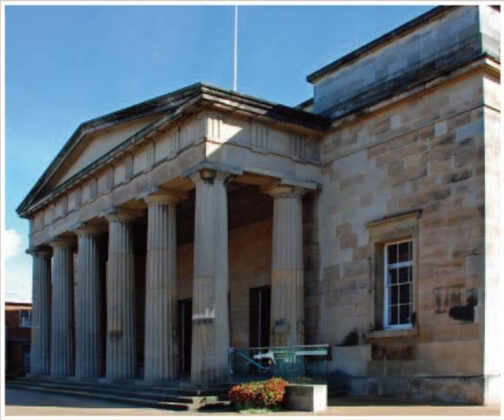
Herefordshire Council
Community Asset Transfer Policy
(Updated January 2016)

VISION

"To support the efficient, integrated delivery of public services across the county by providing modern, fit for purpose buildings, shared by Public Agencies"

Herefordshire Council

COMMUNITY ASSET TRANSFER POLICY

1.0 Purpose of the Policy

1.1 The purpose of the Policy is to set a transparent, positive and proactive framework to enable asset transfer from the Council to the third sector to happen and be successful in the long-term.

1.2 The term 'asset transfer' here relates primarily to leasehold or freehold arrangements at less than best consideration, or in giving Third Sector Organisations (TSOs) 'first-refusal' on a commercially-based disposal.

2.0 Policy statement on community asset transfer and third sector organisations (TSOs)

2.1 The Council supports strong and sustainable TSOs as key partners in the delivery of services and in providing a link with local communities. Working in partnership with thriving TSOs can greatly help the Council in achieving the outcomes as enshrined in its Corporate Plan that will be of benefit to local communities.

2.2 The Council recognises that the way its physical assets are managed can have a positive impact on the long-term strength of the third sector and local communities more generally. Through asset ownership, TSOs can grow and become more secure, gaining access to sources of additional investment that the Council itself may not be able to access. The Council's aim is to ensure that the way assets are managed strongly underpins the wider corporate aims and where appropriate, will use asset transfer as a means of enabling TSOs to become sustainable on a long-term basis. To be successful, asset transfer requires a long-term partnership approach on the part of the Council and the receiving TSO.

3.0 What is Asset Transfer?

3.1 For the purpose of asset transfer, an asset is defined as land or buildings in the freehold ownership of the Council. The asset will need to be identified within the Council's Asset Register, assigned a valuation from a professionally accredited source and be identified for potential transfer under an Executive Decision by the Director of Resources.

3.2 Asset transfer covers both transfer of management as well as transfer of ownership. The level of asset transfer may vary from –

- Community management
- Short/medium term lease
- Long leasehold
- Freehold

3.3 'Transfer' is generally considered to relate primarily to leasehold or freehold arrangements at less than best consideration, or in giving community-led organisations 'first refusal' on a commercially-based disposal.

3.4 It can cover both transfer at market price (in the case of first refusal) or transfer at some concession. There are also several possible categories of asset transfer –

	Surplus property	**Non-surplus property**
Nil consideration/ with endowment	Transfer for social value and/or better management	Generally as part of a partnering or procurement arrangement
Less than market value	Social value creates a discount in sale or lease cost	Generally as part of a partnering or procurement arrangement
Off market sale	A community purchaser may provide opportunities for gaining greater social value	Service agreement to deliver Council services or within a partnership (e.g. co-location)
Open market sale	N/A	N/A

3.5 There will be conditions under which the asset must revert to the Council under the terms of a leasehold arrangement, for example –

- In the case of bankruptcy
- In the case of corruption
- If the anticipated benefits of transfer are not realised

3.6 Each disposal will include an asset lock (where this does not prevent the third party body from leveraging in additional funding). This prevents the asset being sold on for pure financial gain – unless this was the intention of both parties and disposal will assist with the delivery of intended benefits.

3.7 There may be other constraints on the rights or responsibilities which are transferred along with the asset. These will be assessed on a case by case basis.

