

DUDLEY METROPOLITAN BOROUGH COUNCIL

COMMUNITY ASSET TRANSFER POLICY

4th Draft

January 2013

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1. INTRODUCTION

Dudley Metropolitan Borough Council believes that community asset transfer is fundamentally about giving local people and community groups greater control in the future of their area and their community.

If local groups own or manage community buildings such as community centres or village halls – it can help foster a sense of belonging and bring together people from different backgrounds. As the Quirke Review (2007) recognised, community ownership and management of land and buildings can also play a part in raising local people's aspirations, in enhancing the local environment and in alleviating poverty.

The Council believes that voluntary and community organisations (VCO's) are often best placed to manage facilities in their local communities. The understanding of local needs and aspirations together with more is likely to result in more intensive use of the asset and an increase in the social, economic and environmental benefits flowing from operation of the same.

The Council also feels that better use of its own assets can help it reduce overheads and achieve better value for money.

An asset can also provide a VCO with greater financial viability and reduce its dependency on grants. The asset will enable it to apply for external funding that is not available to the council, or even to secure loan finance on the value of the asset.

The Council is committed to working constructively with community groups, the voluntary sector and local people to ensure that community asset transfer in the Dudley Borough is successful.

Although this policy is initially a Dudley Council Policy, It is hoped that that the wider public sector organisations in the Borough will be encouraged to look at Community Asset Transfer in their own areas of operation

2. WHAT IS COMMUNITY ASSET TRANSFER?

A Community Asset could be defined as a piece of land or a building that is in use by the community. Therefore the definition of Community Asset Transfer (CAT) is:

“The transfer of land or buildings from the council into the stewardship and/or ownership of voluntary and community sector (VCS) organisations.”

CAT normally takes place in one of two forms:

- long lease
- Transfer of Freehold

CAT can also apply to giving a VCO ‘first refusal’ on a commercial disposal, e.g. by protecting the asset from the open market for an agreed period, which may be particularly appropriate for social enterprises and development trusts.

CAT involves a transfer at less than market value, either at a significantly reduced cost, or for a peppercorn. The level of subsidy will be determined by the social, economic or environmental benefits generated by the transfer subject to the legal requirements set out by the Local Government Act 1972 general disposal consent (England) 2003.

3. PURPOSE OF THE POLICY

This policy describes the Council’s approach to CAT.

The Council views community asset transfer positively for the following reasons:

3.1 Benefits of transferring land and building assets to the VCO:

- It has potential to create stronger, more sustainable VCOs, which can create a wide range of benefits for the communities they serve. An asset can provide a VCO with financial security, recognition, and management capacity.
- It can result in the creation of a new organisations (and potentially Council/VCO joint ventures) with the ability to lever in additional resources, which would be unavailable to the Council acting independently.
- It can the VCO raise it’s profile, build its credibility and potentially widen its service provision

3.2 Benefits to the Council and other public service providers:

- The activities that are stimulated or safeguarded by community asset transfer should contribute to Council objectives. Working in partnership

with VCO's can help the Council to achieve its outcomes set out in key place shaping strategies, including: the Sustainable Community Strategy, Corporate Plan, Local Development Framework, Local Area Agreement, Voluntary Sector Compact and national strategies on efficiency, empowerment, regeneration, etc.

- It can contribute towards efficiency savings (e.g. achieving revenue savings by releasing surplus property), and drive the diversification of public services in an era of austerity spending settlements for local government.
- It can help the Council rationalise its estate and facilitate more effective and efficient use of its asset base, where the focus is on better services and community outcomes as a result of strategic asset management.
- It can be a stimulus for partnership working between VCO's, the Council and other partners and can improve the provision and accountability of services within communities (e.g. clustering service providers in community owned hubs).

1.3 Benefits to the local community:

- It is an exciting opportunity for co-production and working collaboratively to meet common goals
- It is a tangible response to Big Society and localism agendas that involves devolving power to neighbourhoods in an effort to enable citizen involvement and community action.
- It can contribute towards the regeneration of communities and can act as a catalyst for social, environmental and economic regeneration (including the development of community enterprise).
- Changing ownership or management offers opportunities to maximise the use of a building or the piece of land, increasing its value in relation to the number of people benefiting and the range of opportunities it offers.
- It can stimulate the involvement of local people in shaping and regenerating their communities, and can be a catalyst for local volunteering and increasing community cohesion.
- The process of community asset transfer can build confidence and capacity amongst the individuals involved, and can support the creation of community leaders, and inspire others to improve their community.

