

# Policy for Transfer of Assets for Community Governance

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**1. Purpose**

- 1.1 This paper outlines Leicester City Councils policy on the transfer of Council assets to Community Organisations.
- 1.2 The Local Government White paper “Strong & Prosperous Communities” set out a new relationship between local government and its communities based on a devolution of power by giving residents greater say over local services. The City Council therefore adopted its “Policy for transfer of assets for community governance” as an addition to the “Framework for Disposal of Property” in 2008.
- 1.3 In 2011 it was agreed to offer community groups who had been stable, long term tenants in council properties the opportunity to buy their premises at market value less a 20% discount.
- 1.4 The Localism Act 2011 sought to further empower communities to self-manage and reducing funding is requiring Councils to consider different ways of delivering community services. With these factors in mind, the policy has been reviewed to reflect these changing circumstances. Transfer of assets is one way in which groups and organisations can acquire assets, other ways include the Community Right to Bid, more information on which can be found at [www.leicester.gov.uk/propertyshop/](http://www.leicester.gov.uk/propertyshop/).

**2. Definition**

- 2.1 Transfer of Assets for community governance is the legal transfer of property (via a management agreement, a meanwhile use agreement, licensing, letting or sale) by the Council to community led organisations for them to manage

and operate to provide community benefits in accordance with the Council's priorities and strategies.

- 2.2 Transfer may be at market value, in some cases at less than best consideration or give community led organisations 'first refusal' on a commercially based disposal.
- 2.3 The decision on which type of transfer is the best option will be decided on a case by case basis. It will be informed by an assessment of the business case and which option is best suited to meeting the objectives of the transfer. It is considered that in most cases the Councils long term interests will be best served by long lease disposals rather than freehold although there will be particular circumstances in some cases which will require freehold sale.
- 2.4 A community led group is defined as being a formally constituted group based within and delivering or capable of delivering services or functions of benefit to a local community, be this area based, around a particular social group or other particular community interest.

### **3. Aims of community asset transfer**

- 3.1 The Council's built assets include land, buildings and other structures used for a variety of different social, community and public purposes as well as for the Councils own operations. For some of these assets community management and ownership could deliver improved:
  - benefits to the local community
  - benefits to the Council and other public sector service providers
  - benefits for the organisation taking ownership
- 3.2 To be a tool in the flexible management of the Council's assets to maximise their contribution towards achieving the Council's priorities.
- 3.3 To balance the requirements of the Council to maximise the monetary value of disposal of assets against the added value of asset transfer to a Community Organisation.
- 3.4 Changing ownership or management of an asset can offer opportunities to extend the use of a building or piece of land and increase its value in relation to the numbers of people that benefit and the range of opportunities it offers. Community-led ownership offers additional opportunities to secure resources within a local area and to empower local citizens and communities.
- 3.5 The Council will proactively seek the transfer of appropriate assets to community groups in order to promote the widest public value that can be achieved in relation to, for example:
  - Facilitate inward investment
  - Community empowerment and greater control over services
  - Area-wide benefits
  - Building the capacity of the community and encouraging sustainable community organisations by building partnerships
  - Economic development and social enterprise
  - Improvements to local services

- Value for money

A property specific plan will be put together for each property identified as suitable for asset transfer outlining a communications plan and criteria to be adopted for selection.

- 3.6 The Council will consider the disposal of groups of properties on the same basis as individual properties.

#### **4. Scope**

- 4.1 The policy will cover all built assets, land and property in the freehold ownership of the Council excluding the schools estate with decisions on individual assets being made on a case by case basis.

#### **5. Key Principles for Asset Transfer**

- ❖ **Engagement and empowerment of community groups and social enterprise support.**

Under this strategy the core principle must be for the Council to support the engagement and empowerment of community groups to develop their capacity to deliver local solutions to meet identified needs. These are likely to vary from training opportunities to support services and must support the aims and priorities of the Council.

- ❖ **Only potential assets and not liabilities should be transferred.**

The transfer of assets that will contribute towards maximising the prospects of developing sustainable community groups and enterprises will be a key consideration. For the Council, assets in their present circumstances may be liabilities but a careful transfer can potentially provide community groups with financially viable assets. This may be the case where for instance where community bodies can access grants to improve facilities and provide services that the Council cannot access.

- ❖ **A 'gateway assessment for each property with potential for transfer should be conducted including consideration of the condition of the facility, alternative development/disposal scenarios, assessment of potentially competing provision from other centres and assessment of potential alternative transfer beneficiaries.**

As part of its asset management planning the Council will review each community asset it owns for alternative development and disposal. Where practical and feasible the Council will prioritise opportunities for the transfer of assets to appropriate community bodies. The Council will need to balance the competing interests of community groups and an assessment will need to be made as to the option that will deliver most sustainable benefit to the local community. Where possible, potential beneficiaries can be brought together in a partnership and this can result into a collective benefit to meet wider public purpose.