4.0 Aims of Community Asset Transfer

4.1 The Council's physical assets include land, buildings and other structures used for a variety of different social, community and public purposes. For some of these assets community management and ownership could deliver.

- Benefits to the local community can arise from - building confidence and capacity; attracting new investment and reinvigorating the local economy; and securing stronger, more cohesive and sustainable communities
- Benefits to public sector providers can arise from - the creation of a new partner able to tap into additional resources; the ability to engage with a more cohesive local community; new service provision complementing and augmenting statutory services
- Benefits to the organisation include - financial security; increased recognition; power; management capacity and organisational development; and through having a secure base, opportunities to expand and diversify

4.2 Public assets are rarely used by everyone, their 'value' being locked-in to a particular use or a particular group of people. Changing ownership or management offers opportunities to extend the use of a building or piece of land, increasing its value in relation to the numbers of people that benefit and the range of opportunities it offers. Community-led ownership offers additional opportunities to secure resources within a local area and to empower local citizens and communities.

4.3 Assets will be transferred to community groups by the Council in order to promote the widest public value that can be achieved in relation to, for example

- Community empowerment
- Area-wide benefits
- Building the capacity of the third sector and encouraging a sustainable third-sector
- Economic development and social enterprise
- Improvements to local services
- Value for money

5.0 National Policy Context

5.1 The concept of the disposal of assets at less than market value is not new and has been practiced on an ad hoc basis by local authorities for generations. Even though the Local Government Act of 1972 (Section 123) established that generally disposals should not be at less than could be reasonably obtained without Secretary of State approval, this legislation did not preclude such disposals from occurring. The General Disposal Consent (Circular 06/03) opened up the opportunity for widespread under-value disposal as it removed Secretary of State approval below a £2 million threshold. The Local Government Act of 2000 again accelerated unvalued disposals as it introduced wellbeing powers to promote 'economic, social or environmental wellbeing'. But, whereas this piece of enabling legislation might have led to an off-loading of assets, its impact was still deemed to be less than prolific in practice. As the 2000s progressed, momentum to change the use and ownership of public assets increased.

5.2 The 2006 *Local Government White Paper* confirmed the Government's intention to increase opportunities for community asset ownership and management and promoted asset transfer as part of a local authority's 'place-shaping' role. The Secretary of State for Communities commissioned Barry Quirk, Chief Executive of LB Lewisham, to carry out a review into the barriers preventing community asset transfer. It also indicated that a fund would be established to help with this, later announced as the £30 million Community Assets Fund managed by the Big Lottery Fund.

5.3 The 'Quirk Review's' findings *Making Assets Work* were published in May 2007. All the Review's recommendations were accepted by the Government and published a week later as an implementation plan in *Opening the transfer windows: the government's response to the Quirk Review*. The Government's plan for taking the review forward included a demonstration programme with local authorities and their partners, a guide to managing risks in asset transfer and a series of regional awareness-raising workshops.

5.4 The Quirk Review found that a careful increase in the community's stake in an asset can bring a wide range of additional benefits for the community, the organisation receiving the asset and the local authority facilitating the transfer. The benefits of community ownership and management can outweigh risks and opportunity costs.

5.5 The Government's Empowerment Action Plan, published in 2007, includes actions relating to the transfer of assets and to a programme of support for community anchors, including the availability of further funding to support the development of anchors.

5.6 In July 2008 CLG White Paper "Communities in Control : real people real power" confirmed on-going support for the Quirk review, announced the establishment of a national Asset Transfer Unit, extended the Advancing Assets programme by a further year and announced a £70 million community builders fund. The origins of this agenda go back to the ODPMs 2003 *Communities Plan (sustainable Communities : Building for the Future).* This acknowledged that sustainability is only possible where local communities play a leading role in determining their own future development.

5.7 The 2011 Localism Act represented a major step forward in the government's desire to see the transfer of public assets for community benefit. A series of Community Rights were introduced in order to facilitate the transfer of both assets and services to community ownership. In addition, the well-being powers which were introduced in 2000 and extended in 2008 to local councils, were replaced by a 'General Power of Competence' (February 2012).

