

Draft Community Asset Transfer Policy

Consultation Feedback Summary Report

Date: 2 October 2015

Overview and Purpose of Consultation

Gedling Borough Council's Cabinet agreed a Draft Community Asset Transfer Policy for Consultation on 30 July 2015. Consultation on the draft Policy ran for six weeks from 3 August 2015 to 14 September 2015.

The draft Policy was made available on the Council's website for members of the community to view and an on-line feedback form was provided for consultees to submit feedback. Information regarding the consultation was circulated directly to key community stakeholders, such as all the Council's community centre user groups. It was also promoted through public media during the six week consultation, via press release, the Council's website and social media such as Twitter.

A consultation meeting was also held with key community centre stakeholders on 7 September 2015 who form part of a local steering group exploring the potential community asset transfer of the Council's community centre buildings.

The purpose of the consultation has been to seek views on the draft Policy, review this feedback and if required make amendments to the final policy. Responses to the feedback received are highlighted throughout the document.

On-line Feedback and Written Submissions

In total there were three on-line responses to the consultation. A written submission was also received from Carlton, Gedling and District U3A.

Below gives a summary of the responses received:

1. The Draft Community Asset Transfer Policy includes 9 principles on pages 5 and 6. Do you have any comments regarding these 9 principles?

- The principles are OK in so far as they go.
- Need more detail about the process and safeguards to be able to comment.
- Council support is very important as it gives an organisation the assurance of getting on-going advice and the benefit of council staff's expertise.
- The range of models of transfer will ensure equality of access and that organisations will play to their strengths.

RESPONSE TO FEEDBACK:
The Council to develop a resource pack on community asset transfer for community organisations that details the expectations and requirements of the process.

2. A Gedling Asset Transfer Process is proposed on pages 6 to 12? What are your views regarding this Process?

- The organisation should receive independent legal advice. This may be costly and some consideration should be made for this. The council should consider if legal charges will be permitted against the freehold or leasehold of the property as security for lending and the implications of repossession. If not permitted then the council will need to take steps to protect itself whilst bearing in mind this limits funding options for the tenant. May result in small football teams, etc. struggling to find facilities as professional organisations take on the agreements.
- Will there be a financial effect on educational institutions that use the facilities?
- Does the council have a complaints process for community complaints about the activities taking place at the premises?
- Presumably public liability would transfer to the organisation, is this mentioned? Is costly insurance required?
- How would the Council protect itself against key persons leaving the organisation or dying?
- The council would also need to see evidence of any buildings insurance, again costly for the organisation.
- The stated aims of CATs are to save costs and confer benefits. The problem is that these two aims may be in conflict and excessive cost reductions have the potential to destroy the intended benefits.
- It may well be possible to absorb some costs through voluntary activity (e.g. management and caretaking).
- If costs transferred were to include capital depreciation, capital replacement, insurance or full maintenance costs, the community organisation may well find it impossible to deliver its key benefits to the community.
- Potential conflicts of interest between the new asset managers and other users or potential new users of an asset. E.g. hire charges, equipment, access arrangements or timetabling.
- Essential that CAT instruments (licences, leases and sale agreements) include covenants highlighting rights of new operators, but also their duties and obligations towards actual and potential users.
- Looks robust, thorough and considers a wide range of situations and context. Evidently, it has prioritised the best interests of the community at large and should work if embraced by all. However, the first transfer option, the Licence agreement on page 9, could indicate whether: 1. a given organisation will be a main contact with the council and would then liaise with the other community users with the responsibility of reporting back to the council or 2. the council will meet with all representatives and each representative user would have access with the council.
- If staff are employed either directly at the premises or indirectly as part of maintenance etc. will there be job losses or are the organisation responsible under TUPE?

RESPONSE TO FEEDBACK:

When developing a new resource pack on community asset transfer the Council will need to include reference to gaining legal advice, dealing with existing user groups, complaints procedures, public liability and insurance, employing staff, business and financial planning and conflict resolution.

- Propose that a trustee body should be established to represent the different users and to manage the asset.
- Local authority to establish an ombudsman function which would resolve conflicts that are impossible to resolve within the trustee body.
- Agrees there is need to develop capacity in community organisations to achieve benefits and to mitigate risk.
- Best approach to developing capacity and mitigate conflict of interest is to develop trustee bodies to manage the community asset over a trial period. These bodies could have a year or so to manage the asset before implementation of asset transfer licence, lease or sale. Trustees could develop capability, get support from the Local Authority, resolve conflict of interest, advise on asset transfer terms, such as a lease.

RESPONSE TO FEEDBACK:

Under principle 7 of the Policy the Council is committed to pursuing the best model for transfer in the interests of the Council, community organisations and the wider community.

Community Centre Stakeholder Meeting on 7 September 2015

A number of local community partners have joined a partnership with the Council to explore whether community asset transfer of its community centres is a viable option. This partnership is being supported by a national programme, Community Ownership and Management of Assets, funded by the Department of Local Government and Communities.

