

**Cabinet**

**9 April 2025**

**Community Asset Transfer Policy**

**Ordinary Decision**



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## **Report of Corporate Management Team**

**Paul Darby, Corporate Director of Resources**

**Councillor James Rowlandson, Cabinet Portfolio Holder for Resources, Investment and Assets**

### **Electoral division(s) affected:**

Countywide

### **Purpose of the Report**

- 1 To update Cabinet on the development of the approach to facilitating the transfer of assets to community organisations and seek approval for the Community Asset Transfer (CAT) Policy.

### **Executive Summary**

- 2 The Council is committed to the development and empowerment of communities in line with the County Durham Vision 2035. Transferring community-based assets and associated services to be managed and operated by community organisations supports this vision.
- 3 In 2012 the Council adopted the Community Buildings Strategy which focused on ensuring a network of sustainable community centres existed across the County. This strategy has enabled the transfer of a number of centres to community-based groups, who operate and manage the buildings independently of the Council.
- 4 Successful transfer was enabled through support from officers in Corporate Affairs and Corporate Property and Land, via the development of business cases to ensure sustainability and the production of a standard lease.
- 5 Through the knowledge and experience gained through this process, standard templates and protocols have been developed and provide the basis for the CAT process. In order to provide governance, management and monitoring of transfers the previous Community Buildings Steering Group has now developed into the Community Assets Steering Group (CASG) with oversight for all transfers,
- 6 CASG, who report to the Corporate Property Board have taken on the lead responsibility to develop a corporate community asset transfer policy and take forward its implementation.

- 7 In developing the CAT Policy consideration has been given to future proofing the approach and content to ensure it is fit for purpose in relation to the Transformation agenda. It has also taken on board the Approach to Wellbeing Framework which has been developed through the County Durham Together Partnership.

## **Recommendations**

- 8 Cabinet is recommended to agree the proposed Community Asset Transfer Policy.

## Background

- 9 In 2012 Cabinet agreed a Community Buildings Strategy which proposed the transfer of community centres and village halls to community-based organisations. This resulted in 45 buildings being transferred to community management. Through this process CAT has developed, and the knowledge and experience of transfers has grown significantly. In reflection of this, the number of Expressions of Interest being received for transfers and potential future transformation programmes, it is timely to bring forward a CAT policy.
- 10 The previous Community Buildings Steering Group has now developed into the Community Asset Steering Group (CASG) with core service representatives in place and subject to the transfer requests received additional support from officers across the Council. All transfer requests come through this forum, led by Corporate Affairs, with members supporting the development of business cases ensuring suitability and sustainability of requests.
- 11 At the present time requests tend to be ad hoc and reactive through approaches by community-based organisations. However, the policy and protocols are flexible and designed to support Council led transfers, should the need arise.
- 12 CASG has been leading on the development of a refreshed corporate approach to community asset transfers with the overall aim to ensure consistency and transparency in the Council's approach for both new and existing community transfers.
- 13 In developing the CAT policy and protocols five key objectives were agreed as follows:

Objective 1	Establish clear governance for the development, implementation and management of Community Asset Transfer
Objective 2	Develop a corporate Community Asset Transfer Policy for new transfers
Objective 3	Ensure all new requests for transfers are consistently and transparently managed
Objective 4	Establish the Council's position in respect of the terms of occupation of existing community assets
Objective 5	Enable community organisations to manage sustainably post transfer

- 14 Historically the focus of CASG had been on ensuring 'front end' documentation was in place to provide the necessary guidance for the public (and others) interested in potential CAT projects. However, it is essential to ensure an agreed policy and transfer protocol is in place first, before developing the more detailed internal process and procedural material. The policy clearly sets out how the Council will effectively and consistently achieve the above objectives and facilitate transfers in practice.

## Community Asset Transfer Policy

- 15 The CAT Policy sets out the fundamental principles that the Council will apply in its implementation of the transfer of assets to community organisations.
- 16 The policy has been structured into a number of sections. The full CAT policy is attached as Appendix 2 for reference but a summary of the sections, the principles and purpose of each are set out in Table 1 below.

