

Arun District Council

Community Asset Transfer Policy

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1. Purpose of this Policy and Scope

The purpose of this Community Asset Transfer Policy is to set out a transparent and consistent approach to applications and the decision-making process governing the transfer of assets to community organisations (where applicable). To achieve this, it is necessary to demonstrate how community asset transfer supports direct service delivery, the Council's Corporate Plan, its objectives and other corporate plans and policies.

This policy applies to freehold assets that are owned by or under stewardship of the Council and are deemed suitable for community asset transfer.

This policy should be used by Council staff and Councillors considering an application for a Community Asset Transfer and by a voluntary or community organisation including local Town and Parish Councils (VCO) who are considering making an application. This policy does not include the procedure and policy governing nominations for Assets of Community Value (ACV) which is a separate procedure. Information on ACV nominations can be found on the Council website.

2. What is Community Asset Transfer?

The Council is in the position of a trustee in relation to the land that it holds on behalf of the community. For the purposes of this policy, Community Asset Transfer is defined by this Council as "the permanent or temporary transfer of land or buildings from the Council into the stewardship and/or ownership of a voluntary or community organisation (VCO)".

The General Disposals Consent 2003 allows the council to transfer the ownership and management of land and buildings they own to local communities at 'less than best consideration' (at less than full market value), where it can demonstrate the promotion of social, economic and environmental well-being. Any disposal at less than best consideration would need to be a transparent, evidenced decision, and reported to the council's Economy Committee.

The council needs to fully consider the risks and benefits of Community Asset Transfer, whilst ensuring that community assets are protected. Due to the diverse nature of the council's land and buildings, one policy will not cover all circumstances. However, common themes will apply before consideration is given to the transfer of an asset, including:

- The nature and capacity of the applicant.
- Sound long term management and governance arrangements.
- Adoption of robust option appraisals as part of the council's ongoing asset review process (including financial implications to the Council).
- The proposed use must meet with the council's Corporate Plan's objectives.
- Assessment of risks.
- Sustainable business cases.
- Socio-Economic or Environmental benefits.

3. National and Local Policy Context

The Local Government Public Involvement Act 2007 and Localism Act 2011 brought about a number of public sector reforms aimed at creating strong, prosperous communities and delivering better public services through a re-balancing of the relationship between Central Government, Local Government and local people by giving residents a greater say over local services.

In 2007 the Government published 'Making Assets Work: The Quirk Review' which examined ways to maximize the community benefits of publicly owned assets by considering options for greater transfer of asset ownership and management to community groups. The report highlighted that what is required is not legislation but guidance to assist in the understanding and use of existing powers, being clear as to the risks associated with the process and learning to manage them effectively. The lead from Government is that local management and ownership of assets makes for strong communities.

The council faces many current challenges both financial and operational including:

- The current economic environment.
- Reduced government funding leading to a budget deficit.
- Increased public expectation.

- Reduction in available resources to operate and run non-operational and community buildings.

The outputs of this policy will give consideration to the aims and objectives in other council service area strategies including but not limited to:

- Corporate Plan 2022-2026
- Asset Management Strategy (currently being updated)
- Capital Strategy 2023-24 to 2027-28
- Arun Local Plan 2011-2031

4. What Assets can be Transferred to a Community Organisation?

Assets that can be transferred, by way of Community Asset Transfer, include different types of land and buildings. The council may consider transferring assets in the following circumstances:

- The council must be the freehold owner of the asset.
- The asset currently supports council community objectives or was formerly delivering such objectives where the asset is now surplus to requirements.
- The asset has been reviewed and the asset has been identified for possible transfer to a community-based user. Ward councillors must be engaged in such considerations.
- The relevant service area/client manager within the council supports the transfer.
- The asset contributes towards community empowerment and generates social, economic or environmental benefits.
- The asset is fit for purpose, reasonable state of repair and would not place unreasonable obligations either on a VCO or the council.

The council will not consider applications for Community Asset Transfers where:

- The asset is required to deliver key Council services.
- A significant amount of revenue income, proportionate to the size, nature and use of the asset, would be lost.
- The asset has been identified as being required for strategic, planning or redevelopment/regeneration.
- The proposed use of the asset doesn't meet its current use in planning terms.

- The transfer of the asset would be to an individual(s) or businesses to be used purely as a vehicle for commercial ventures. This does not include, for example, charitable organisations with trading arms, where profits are given back to communities.
- A transfer would contravene Trade and Cooperation Agreement Principles,
- The asset would be used solely for religious purposes/activities.
- The asset would be used for any political purposes/activities,
- The result would be detrimental to any individual, geographical community or community of interest, resulting in unlawful discrimination, harassment or a failure to promote good relations.

For the purposes of Community Asset Transfer and this policy, disposals will be by way of a lease (or freehold disposal if appropriate) and for a period long enough to deliver the Council's community objectives and mitigate the risks associated with Asset Transfer. The lease length will be agreed via negotiations.

Any Community Asset Transfers will initially be offered to the relevant Town or Parish Council. If this doesn't result in a transfer then the opportunity will be advertised appropriately and openly and in a manner which is appropriate and proportionate, inviting expressions of interest from VCOs.

The terms of any disposal (including freehold transfer) will be determined on a case-by-case basis and the council will consider the specific circumstances of the applicant, sustainability of any business case, the proposed asset and intended use. Detailed consideration will be given to the community impact and benefit of the transfer in terms of economic, social or environmental wellbeing of the community.