The Council recognizes the multiple benefits of Community Asset Transfer and will be proactive in using asset transfer as one of the tools at its disposal, both to support the VCS and resilient and empowered communities. It would also help meet the strategic objectives of the Council; particularly in terms of service transformation and realising efficiencies. The Council, therefore, aims to create a transparent, positive and proactive framework to enable asset transfer from the Council (and its partners) to VCOs to happen and be successful in the long term.

4. NATIONAL POLICY CONTEXT

There is a clear commitment from central government to the transfer of ownership and management of public sector land and assets to community organisations. Transfer is increasingly seen as a means to achieve a range of key objectives, from promoting civil renewal, active citizenship and improving local public services to tackling poverty and promoting economic regeneration.

Up to 2010 much of the policy environment for asset transfer had been underpinned by the last Government's vision for 'Sustainable Communities' and empowerment. At the time reference to key place-shaping strategies included:

- Sustainable Community Strategy;
- Corporate Plan;
- Local Development Framework;
- Local Area Agreement;
- Voluntary Sector Compact;
- Regional and national strategies on efficiency, empowerment, regeneration, etc.

Amongst the most important policy documents was the 2007 publication 'Making Assets Work:

The Quirk Review of community management and ownership of public assets'. Having considered the opportunities, risks and multiple benefits, the Quirk review concluded strongly in favour of local ownership and management of public assets, a position which was subsequently supported by the then Government through a number of new initiatives, including the establishment of the Asset Transfer Unit.

Whilst the Quirk review remains a legitimate touchstone for the agenda, the current operating context has changed dramatically. The Localism Act 2011 and the Government's emphasis on the 'Big Society' and devolving power to neighbourhoods, means that the Council should consider asset transfer as an enabler to achieving its corporate aims.

5. LOCAL POLICY CONTEXT AND LINKS TO OTHER COUNCIL STRATEGIES

As well as the many benefits to the voluntary sector, the operation of this strategy will provide close links and provide evidence towards the desired outcomes in other Council strategies. It is important that all proposals for transfer must make a clear contribution to the Council's priorities as expressed in the following:

- Localism and Our Society
- Sustainable Community Strategy;
- Council Plan;

- Unitary Development Plan;
- Local Compact with Voluntary and Community Sector
- Corporate Asset Management Plan;
- Capital Strategy;

6. PRINCIPLES UNDERPINNING THE ASSET TRANSFER POLICY

The Community Asset Transfer Policy will be underpinned by the following principles:

6.1 Commitment to a thriving civil society

- In implementing its asset transfer policy, the council recognises that, with appropriate support, community led solutions can achieve better outcomes than central initiatives
- The Council recognises that asset transfer plays a central role in realising opportunities associated with the Big Society and localism agendas - such as encouraging volunteer involvement in their wider community
- The Council will use asset transfer as a catalyst to greater community empowerment, to build the capacity of local citizens, and inspire others to create locally responsive solutions to community needs
- The Council will use asset transfer as a means of enabling VCOs to become sustainable on a long term basis
- To be successful, community asset transfer requires a long term partnership commitment on the part of the Council and the VCO and we recognise that this is the best way of minimising the risk of failure
- The Council recognises the advantage of long and flexible terms of tenure (with appropriate and proportionate safeguards) to enable VCOs to adapt and change over time, in response to community needs, and to achieve long term sustainability
- That the Council, in the interests of ensuring the transfer is a success, will explore ways of aligning local commissioning and procurement processes towards that aim (and as part of a wider localism agenda)
- The Council in partnership with the voluntary sector will proactively explore community asset transfer opportunities, including supporting the creation of new community owned organisations or community/council joint ventures

6.2 Pro-active and strategic asset management intent

- Community asset transfer will become integrated within Council practice, as one of the options appraisal tools for dealing with under-utilised or surplus property assets
- Community asset transfer and the creation of Council/Community Joint Ventures will be proactively explored as a mechanism to encourage community ownership and involvement in local service design and delivery, including centre's / neighbourhood hubs (co-locating Council and other services alongside community facilities)