**Table 1**

<b>CAT Policy Section</b>	<b>Principles and purpose of the section</b>
<b>What is Community Asset Transfer</b>	A definition based on recognised sector guidance but refined to reflect the Council’s particular focus on enhancing community services. It has been defined as <b><i>“the transfer of management and/or ownership of public land, buildings and/or services to a community organisation to achieve an economic, social or environmental benefit and to allow for the enhancement and/or continuation of services in the community.”</i></b>
<b>Policy Purpose</b>	To ensure consistency of understanding, the purpose of the Policy is to: <ul style="list-style-type: none"> <li>• Provide the context and criteria by which the Council will consider a transfer to a community organisation</li> <li>• Outline the approach the Council takes and set out process and guidelines that will be applied consistently and fairly.</li> </ul>
<b>Policy objectives</b>	To ensure the Council supports wider corporate objectives such as the development and empowerment of communities in line with the County Durham Vision. A number of specific objectives are listed in the Policy.
<b>What organisations are eligible for consideration</b>	<p>Making it clear that not all organisations will be eligible to proceed with a CAT but providing eligibility criteria by which organisations will be considered. This will include an evaluation of the organisation’s constitution, financial stability, community impact, sustainability, and capacity to manage land, buildings and/or service.</p> <p>This needs to be sufficiently clear but not overly prescriptive to enable different types of organisations to be considered, such as a non-incorporated sports club registered with a recognised sports body. It is essential that it is an organisation that is considered and takes on responsibility for a CAT, not an individual.</p>
<b>What assets will be</b>	The Policy focus is not on individual buildings and therefore no definition of a community-based asset has been created. The Policy focuses on what a CAT is aiming to achieve.

<b>CAT Policy Section</b>	<b>Principles and purpose of the section</b>
<b>considered for transfer</b>	
<b>What assets will not be considered for transfer</b>	<p>This makes clear that the Council is under no obligation to undertake a transfer, and that it must retain control of some assets in order to support the delivery of essential services or to enable desired outcomes of other Council strategies, policies or initiatives. The Policy includes specific illustrations to aid understanding and consistency.</p>
<b>What terms will the asset be transferred on</b>	<p>This makes clear that the Council will consider both freehold and leasehold transfers for land and buildings. Rather than be prescriptive at the outset, the policy builds in the ability to negotiate variations by agreement to reflect and meet the needs of the CAT proposal whilst managing the risk to the Council.</p> <p>It also makes clear that the organisation will take on all building responsibilities, whether by lease or freehold transfer. It also makes clear that any level of subsidy will require additional approvals to meet the requirements of other Council policies (such as the Undervalue Policy), or external approvals (such as approvals required if the Council holds the asset in its capacity as Trustee). Where applicable no CAT can be approved until these additional approvals are in place.</p>
<b>What is the application / assessment process</b>	<p>The detailed process for the consideration of a CAT application has been developed into four main stages, referred to in the Policy. The essential elements of each stage are included rather than the detail of the process.</p> <p>It is made clear that the process includes specific approval decision points and that it is essential that approvals are formally given before work will be undertaken on the next stage. It is also made clear that timescales to complete a CAT will differ to reflect the complexity of the proposal, and that any additional approvals required can add considerably to the timetable.</p>
<b>What support will the Council give to eligible organisations</b>	<p>This makes it clear that the Council can support an organisation understand and work through the transfer process, but that the organisation will need independent professional advice. The Council can provide direction to appropriate external bodies who have the relevant expertise to provide specific and technical support.</p> <p>The policy also makes it clear that the Council's Sponsoring Service supporting the transfer has an important role to play in</p>