- ❖ **A community wide perspective should be adopted involving close working with other public and voluntary sector partners. The policy**

**on community asset disposal is part of a long term programme of support to, and partnership with, community organisations.**

The Council will involve all relevant partners in developing asset transfer proposals to ensure there is no conflict with other initiatives involving public and voluntary sector partners. The opportunity to identify potential benefits of wider partnership working will also be taken into account particularly where this assists with the sustainability of a transfer. This can bring additional resources by way of staff support and funding opportunities.

- ❖ **Community groups/enterprises should have robust and sustainable business plans for asset transfer seen as part of their wider development plans.**

For a successful asset transfer a robust and sustainable business plan will be required. It should form the basis for clear development plans which set out what the community group or enterprise intends to deliver through management of the asset over the short, medium and long term.

Financial considerations should be included within the business plan in order to demonstrate a sound approach to managing and running the facility. The need for any on-going financial support will be carefully considered by the Council to establish a sustainable operation.

- ❖ **The tenure offered will be dependent upon the governance capabilities of the community organisation**

The disposal may be based upon a management agreement, meanwhile use agreement, licence, lease or freehold sale and this will be dependent upon the circumstances of the property and the governance capability of the organisation. It is anticipated that the security of tenure to the applicant would be subject to improvement over time in accordance with the success of the project and the growing strength of the applicant in terms of community governance capability. The general principle will be against freehold sale unless the particular circumstances of a case require.

Where there is a transfer of service provision, a community asset transfer may be accompanied by a Service Level Agreement identifying the benefits and how these will be monitored and measured, together with the remedies available to both parties if the Service Level Agreement is not met. This SLA will be in effect a contract for provision of services and will need to be compliant with procurement and state aid requirements.

- ❖ **Support for the community group or enterprise from the Council should be on-going at an appropriate level which is required to support the group's development plan over a realistic time period.**

Whilst the Council will aim to provide support during, and for a reasonable period beyond any transfer the Council has limited resources. Discussions need to take place to agree how, and over what period the support will be provided by the Council. It is likely that on-going support may in some cases be better provided via other organisations and the Council can help to bring in such support.

- ❖ **The Council will include terms and conditions in disposal documents to safeguard the position should the community asset transfer fail to deliver the anticipated benefits.**

The Council will reserve the right to include conditions on any transfer to protect the future community use of the property. It is recognised that the imposition of such conditions could impact on asset value or the ability of groups to raise funds and each case will therefore be considered on its merits and conditions will be considered during the assessment process.

To safeguard the Councils long term position long lease will generally be preferred to freehold sale as it better protects the Councils position in the case of failure.

## **6. Benefits of community asset transfer**

Benefits can be measured in terms of the economic, social or environmental well being of the community. Not all benefits have to be financial – they can be about better community outcomes. The business case will need to articulate these benefits and how they will be measured. The potential benefits of asset transfer can include:

### ***For Community Organisations***

- Physical assets can provide sustainable wealth;
- Can strengthen the Organisation's community ties;
- Can strengthen the Organisation's ability to raise money. There may be access to funding to refurbish the building or to support staff training and development;
- Greater financial sustainability can help the organisation to escape short term grant-dependency;
- Community organisations can alter or modify a building to better suit their needs.

### ***For the Council***

- Transfer can help to solve building management problems ;
- The Community Organisation has "reach" into the community a transferred building can therefore provide a more accessible and responsive base from which to deliver services;
- Can strengthen 'community anchors';
- Can restore 'iconic' buildings;
- Can deliver social, economic, environmental benefits;
- Can provide a catalyst for inward investment and local multipliers through local purchasing and employment;
- Provide a source of rental income;
- Can lower ongoing costs;
- Can help to progress neighbourhood regeneration plans;
- Can provide opportunities for long-term working between sectors;

## **7. Risks of community asset transfer**

The transfer of assets does have risks attached and each assessment will need to consider risks such as the following:

- Potential to disadvantage particular individuals or impact negatively on the local community;
- Potential for a negative impact on community cohesion;
- Potential loss of existing community services;
- Uncertainty around capacity of recipient to manage asset;
- Potential for the asset to become a financial liability for recipient;
- Capacity of recipient to deliver promised services/outcomes;
- Capture of asset by unrepresentative minority;
- Transfer contravenes State Aid and procurement rules;
- Conflict with other legal, regulatory constraints;
- Potential for ongoing Council liability;
- Lack of value for money;
- Conflict with other funders;
- Potential unfair advantage for one group over another.
- The risks associated with property ownership will pass in whole or in part from the Council to the Community Organisation.
- Perception of a loss of the use of a Community facility by certain sectors of the Community.

