

# Community Asset Transfer Policy

September 2020

## **Introduction: our aspirations for communities and the role of asset transfers**

Community Asset Transfer (CAT) is the transfer of ownership and management of public land and buildings from the Council to a community organisation. Assets are transferred at less than market value for local social, economic or environmental benefit.

The primary purpose of CATs in Kirklees is to invest in communities, and we will go the extra mile to help communities achieve their aspirations. This means:

- transfers are a way to empower communities;
- we will find ways to promote asset transfers in our place-based community engagement work as an option for communities to achieve their aspirations; and
- we will build and maintain a relationship with groups before, during, and after transfer to ensure that the asset continues to be available for the community.

As part of the vision for Kirklees to be a great place to live, work, and invest, the Council works with communities to build community capacity and realise community aspirations for their places. CATs are one way in which our communities can be enabled to realise these aspirations and deliver our [shared outcomes](#). By unlocking the power of community, CATs help to [build a more inclusive local economy](#) and enable [people to live in better health for longer](#).

Community-owned and community-run assets act as a catalyst for realising local aspirations by:

- improving local assets: community groups investing in and/or attracting investment for improving local assets;
- supporting local initiative: supporting and building on local community initiative and enthusiasm, which encourages community participation and volunteering; and
- building new connections: local citizens and groups developing new partnerships in their communities (including to support community cohesion).

We have delivered CATs since 2013. As of August 2020 there have been a total of 21 successful CATs across Kirklees.

Recognising the benefits they can deliver, we want to ensure that all our CATs are sustainable. We also want to be transparent with organisations interested in CATs. In line with these commitments, this policy sets out a robust process and offer that has been developed in accordance with the knowledge, skills, and experience we have gained since CATs were introduced in 2013.

This Policy sets out our framework for enabling and managing CATs, specifically:

- why we transfer assets;
- what assets will be considered for transfer;
- the eligibility criteria;
- the conditions of transfer; and
- how requests will be processed.

### **'We're Kirklees'**

'We're Kirklees' is our name for the way local people, organisations, and places can work together to deliver our vision for Kirklees and our Seven Shared Outcomes, which are set out in our [Council Plan \(2020-21\)](#). 'We're Kirklees' means we're:

- **Working with people, not doing to them:** organisations working together with people and communities to enable them to solve problems and make the most of their strengths and opportunities;
- **Working with partners:** organisations sharing knowledge, skills, and resources to work smarter together; and
- **Place-based working:** recognising that each town, village, and community has its own unique strengths and opportunities that can help them solve problems locally, and working to support and enable these.

## Eligibility and Conditions for Sustainable CATs

### Eligible assets

The assets made available for Community Asset Transfer (CAT) will be at the discretion of the Council, but may include public service buildings and land, such as civic halls, community centres, heritage assets, libraries, open spaces, and parks. Assets which are still required strategically by the Council cannot be made available for transfer.

Assets might be identified as of potential community benefit by the Council or by communities themselves, and the Council encourages community discussions about local aspirations and how local assets might support those.

### Eligible organisations

An organisation is eligible if their primary purpose is social, charitable, or community benefit, which can include:

- a [charity](#);
- a [community interest company](#);
- a [cooperative](#)(link);
- a [social enterprise](#); or
- an [unincorporated association](#) (although would need to be incorporated to complete a transfer).

The Council may consider and prioritise expressions of interest for asset transfer to Town and Parish Councils, acknowledging the advantages of democratically elected governance and representation.

Expressions of interest are welcomed from any community organisation that meets the following criteria:

- their primary purpose must be for community benefit;
- they must be open to and demonstrate an inclusive approach to all members of the wider community;
- they must have the skills and capacity to effectively manage the asset and deliver services;
- they must be financially stable and able to demonstrate good governance by operating through transparent and accountable processes; and
- the proposals for the asset must be clear (so the group can demonstrate all of the above),

The Council will encourage collaboration between community organisations and the sharing of assets to optimise both social value and value for money across the District. Applications will not be considered where an asset transfer is likely to compete with and potentially compromise an existing community facility.

If two or more expressions of interest are received the Council will work with the interested parties to develop options and understand the best way forward for the asset. Where appropriate, parties may be encouraged to collaborate and submit a joint application. We will invite viable proposals to proceed to the full application stage.

### **Conditions of transfer**

To ensure that the property transferred is retained by the community for community benefit (e.g. the purpose for which the CAT was approved), assets will be transferred by the grant of a long term leasehold rather than freehold. In exceptional circumstances the Council may consider the transfer of a freehold interest.

The lease will be agreed for a nominal annual rent. It will include legal provisions (covenants) to ensure that the asset is restricted to community use, and may include provisions to ensure it remains open to community use (with a minimum number of hours of community use as agreed between the parties).