5. Organisations Suitable for Community Asset Transfer

Any Voluntary Community Organisation wishing to be considered would need to be based within area of Arun District Council and/or and have strong links with the community. They must be able to demonstrate provisions within their legal structure that provide assurances that assets will be retained for community use and benefit and do not distribute any surplus they make to their members. The local community must also be able to influence their operational and decision-making processes.

Consideration may be given to the following types of VCO's:

- Town or Parish Council
- Community Interest Company
- Charitable Trust
- Charitable Incorporated Organisation
- Charitable Company
- Other legal entities for Voluntary or Community Organisations

If a group of individuals wish to form a VCO to benefit their local community, no application for a Community Asset Transfer can be completed until the group is legally formed into one of the entities listed above or similar type of organisation.

The Council has a duty to ensure that due diligence is carried out on any VCO to mitigate the risk of any transfer failing, as this would have a negative impact on local communities. In order to do this the VCO MUST meet the following criteria:

- A well-prepared business case for their proposed use of the asset. This will need to demonstrate that there is a clear intention for the long-term use of the asset and an understanding of the activities the VCO wishes to deliver.
- Prove a secure financial base to ensure long term sustainability, including providing copies of audited financial accounts where necessary. This will be subject to a formal valuation of the asset.
- Demonstrate a clear community/social demand for the proposed transfer.
- The staffing capacity to manage the asset and have management or committee members who possess the necessary experience and skills to manage the asset.
- Good governance, robust financial systems and all the necessary policies expected of a VCO in place.
- Not duplicate activities, services or facilities already provided elsewhere within the borough or local community.
- Clearly demonstrate how they will comply with all statutory/regulatory obligations connected with the use and occupation of property which is the subject of the transfer request including but not limited to asbestos management, legionella and fire risk assessments.
- Detail on how they will contribute to the council's corporate priorities under the Council Vision.

Where two or more VCOs submit an expression of interest for a Community Asset Transfer of a particular asset, the Property & Estates team will make an initial assessment and recommendations to the Corporate Leadership Team (CLT). Any final decision will be taken by the council's Economy Committee.

The council reserves the right to refuse any application for a Community Asset Transfer if the criteria set out in this section are not met.

6. Application Process

The following process for considering applications for Community Asset Transfer will be applied by the Council either where the council is identifying a possible transfer or the initiative has come from a VCO :

Expression of Interest

- The VCO should submit a written expression of interest detailing the specific land/building that is the subject of the application, an explanation of the reasoning behind why it is needed and the aims and objectives of the transfer.

Review

- The Property & Estates Team will review the expression of interest seeking the views of other council teams and consider if the applicant is suitable, meets the requirements laid out in this policy and if the asset is deemed suitable and appropriate for a transfer. The ward councillors should be invited to comment on the proposals. This will lead to a recommendation on whether the application can progress to the council's CLT. Should the CLT deem the applicant or asset unsuitable, the applicant will be notified. Any decision is final.

Detailed Analysis

- If the CLT agree that the application should progress the VCO will be invited to submit a detailed, evidenced business case and feasibility study. This will be assessed and evaluated by council officers against the criteria laid out in this policy. Detailed consideration will be given to the community impact and benefit of the transfer in terms of economic, social or environmental wellbeing of the community.
- A report will then be prepared by council officers, taking into account any legal requirements under the Local Government Act 1972 (as amended). A decision could be made either by officers under the terms of the Council's constitution (and reported in due course to the Council Economy Committee) or reported to the Committee for a decision. All decisions will be published in all circumstances.

Completion

- Heads of Terms will be agreed detailing all the main aspects of the transaction leading to the Council's legal team drafting formal documentation which will include service level agreements, support and investment plans. This final stage will require the VCO and their solicitors to work collaboratively with the council in order to avoid delays to the completion of the transfer.
- Timescales for the completion of a Community Asset Transfer are dependent on the nature and type of the transaction involved and the process can take up a year to complete.

7. Outcomes

The aims and objectives of this policy are that the council enables the transfer of asset ownership to VCOs which in turn supports community wellbeing and delivery of better public services. The policy also serves to set out the process and criteria for transferring assets to VCOs to support the Council's corporate priorities under the Council Vision.

The success and outcomes of this policy will be measured principally by the success and delivery of community-based services and activities by VCOs leading to community empowerment, generation social economic and environmental benefits to local communities.

The numbers of Community Asset Transfers will be reported as part of the review of the Council Vision.

The Property & Estates Team will also review whether any transfer is not delivering the required community outcomes. If agreed services or required outcomes are not being delivered the council will take all necessary steps to remedy poor performance including reviewing how the council can further support the VCO in delivering objectives.

8. Resource Implications

Transferring an asset to a community-based organisation is a resource intensive process due to the steps involved. Existing staff and council resources will be used to deliver the required outcomes and any transfer including valuations, condition surveys, assessment of business cases, reports and legal matters and ongoing review. As a result, the number of candidates for a possible transfer at any one time will be limited.

9. Review

This policy will be reviewed every three years, to incorporate legislative, regulatory amendments, best practice developments, or to address any operational issues with the policy. At each review of this policy, the relevant officer will review any assets transferred during the policy term, to ensure that the asset is still open, being used for the specified purpose and being well maintained.

The policy will be monitored by the Property & Estates Team.

10. Contact Details

Expressions of interest and documentation relating to any application should be sent to the following address: Property & Estates, Civic Centre, Arun District Council, Maltravers Road, Littlehampton by email to property.estates@arun.gov.uk