Before any transfer takes place a risk assessment and management plan will be undertaken so that all parties are aware of the potential issues a transfer may create.

## **8. Expectations**

Because every transfer project will be unique in its own way, it is vital to outline clear expectations and responsibilities of stakeholders involved. This is to ensure that a common platform is established that satisfies the overall outcome.

The Leicester City Council's expectations of the interested Community Organisation are:

- A project team is set up to overlook the entire project with a distinct point of contact.
- To provide relevant documentation requested within the CAT Application Form in order to comply with requirements of the transfer.
- A Business Plan demonstrating the viability of acquiring and improving the asset and also focusing on its viability and sustainability. A Risk Assessment within the Business Plan identifying potential risks and impact and how these will be dealt with.

The Community Organisation can expect the following from the Leicester City Council:

- Be assured LCC has adopted a CAT policy, to support communities in Leicester.
- The LCC has in place robust processes and procedures to ensure that all cases for CAT are considered in an equal, transparent and unbiased manner.
- Clear guidance and information on the process for CAT.
- Support and clarification on CAT process and procedures.
- Support and guidance on assessment criteria and application form.
- Communication in a timely manner throughout the process with an agreed timetable to be followed suitable for the specific characteristics of the particular disposal. Referral to Executive Lead should the group consider the application is not being progressed as agreed.
- Continued communication and dialogue to maintain and further develop the relationship between the Community organisation and LCC.
- Support and guidance on asset related matters.
- Support and guidance to ensure asset transfer remains stable and sustainable.

## **9 Application Procedure**

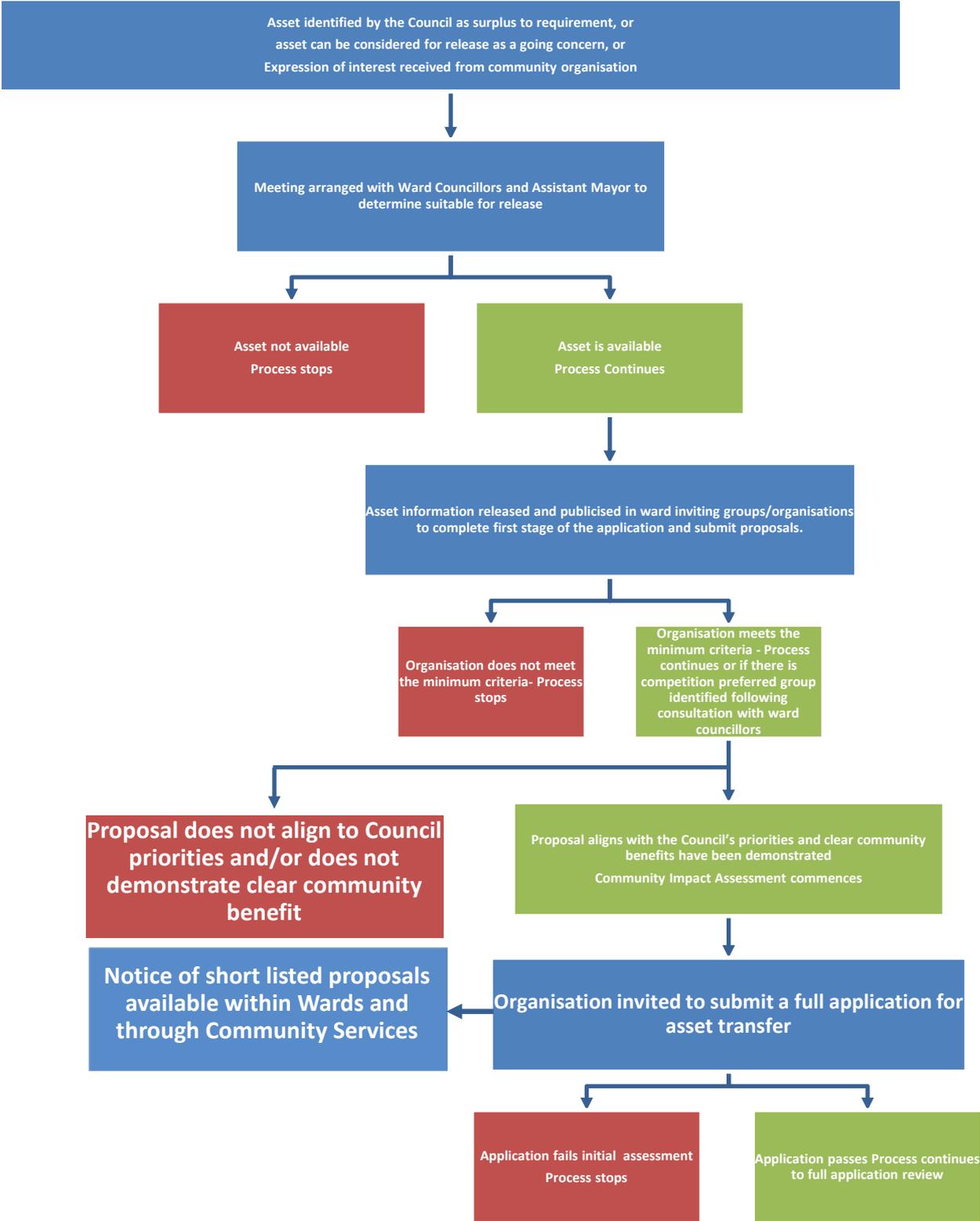
Any Community Organisation interested in applying for an asset transfer will be provided with the following documentation:

- A copy of Guide to Community Asset Transfer.
- A copy of CAT Application Form and CAT Guidance Notes-Application Form.
- A copy of 'CAT Assessment Criteria'
- Any relevant information on the property that the Council hold.

It is essential that every applicant has completed the Application Form and provided all the relevant documentation particularly a viable Business Plan demonstrating the capability of sustaining the asset.

Once the above documentation has been submitted, the steps outlined below will then be followed.

- Every application will be dealt with fairly and equally and guidance will be provided as outlined above.
- Applicants are likely to benefit from carrying out research on asset transfers and demonstrating this. Some useful sources include [www.communitymatters.org.uk](http://www.communitymatters.org.uk)



**Full review of the application by Asset Transfer Review Group**

**To include:**

- >> Full application form
- >> Supporting documentation and evidence
- >> Asset condition and suitability survey
- >> Current use of asset
- >> Planning issues
- >> Joint Risk assessment/EIA/Community Impact
- >> Where more than one applicant, co-location considered

**Application not supported**

Asset Transfer Review Group NOT able to recommend application for approval following consultation with ward councillors

Process stops

**Application is supported**

Asset Transfer Review Group able to recommend application for approval following consultation with ward councillors - Subject to satisfactory agreement of terms and conditions

Process continues through Delegated Authority and/or

Executive approval (where necessary)

**Legal Services instructed**

Terms of transfer drafted in accordance with terms and conditions agreed and delegated authority/Executive approval

**Community Asset Transfer Complete**

Keys handed over and the organisation takes responsibility for the asset (on going access to advice and support available if required)

**ASSESSMENT CRITERIA SUMMARY**

	<b>POTENTIAL FOR COMMUNITY ASSET TRANSFER</b>	<b>CONDITIONAL COMMUNITY ASSET TRANSFER – Demonstrates significant community benefit</b>	<b>NOT SUITABLE FOR COMMUNITY ASSET TRANSFER</b>
<b>Asset Value</b>	Less than £200,000 (small)	£200,000 to £1,000,000 (medium)	Greater than £1,000,000 (large) may still be suitable but to be judged on merits
<b>Length of occupation</b>	20+ years	5-20 years	Less than 5 years
<b>Asset holding</b>	Operational	Operational	Non Operational
<b>Community Impact</b>	Minimal Impact	Manageable Impact	Significant Impact
<b>Sustainability/Stability</b>	Demonstrated ability to manage service, property and plan for future, history of stability and capability	Demonstrated ability to manage service, property and plan for future, history of stability and capability	Inability to demonstrate or record of failure
<b>Governance</b>	Settled legal entity with proven ability to manage change	Settled legal entity with proven ability to manage change	No record or poor history
<b>Legal Structure</b>	Constituted Group Registered Charity Registered Company Or seeking formalisation	Constituted Group Registered Charity Registered Company Or seeking formalisation	No form of structure; No identifiable accountability
<b>Financial Standing</b>	Established record of financial probity Including ability to meet running costs, long term planning – business plan	Established record of financial probity Including ability to meet running costs, long term planning – business plan	No record or poor financial history, business modelling or financial planning
<b>Community Benefit</b>	Established record of community benefit, Identifiable and measurable community benefits can be addressed	Established record of community benefit, Identifiable and measurable community benefits can be addressed	No record or poor outputs, community benefits not identified
<b>Benefits of CAT</b>	Strong business case to evidence anticipated benefit from CAT	Strong business case to evidence anticipated benefit from CAT	No evidence
<b>Maintenance</b>	Proven record of managing maintenance issues.	Proven record of managing maintenance issues, evidence of ability to manage on-going maintenance of building	No record or poor history – unable to demonstrate ability
<b>Commitment</b>	Agreement to restrict use to community activities in line with stated intent and guaranteed by covenant	Agreement to restrict use to community activities in line with stated intent and guaranteed by covenant	No agreement