In some cases, these provisions will allow some commercial use, when that supports the sustainability of the business model and thereby the community benefit. Cabinet will decide when commercial use is appropriate as part of the application process.

In the final agreement, the Council may reserve the right to use the asset where it is required to deliver a statutory function or strategic ambition, e.g. as a library or on occasions for a polling station during elections or emergency planning purposes.

Upon completion of the transfer, the organisation will be fully responsible for:

- upkeep, repair and maintenance of the asset;
- all running costs, including insurance; and
- compliance with statutory inspections, health and safety requirements, and other relevant legislation.

Following asset transfer, organisations are encouraged to allow other community groups to use the space in the asset (which might also generate income for the organisation). To ensure the asset is of maximum possible community benefit, the group controlling the asset should not discriminate between groups based on protected characteristics (e.g. sex, disability, race, sexual orientation, gender assignment, religion, etc.).

## The CAT application process

### 1. Initiating a CAT application with an Expression of Interest

A CAT application must begin with an expression of interest from a community organisation.

Eligible organisations (see 'Eligible Organisations' above) can submit expressions of interest relating to any Council-owned asset they believe to be of potential community benefit and which is eligible as per this policy.

To submit an expression of interest an Eligible Organisation need not be managing or operating from the asset.

The Council may also advertise surplus assets inviting expressions of interest for asset transfer.

The Expression of Interest form can be found here:

- <http://www.kirklees.gov.uk/beta/community-assets/community-asset-transfers.aspx>

### 2. Assessment of an Expression of Interest

The Council will decide if both:

- a) the asset in question is available for CAT; and
- b) the group expressing interest is suitable and/or ready for CAT.

If a group is not ready for CAT, they will be signposted to additional support from the Council or other partners.

Council officers will aim to assess expressions of interest within four weeks of receiving them.

If the Council accepts an expression of interest, the applicant group will be invited to submit a full application (see below).

Acceptance of an expression of interest does not commit the applicant or the Council to the transfer of an asset.

### 3. Full Application

Applicants invited to submit a full application will receive support from the Council either directly or through external organisations commissioned by the Council. Applicants will also be encouraged to access support from other organisations.

The Full Application Form can be found here:

- <http://www.kirklees.gov.uk/beta/community-assets/community-asset-transfers.aspx>

The full application must include detailed information about the applicant group and a fully detailed and robust business case. Applicants invited to progress to this stage can apply to the Council for a grant of up to £5,000 to assist with professional or legal costs associated

with the development of the application. In large or more complex cases, applicants may be invited to apply to the Council for a grant of up to £10,000.

The following information must be included in all full applications:

- the legal structure of the applicant group;
- the experience and skills of the Board/Managing Group and their capacity to manage the asset;
- the proposed use of the asset and how this will support the Council's objectives and benefit the community;
- evidence that the local community has been consulted and the application reflects the needs identified in that consultation;
- budget/financial projections for the group and its use of the asset in question; and
- details of any condition works needed to the asset and the source and availability of capital grant funding.

Failure to provide the required information will lead to an application being delayed or rejected.

We will agree a timescale for submitting a full application with the applicant. Typically, we will expect an application to be submitted within six weeks, but we will agree a timescale that reflects the size and complexity of the asset, since applicants will likely require longer to compose applications for bigger and more complex assets.

Applications are assessed by council officers and partners in accordance with a [scoring matrix](#), which is available online.

### **The following financial support is offered by the Council:**

#### **i. Development Grant**

Applicants invited to progress to full application stage can apply to the Council for a grant of up to £5,000 to assist with professional or legal costs associated with the development of the application. In larger, more complex cases, applicants may be invited to apply to the Council for a grant of up to £10,000.

#### **ii. Support towards capital works**

Where assets require urgent condition works or physical adaptations to improve accessibility, applicants can apply to the Council for a grant. Any request for grant funding must be made at the Full Application stage and set out clearly within the applicant's business plan. The grant application will be considered by the Council's Cabinet in conjunction with the CAT application. Examples of urgent condition works/accessibility works could include boiler replacement, roofing works, window replacement, ramps, steps, and accessible toilets.

The Council will continue to consider requests for loans to match fund external grants or financing (which may include a groups cash reserves) for the development of assets.

Applications can be made at the Full Application stage and also following completion of a transfer. Applications must be supported by a full business plan evidencing the applicant's ability to repay the loan over the agreed term.

Other information on external sources of funding is available on request.

### **iii. Revenue grant**

The Council will pay a two stage revenue grant to each successful applicant following completion of the transfer. The grant will be calculated based on the previous operational running costs (excluding staffing) for the asset.

A grant equivalent to 15% of the average running cost will be paid on completion of the transfer and a further grant equivalent to 5% the following year.

### **4. Cabinet Approval**

If the application is satisfactory, officers will then seek the approval and authority of the Council's Cabinet ([link](#)) for the Council to carry out the asset transfer.

