

# TRANSFER OF COMMUNITY ASSETS POLICY

## Introduction

Wirral has some challenging economic, social and health inequalities, and the Wirral Plan 2026 puts tackling these at its heart. Wirral's Community Wealth Building Strategy is a key part of how we will do this by building an economy that benefits all of our residents and one which keeps money within Wirral; a prosperous, inclusive economy where local people can get good jobs and achieve their aspirations.

This policy directly supports Wirral's Community Wealth Building Strategy by encouraging the setup of not for profit organisations and cooperatives in our local communities and underpins our ambition to enable communities to become more independent, financially self-sufficient and take ownership of public assets to run them in ways that are beneficial to them.

Community asset transfer can help secure community use of buildings and provide a development opportunity for not for profit organisations. The concept of plural ownership, which seeks to promote locally owned and socially minded enterprises, encourages more diverse models of engagement and is not limited to the transfer of assets. It promotes wider opportunities for communities to deliver council services either in full or in part, should they wish to have more influence and control over the functions that are provided to communities.

The Localism Act 2011 (c. 20) is the legislation that changes the powers of local government in England. The aim of the act is to facilitate the devolution of decision-making powers from central government control to individuals and communities.

This policy sets out the circumstances and conditions under which the Council will consider the transfer of interests (partial or full) in property, i.e., land and/or building or infrastructure, to third parties.

This policy establishes the nature of the organisations to which the Council will consider an asset transfer, the basis of the transfer and how requests will be processed. It establishes a transparent process for this to occur.

## **Section 1 - What is a Community Asset Transfer (CAT)**

It is where the Council owns an asset, usually a building but could be land, that may or may not be currently in use. The asset could be being used by the Council to deliver its functions or the Council may have leased or rented the asset to a third party and that agreement may have been terminated or have come to an end.

The Council will usually seek to transfer an asset over to a third party when it no longer requires the asset for its own purpose, it is not viable to be sold, the functions being delivered are no longer required or there is a beneficial outcome for the community in doing so.

Not all of the Council's assets will be available to be transferred as they will need to be kept for a specific purpose, they will be available for sale to generate funding, or they may be of importance to other wider impacts.

When deciding upon whether to transfer an asset, there will be many factors to consider, and these are covered in the principles section. The purpose for transferring assets under this policy will be retention for the benefit of the community and not for commercial use and that will usually mean that they will only be considered for transfer to a not for profit organisation who will retain their community purpose and not use them to generate a profit. If any profits are generated, they will be re-invested back into the asset or the community.

Where an asset is agreed for transfer that requires some essential maintenance, the Council will consider making the asset fit for purpose before it is transferred, but not in all cases. And whilst there maybe occasions when some transitional funding by way of a small one-off grant to help organisations could be available, this will also not always be the case. Both scenarios are dependent on the Council's ability to release funding which may not always be possible. Once transferred, there will not be any recurrent funding available for future repairs and maintenance or running costs of the asset.

In considering whether to transfer an asset, we will ask organisations to submit an initial expression of interest to determine their suitability to take on the asset and these may not proceed to the next stage. If they do, we will then ask for them to complete a more detailed business plan so that we can be sure that the organisation intending to take on the asset has suitable skills and expertise to operate it, to be able to keep it up to a satisfactory standard, to keep it safe and secure and is financially viable and sustainable in the long term.

Once transferred, where the asset is not being run to the Council's satisfaction against the agreed terms of transfer, which will be included within the lease, we will be able to take the asset back and terminate the contract between the organisation which it was transferred to.

All these items are significant factors for not for profit organisations to consider before submitting an expression of interest to take over an asset; and we will signpost organisations to support available to be able to confirm these items have been considered and to conclude that a feasible business plan can be submitted.

