

Walsall Council Community Asset Transfer Policy:

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1. Introduction

1.1 The Council believes that strong community organisations have a positive impact on our residents and contribute positively to the social, environmental and economic wellbeing of our residents. Local voluntary organisations / groups are key in strengthening our communities as each are embedded in local areas, they have a greater understanding of local need and are trusted by their communities. Bringing communities together around a common goal enables individuals to champion and influence positive change for their locality and through working together our communities will thrive.

1.2 Section 123 of the Local Government Act 1972 is one of the principle pieces of legislation which governs the way in which a Local Authority can dispose of assets which it owns. Under [section 123\(1\)](#) of the Local Government Act 1972 ([LGA 1972](#)), Local Authorities have a fairly wide discretion to dispose of its assets (such as land or buildings) in any manner it wishes. This includes selling freehold interests, granting or assigning leases and granting easements. However, this general power is limited by the duty in [LGA 1972, s 123\(2\)](#) to achieve the best consideration reasonably obtainable when disposing of land, unless:

- (1) The 2003 General Disposal Consent applies; or
- (2) Secretary of State for the Department of Communities and Local Government has given his consent to the disposal;

2. Purpose of the Community Asset Transfer Policy (CAT)

2.1 The Council wants to foster and improve its relationship with the Voluntary and Community Sector (VCS) and believe that a fair and transparent Community Asset Transfer Policy (CAT) promotes independence for the VCS and provides the sector with an opportunity to secure external funding to allow for continuity of its service provision for local people.

2.2 The Council recognises the importance of small and medium-sized organisations in their ability to create additional social value for the communities they work with and wants to promote collaborative working of such organisations as part of this Policy.

- 2.3 The Council owns a number of assets across the borough of Walsall from which services are delivered; some of which are already being utilised by the VCS. This Policy aims to promote the full use of the Council's assets once it decides it no longer needs them for its own purposes. The policy will help to promote co-location of services, increase accessibility of services for our residents and support the VCS in managing assets independent of the Council in the long term.
- 2.4 This policy outlines the Council's approach to Community Asset Transfer. It provides a clear, transparent and positive framework to enable the consideration of appropriate transfers of assets to the VCS.
- 2.5 For the purposes of this policy the term 'asset' is defined as 'land or buildings in the ownership of the Council'.
- 2.6 This policy will apply when the Council has declared an asset surplus to its requirements and is applied to the transfer of such assets, which takes place post the date upon which this policy is adopted.
- 2.7 A Council-wide review of the way assets are used by the Council, its tenants and its partners is underway. The CAT will therefore not apply or be available to any Council asset that is in occupation prior to the date of adoption of this policy.

3. National Context

- 3.1 Asset transfer is increasingly seen as a means of achieving a range of key objectives from promoting civic renewal, community cohesion, and active citizenship to improve the social, economic and environmental wellbeing of our communities. In 2007 the Quirk Review ('Making Assets Work:–The Quirk Review of Community Management and Ownership of public assets') signalled the transfer of public assets to community based organisations as a mainstream activity.

4. Local Context

- 4.1 This Community Asset Transfer Policy has direct links with the:
- Walsall Council Corporate Plan 2018 – 2021;
 - The Walsall Plan: Our Health and Wellbeing Strategy 2017 - 2020
 - Local Development Framework;
 - Walsall Partnership's Locality Model;
 - Cohesion and Integration Strategy 2017 – 2020
- 4.2 The operation of surplus asset transfer will need to support our priorities set out within the above Plans and have regard to the desired outcomes in other Council strategies including:
- Corporate asset management plan
 - 'Our Assets' Transformation Programme and the Asset Management Improvement Plan;
 - Medium Term Financial Plan
- 4.3 For the purposes of this Policy all applications will need to meet one or more of the Council's Corporate Priorities:-
- Economic Growth; for all people, communities and businesses
 - People; have increased independence, improved health and can positively contribute to their communities

- Children; have the best possible start and are safe from harm, happy, healthy and learning well
- Communities; are prospering and resilient with all housing needs met in safe and healthy places that build a strong sense of belonging and cohesion.

5. Principles of Asset Transfer

5.1 Public assets owned by the Council are one of its major strengths and enables the Council to provide service provision for our communities. However, the Council needs to ensure these assets are being used efficiently and effectively in line with service needs and balance the requirement to dispose of surplus or underutilised assets to provide funding to support the capital programme and meet financial savings set out within the Council's Medium Term Financial Plan.

5.2 The Council recognises the opportunities offered by community management of assets. It also recognises there are risks to be considered as part of the process, not least the possible loss or reduction in capital receipts which could be realised if the asset were to be disposed of on the open market rather than as a CAT. The Council must also ensure that any transfer of assets is made with due diligence, are properly assessed to ensure sustainability, that there is local support and the organisation proposing to manage the asset is properly constituted and has sufficient competent people willing and available to ensure its effective and sustained operation. Applicants should refer to the Expression of Interest and Full Business Plan forms for full details around criteria and the assessment process.

