

Community Asset Transfer Policy

1.0 Background / Introduction

- 1.1. Blackpool Council recognises and supports the contribution that the Community and Voluntary Sector (Third sector) brings to the vitality and well being of communities across the borough. Community Asset Transfer is about giving local people and groups greater control in the future of their area and their community.
- 1.2. Community Asset Transfer is the process through which a property asset (either freehold or leasehold) is transferred to a Community and Voluntary Sector organisation which could be at less than market value.
- 1.3. The Council has land and buildings that are used for a variety of community and public purposes. For some Council buildings and land, community management and ownership could bring benefits to the local community, for the Community and Voluntary Sector group and to the Council and other public service providers.
- 1.4. This policy supports the Council's priority "*Communities: Creating stronger communities and increasing resilience*". It provides communities with an opportunity to use their skills and capacity to meet locally identified priorities and recognises the value of locally provided community services and facilities.
- 1.5. The Quirk Review, published in 2007 and the Assets of Community Value framework in the Localism Act emphasise the benefits that asset ownership can bring to local Community and Voluntary Sector organisations.
- 1.6. The 'Community Right to Bid', which builds on the Assets of Community Value framework in the Localism Act makes provision for adequate time for Community and Voluntary Sector organisations to express interest, raise funds and prepare bids for properties that have been formally listed as being of community value. Details of the Community Right to Bid policy and process are available on the Council's website.
- 1.7. The transfer of assets can involve different degrees of handover of land and/or buildings, for example:
 - Licence – the right to use property on certain terms, but not granting exclusive possession,
 - Leasehold – interest in a property with exclusive possession for certain number of years,
 - Freehold – either on a sole basis or through a joint partnership agreement.

- 1.8. Where the Council transfers assets to Community and Voluntary Sector groups, it will continue to promote public value, including:
- Economic development and economic well-being
 - Social well-being
 - Environmental improvements and environmental well-being
 - Building the capacity of, and encouraging a sustainable Community and Voluntary Sector
 - Community empowerment
 - Improvements to public services
 - Value for money
 - Area-wide benefits
- 1.9 This policy does not displace any processes that have been put in place by Central Government to support the Community Right to Bid, but can be used in conjunction with these to form a single and consistent approach.
- 1.10 The Council's Community Asset Transfer process has been designed to be easily undertaken in a small number of stages. This simple, tailored process ensures that the process is as swift and efficient as possible. An overview of the Community Asset Transfer process is set out in the flow chart at the end of this policy.

2.0 Corporate Principles for Community Asset Transfer

- 2.1 The Council's policy on Community Asset Transfer is underpinned by the following principles:
- a) Any proposed asset transfer must promote social, economic or environmental wellbeing and support the vision, values and priorities of the Council;
 - b) The Council has a dual role to support the Community and Voluntary Sector but also to act as a steward of publicly owned assets.
 - c) The Council will take a strategic approach to Corporate Asset Management by reviewing its portfolio and undertaking option appraisals which will include examining the transfer potential of its assets through the asset review.
 - d) The Council will adopt a transparent corporate process for asset transfer which will include a clear point of first contact and clear stages and timescales for each party.
 - e) The Council will not guarantee exclusivity on a first come first served basis when considering asset transfer and will consider other expressions of interest, as appropriate, in relation to any proposed asset transfer in order to gain maximum benefit for the local community.
 - f) If any disposal at less than best consideration is pursued, it may be accompanied by a contract or other suitable form of legal agreement identifying the benefits and how these will be monitored and measured, together with the remedies available to both parties if contract or agreement is not met.

2.2 The asset transfer decision involves the assessment of a number of criteria including:

- a) Benefits to respective parties e.g. Council, the Community, or the Community and Voluntary Sector.
- b) The need to raise capital receipts for future investment in direct service provision.
- c) Loss of any existing income
- d) Potential loss of opportunity costs arising from transfer
- e) Retention of assets for direct service delivery.

3.0 Requests for the transfer of Council owned assets will be considered where all of the following criteria are met:

3.1 The Asset

- a) The asset (land or buildings) is in the ownership of the Council. The policy does not specifically include or exclude any asset from potential transfer to a Community and Voluntary Sector group, allowing each case to be considered on its own merits and in the context of the Council's disposal policy.
- b) The Council is not able to transfer land / property where the undervalue is more than £2,000,000 without obtaining consent from the Secretary of State, therefore only in exceptional circumstances will transfer of assets above this value be considered.
- c) Undervalue is the difference between the 'unrestricted' or market value of the asset and the value of the proposed transfer agreement.
- d) An options appraisal will be carried out by the Council to ensure that the asset is suitable for community transfer as the sole or one of the viable options. This process will be adopted as part of the Council's disposal process.
- e) The asset is not currently needed or identified for future investment value or use for direct service delivery, which could best be provided directly by the Council rather than through the community.
- f) The transfer will assist in delivering the vision, values and priorities of the Council.
- g) The asset is, or becomes fit for its intended purpose without imposing an unreasonable liability to the Community and Voluntary Sector organisation or the Council.
- h) Transfer or management of an asset would not be contrary to any obligation placed on the Council.

3.2 Proposed use

- a. Any proposed asset transfer must promote social, economic or environmental wellbeing and support the vision, values and priorities of the Council;
- b. The proposed use will ensure extensive reach into the community and will be open to all. This can include organisations that serve a particular geographical community or a particular interest group (e.g. youth services) but in all cases organisations will be expected to demonstrate how they will ensure that they are inclusive.
- c. The Council will not accept proposals where property will be used to support activities of a political nature or activities which exclusively support or promote religion or religious belief.
- d. The proposed use will maximise opportunities to ensure sustainability, for example, through income generation, social enterprise and the hiring of space and facilities.
- e. There is an evidenced need and demand for the activities being proposed within the local community.
- f. The applicant has established how much space it requires to deliver its proposals and how they will make good use of such facilities. The applicant will need to demonstrate how the premises will be managed on a day to day basis and take account of legislation affecting occupation of premises.

3.3 The Applicant

- a. A Community and Voluntary Sector organisation must be a legal entity which:
 - is non-governmental - not part of the statutory sector (except Town and Parish Councils);
 - is non-profit distributing - it must reinvest any surpluses to further its social aims/ community benefits;
 - has community benefit objectives.
- b. Must have a appropriate legal structure, for example, a registered charity, a community interest company or a charitable incorporated organisation, a not for profit company or a cooperative. This should allow for the management/ownership of buildings and/or provision of services.
- c. Demonstrate good governance by operating through open and accountable decision making processes, with adequate monitoring, evaluation and financial management systems.
- d. Demonstrate management experience and/or expertise.

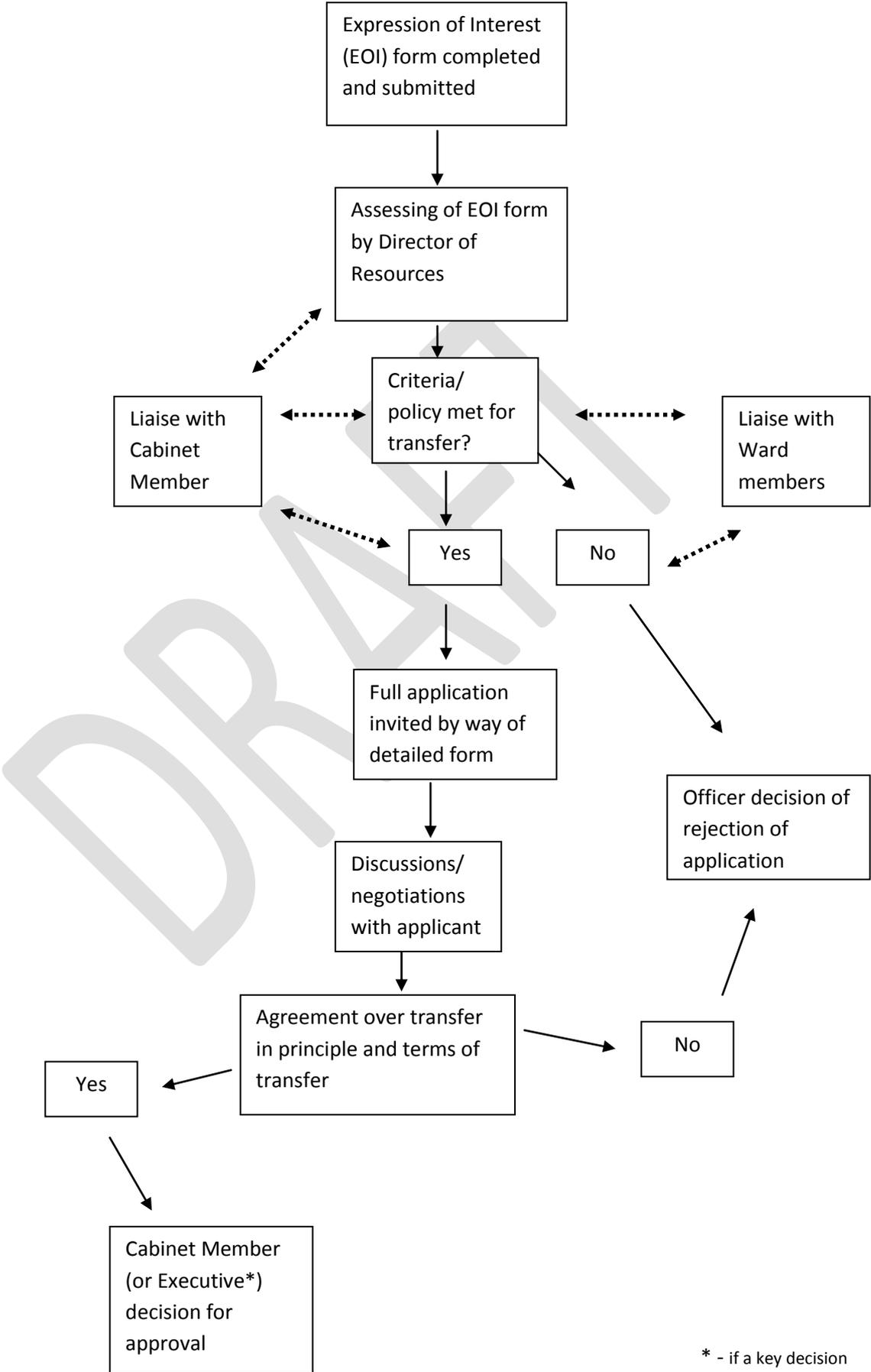
- e. Applicant has demonstrated how they will address any capacity building requirements within their organisation.
- f. Demonstrate that the organisation is sustainable.
- g. Provide copies of the organisation's most recent accounts.
- h. Demonstrate a track record of delivering a service or activity, or in the case of a new organisation, a track record of key individuals and a robust business case.
- i. The organisation has a clear purpose and understanding of the service or activity it wishes to deliver.
- j. Can demonstrate it has the skills and capacity within, or available to its managing body to effectively deliver services and manage the asset.
- k. Embrace diversity and work to improve community cohesion and reduce inequalities.
- l. Have a local connection - be engaged in economic, environmental or social regeneration in Blackpool or be providing a service of community benefit in line with the Council's priorities.
- m. Management proposal should include a specific plan on health and safety issues and compliance with legislation/statutory requirements arising from ownership or management of the building and/or running a service.
- n. The assessment process will require applicants to provide information to enable the Council to assess how they satisfy these detailed criteria.