- The Council will seek to extend its approach to community asset transfer and positively promote it to other public bodies and service providers (especially when considering property rationalisation and co-location of service provision [e.g. Total Place])
- A transfer process may be triggered by the identification of under-utilised or surplus assets by the Council or by an approach to the Council by the community or a VCO about a Council property or service
- The Council will regularly review the transfer potential of its assets by close consultation with directorates responsible for these assets. This will be carried out by the corporate property group in consultation with the SPC

6.3 Clarity and transparency in decision-making

- That a single gateway approach is taken, which provides a clear point of contact for VCOs with asset transfer enquiries and will act as a conduit and a source of information and support (with a named person, clear stages, indicative timescales for assessment, rights of appeal, etc)
- The Council will raise awareness through outreach, support and appropriate publicity, with partners, to encourage VCOs to consider taking on an asset
- VCOs will not be encouraged to undertake substantial and expensive feasibility or business planning work until an 'in principle' decision has been taken by the Council that the asset could be made available for transfer

7. POLICY STATEMENTS ON ASSET TRANSFER AND THE PARTICULAR CIRCUMSTANCES WHEN TRANSFER IS UNDERTAKEN

In assessing proposals for asset transfer, the Council will consider the relative benefits and risks of the following options in order to justify its decision:

- Costs of doing nothing
- Expenditure on other services made possible as a result of a disposal in the open market
- The benefits generated by the transfer of the asset to a VCO and local communities more widely

The criteria against which prospective transfers are identified, supported, assessed and taken forward are as follows:

- A 'community orientated' solution will be explored initially where the Council is actively seeking an asset transfer partner (in preference to an expression of interest from the community)
- Any proposed asset transfer must support the need to contribute towards the council's corporate and strategic objectives and aim to create the widest public value

- Assets will include both land and buildings
- Assets will have to be declared surplus to requirements (unless the transfer is part of a strategic decision to use asset transfer as a method of achieving wider regeneration objectives or community ownership of new services centres or hubs)
- VCOs can be incorporated or incorporated, constituted for social benefit, and wherever possible, within their legal structure, to demonstrate an 'asset lock' provision to ensure that the asset is retained for community benefit
- The Council will provide legal agreements which will enable VCOs to manage and develop the property as an asset in the long term while ensuring that the use of the building as a community asset is retained.
- VCOs will need to demonstrate wide community support/social demand for the proposed CAT and will need to have a well-prepared business case see (as detailed in the Business Case detailed in section 7 of the 'How To Apply For Asset Transfer Guide' in Appendix D)
- They will need to have good governance, robust financial systems, and all necessary policies expected of a community organisation; this can for larger asset transfers be evidenced by having a recognised quality mark, or by meeting all the basic requirements for a good community organisation as listed in Appendix B
- They will need to show a high level of organisational capacity (relevant to the scale and scope of the asset and enterprise) and demonstrate the ability to manage the asset
- They will need directors or management committee members who have the necessary experience and skills
- The Council will only consider asset transfer where the VCO has demonstrated the capacity to manage the building appropriately (although we recognise that organisations may be able to develop this capacity and will be given the opportunity to do so if commitment and potential can be demonstrated)
- Levels of discount of market value and market rent where the asset is to be leased, will be set on a case by case basis based on the nature of the property, a robust assessment of the VCOs business plan and the nature of community benefit to be derived as well as taking into account any legal limits
- Transfer recipients will be expected to sign a Service Level Agreement highlighting the nature of the planned activities to be provided at the asset and produce a statement of community benefit on an annual basis
- The Council may also provide support to help secure grant funding for revenue costs which will help ensure a smooth transition from Council to community ownership.
- Funding be accessible via Dudley's Community Enterprise Fund or the local Community First panels as well as other external sources
- The Council may chose to consider investment in an asset prior to transfer to ensure that the building is fit for purpose (although preference will be given to VCOs that can lever in external investment)

- The Council will provide ongoing organisational support to the VCO post transfer (subject to resources) and recognises that the partnership extends beyond the point of transfer

When there are a number of interested parties in an asset that has been made available for transfer, the Council will aim to encourage collaboration. However, when this is not possible a competitive process will be used to decide the outcome and the successful organisation will become the Council's preferred partner in the transfer process. Assets transfers to VCOs will aim to create the widest public value and will be judged on the following criteria:

- What community benefits will be realised by the transfer;
- How the interests of local people will be better served, including community involvement and capacity building of community members;
- Building the capacity of VCOs and encouraging greater organisational sustainability;
- The business plan and financial viability of the VCOs plans for the premises;
- Regeneration – social, environmental, economic (including the development of community enterprise activity);
- Improvements to, safeguarding or creating new local services/activities and must not duplicate activities, services or facilities already provided in the local community
- Supporting Council efficiency gains and co-location of service providers.
- 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 the detail of the transfer arrangements will be arrived at through individual negotiation

8. PROCEDURES FOR ASSESSING ASSET TRANSFER PROPOSALS

As part of creating a single gateway to receive approaches about asset transfer it has been recognised that a single point of contact for the asset transfer process within the council should be provided. The SPC needs to understand the policy and the nature of CAT to a high level of detail.

The designated single point of contact, (SPC) will log the request, liaise with the appropriate departments and will co-ordinate the process.

The SPC will check on the availability of the potential community asset. It is important to make clear that the Council reserves the right to retain a possible community asset based on future business needs

Potential Community Assets will be graded based on the net value of the asset and will be classified as 'higher' or 'lower' value assets. The transfer process the VCO will have to follow will be dictated by the classification of the asset

More details of this process are set out in the How to Guide in Appendix D

For a discussion about Community Asset Transfer please contact Martin Shaw on 01384 815171 or email martin.shaw@dudley.gov.uk

9 Acknowledgements

This Policy has been put together with help, support and feedback from the following:

Various publications from the Asset Transfer Unit, Development Trust Association and Locality

Asset Transfer Document for the following Local Authorities

- Bristol City Council
- Isle of Wight Council
- Portsmouth City Council
- Wirral Council
- Warwickshire County Councils

The Quirk Review 2007 – Making Assets Work

Dudley Council for Voluntary Services

Dudley Community Partnership

Consultation with the Voluntary and Community Sector in Dudley

Appendices

Appendix A - Community Asset Transfer Policy

Requirements for organisations wishing to apply for CAT:
We will be using the 'pre-VISIBLE' quality standard developed by Community Matters or an equivalent, nationally recognised standard.

Full details of pre-VISIBLE can be downloaded from www.visiblecommunities.org.uk/index.php?page=10 and the main elements are listed below:

- have an up-to-date governing document
- have clearly defined roles and responsibilities for management committee members as directors and/or charity trustees
- have elected officers, elections and regular meetings in accordance with its governing document
- comply with all Charity Commission and Companies House requirements
- manages conflicts of interest
- understand its community and its current needs, monitor the quality and relevance of its services, seek feedback, and ensure that its services
- are fully accessible and appropriate to its community
- have regular financial updates for the organisation and its Trustees/ Directors/Management Committee Members understand their legal obligations
- produce annual accounts, appropriately examined or audited, and containing the Annual Report
- have written policies covering payment of Trustees/Directors/Management Committee Members and volunteers,
- have a Reserves Policy,
- have procedures for paying/re- claiming the correct amounts of tax, NI and VAT
- operate a consistent charging and lettings policy that balances the needs of the organisation with the needs of local groups
- have a separate trading company with a clear legal relationship, where

applicable

- have a clear recruitment policy and written procedures for the recruitment, induction and support of employees and volunteers
- have contracts of employment and written conditions of service for all staff
- comply with relevant equal opportunities legislation in its work and recruitment/employment of staff
- have the correct licences, permissions and insurance cover, where applicable
- comply with good health and safety practice and legislation
- comply with The Children's Act and The Safeguarding Vulnerable Groups Act 2006

Appendix B

Frequently Asked Questions

What is a Community Asset Transfer?

The definition of a Community Asset Transfer is:

“The transfer of land or buildings from the council’s freehold ownership into the stewardship and/or ownership of voluntary, community and faith sector (VCFS) organisations”

What are the benefits of Community Asset Transfer?

Community Asset Transfers give local people and community groups the opportunity to have greater control of their area and community.

We are committed to working with community groups and local people to ensure that Community Asset Transfers in Dudley are successful and sustainable.

If a local group own or manage community buildings, such as a community or youth centre, it gives somewhere to support and deliver services and a whole range of local activities and maybe also help with job creation. It can also help to promote a stronger community spirit by bringing people from the whole community together to work towards a shared goal.

Who is entitled to apply for a community asset transfer?