5.3 The use of public assets leased to community organisations should meet the Council's standards in respect of our Cohesion and Integration Strategy 2017 – 2020 and should ensure that our communities receive the best outcomes from the organisation.

5.4 Section 123 of the Local Government Act 1972 is one of the principle pieces of legislation which governs the way in which a Local Authority can dispose of assets which it owns. Under [section 123\(1\)](#) of the Local Government Act 1972 ([LGA 1972](#)), Local Authorities have a fairly wide discretion to dispose of its assets (such as land or buildings) in any manner it wishes. This includes selling freehold interests, granting or assigning leases and granting easements. However, this general power is limited by the duty in [LGA 1972, s 123\(2\)](#) to achieve the best consideration reasonably obtainable when disposing of land, unless:

- (2) The 2003 General Disposal Consent applies; or
 (2) Secretary of State for the Department of Communities and Local Government has given his consent to the disposal;

5.5 A disposal by way of a short tenancy (defined as the grant of a term not exceeding seven years or the assignment of a term which has at the date of the assignment not more than seven years left to run) is not caught by the duty to achieve best consideration. The General Disposal Consent (England) 2003 permits LAs to transfer land below market value, without the need to seek specific permission from the Secretary of State, provided that:

- In the Council's opinion, the transfer will contribute to the promotion or improvement of the economic, social or environmental wellbeing of the area, and

- The difference between the land's market value and the actual price paid for the disposal (if any) (i.e. the undervalue) does not exceed £2,000,000

5.6 The General Disposal Consent 2003 only applies to land held by LAs under [LGA 1972](#). It does not apply to land held for housing purposes (which is usually held under the [Housing Act 1985](#)) or planning purposes (which, in relation to disposal, is subject to [section 233](#) of the Town and Country Planning Act 1990).

5.7 The Public Services (Social Value) Act 2012 which came into force 31/01/13 requires that when commissioning for public services consideration has to be given to how the wider benefits of social, economic and environmental returns can be secured. Social Return on Investment (SROI) is the framework for measuring and accounting for this broader concept of value. The principles of SROI were developed from social accounting cost-benefit analysis and can be used, for example, to improve services and their outcomes. The Council will determine the additional value provided by assessing the social return on investment (SROI) that the VCS will provide to our communities.

6. Types of Tenure

6.1 It is accepted that different methods of transfer may be appropriate and these can range between short and long-term leases, and management agreements.

A short term lease (of up to 7 years) will be considered appropriate when the Council wishes to review the ongoing use of the asset for community purposes. A long-term lease will be considered when a business case demonstrates a requirement which may be linked to the security of income- for example the conditions of a grant award or service contract. In this instance a lease of no more than 25 years will be granted and will contain terms and restricted covenants to ensure continued community use.

6.2 Service agreements may be necessary in some instances where the Council wishes to ensure and safeguard the future provision of community facilities and benefits.

6.3 The form of tenure will be determined by the Council through its decision making process including through the Council's Cabinet.

7. Eligibility

7.1 The Council will consider Asset Transfer to not-for-profit community based organisations e.g. a registered charity or Community Interest Organisation (CIO) not for private profit and where all proposals are aligned to the priorities and outcomes set out earlier in Section 4 of this Policy. Applicants should refer to the Expression of Interest and Full Business Plan forms full details around criteria and the assessment process.

In addition:-

- The proposal must meet one or more of the Council's corporate priorities as set out in 4.3 of this Policy;
- The asset must be made available for use by a range of local groups, especially those working with, or in, disadvantaged communities, and should be compliant with the Equality Act 2010 and other statutory requirements;
- The use of the asset is environmentally sustainable. Any future refurbishment plans are subject to landlord consent and as part of

the scheme should consider energy efficiency as a priority, and use good quality, environmentally sustainable, materials;

- The organisation will need to show at least a five year cash flow and budget forecast that demonstrates sustainability and that the asset can be adequately maintained;
- The use of the asset has a variety of benefits for the community it serves;
- The organisation and key individuals have appropriate skills and expertise to sustain the project in the long term;
- There are clearly defined structures, roles and responsibilities within the organisation appropriate to deliver the project, whether voluntary and/or paid.
- The organisation has a clear decision making process with adequate governance arrangements and management controls;
- All legislation and regulatory controls is in place;
- The organisation has the support of the local community and can demonstrate local need, community support through consultation, and the project is not aligned only with a single interest group; and
- There are monitoring and evaluation processes in place around project delivery

8. Process

8.1 Assets will be identified as surplus assets in accordance with the Council's Corporate Asset Management Plan and then determined for Community Asset Transfer through an internal decision making process. The status of the property, including its tenure, market value in accordance with Royal Institution of Chartered Surveyors (RICS) Valuation- Professional Standards and potential for realisation of a capital receipt, will form part of an assessment as to whether a Community Asset Transfer is an appropriate form of disposal.