## **Benefits of Community Asset Transfer**

For the community it:

- ✓ Strengthens not for profit organisations by helping them develop their asset base
- ✓ Devolves decision-making to a local level
- ✓ Acts as a catalyst for community regeneration
- ✓ Provides new opportunities to develop and improve land and buildings
- ✓ Encourages community participation and volunteering
- ✓ Builds confidence and the capacity people have to further improve their community
- ✓ Provides new opportunities for capacity building through the use of new skills and knowledge within the community
- ✓ Enables greater co-location of functions
- ✓ Provides a legacy for the community

For the Council it:

- ✓ Forges new partnerships with the community
- ✓ Delivers on shared outcomes and objectives for residents
- ✓ Provides more financial resource to be targeted to council priorities
- ✓ Helps the drive towards a more efficient use of council assets
- ✓ Opens doors to new sources of funding that the council could not access

## **Section 2 - Principles for transferring an asset**

1. Profit will not be generated from the operation of the asset to benefit any individual(s). Any profit must be re-invested into the asset or into community activity.
2. The applying organisation must:
  - (i) Be not for profit, with strong links with the local community. Local people should preferably be able to control the organisation's decision-making processes
  - (ii) Have a primary purpose to benefit the local community and be not for profit and they must understand the activities they wish to deliver
  - (iii) Demonstrate good governance by operating through open and accountable processes, with clear management and financial systems
  - (iv) Be open to and demonstrate an inclusive approach to members of the wider community
  - (v) Have the skills and capacity to safely and effectively deliver services and manage the asset to be transferred and/or have access to the necessary skills and capacity or
  - (vi) Be aware of any need to build capacity within their organisation and demonstrate how they intend to do this, e.g. by working with the Council or other partners
3. The asset must meet the circumstances of being available for a community transfer as stated in Section 3
4. The asset must not align to any circumstances when it would not be available for transfer as stated in Section 4
5. Organisations wanting to take on the asset must complete the Council's expression of interest application and if approved to progress to the next stage, must complete the Council's business plan application within the relevant process timeline (Appendix 1). Both forms are available on the Council's website.
6. The transfer must be agreed by the relevant Policy and Service Committee responsible for the asset
7. The transfer must be ratified by the Policy and Resources Committee
8. The transfer must take place within 6 months of the date the business plan was approved in (7)

Any application and decision made to utilise Council resources may be subject to a separate chargeable agreement

### **Section 3 - What circumstances would an asset be transferred under this policy**

- a) The legal power exists to allow the Council to transfer assets which is the 'general power of disposal' (Appendix 2)
- b) The community use will generate beneficial outcomes for the community
- c) Retaining the freehold of the asset will result in a perceived future appreciation in value
- d) The transfer of the asset will remove recurrent expenditure from the council that it would ordinarily have to incur
- e) The transfer would remove non-financial liabilities from the council that it does not have to provide
- f) The council would not have any other interest in the asset for its own use
- g) The council no longer needs to provide a function from the asset
- h) A function that was previously provided at the asset is being relocated elsewhere
- i) The council would not generate a rental income from the asset, in line with its objectives in the Wirral plan\*, that would outweigh a community benefit (may only be demonstrable from a qualitative and not quantitative view)
- j) The transfer of the asset aligns with the Council's Community Wealth Building Strategy
- k) The Business Plan satisfies the considerations included in Section 8

\*The speculative rental and sale value of an asset must be assessed with Wirral Plan objectives i.e., a CAT cannot be rejected on the basis that the Council would be able to generate a high rental income from the asset if it was to lease it to a bookmakers, as this would not be in line with the Wirral Plan objectives and would not be an appropriate generation of income

#### **Section 4 - When would an asset not be transferred under this policy**

- a) If the not for profit organisation applying to take on the asset cannot demonstrate an additional community benefit
- b) If there is an ongoing financial detriment to the Council arising from the purpose of use by the not for profit organisation applying to take on the asset
- c) If the not for profit organisation applying to take on the asset was operating a function that does not accord with the objectives in the Wirral Plan
- d) When community assets have been acquired by compulsory purchase on behalf of a third party
- e) When the asset has already been included on the Council's list for disposal
- f) Where a not for profit organisation is intending to operate the asset to generate a commercial gain\*
- g) Where the Business Plan for operating the asset does not satisfy the principles of this policy
- h) When the expiry date for transfer highlighted in the process timeline in Appendix 1 has passed
- i) When there is more than one not for profit organisation requesting to take on the asset, a scoring process will be applied to determine which organisation is the most appropriate for the asset transfer. The unsuccessful organisations will be notified that the asset will not be transferred

