
Report of Asset Management Service

Report to Corporate Governance and Audit Committee

Date: 8th November 2013

Subject: Community Asset Transfer Due Diligence

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The report sets out arrangements that are in place to ensure due diligence for community asset transfer projects, particularly in relation to governance, insurance and financial management.

Recommendations

2. Corporate Governance and Audit Committee is requested to note the contents of the report.

1 Purpose of this report

- 1.1 The report provides details of the due diligence processes undertaken for community asset transfer projects, particular around governance, insurance and financial management.

2 Background information

- 2.1 The Council has provided property leases on a 'less than best consideration' basis to community organisations for many years. These were undertaken on an ad hoc basis and outside of a policy context.
- 2.2 The Quirk Review of community ownership and management of assets carried out on behalf of central government in 2007, highlighted the benefits of community asset ownership and popularised the term "community asset transfer". This is used to describe transactions whereby local authorities grant long leases (usually at least 25 years) at less than market value to local community organisations.
- 2.3 In September 2012 Executive Board approved a Community Asset Transfer Policy which sets out the objective of community asset transfer and the basis for such agreements. The policy is attached at Appendix 1. It should be noted that community asset transfer itself is relatively rare, with nine such projects approved in the past three years. Community asset transfer is just one of many ways that we engage with community organisations in terms of their premises requirements and in only appropriate in a handful of cases.
- 2.4 Corporate Governance and Audit Committee has requested a report setting out the arrangements that are in place when assets are transferred, particularly in relation to governance, insurance and financial management. The committee considered a report in March 2013 specifically about the transfer of land to academy schools.

3 Main issues

Governance

- 3.1 The Community Asset Transfer Policy sets out the type of organisations that can propose community asset transfer. These 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

* Unincorporated charitable organisations will need to become incorporated as one of the other types of listed organisations to be able to sign a lease for a property.

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

- Generate social, economic or environmental benefits which directly benefit the people of Leeds
- Have stated community benefit objectives
- Have robust systems, governance and policies as evidenced by a management structure, constitution and appropriate quality mark;
- 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
- Operate through open and accountable co-operative processes

Insurance

3.3 Community asset transfer leases are on a full repairing and insuring (FRI) basis. Only in exceptional circumstances would a lease be considered on non-FRI basis. For such an agreement to go forwards a decision would have to be taken that the benefits provided by the project outweigh the costs and risks associated with retention by the Council of the repairing responsibilities.

Financial Management

3.4 Proposals for community asset transfer are submitted in the form of a five year business plan including detailed financial projections and for established organisations details of their financial history. A thorough assessment is undertaken of the business plan to ensure that the proposal is viable and sustainable.

3.5 Following transfer there is ongoing monitoring including at least one annual review per year. This review ensures that the conditions in the lease are being complied with and assesses the financial and social wellbeing of the organisation, as well as ensuring the property is being put to the agreed use.

Other protections

3.6 Community asset transfer leases include use clauses setting out the types of uses the property can be used for. Failure to comply with the use clause can result in the lease being forfeited by the Council.

3.7 Very often a community organisation will require external funding to carry out improvements. In these circumstances a funder will usually require step in and assignment rights which allow them to take over the property for the remainder of the lease or assign the lease to another organisation. Any such rights must be instigated within an agreed time (typically six months) or the property will revert to the Council. The user clause remains in place to protect the property for community benefit.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 During the drafting of the Community Asset Transfer Policy consultation took place with the community sector in Leeds.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 There are no specific implications for equality and diversity / cohesion and integration.

4.3 Council policies and City Priorities

4.3.1 The report relates directly to the Community Asset Transfer Policy approved at Executive Board in September 2012.

4.4 Resources and value for money

4.4.1 This report has no implications for resources and value for money.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The report is not eligible for Call In.

4.6 Risk Management

4.6.1 There are no risk management issues in the report.

5 Conclusions

5.1 A thorough appraisal and monitoring systems is in place for all community asset transfer projects. Restrictions in the lease ensure that projects comply with standard and project specific conditions.

6 Recommendations

6.1 Corporate Governance and Audit Committee is requested to note the contents of the report.

7 Background documents¹

7.1 None.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.