9. Stages

Stage 1 – Declaration of a surplus asset through the Corporate Asset Management Plan (internal process)

9.1 An asset will only be considered for a CAT once it has been declared surplus to the Council's requirements and where it meets the assessment set out in this policy. Ordinarily the Council will review its disposals programme in line with the Council's financial planning and will reserve the right to declare assets surplus in-year. The preparation of an initial assessment will be carried out by the Asset Management Team within Economy & Environment ahead of recommendations being made in accordance with the Corporate Asset Management Plan and through the set out governance process: The assessment findings will be considered by the Corporate Asset Review Group and where appropriate the Asset Strategy Group. The focus for this assessment is to determine the Council's formal position in relation to surplus assets.

9.2 This initial assessment will address 3 key questions in turn:

1. Is there any other strategic factor in terms of the Council's own requirements that mean the asset should not be assessed as surplus and therefore a potential asset transfer?

2. Will a capital receipt or rental income be realised from this asset that is needed to support the Council's financial planning?
3. Is the asset unsuitable for use as part of the 'One Public Estate' agenda?

Stage 2 – Assessment of Potential for Transfer (internal process)

9.3 The preparation of this more detailed assessment will be the responsibility of the Asset Management Team who will work with the Localities and Partnerships Team and the Service area managing the asset (via the directorate asset review group) to undertake the assessment. This assessment will estimate the potential benefits of some other alternative use or transfer of an asset.

9.4 The assessment will consider:

- Spend on other services made possible as a result of the capital receipt from a 'commercial' or best value disposal of the asset;
- Cost savings to Council's revenue budget as a result of removing the asset / liability (e.g., repair / maintenance) or removing the subsidy provided to maintain the activity within the building;
- The benefits generated to the community and/or the Council by the transfer of the asset to alternative ownership or management for continued and/or more effective delivery of current or expanded activity - possibly with greater potential for community involvement;
- The benefits generated to the community and/or the Council by the transfer of the asset to alternative ownership or management for delivery of potential projects / proposals appropriate to the asset and locality which provides community benefit;
- The benefit to the community or Council that might be generated by the contribution of land or premises or other assets into a shared programme of work, joint venture or partnership; and
- Any other relevant issues, e.g. EU state aid rules, funding claw backs.

Stage 3 – Advertisement and Expressions of Interest (external process)

9.5 Should an asset be confirmed as suitable for Community Asset Transfer, it will be launched with a 6-week advertisement period, both physically on the asset, as well as on the Council's website and through One Walsall. Within this period, there will be 3 open days where representatives from Asset Management and One Walsall will provide the opportunity for organisations looking to submit Expression of Interests to visit the asset and ask questions in relation to managing the asset. Interested organisations will have the 6-week advertisement period to submit Expression of Interests. The Council strongly recommends that organisations engage with One Walsall for free and confidential support around the application process and undertake a 'health check' carried out by One Walsall. Evaluation of Expressions of Interest will be assessed in accordance with the evaluation criteria, available on the Council website. A maximum of 6 Expression of Interests will be accepted at the decision of the Council. There is no rights to appeal this decision.

Stage 4 – Full Business Plan (external process)

9.6 Once expressions of interest have been appraised any successful Organisations will be asked to complete a full business plan. Completion of these documents allows organisations to self-assess their own governance, business planning, financial management and policies and procedures and feedback on

unsuccessful applications will be available on request. Support for organisations around submitting documentation is available via One Walsall (contact details are included at the end of this Policy)

- 9.7 In preparing its business plan, the community organisation should formulate a financial offer for the property that reflects the inherent affordability of its proposals, and the Council will take this into consideration in evaluating the submission. The business plan submitted by organisations must include detailed proposals including projected capital and revenue costs, financial offer, proposed funding and other sources of income, details of community support and benefits, sustainability and projected timescales, together with details of the legal and constitutional makeup of the organisation demonstrating legal ability to take a conveyance of the asset. Business Plans will be assessed in accordance with the evaluation criteria, available on the website, and either accepted or disregarded at the decision of the Council - no rights of appeal will be allowed.

Stage 5 – Recommendation for Asset Transfer (internal process)

- 9.8 Following a successful outcome of the full application and business case scrutiny, a recommendation for asset transfer would be made to the appropriate decision making body as set out in the Council's Constitution which provides the necessary delegations to undertake a property transaction.

Stage 6 – Monitoring of Asset Transfer

- 9.9 On a case by case basis, monitoring arrangements will be put in place to ensure on-going monitoring of the asset, against the business plan submitted. The purpose of monitoring will be to support the ethos of continued partnership working between community organisations involved in any transfer of assets and the Council. The monitoring arrangements will help identify support and provide a critical friend analysis to community organisations. It will also help to minimise the continued risks associated with asset management.

Further Information:

For further information or general enquires on this Community Asset Transfer Policy please contact communityassettransfer@walsall.gov.uk

Figure 1: Indicative timescales for a Community Asset Transfer:

