



# **Community Asset Transfer Policy**

**March 2017**

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## **Introduction**

Kirklees Council adopted an Asset Advancement Policy in 2013, the policy enabled Community Organisations to Asset Transfer Council Assets to allow for the continuity of the asset and have a positive impact on the local and wider community.

This 2017 policy builds upon and supersedes the original policy and is now named Community Asset Transfer Policy.

The policy supports Kirklees Council's vision for New Council by:

- Connecting ideas, people and resources across boundaries of all kinds, supporting communities to harness and build their strengths
- Creating trust and synergy between institutions, businesses and citizens in Kirklees

The policy sets out how Community Asset Transfers will work within Kirklees Council, it outlines which assets the Council would consider for transfer and the type of transfer that will be offered. Community Asset Transfer is not an automatic right like some of the recent legislation i.e. Community Right to Bid (Assets of Community Value) but is a policy outlined by Central Government to guide Local Authorities on the use of their assets.

Whilst the Council is committed to the principle of releasing public assets to Community Organisations, the assets made available for Community Asset Transfer will be at the discretion of the Council and not all Council assets will be available. Moreover, the Council reserves the right to withdraw from the Community Asset Transfer process at any stage should suitable progress not be maintained.

## **Background**

Kirklees Council has a long history of empowering communities in managing community assets. The Quirk Review (Community Management and Ownership of Public Assets) of 2007 brought about a fundamental change in the way that Local Authorities viewed ownership of Assets within their areas.

Community Asset Transfer involves transferring the ownership and/or management of land or buildings from a statutory body to a Community Organisation at less than best/nil consideration – that is, at less than its full market value – in order to further local social, economic and/or environmental objectives. The transfer can be either leasehold or freehold.

Transferring an asset to a Community Organisation on long leasehold or freehold transfer can unlock community enterprise, encourage volunteer commitment, help utilise local intelligence, and allow these organisations to attract the necessary capital investment to create a thriving community.

## **Benefits to the People of Kirklees**

There can be many benefits derived through community ownership of a public asset transferred to them, usually an increase in opportunities for the community and better, more responsive services that engage with and empower local people. Additional benefits include increased local pride and ownership. This can attract new investment, reinvigorate the local economy, deliver significant positive outcomes for communities empowering them to become more self-sufficient, promote independence and help to create and maintain sustainable thriving centres. Social Value is about using the resources e.g. assets we have more strategically, to produce a wider benefit than would otherwise have been achieved from a typical disposal.

## **Benefits to the Community Organisation**

Transferring the ownership of a public asset to a Community Organisation can strengthen the organisations' confidence and community ties. Having an asset on an organisation's balance sheet helps attract finance and

gives the organisation a strong base for sustainability. It can also raise the profile of the organisation and improve credibility with local people and stakeholders. The organisation may have access to external grants (for building refurbishment or to support staff training and development) that are not available to the Council. Ownership of a physical asset can also provide sustainable income generation opportunities and help organisations achieve greater financial stability and escape short term grant dependency.

### **Benefits to the Council**

Community Asset transfer links to the Councils journey towards New Council and supports the Councils vision of supporting communities to do more for themselves and each other. It promotes economic resilience on a localised basis and aligns to the Councils objective of focusing only on things that the Council can do and enables the Council to achieve its Asset Reduction Ambitions.

### **Definitions**

A Community Asset Transfer for the purpose of this policy is defined as:

- The transference of ownership or management of a council owned building or area of land to a Community Organisation by means of either a long term lease or freehold transfer to the interested Community Organisation at less than best consideration, to further local social, economic and/or environmental objectives.
- Short term leases (25 years or below), at less than best consideration, to further local social, economic and/or environmental objectives are not considered within this policy.

A Community Organisation for the purpose of this report can be one of the following:

- Voluntary and Community Organisations who are representative of the community, are asset locked (so the asset cannot be disposed of except to another community/charity organisation), have aims and objectives of the voluntary and community sector, have the capacity to manage a community space and provide social value and contribute to Council priorities.
- Town and Parish Councils
- Schools

The suitability of a Community Organisation and its governance arrangements will be assessed as part of the Assessment of Application Form and Business Case stage.

### **Who Can Apply**

Community Organisation as outlined above can apply for a Community Asset Transfer.

The Council may prioritise expressions of interest from organisations such as Town and Parish Councils because of the advantages of their current governance arrangements and community representation i.e. democratically elected.

Expressions of interest from single interest groups e.g. where a groups membership is not open to all in the community to join and/or all members of the community are not able to access the community asset, will not be accepted but the Council will work with the group to develop a more inclusive organisation.

**Please Note:** Expressions of interest from Social Enterprises with share capital, commercial or privately owned organisations will not be accepted.

## **What Assets will the Council Consider for Community Asset Transfer?**

The assets made available for Community Asset Transfer will be at the discretion of the Council but may include the following:

- Community Buildings
- Public Halls
- Park Land
- Woodland
- Public Service Buildings – e.g. Libraries, Children's Centres, Museums

The types of assets the Council may not consider for Community Asset Transfer include, but are not limited to:

- Sites identified in the Local Plan for uses such as Employment and Housing
- Strategic Assets such as Office Accommodation Hubs and Town Halls

## **The Basis of Transfer**

For the purpose of this policy, a Community Asset Transfer has two forms:

- Freehold Transfer – a freehold transfer of an asset would mean the entire ownership of an asset would transfer from the Council to the Community Organisation. Normally, covenants (restrictions) will ensure that it cannot be used for any other purpose than community use (and the ancillary business use that is permitted as described below)
- Long Term Lease - a leasehold transfer will give the Community Organisation the right to use the asset property for the duration of the lease. A lease can run for any period, but for the purposes of this policy typically, a 99 or 125 year lease will be issued. This option may be considered if, for example, the asset and/or site is shared, Council or otherwise, and if the Council feels that restrictive covenants may not provide sufficient protection for the future use of an Asset.