### **5. Finalising the terms of the asset transfer**

Following Cabinet approval, Council officers will work with the applicant to draw up heads of terms for all the documents that form part of the asset transfer. These documents will comprise of some or all of the following:

- (a) Lease (or in exceptional circumstances a freehold transfer deed);
- (b) Polling station agreement;
- (c) Emergency planning agreement;
- (d) Grant Agreement; and/or
- (e) Loan Agreement

When heads of terms have been agreed, the Council's legal department will draw up all the required documents, and then negotiate and agree the terms of the documents with the applicant's solicitors.

### **6. Completion**

When the documents are in an agreed form, they can then be completed, and the asset transfer will then come into effect.

## Indicative Timescales

The full process can take 10-12 months.

Stage	Who is responsible	Indicative Timescale
<b>1. Initiating a CAT application with an Expression of Interest (EOI)</b>	Applicant	N/A (initiates CAT application)
<b>2. Assessment of an Expression of Interest</b>	Council Officers	4 weeks
<b>3a. Full Application &amp; Business Case (Composition)</b>	Applicant	6-12 weeks (a longer period may be agreed dependent on the size and complexity of the asset)
<b>3b. Full Application &amp; Business Case (Assessment)</b>	Council Officers	4 weeks
<b>4. Cabinet Approval</b>	Council Officers Cabinet	6 – 10 weeks
<b>5. Finalising the terms of the Asset Transfer</b>	Council Officers	6 – 8 weeks
<b>6. Completion</b>	Council Officers Applicant	12 weeks

All timescales are only indicative. It is acknowledged that CATs may be delayed for a number of reasons, including:

- complexity and size of the asset being transferred;
- further research required to support the application;
- legal processes involved;
- capacity and availability of people; and/or
- Council Service Reviews.



## Changes from the previous policy

This policy supersedes our 2017 Community Asset Transfer Policy. The key changes since then are summarised below.

The change	Our old policy	Our new policy	Why was this change made?
<b>All transfers are with long leaseholds by default</b>	The Council used to transfer buildings differently to land, with buildings transferred freehold and land on long leaseholds.	Our default presumption is now to transfer all assets (land and buildings) on a long leasehold. Freehold transfers will be considered in exceptional circumstances and will be at the discretion of the Council.	Long leaseholds ensure that the asset remains available to the community by providing the Council with remedies in the event that the applicant does not fulfil their obligations with respect to the management of the asset or there is a breach of the terms of the lease. The grant of long leaseholds still gives applicants the security needed to satisfy grant funders.
<b>More financial support for applicants invited to the Full Application stage</b>	We used to offer a grant of up to £5,000 to cover legal costs and fees associated with the application.	In exceptional cases the Council will now offer up to £10,000.	Some cases require extra support because of their size and complexity.
<b>More financial support for successful applicants</b>	We used to offer a grant in the first year after a transfer equivalent to 15% of the asset's running cost (excluding staffing costs).	We now offer a grant in the first and second year after a transfer. The first year grant remains at 15%. The second year grant is 5%.	This will provide extra post-transfer support that will assist with the running of the transferred asset and increase the likelihood of sustainable asset transfer.

	<p>We used to offer applicants a loan option for up to £100,000 match funding towards capital improvements to the asset. Loan applications had to be submitted at the full application stage of the process. Applications would not be considered post transfer.</p>	<p>The Council will now offer an option of grant funding and loans.</p> <p>Groups will be able to apply for a grant to fund urgent condition works or physical adaptations to improve accessibility. Examples of these works may include boiler replacement, roofing works, window replacement, ramps, steps, and accessible toilets.</p> <p>The Council will now consider requests for loans to match fund external grants and financing, prior to and following completion of the asset transfer, for groups wanting to develop assets.</p>	<p>The introduction of a grant will further support the viability of community asset transfers, allowing groups to invest in urgent condition/accessibility works where needed to bring assets back into use.</p> <p>Post transfer loans will provide added flexibility to groups intending to carry out capital improvements to assets, ensuring that they remain available for public use and sustainable in the long term.</p>
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<p><b>More proactive strategic approach to CATs</b></p>	<p>We used to transfer assets primarily when they were surplus to our service requirements. Assets were also sold to raise funds for important Council services.</p>	<p>We will now also encourage community groups in our community engagement to proactively identify assets they need to solve local issues and to achieve community aspirations.</p> <p>Where asset transfers aren't possible, groups will be signposted to support within or external to the council to ensure that we build on their aspirations for their communities.</p>	<p>As set out in the Corporate Plan (link), we're now working more with people and doing less to or for them, working more in place-based ways led by local community aspirations and valuing the diversity of perspective and identities that make up local places. This requires that we proactively encourage community organisations to think about the assets they need to achieve these aspirations.</p>
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