownership of the Council.
- The asset has been identified as being surplus to service requirements **and** a decision has been taken for it to be considered for community asset transfer.
- The asset has a recent history of delivering services or activities to the local community and it can be demonstrated that there remains a need for those services and activities to continue.
- Where there is strong representation from the voluntary and community sector and a viable strategic case can be presented, the Council will also listen to proposals that align with the City Ambitions for the letting of a property, but this would be outside of the CAT framework.
- Transfer of the asset is supported or 'sponsored' by a council service.
- Where the primary use of the asset will to provide a service(s) to the local community.

- The asset has been issued with an Energy Performance Certificate with a minimum rating of an E, or where there is an outline plan to get the asset to the minimum rating.
- In some cases, the Council will give consideration to community asset transfers which support or supplement wider funding or regeneration opportunities in a local community.

Assets suitable for community asset transfer

For a CAT to be considered, an asset needs to be declared operationally surplus to requirements by its managing service, and a separate decision taken to make the asset available for a CAT. This would normally be achieved through a report to Executive Board.

Subject to the above, assets will subsequently be publicised for 'expressions of interest' for community asset transfer via the Leeds City Council website. This process will allow a period of time for organisations to provide an initial outline proposal. These will be assessed and organisations that submitted credible proposals will be invited to submit a full business plan within a stated timeframe. In cases where it can be demonstrated that there is an organisation who are a long-standing main user of an asset, or an anchor tenant, the Council may offer that organisation the first right of refusal for a CAT. In these circumstances, where that organisation confirm an interest in undertaking a CAT they will be invited to submit a full business case for consideration.

In the absence of any interest, or a feasible proposal that can be delivered within a reasonable timeframe, the asset it will be considered for sale in line with current procedures. The Council won't hold onto buildings indefinitely in absence of sufficient progress being demonstrated, however extensions may be granted on a case-by-case basis.

Eligibility for a CAT

Transferring Council assets to the community is a legal arrangement between the leaseholder taking on the asset and the Local Authority as the freeholder. Organisations considering a CAT must therefore be appropriately constituted to hold property via a lease.

In addition, organisations requesting a CAT should be able to demonstrate that they:

- are an incorporated body (either charitable or non-charitable with an asset lock) with robust and open governance arrangements. have a track record of strong financial and performance management and accountable processes.
- exist for community/ social/ environmental/ benefit.
- have an inclusive approach to the wider community and do not promote faith or religion in their activities.
- are able to comply with robust monitoring requirements around performance, financial management, health and safety and equality standards.

In circumstances where the Council has identified that a CAT is viable, organisations must produce a financial plan as part of a wider business case to demonstrate the

sustainability of the asset and the capacity to deliver services (see 'Business Case' section below).

Community asset transfers are not the appropriate arrangement in the following circumstances:

- Assets which accommodate fixed or core services (e.g. schools, social care establishments, sheltered accommodation).
- Assets that haven't been identified for closure or declared surplus to operational requirements.
- Assets where an alternative disposal route has been identified.
- Assets where there is no recent history of public services (e.g. offices, residential properties, storage facilities).
- Land which has been identified for strategic, planning or redevelopment/regeneration purposes.
- Transfers to individuals.
- Transfers which facilitate purely commercial ventures.
- Where Subsidy Control or procurement rules are compromised

Repair, Maintenance and Energy Performance Certificates (EPC)

Community asset transfers come with significant financial responsibilities for organisations which need to be considered carefully. Community asset transfers take place under a full repairing and insuring lease, making the leaseholder responsible for all maintenance and repair issues, both internal and external. For assets put forward for community asset transfer the Council will normally provide its most recent condition survey held, that sets out an itemised condition schedule and recommendations for improvements.

Some further examples of the costs involved include:

Initial

- Independent condition surveys to determine the condition of the asset and to identify any immediate or essential repairs.
- Essential repairs to make the building safe (some buildings - especially those that have not been recently occupied - will have a backlog of repairs).
- Replacement/upgrade of fixtures and fittings to reduce running costs
- Internal building work to upgrade and facilitate the desired use of the building.
- Utilities – does the building require connecting or reconnecting to gas, electric, water, or sewerage supplies?
- Internal utilities and connections may also require upgrading (e.g. electric rewiring, new heating system).
- Ground surveys where development proposals are also involved on adjoining land
- Legal costs associated with the lease transfer (e.g. solicitors fees).
- Planning fees, should an organisation consider any changes of use from a planning perspective, or make internal or external changes to the asset.

On-going

- On-going maintenance costs (e.g. repairs).
- Utility costs.
- Cleaning and sanitation services.
- Unforeseen major repair costs (e.g. caused by weather damage, vandalism).
- Buildings insurance to cover unexpected damage to the building or liability that stems from it.
- Public liability insurance, to cover the organisation in the event of injury of illness sustained on the premises.
- Grounds maintenance costs or charges.
- Costs relating to safety and service testing (e.g. PAT testing, water testing, electrical and lighting, asbestos management plan, if asbestos is present).
- Commercial refuse collections.
- Business rates.