<b>CAT Policy Section</b>	<b>Principles and purpose of the section</b>
	supporting the proposal and working with the organisation to direct the proposed transfer through the approval process. This is essential from the outset to ensure the application is considered in the context of the Council's overall corporate objectives, and the Service expertise will be an integral part of the application.
<b>Points to note</b>	<p>The policy seeks to ensure the community organisation understands what is involved in taking on land, buildings and/or services prior to embarking on the transfer process.</p> <p>A number of specific references are made to emphasise the building related responsibilities that the organisation must take on, both during the business case process and following a successful transfer. It is not intended to be an exclusive list but provides a clear picture of the Council's expectations.</p> <p>It is made clear that the organisation must bear its own costs and fees associated with the transfer and that sufficient funds must be available to cover these costs as part of the Outline Business Case and Full Business Case.</p>
<b>What happens if something fails after the formal transfer?</b>	<p>This section has been included to recognise that issues may arise after transfer, that impact on the long-term viability and sustainability of the arrangement, and to ensure that there is a clearly defined route for the Council to be alerted.</p> <p>The aim is to ensure the organisation raises issues at the first sign of a problem through a specified point of contact so that the Council can consider options to either protect the community service being delivered or cease the provision. (NB Whilst the expectation is that the relevant Council Service which supported the original transfer will lead on this, this detail is not within the Policy but is covered in the process documentation).</p>

## **CAT Process Guide and Stages**

- 17 Whilst the CAT Policy provides the framework and sets out the overarching principles of the Council's approach, how it is implemented in practice is described in more detail in the CAT Stages and Process Guide, a copy of which is attached to this report as Appendix 3 and is intended to provide sufficient detail for the public.
- 18 The CAT process is defined as four stages:
- Stage 1 – Expression of Interest

- Stage 2 – Outline Business Case
- Stage 3 – Full Business Plan
- Stage 4 – Legal Transfer

- 19 Fuller details of the activities involved in each stage are set out in the Stages and Process Guide. The stages are also simplistically presented diagrammatically to give a summary of what is involved at each stage and the relevant supporting template documents.
- 20 The four CAT stages inform and cross reference with the process through which a transfer proposal will be considered – from the initial concept through to legal completion. In order to aid understanding of the sequence of the activities and the approval decision making points, the Stage and Process Guide summarises the process and also includes a colour coded flowchart.

## Template Documents

- 21 Alongside the Stages and Process guide document, template documents have been developed to ensure each transfer proposal is presented for approval and can be evaluated in as consistent a format as possible. These template documents have been adapted from those originally produced (and used) by Corporate Affairs, but refreshed to reflect the new CAT Policy, terminology and branding.
- 22 Copies of these templates are attached to this report as Appendices 2a – 2d. They are:
- Stage 1 – Expression of Interest Form (Appendix 2a)
  - Stage 2 – Outline Business Case – Guidance and Template (Appendix 2b)
  - Stage 3 – Full Business Plan Guidance (Appendix 2c) and Full Business Plan Template (Appendix 2d)
- 23 The development of the templates as core supporting documents ensures consistency and recognition of how they fit into the process. The branding and use of consistent terminology ensures they are seen as a cohesive suite of documents within the CAT process.

## Timescales

- 24 No defined timeframes are set out in the policy, each proposal will be different and numerous factors impact on how long the process will take. Any additional approvals (such as an Undervalue approval or an external approval if the Council holds the asset in its capacity as Trustee) will potentially add considerably to the overall timescale and this has been made clear in the Policy and the Process Guide.

## Consultation

- 25 Upon receipt of an Expression of Interest (Stage 1), the local elected member(s) / Cabinet member will be made aware of the approach by Corporate Affairs. Dependent on the nature of the transfer the local elected member(s) / Cabinet

member may have input into the development of the Outline Business Plan and engagement with the community organisation.