\*There will be circumstances whereby the Council wishes to dispose of assets to organisations who would generate a commercial gain for good reason, however these would not fall under the remit of this policy and will be the subject of a separate report and decision by the relevant committee

## **Section 5 - Under what terms would the requirement for the asset be operated**

- a) The term of the lease will be determined by the type of asset being transferred and the sustainability and requirements of the business plan.
- b) The lease will be a full repairing lease, meaning that the organisation taking on the asset will be responsible for all the repairs and maintenance of the asset from the date of transfer
- c) The asset will be transferred for a rental value which could vary depending on the asset. The rental value will be communicated to applying organisations in advance of the submission of the expression of interest
- d) The asset must be maintained to at least the same standard as is currently provided by the Council for other similar property, and in a way that is compliant with all planning, licensing and other relevant regulations. Throughout the duration of the lease, the Council reserves the right to monitor the running of the asset in line with the asset transfer agreement
- e) The asset will generally only transfer a leasehold interest. Leases for terms of less than 25 years will usually be contracted out of the security of tenure provisions of the Landlord and Tenant Act 1954 to give the Council the flexibility to determine the future use and disposal of its property
- f) The lease will contain a provision to enable the Council to terminate it should the property not be used for the purpose for which it is transferred, unless such changes have been formally agreed in writing (Section 6)
- g) Any future rent increases will be included within the lease for not for profit organisations in advance
- h) The organisation taking on the asset will be expected to bear all costs of managing and maintaining the property and the transfer of a property interest does not imply any ongoing financial assistance from the Council (Appendix 2). The Council would normally expect the not for profit organisation to source and pay for insurance for the duration of the asset transfer, there may be circumstances whereby the council will source and pay for insurance directly and recharge the not for profit organisation
- i) The organisation taking on the asset must evidence that appropriate insurance arrangements are in place for fire, wet peril, inclement weather, theft, public liability etc
- j) The asset must be available and operated for the purpose stated in the business plan and agreed to be transferred for that purpose, unless any revisions are subsequently agreed with the Council at a later date.
- k) Any proposed major investment works would require the Council's prior approval, the purpose being to ensure that the property remains suitable for the use for which it was released or any subsequently agreed variation
- l) At the end of any lease the Council will expect the property to be returned in at least the condition that it was made available

## **Section 6 - Under what circumstances would the asset be transferred back to the Council**

- a) If the organisation to which the asset is transferred is wound up or liquidated the lease will enable the Council to regain possession of the asset either for use by itself or by others
- b) If the asset is not being maintained, as agreed, with consideration to the Asset Management Plan
- c) If the criteria for the benefit of the community as set out in the lease is not complied with
- d) If the purposes for the use of the asset, as agreed within the original business plan are not being adhered to
- e) If the use of the asset has been changed without the prior written permission of the Council
- f) If any element of the asset has been sub-let to a third party without prior written permission of the Council
- g) If it found that any illegal activity is being undertaken from the asset
- h) If it found that the organisation that the asset has been transferred to are generating a commercial gain for personal use
- i) If specific terms of the lease have been breached e.g. insufficient Insurance or Indemnity cover



## **Section 7 – Support available for not for profit organisations considering an Expression of Interest**

Whilst not for profit groups are expected to take their own advice the Council will try to help and support them as appropriate through the application process. Once a not for profit group has decided to submit an expression of interest, Council Officer will be available to answer any questions or queries associated with the process and to provide guidance as to the completion of the expression of interest, or later the business plan. The Council has subject matter experts in Law, Finance, Assets, Communication, Governance and Strategy that could be available to provide such support

The Council may also make other appropriate resources available to provide support and to appraise applications within the target timescales. Any such assistance will depend upon the circumstances and the availability of appropriate resources within the Council

In return it expects applications for transfer to contain, at each stage, sufficient information to enable appraisals to be completed and decisions made as to the suitability of the applicant and its capacity to deliver the community centred services with the human and financial resources available to it

As well as any internal resource and support that the Council can provide, it will also signpost community groups to a suite of other external help and support that can be called upon to support with the completion of applications and the running of an asset once transferred

The type of external support provided will depend on the asset being transferred and the extent of the help required