This list is not exhaustive and it is recommended that organisations seek their own independent advice regarding the costs involved of running a building.

Energy Performance Certificate

Under government legislation, local authorities cannot enter into a commercial lease without an Energy Performance Certificate (EPC) being issued. Currently, buildings need to achieve a minimum rating of an 'E' for a certificate to be issued. Proposed new legislation could see the requirement rising to a 'B' rating in the future. Any community asset transfer proposal will need to factor in how compliance with future ratings will be achieved.

Prior to a building being put forward for community asset transfer the council will commission an EPC survey to determine whether a building meets the minimum standard, or to determine whether a building is exempt from the process. As well as determining the building's EPC rating, the survey will also indicate what measures would result in a higher rating.

Approval for Community Asset Transfers.

The decision to award a community asset transfer to an organisation is through the Council's delegation scheme under the Director of City Development following consultation with the Executive Member for Resources and dialogue with elected members for the ward where the asset is located. In some circumstances, approval may be required from the Council's Executive Board. Executive Board is the council's main decision-making body and comprises senior councillors and lead members of directorates. It is chaired by the Leader of the Council and meets ten times a year.

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.

While it is acknowledged that progress may vary from one proposal to another, it is expected that organisations have an indicative framework for progressing the asset transfer in line with the timeframes outlined in this document, and that a phasing schedule is included in the business case.

Business Case

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 in cases where the financial viability of a proposal can't be convincingly demonstrated the proposal won't be supported.

In circumstances where a building has been made available for community asset transfer shortlisted organisations, or anchor tenants, will be asked to bring forward a fully costed business case within a 3 months, that sets out a robust plan to manage and sustain the asset for a minimum 3-year period. The business case should primarily:

- Set out the aims and objectives for the Community Asset Transfer with a focus on service delivery and benefits to the local community.
- Demonstrate the capacity and capability of an organisation to manage an asset, including relevant expertise and experience.
- Demonstrate an understanding of the running costs of the asset and a sustainable plan to meet them
- Identify any upfront repair work that is required and funding plans for it.
- Identify works required to the building to achieve an EPC rating of 'B' and how this work will be funded.
- Identify income that the venture will generate to offset the running costs.
- Identify sources of finance that are required to support the set-up costs of the venture.
- Identify essential works required to make the building safe and secure and compliant with energy efficiency legislation and include a plan for implementation.

Additionally, the business case should set out:

- how the asset will be used
- who the stakeholders are.
- what the core activities will be, including details of any proposed projects services and/or products and how they will be delivered.
- who the expected beneficiaries will be and what the expected outcomes will be

- how the Community Asset Transfer would contribute to Council policies and strategies, and other local priorities
- organisational management and governance (structures, numbers, portfolios, posts)
- proposals for partnership working, user and community involvement
- experience and/or track record, including expertise held by board members
- financial projections including a 3-year cash flow forecast, projecting income and expenditure and income projections
- social, economic and environmental benefits – for both the organisation and the Council
- projected demand/need from the local community
- a needs analysis for the area;
- a SWOT analysis of the proposals;
- a risk assessment for the project and the whole organisation.

It is recognised that bringing together a business case of this nature will be a challenge for organisations that are typical of the size and capacity of those that work in the voluntary and community sector. It is therefore strongly recommended that organisations seek expert advice and guidance when preparing a business case. Support and capacity in this field could be provided by larger and more established organisations in the sector, or by bodies that represent the sector.

It is expected that organisations submit a business case within three months following being invited to do so.

Support with Community Asset Transfer

The Council may be able to share information held for its buildings, such as floor plans, running costs, any income from lettings, energy performance certification details and any relevant building surveys that it holds.

While the Council is able to offer general advice and support, it recommended that organisations seek independent advice and guidance about community asset transfer and specific projects. There are organisations who specialise in this field who can offer one to one support and who also publish free online resources. The voluntary and community sector in Leeds is represented by several organisations who have experience in the field of community asset transfer who may be able to offer advice and support.

While writing this policy, the Council have had constructive engagement with representatives of the voluntary and community sector who have offered their advice as well as capacity to provide a strategic overview of community asset transfer opportunities and proposals. The Council recognises the benefits of a collaborative approach to community asset transfer with the voluntary and community sector in Leeds in recognition that this approach could result in stronger, more inclusive proposals that align with service needs in the city and meet the City Ambitions. It is encouraged that organisations interested in community asset transfer engage with representatives of the voluntary and community sector to share experiences and bring together more robust proposals.

For further information about Community Asset Transfers, contact the Strategic Asset Management service by email at assetmanagement@leeds.gov.uk