## **Resource Consideration**

- 26 It is acknowledged that progressing transfer requests may put a strain on resources. However, the Council's commitment to the development and empowerment of its communities promotes the implementation of a CAT Policy which should seek to ensure proposals are sustainable and achieve objectives.
- 27 To ensure success requires robust due diligence throughout the process and weakening this approach creates a risk for the long-term viability of a proposal and the credibility of the corporate approach. Therefore, depending on the nature of the transfer Cabinet should be aware that financial and resource implications could apply.
- 28 It is essential that the Council service identified as the sponsor for a proposed transfer is supportive of the proposal. Ideally it would be aware of, and involved in, the submission of the Expression of Interest (EOI), but if not the Stage 1 process requires the sponsoring service to be notified when an EOI is received. As part of the Stage 1 initial checks, the level of support by the service will be determined as this will be an important consideration in the evaluation of resource requirements needed to progress the transfer.
- 29 At Stage 2, the sponsoring service will lead on the engagement with the community organisation, and the development and production of the Outline Business Case (OBC).
- 30 At Stage 3, whilst the community organisation will lead on the development and production of the Full Business case, the supporting service will play a significant supporting role and be very much involved. If the proposal requires any additional approvals (such as an Undervalue approval or an external approval if the Council holds the land in its capacity as Trustee), the sponsoring service will work with CPaL on the production of the required reports and meeting the requirements of the appropriate decision-making route.
- 31 Whilst the expectation is that a CAT will be successful and sustainable, there may be occasions when something goes wrong, and the community organisation is no longer able to meet its CAT obligations. This could include a change in organisational status, changes in the capabilities and skills within the organisation or its dissolution. If such a situation arises, or the community organisation starts to have concerns about its ability to continue to fulfil the requirements of the CAT, the supporting service will lead on engaging with the community organisation to consider options, how the community benefits can best be protected or if this is something the service no longer supports.
- 32 The supporting service has a wealth of knowledge and expertise in their particular service area, and the ability for the CAT to contribute to the achievement of service



priorities is a fundamental consideration in the evaluation of any CAT proposal. It is felt that the service has a key role in ensuring this happens.

- 33 However, it is recognised that there may be capacity and capability issues in the service to meet the demands of a CAT and it is important that consideration is given to how to ensure that the appropriate due diligence is carried out before a transfer takes place. It may be necessary in some cases to seek external resource which clearly has a cost implication.

## **Fees and Charges**

- 34 The principle of whether or not to charge community organisations for the Council's professional fees to complete a CAT is an issue that has been continually raised by community organisations and Councillors. This primarily relates to CPaL and Legal fees, both of which are based on a fixed fee set out in the services' annual fee schedules. It is proposed that fees are continued to be charged and considered as part of the business case process.

## **Conclusion**

- 35 It is recommended that Cabinet note the detail of the report and agree the Community Asset Transfer Policy.

## **Background papers**

None

## **Other useful documents**

None

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## **Appendix 1: Implications**

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### **Legal Implications**

The policy itself has no implications however proposed transfers will have specific legal implications, for example transfer of a building on a freehold basis.

### **Finance**

Surveyor and legal fees which are chargeable to transfers will be charged in line with the annual fees and charges report agreed by Management Teams.

### **Consultation**

Various services throughout the Council have been consulted with regards to this policy, including members of the Community Assets Steering Group, Corporate Property Board, Resources Management Team and Neighbourhoods and Climate Change Management Team.

### **Equality and Diversity / Public Sector Equality Duty**

N/A

### **Climate Change**

Transfer of buildings on either a freehold or leasehold basis will reduce energy costs and carbon emissions for the Council. Community organisations may be in a position to access funding that the Council is not eligible to access in order to improve the sustainability and environmental performance of a building.

### **Human Rights**

N/A

### **Crime and Disorder**

N/A

### **Staffing**

The implications of any staff directly affected by a proposed transfer will need to be considered individually. Details and proposals that may have staffing implications will be picked up as part of each CAT business plan. As a result, expectations of applicants will need to be managed as transfers progress through the stages.

Development of business plans will have resource implications for services across the Council. This is detailed in the body of the report and resource will be required to ensure asset transfers can progress, are developed effectively and sustainability of the transfer is addressed appropriately.

### **Accommodation**

N/A

**Risk**

No specific risk items are addressed with regards to the development of the policy; however, the nature and terms of transfer may reduce or create additional risk to the Council. Where additional risk is identified this will be picked up in the business plan and mitigation will be sought.

**Procurement**

N/A

## **Appendix 2 - Community Asset Transfer Policy**

## **Appendix 3 – Community Asset Transfer Stages and Process Guide**

## Appendix 3a – Expression of Interest Form

## **Appendix 3b – Outline Business Case guide and template**

## **Appendix 3c – Full Business Plan Guide and template**