Mentoring, lessons learnt, and helpful hints and tips could also be available to not for profit groups from other groups that have completed asset transfers in the past, including successful and unsuccessful ones. The latter will be especially helpful in guiding community groups to understand any pitfalls that might be encountered

Once contact has been made by a not for profit group, the council will discuss with that group the appropriate level of support to be provided and by whom

When making the initial contact for an expression of interest, the Council will provide a factsheet with basic information about the asset that will include a property description and the usual running costs. This will enable not for profit groups to have sufficient information in advance of the submission of an expression of interest to determine whether their proposal is the right course of action to follow. More detailed asset information will be provided during the business planning stage. The not for profit organisation will be made fully aware as to the condition of any asset prior to submitting a business case.

## **Section 8 - What do I need to consider before submitting an Expression of Interest?**

### **Staffing and Governance**

- Is there enough people to be available and in control of the operation of the asset when it is open
- What happens when someone becomes ill, are there other people who can be available
- Are there enough people to enable appropriate breaks to be taken
- How will decisions be taken on how the asset will be operated – will there be a committee or board
- What happens if there is a dispute between two or more parties
- What reports or performance data will be required to be produced
- What information will you have to know whether the objectives are being met
- Will there be any authorisations required for expenditure, hiring staff etc
- Will any expenses be allowable and on what terms

### **Skills**

- Is someone available who can manage the operations of an asset for community use
- Is there access to financial skills to enable accounts to be kept and if necessary, submitted, for VAT to be accounted for correctly and for any wages and pensions and associated tax implications to be made
- Is there a qualified first aider available on the premises at all times
- Is there an availability of or access to immediate skills for repairs and maintenance
- Will there be any requirement for technical IT and Digital skills
- If there is a membership scheme in place, how will it be operated and updated

### **Security**

- Is there a safe place to keep cash securely
- Who will the keyholders be including back up if someone is ill
- Will someone be available to check on the asset out of hours if there is a problem. Will it be safe for this person to come alone or are two people required
- How will the asset be protected from items such as fire, flood etc is there adequate insurance
- What arrangements will be made for an inventory to be kept
- If there is IT equipment, what arrangements will be in place to protect against viruses, cyber security attacks etc
- What arrangements will be in place to protect against fraud

### **Safety**

- Are there policies in place so that the users know to how use the asset and any equipment safely
- What is someone becomes unwell when using the asset, is there a place where they can be looked after until help arrives

- Will users belongings be secure when they are using the asset
- Is any monitoring or recording equipment required to protect the asset
- What arrangements will be in place for cleaning the asset
- What arrangements will be made for the maintenance of an accident book

### **Equipment**

- What equipment will be required to run the asset, will there be any training required
- Will there be a requirement to continue using council owned equipment on a chargeable basis
- What arrangements will be made for repair or replacement of equipment
- Can the asset still operate when the equipment is temporarily out of action
- Is there a policy or instructions needed for using or booking out equipment
- How will the equipment be kept secure

### **Funding**

- How will the day to day running costs of the asset be met
- What arrangements will be made for increases in expenditure e.g. due to inflation
- What plans are there in place to generate income
- What happens when there is a drop in income or a large item of expenditure is required
- What arrangements will be made for a contingency or working capital

### **Storage**

- Will any storage be required for equipment or stock and is there available space
- Will any cold storage be required for perishable goods
- Are there any specific disposal requirements needed
- What storage access arrangements will be in place if someone becomes unwell or is unable to attend

### **Inclusivity**

- What assurance will be provided that the asset will be inclusive to all
- What evidence will be provided to demonstrate this
- Is training required on items such as Equality, Diversity and Inclusion, if so who will be responsible for and monitor this
- How will contact be made with users of the asset and in what way
- What procedures will be in place for complaints to be heard independently
- If there is a membership scheme, what arrangements will be in place for concessions