Voluntary and Community Sector groups and organisations that are not for private profit and have ‘asset locked’ legal structures would normally be eligible to apply

These organisations would have to demonstrate that the transfer would:

- generate social, economic or environmental benefits
- directly benefit the residents of Dudley
- benefit as wide and diverse a range of local people as possible

Is funding available to help purchase the asset?

Unfortunately no funding is available from the Council. However, other funds or grants may be available from other sources. For further information see: <http://www.grantfinder.co.uk/>

Help with funding and other support may also be available via Dudley Council for Voluntary Services

Communities can access also advice, support and help with grants from the My Community Rights service to assist with asset transfer efforts:

<http://www.mycommunityrights.org.uk/>

Do we have to take ownership of the property?

There are a number of options that could be open to communities and local groups who are interested in a Community Asset Transfer. You may be able to arrange to rent a property or piece of land from us on a formal lease. The lease agreement would include, for example, details in relation to rent, length of occupation, maintenance obligations and acceptable terms for the use of the premises.

Alternatively, you may be able to take ownership of the land or property subject to a discounted sale price which may be negotiable dependant on the service to be delivered through the property or land and the benefits to the community. Each case would be looked at on its own merits

How much does it cost to run a building?

The Council can provide information regarding the historic running costs and condition of individual buildings. It will be important, however, that groups take appropriate professional advice (surveyors, solicitors, accountants) to ascertain future liabilities accurately.

Buildings are generally expensive to run and allowing for maintenance, statutory testing, rates etc need to be realistically planned for to ensure that the CAT is successful in the long term.

Groups are encouraged to make use of the Building Calculator facility in the course of business planning – <http://www.buildingcalculator.org.uk/> - and we are in the throes of piloting Locality Brokers –

<http://www.localitybrokers.org.uk/> - to help them source reliable input from property professionals in the future.

We are interested in a property, what do we do next?

The Local Authority have identified a Single Point of Contact who will deal with any applications for transfer and liaise with all the interested parties

If you are interested in taking this forward, contact the Local Authority for an Expression of Interest Form and a copy of the 'How to Guide to Community Asset Transfer' which explains the process in more detail

This information is available from

Martin Shaw,

Directorate of Adult Community and Housing Services, Room G30, Ednam House, St James Road DY1 3JJ

Email - martin.shaw@dudley.gov.uk

01384 815171

Once we receive the Expression of Interest form and we will discuss your proposals in more detail and arrange a viewing with you to make sure you get a real sense of the size and current use of the property and consider how this fits with your needs. Before you take over the rental or ownership of a property or piece of land, we will need to know that the property or land is going to be used for the benefit of the community and would offer real local opportunities, so you must be clear about what you want to use the building for and how this will support the local community.

How do we get help to take this forward and what do we need to do?

You will need to develop a business case to proceed with the transfer as detailed in the 'How To' guide

We would advise you to take independent advice and you can get support on developing a business case from your local Council for Voluntary Services:

Dudley Council for Voluntary Services,

Albion Street, Brierley Hill DY5

Telephone - 01384 573381

Email - admin@dudleycvs.org

Website www.dudleycvs.org.uk

Appendix C - Useful Contacts

Single Point of Contact at Dudley MBC for Community Asset Transfer

Martin Shaw,

Directorate of Adult Community and Housing Services, Room G30, Ednam House, St James Road DY1 3JJ

Email - martin.shaw@dudley.gov.uk

01384 815171

DMBC Corporate Property Group

Mary Cox

Head of Property Management and Valuations Directorate of Corporate Resources 3, St. James's Road Dudley DY1 1HZ

01384 81 5345

Email – mary.cox@dudley.gov.uk

Dudley Council for Voluntary Services,

Albion Street, Brierley Hill DY5

Telephone - 01384 573381

Email - admin@dudleycvs.org

Website www.dudleycvs.org.uk

Locality – My Community Rights Support Service & Asset Transfer Unit

Address – 33 Corsham Street, London, N1 6DR

Websites:

www.locality.org.uk / www.mycommunityrights.org.uk

www.atu.org.uk

Telephone - 0845 345 4564

E mail - info@locality.org.uk

English Heritage

1 Waterhouse Square, 138-142 Holborn, London, EC1N 2ST

Web Site - www.english-heritage.org.uk

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Telephone 020 7973 3000