

POLICY AND RESOURCES COMMITTEE**WEDNESDAY 16 MARCH 2022**

REPORT TITLE:	COMMUNITY ASSET TRANSFER POLICY
REPORTS OF:	DIRECTOR OF RESOURCES

REPORT SUMMARY

This report recommends the adoption of an updated Community Asset Transfer Policy to be applied if the Council decides to discontinue its use of certain buildings and land.

This policy directly supports Wirral's Community Wealth Building Strategy by encouraging the setup of community-based 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

It supports the Wirral Plan 2021-2026 which seeks to bring about safe, vibrant communities where people want to live and raise their families.

It has implications for those wards which contain assets that may be declared surplus as a result of 2022/23 budget setting

It is a key decision.

RECOMMENDATIONS

The Policy and Resources Committee is recommended to approve the updated Community Asset Transfer Policy in the Appendix1 to this report

REASONS FOR RECOMMENDATION

- 1.1 The current Policy was agreed by the Council in 2009.
- 1.2 It is a sound document which builds on the previous policy and the successfully implemented of the asset transfer of community halls.
- 1.3 The policy requires updating to ensure it covers assets that will cease to be operated by the Council following budget setting decisions.
- 1.4 The proposed updated policy sets out criteria for determining:
 - (a) which assets are suitable for transfer to community groups;
 - (b) how expressions of interest to manage those assets should be dealt with;
 - (c) how applications should be evaluated;
 - (d) how and on what terms community transfers should be effected.

2.0 OTHER OPTIONS CONSIDERED

2.1 Retaining the existing Policy was rejected as the policy is out of date and current guidance is required following budget setting decisions

3.0 BACKGROUND INFORMATION

3.1 If the recent budget savings proposed by this Committee are adopted by the Council, certain libraries, golf courses and a Leisure Centre may be closed. No final decision will be made before the relevant Service Committees meet in the new Municipal Year when they will consider the responses received as a result of the public consultation.

3.2 Those premises that are regarded as surplus to the delivery of Council services following budget setting decisions, with the potential for community operation, would be selected for possible transfer to community groups

3.3. Following CAT policy approval by P&R Committee on 16th March. Expressions of interest can be invited for community asset transfers in respect of those assets which may be closed by the relevant Service committees depending upon the outcome of the public consultation.

3.4 Community groups will be invited to express an interest in taking over assets of that are regarded as surplus to the delivery of Council services, which may provide value for the community.

3.5 Those applications would be considered by reference to criteria which would include the proposed use, extent of community involvement, good governance, ability to manage the asset, financial resources and any request to the Council for financial or other assistance.

3.6 If the application were accepted by the appropriate Service Committee, the transfer would normally take the form of a lease at a concessionary rate with liability for repairs and insurance on the tenant and provisions for early termination, if the use of the asset should not prove to be financially viable or outside of the terms of the asset transfer

3.7 There would also be an asset transfer agreement or grant funding agreement (if appropriate) in order to ensure that the agreed aims and objectives of the asset transfer were being delivered

3.8 An agreement to community asset transfer does not provide a guarantee of success. Some assets may not be realistic in economic terms to sustain. Whilst buildings and the services operated are often symbolically important to a community, they may have significant costs associated that cannot be managed in a sustainable manner

3.9 Further details can be found in the Policy itself.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The market value of assets would need to be a factor when considering whether it is appropriate to offer them to the community or to dispose of them on commercial terms to alleviate the Council's financial position. It would also need to be considered whether any rents would need to be market or concessionary rents. This is likely to depend on the specific abilities of the group, its business planning, the Council's duties to achieve Best Value and to fulfil its fiduciary duty to local taxpayers (including contributions to secure a balanced sustainable budget)
- 4.2 The extent of any financial assistance to the community group would be considered on a case by case basis depending on its proven needs and the factors mentioned in paragraph 4.1 above.

5.0 LEGAL IMPLICATIONS

- 5.1 The Policy must be consistent with the Council's Best Value and fiduciary duties to the Council Taxpayer at a time when the Council is attempting to eliminate a structural budget deficit.
- 5.2 Section 123 of the Local Government Act 1972 does, however, allow a local authority to grant a lease not exceeding 7 years at a rent which is not the best rent reasonably obtainable and that would be lawful if it promoted the social well-being of the Borough and was consistent with the legal duties set out in 5.1 above. The same Section allows leases of 7 years or more duration to be granted at less than market value rents or premiums provided they promoted the social well being of the Borough and the undervalue does not exceed £2million

6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS

- 6.1 This would depend upon the terms of any asset transfer.

7.0 RELEVANT RISKS

- 7.1 The principal risk is that the Council could be drawn into subsidising the continued use of assets for which it has no longer a need in order to carry out efficiently and economically its statutory functions.
- 7.2 The other risk is that the community body will lack the skills and resources to manage the transferred asset effectively for the benefit of the community. If a long lease were granted it might be difficult for the Council to recover possession since the Court might grant relief to the tenant faced with legal proceedings by the Council for forfeiture of the lease by reason of the tenant's breaches of covenants. Possession would depend upon the discretion of the Court
- 7.3 These risks can be mitigated by applying the updated Community Asset Transfer Policy objectively and dispassionately to each application so that unrealistic proposals are refused.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 No public consultation on the revised policy has been undertaken because the proposed policy draws on the current policy to a substantial extent and therefore does not represent any significant change to the way in which the Council manages asset transfers to the community.

9.0 EQUALITY IMPLICATIONS

- 9.1 The terms of any asset transfer would normally prohibit unlawful discrimination by the community body in its use of the asset.
- 9.2 An asset transfer, if well managed, can serve the needs of persons with “protected characteristics” as defined by the Equality Act 2010 and this should be taken into account when evaluating applications.
- 9.3 Sections will be included within the expressions of interest template and the business planning template relating to equalities, including requests for policies and or statements. All EOI and business plans will be assessed by Council officers, the mechanism for assessing and scoring an EOI will include the equalities dimension

Equalities Impact Assessment: <https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments>

10.0 ENVIRONMENT AND CLIMATE CHANGE IMPLICATIONS

- 10.1 These would depend on the terms of the transfer.

11.0 COMMUNITY WEALTH BUILDING.

- 11.1 . This policy supports Community Wealth Building commitments to enable and increase a more plural economy – including local and community businesses. It enables communities to become more independent, financially self-sufficient and take ownership of public assets to run them in ways that are beneficial to them

REPORT AUTHOR:

Shaer Halewood
Director of Resources

APPENDIX 1

Updated Community Asset Transfer Policy

BACKGROUND PAPERS:

Wirral Plan 2021-2026

Community Wealth Building Strategy 2020-2025

SUBJECT HISTORY (last 3 years):

None