## APPENDIX 1 – GENERAL PROCESS TIMELINE\*

Stage	Who is responsible	Timescale for completion
Formal expression of interest opened and communicated. Previously recorded enquiries will be informed the EOI process is open for STAGE 1 expressions of interest	Interested not for profit organisation (APPLICANT – STAGE 1)	Stage 1 - EOI completed within 6 weeks from EOI opening. 2-week period for officers to determine whether feasible or declined; Or that a CAT option may be taken forward for P&R & Service Committee approval and weighed against alternative asset options, Sell, Repurpose, proceed with CAT
Political Approval through Officer discussion with Committee Chair and Spokespersons; Ward Councillor engagement Monthly service committee cycle. Decision on Asset Options presented	P&R Committee & the relevant service committee	4 weeks
STAGE 2 – Detailed Business Plan development period	Not for profit organisation where Stage 1 has been approved (APPLICANT – STAGE 2)	9 weeks for completion of business plan (STAGE 2) - 3 weeks for officers to determine whether to approve for consideration of the relevant service committee
Political Approval through Officer discussion with Committee Chair and Spokespersons; Ward Councillor engagement Monthly service committee cycle. Decision to proceed with CAT.	P&R Committee & the relevant service committee	4 weeks
Detailed terms of asset transfer agreed and transfer completed	Wirral Council – APPLICANT	12 weeks

These timescales run consecutively. They will be monitored and where insufficient progress is made the Council may withdraw from the transfer process and dispose of the asset in accordance with its Disposal Policy. The Council will be prepared to consider reasonable requests for extensions of time to facilitate proposals.

\* The general timeline will be followed unless due to unforeseen circumstances it must be varied e.g. A forthcoming Election: the advertisement of the proposed disposition of the transfer of open space (as required by statute) and objections considered. The variation in the timeline may also include the receipt of more than one application for CAT which an existing application is in place, in which case the existing application will be delayed until the timelines can be aligned so that both or all the applications can be considered at the same Committee.

## **APPENDIX 2 – GLOSSARY AND LEGAL DEFINITIONS**

### **The general power of disposal**

Section 123 of the Local Government Act 1972 gives a local authority the power to dispose of land held by it in any manner it wishes provided that the local authority achieves the best consideration that can reasonably be obtained except where the disposal is for a short tenancy not exceeding 7 years or the local authority has the consent of the Secretary of State. The Secretary of State has issued a general consent for disposals of land under section 123 for less than best consideration. This allows a local authority to dispose of land for less than best consideration if it considers that the disposal will contribute to the promotion or improvement of the economic, social or environmental well-being of its area and the extent of the undervalue is no more than £2 million

### **The Localism Act 2011**

The Localism Act 2011 (c. 20) is an Act of Parliament that changes the powers of local government in England. The aim of the act is to facilitate the devolution of decision-making powers from central government control to individuals and communities. The measures affected by the Act include an increase in the number of elected mayors, referendums and the "Local authority's general power of competence" (Part 1, chapter 1) which states "A local authority has power to do anything that individuals generally may do"

### **The Landlord and Tenant Act 1954**

The Landlord and Tenant Act 1954 (2 & 3 Eliz 2 c 56) is an act of the United Kingdom Parliament extending to England and Wales. Part II of the act is a statutory code governing business tenancies. Part I of the act, which deals with the protection of residential tenancies, is now largely superseded.

Part II of the act gives business tenants a degree of security of tenure. A business tenant protected by the act may not be evicted simply by the giving of notice to quit or by the ending of a fixed term of the tenancy. The landlord must serve a notice on the tenant, stating which of the seven grounds of opposition they wish to rely upon to oppose a new tenancy.

### **What is classed as an asset**

An asset shall include, in the case of the transfer of open space, any play areas, structures, trees, bedding, footpaths, lighting, drains, gullies, culverts, fencing, driveways, flag poles etc situated upon or forming part of the transferred open space

### **Business Plan**

Written up version of the case outlining justification for a proposed transfer

### **Financially viable**

Whether or not an organisation can provide sufficient evidence that it can cover the costs of running and maintaining the asset with enough in reserve for any unforeseen events

## **Not for profit**

“Not-for-profit organisation” is a broad term for all independent organisations whose purpose is something other than to make private profit for directors, members or shareholders. Many different types of organisation can be “not-for-profit”. It is not a legal structure in and of itself. A not for profit organisation aims to do something other than to make profit for the owners, such as providing a public service or helping people. It needs to make enough money to cover its costs, but any surplus is reinvested into the business or used in other ways. There are different types of properly constituted not-for-profit organisations, such as charities and community interest companies.