At a meeting of the partnership on 7 September 2015 a presentation on the Draft Community Asset Transfer Policy was given and partners present were given the opportunity to provide their views.

A summary of the feedback from this meeting is provided below:

- Important to be clear what kind of community organisation will be eligible for transfer from the outset

RESPONSE TO FEEDBACK:

Community Asset Transfer definition included in the Policy to give examples of types of community organisations.

- Will a lease agreement provide the ability to sub-let
- Important to honour existing community usage

- Groups need to understand community centre capacity to generate income
- A partnership of local organisations is better placed to identify and inform community need.
- A tapered 10 year subsidy pot of resource support to help groups
- When an existing lease or licence expires – what happens next?
- Are we over complicating the process?
- Knowing timescales is important.
- Two local groups are closing – Gedling CVS and Debz4Coffee – will we still be here?
- Lease duration needs to be longer to tap into funding
- Our organisation is happy with the current status quo (licence agreement)
- There is a fear factor with regard to commitment
- Groups having a lack of income/reserves for repairs and maintenance
- Capacity to explore transfers as a group rather than as individuals – collating skills and experience
- TUPE and employment implications for groups

RESPONSE TO FEEDBACK:

When developing a new resource pack on community asset transfer the Council will need to include reference to defining a community organisation, expectations of legal agreements, business and financial planning, support available from the Council, timescales, different models of transfer and employing staff.

- Succession planning is important

RESPONSE TO FEEDBACK:

Within Appendix A of the Policy reference is made to “a succession plan for volunteers” as part of an organisations business plan expectations.

Feedback from Locality Relationship Manager

As part of the Community Ownership and Management of Assets Programme, the Council and its community partners have been allocated a Relationship Manager working for a national community support organisation called Locality.

Below is a summary of the feedback received from our local Relationship Manager:

- Suggest using this explanation unless you have plans to transfer assets to other statutory bodies? “Community Asset Transfer involves the transfer of management and/or ownership of land and buildings from a public sector body to a community-based organisation, e.g.: a local charity, community interest company or industrial and provident society.” (Understanding Community Asset Transfer document)

RESPONSE TO FEEDBACK:

The above definition of Community Asset Transfer to be included in the Policy, while still retaining reference to other public sector organisations.

- Alternatively, Lambeth use “a long-term leasehold or freehold transfer arrangement entered into by the Council with a Community Organisation or Parish and Town Council, at market or below market value, to stimulate the social, economic and environmental well-being of people living and working in area”
- Mapping the viability of assets for transfer – do you have a matrix idea already? Here is an example
<http://www.wigan.gov.uk/Docs/PDF/Council/Strategies-Plans-and-Policies/Community-asset-transfer/Community-asset-transfer-assessment-matrix.pdf>
- What types of timescales are you considering. Lambeth provide indicative timescales for each stage, and responsibility
<http://www.lambeth.gov.uk/sites/default/files/pts-community-asset-ownership-management.pdf>

RESPONSE TO FEEDBACK:

The Council will refer to good practice when considering viability of an asset for transfer.

- Gedling’s Asset transfer process diagram is clear – any thought to the likely timescales to meet each aspect?
- Does the transfer contribute to the Council’s aims and objectives and wider community benefit? – how will groups know this?
- Support for Community Organisations - this is good to offer.
- Does the list cover all the costs GBC currently provide such as insurance?
- Will you also allow groups to sub-let to other community based groups/tenants to allow them to maximise income opportunities?
- Lease breaks for handover if issues?
- Appendix A Business Plan expectations - There are a number of business plan options and templates to consider such as within To Have and to Hold document below.

RESPONSE TO FEEDBACK:

When developing a new resource pack on community asset transfer the Council will need to include reference to timescales, where to find the aims and objectives of the Council, facility management expectations, expectations of legal agreements and employing staff.

- Any TUPE issues such as with caretakers?

RESPONSE TO FEEDBACK:

To make a reference within Appendix B of the Policy with regard to organisations who may wish to employ staff to manage buildings.

- See below for including in Appendix C

- Consider using the definition taken from http://mycommunity.org.uk/wp-content/uploads/2015/03/LOCALITY-ASSET-TRANSFER_UNDERSTANDING.pdf
- Good overview of Community Asset transfer http://mycommunity.org.uk/wp-content/uploads/2015/03/LOCALITY-ASSET-TRANSFER_UNDERSTANDING.pdf
- Asset transfer legal information including jargon busters http://locality.org.uk/?s=as_perform_advancedsearch&as_perform_advancedsearch=true&as_querytype=words&as_posts_pages=both&as_sortby=relevance&s=legal+toolkit
- To Have and to Hold is a guide to long-term community ownership and development of land and buildings <http://locality.org.uk/resources/hold/>

RESPONSE TO FEEDBACK:
Add good practice guidance links to Appendix C of the Community Asset Transfer Policy.