The terms for each transfer will be negotiated on its own merits. The Council would normally transfer the asset for nil consideration; however, the Community Organisation will be wholly responsible for the asset unless it's situated on a shared site, in which case a lease with a service charge arrangement may be more appropriate.

When an asset is transferred with a Council Service operating from it e.g. library or children's centre service, the Council will not pay a hosting fee i.e. rent or service charge for the continued use of the asset. The allocation of space for such services within an asset can be negotiated to ensure the viability of the organisations future plans and to align with the Councils objectives.

The Council recognises that in some cases there is a potential need for an element of commercial use within a community asset in order for a successful business model. Each business case will be assessed individually and a report brought forward to Cabinet for consideration.

All disposals of land and buildings need to comply with European Commission's State Aid Rules whilst applicable, however, in most cases the State Aid Rules will not be applicable.

## **Application Process and Support**

There are 2 possible triggers that can start the Community Asset Transfer process:

1. Community Initiated Transfer – where the Council receives a direct approach for an asset from a Community Organisation.
2. Council Initiated Transfer – where through a review of a service or identification of surplus assets, the Council decides that its preferred delivery model includes the transfer of assets to a Community Organisation and will therefore invite expressions of interest from third parties.

Both triggers will require an initial expression of interest and an outline business case to be completed.

Following a successful assessment of the expression of interest and if the asset is available for transfer the organisation will be notified and asked to bring forward an application and final business case. Support will be offered and tailored to suit the Community Organisations needs where development of the organisation and/or final business case is required e.g. Officer support to develop the business case and governance as required, and a grant of up to £5,000 to assist groups with pre-feasibility and/or legal costs.

At application and final business case stage a grant of up to 15% of the average of the previous two years Council revenue running costs (typically building costs, but not staffing, service delivery or capital investment costs) can be applied for via the Final Business Case.

At the same stage if the Community Organisation expect to apply for capital grant funding from an external organisation which requires matched funding e.g. lottery funding, the Community Organisation can apply to the Council for a loan facility to cover part or all of the match funding up to a maximum of £100,000

It would be an expectation that the grant or loan would be built into the Final Business Case and therefore will be assessed in preparation for a report being taken to Cabinet and if approved will be processed following the Cabinet decision and upon legal completion of the Asset Transfer.

Expression of Interest and Outline Business Case, Application Form and Process Flow Chart are available on the Council Website.

Whilst the Council will normally prioritise expressions of interest from organisations such as Town and Parish Councils because of the advantages of their governance arrangements and community representation i.e. democratically elected, support from the Council e.g. loan facility and grants will not normally be offered because of the alternative options open to Town and Parish Councils e.g. ability to raise precept, which aren't available to other Community Organisations.

Similarly, applications from schools may be prioritised, however due to school funding arrangements financial support from the Council e.g. loan facility and grants will not normally be offered.

### **Assessment of Application Form and Final Business Case**

An assessment of the application form and final business case will be undertaken by the Council and Partner/s. The assessment looks at 3 main areas:

- The Organisation and Impact on the Community
- The Asset
- Business Planning, Risk and Financial Assessment

The Asset Transfer Self-Assessment tool will be published on the Council website.

## **Decision Making Process**

Following a successful assessment of the organisations application form and final business case, the request for Community Asset Transfer under the criteria within **The Basis of the Transfer** will be taken to Cabinet for consideration.

Kirklees have developed a Community Asset Transfer Process Flow Chart, (Appendix A) to enable Community Organisations to understand the overall process as well as the Decision Making Process.

**Please Note:** The Council is committed to the successful transfer of assets to a Community Organisation. In the event of two or more organisations expressing an interest in the same asset, the organisations will be encouraged to work together and submit a joint application, however, if one or more organisation will not agree to a joint application and none of the applicants are preferred partners, a report will be presented at Cabinet where a decision will be made.

## **Additional Support and Information**

Additional information relating to Community Asset Transfer is available from the following sites:

### Locality

<http://locality.org.uk/our-work/assets/>

Locality enables members to use assets to bring long term social, economic and environmental improvement to their local neighbourhoods.

They have the ability to offer assistance and guidance in Community Asset Transfer and have experience across the UK. The web information includes case studies, 2 of which are Kirklees Assets.

### Funding

One benefit of Community Asset Transfer for a Community Organisation is the ability to draw down funding that is not available to the Council. The Open 4 Funding Kirklees webpage <http://www.open4funding.info/kirklees/> provides access to a comprehensive database of funding opportunities including government, lottery and other funding streams within Kirklees.

## Community Asset Transfer Process Flow Chart



The above flow chart shows a basic process for an asset transfer.

Support is offered by the Council at all stages of the process to enable to work through each stage in more depth.

The process is complex and timescales are difficult to estimate as each transfer has its own issues to overcome and terms to agree. Realistic timescales for a transfer from start to completion could be 10-12 months, though, if there are complex legal issues it can take longer.