4.0 The basis of transfer

- 4.1 'Transfer' is considered to relate to freehold and/or leasehold arrangements at less than best consideration (this means a transfer at below the market value) and may take a number of legal forms. At one extreme, a transfer of the 'freehold' of a property would mean the entire ownership of the building would pass from the Council to the Community and Voluntary Sector group. However, restrictions (called 'covenants') will ensure the property remains available to local people to use and prevent it being sold for development.
- 4.2 A 'lease' will give a community based group the exclusive right to use the property for the duration of the lease. A lease can run for any period - commonly from a few months, up to 99 years. At the end of the lease the building/asset will return, in no worse condition than originally transferred, to Council control. The Council will write in to such leases an appropriate clause (step-in rights) under which the asset would revert to the Council, for example: in the case of bankruptcy; in the case of corruption; if the anticipated benefits of transfer are not realised or if the organisation wishes to develop and move into bigger premises. In addition, an appropriate review period will be written into any asset transfer contract.

- 4.3 Any licence agreement allowing a Community and Voluntary Sector Group to have shared use of a building with other groups or individuals is not classed as a community asset transfer under this policy.
- 4.4 The Council will discuss with Community and Voluntary Sector groups what type of transfer will be most suitable to meet the needs and expectations of the groups and local people. Whilst the Council will normally wish to retain the freehold of the property and grant a lease to the Community and Voluntary Sector group, the Council will consider other options if it is in the best interest of local people.
- 4.5 The Council will determine rent payments or purchase costs on a case-by-case basis, for example; an organisation that has a substantial commercial use of a building that generates large profits in excess of the running costs would be expected to make some payment whereas a small Community and Voluntary Sector group managing a small property may be asked to contribute a smaller proportion. However, the Council will normally expect Community and Voluntary Sector groups to be responsible for all running costs of the building, including repairs, maintenance and all insurance. Any transfer at below market value will need to comply with State Aid Rules.
- 4.6 The Council is committed to the successful transfer of assets to Community and Voluntary Sector groups. However, it is also recognised that running a building is an onerous commitment. The Council does not want local people to be deterred from engaging in community asset transfer because they are apprehensive about the possible risks of transfer. Therefore the binding agreement leading to Community Asset Transfer, will include
- a. transfer return of building should the venture cease,
 - b. the Council retains the right to cease the agreement should conditions of transfer be breached; and
 - c. appropriate covenants regarding future use of property.
- 4.7 In accepting a return of an asset the Council will not normally assume any responsibilities or liabilities of the Community and Voluntary Sector group. In addition the Council will not normally act as guarantor for a group when transferring an asset (or subsequently).
- 4.8 The Council will share with any interested Community and Voluntary Sector organisations its information regarding the condition and operating costs of any asset that may be transferred. The Community and Voluntary Sector organisation will be expected to satisfy the Council that it is able to maintain any transferred asset satisfactorily after transfer. Each transfer will be reviewed individually to determine the approach to putting the asset into full repair, including undertaking decoration, although it would normally be expected that the organisation will make the asset suited to their operational needs.

SUMMARY OF PROCESS



* - if a key decision