5.8 In 2008, Herefordshire became part of a national pilot project to develop Community Asset Transfer policies. It published its Policy in 2009 and has since delivered over a dozen successful transfers. In 2012 it was recognised for its efforts to secure a multi-asset transfer in Ledbury and is recognised as a Best Practice Authority by 'Locality' and Department of Communities and Local Government.

6.0 Principles underpinning the Council's Asset Transfer Policy

6.1 The Council's policy on community asset transfer is underpinned by the following principles which are divided into three sections –

a) Principles for a proactive strategy
b) Principles of responding strategically to a disposal opportunity
c) Principles of good practice

a) A proactive strategy –

- The Council will seek to implement the policy *proactively* (through awareness raising, outreach and support, etc.) to encourage appropriate groups to take on an asset, linked to its on-going programmes of support to the third sector;
- Any proposed asset transfer must support the aims and priorities of the Council as set out in adopted policy;
- The Council views its policy on community asset disposal positively as part of a long-term programme of support to, and partnership with, the third sector.

b) Responding strategically to asset transfer –

- The Council will take a strategic approach to asset transfer through regular reviews of the asset transfer potential of its assets and the establishment of priorities, linked for example, to priority neighbourhoods, the exit-strategies from regeneration programmes, or the potential of particular high profile cases

- Once the policy framework has been established within the Council, opportunities to extend the approach to other public bodies through Locality Partnerships, will be sought.

c) Establishing a good process –

- The Council will have a transparent corporate process for asset transfer which includes a clear point of first contact and clear stages and timescales for each party;
- The Council will adopt an agreed method of assessing the benefits of the transfer (linked to corporate priorities) which allows a comparison with market disposal;
- Any disposal at less than best consideration will be supported by an evidence based Business Plan identifying the benefits and how these will be monitored and measured, together with the remedies available to both parties if the outcomes are not met. This Business Plan will be assessed by the appropriate professional officers of the Council and/or its agents, as deemed necessary by the Director of Resources.

7.0 Assessing Asset Transfers

7.1 The asset transfer decision is essentially a choice between –

- Maintaining existing position (i.e. retention of the asset);
- Expenditure on other services or priorities made possible as a result of a ‘commercial’ disposal;
- The benefits generated by the transfer of the asset to a TSO and local communities more widely;

7.2 In assessing proposals for asset transfer, the Council will attempt to measure the relative benefits and risks of these three options in order to justify its decision and the level of discount proposed; as well as benefits to Council priorities such as objectives from the Corporate Plan.

7.3 Critical to the success of any transfer is having a clear rationale backed by a robust business-case demonstrating the ability of the recipient to manage the asset effectively, including an assessment of the financial and organisational capacity of the organisation. A social benefit assessment framework may need to be applied by the Council. Further details of this framework are available from the Council’s Sustainable Community Team or Corporate Asset Management Team.

7.4 The organisation wishing to take on an asset would also need to provide a ‘business case’ for transfer at the outset and would be advised to contact the Council before preparing its business case.

7.5 Details of the mandatory elements of the business case can be obtained from the council’s Asset Management and Property Service or Community Development Service.

8.0 Managing the Risks of Community Asset Transfer

8.1 The assessment framework and risk matrix, identifies the potential risks of transfer and the forms of mitigation that may be taken to reduce these. In summary these are –

- Lack of capacity within the third sector organisation;
- The community empowerment objectives proposed by the asset may be weak or under-developed;
- Lack of knowledge of the asset (especially where a Listed building is concerned);
- Asset may not be used in the public interest, or access may be limited;
- Lack of clarity between respective roles of the Council and TSO.

10.0 The Asset Transfer Process – expression of interest

10.1 All expressions of interest should be directed in the first instance to either –

- The Council's Head of Corporate Asset Management (01432 383368), or
- Estates Management Officer Community Assets (01432 261711)