

Community Asset Transfer Policy



July 2010



Community Asset Transfer Policy

approved by Cabinet 22nd July 2010

1. Statement of Commitment:

- Bristol City Council is committed to Community Asset Transfer ('CAT') where that will bring benefits to our communities and contributes towards the council's aims and objectives.
- We recognise that CAT can be a valuable part of supporting and sustaining the third sector in Bristol and we wish to ensure council assets are managed by the people who regularly use them.
- We are fully committed to using council assets to form long-term partnerships with third sector organisations ('TSOs') that meet the council's criteria, in order to create stronger, more cohesive and more sustainable communities.
- We will proactively investigate potential opportunities for CAT to local communities and social enterprises, but minimising financial liability for the council in the future.
- We will have a transparent process for CAT and will adopt an agreed method of assessing all requests for CAT.
- We will review this policy at least once every three years.

2. What is Community Asset Transfer?

2.1 Definition: "The transfer of land or buildings from the council's freehold ownership into the stewardship and/or ownership of third sector organisations."

2.2 CAT can take place in different forms:

- management agreement
- licence to occupy
- short lease
- long lease

2.3 CAT can also apply to giving a TSO 'first refusal' on a commercial disposal, eg by protecting the asset from the open market for an agreed period, which may be particularly appropriate for social enterprises and development trusts.

2.4 CAT usually involves a transfer at less than market value, either at a reduced cost, or free of charge. The level of subsidy will be determined by the social, economic or environmental benefits generated by the transfer.

2.5 CAT can apply to community buildings (see definition at Appendix A) and also to other third sector uses, such as social enterprises or arts venues.

Examples of CAT granted in Bristol in the past include community centres, advice centres, youth clubs, city farms, nurseries, social clubs, arts premises, museums, tourist attractions, etc.

3. Why does the council transfer assets to third sector organisations?

3.1 We believe that TSOs are often best placed to manage facilities in their local communities. They make extensive use of volunteers and their local knowledge and hands-on management of the asset is likely to result in lower overheads and better value-for-money, as well as a more intensive use of the asset.

3.2 Community management and ownership of assets directly supports the council's new, devolved decision making process. It empowers local communities, puts local organisations in control, encourages pride of place and generates wealth in Bristol's communities.

3.3 An asset can also provide a TSO with greater financial viability and reduce its dependency on grants. The asset will enable it to apply for external funding that is not available to the council, or even to secure loan finance on the value of the asset.

3.4 Better use of its assets can help the council achieve improved outcomes and efficiencies.

4. Which organisations can be considered for CAT?

4.1 TSOs or organisations that are not for private profit:

- unincorporated charitable organisation
- company limited by guarantee with charitable status
- Community Interest Company (CIC) limited by guarantee
- community benefit Industrial & Provident Society with an asset lock
- CIC limited by shares

4.2 CAT recipients can be of any size and need to:

- generate social, economic or environmental benefits
- directly benefit the people of Bristol
- benefit as wide and diverse a range of local people as possible

4.3 Privately owned or commercial organisations can only be considered if their main aim is to deliver social, economic or environmental benefits.

4.4 National organisations whose remit is regional or nationwide are not normally considered for CAT.

5. What are the criteria that TSOs need to meet to be eligible for CAT?

- need to have a well-prepared business case
- need to demonstrate a clear community/social demand for the proposed CAT
- need to have the capacity to manage the asset and have directors or management committee members who have the necessary experience and skills
- need to have good governance, robust financial systems, and all necessary policies expected of a community organisation; this can be evidenced by having a recognised quality mark, or by meeting all the basic requirements for a good community organisation as listed in Appendix B
- need to contribute towards the council's corporate and strategic objectives and Bristol's 20:20 Plan
- must not duplicate activities, services or facilities already provided in the local community

6. For how long will leases be granted?

6.1 We will carefully consider the specific needs of the TSO, the condition of the asset and the requirements of potential funders or lenders. We will base the length of the lease term on the needs that are clearly supported by the TSOs business plan, and on the TSOs capacity to manage the asset. In certain case we may offer a phased transfer, depending on the TSOs resources.

6.2 Proposals from community anchor organisations (“independent, community-run and led organisations, rooted in a sense of place, and with a mission to improve things for the whole community”) and those which include the co-location of several services (a ‘community hub’) will be encouraged in this context.

6.3 The following is a guide to the length of term that may apply to new CATs, based on the anticipated requirements of most charitable funders:

- a management agreement or licence will normally be granted for up to 12 months

- a lease of up to 10 years
- a lease of up to 35 years
- in exceptional cases, a lease longer than 35 years may be appropriate if supported by a business case that demonstrates special circumstances or requirements from funders or lenders.

6.4 We will be as flexible as possible when designing lease clauses, so that maximum benefit is achieved for both the TSO and the council. This will enable the asset to be used imaginatively, eg through the ability to sub-let and through flexible user clauses.

6.5 Once granted, leases can usually be extended or restructured at a future stage, to meet the TSO's changed activities or circumstances, or to meet the requirements of potential funders or lenders.

6.6 Leases will be accompanied by a Service Agreement that will secure the longer term benefits of the CAT. This will set out the agreed minimum standards, opening hours and activities, and how these will be measured and monitored. It will also ensure that the TSO meets all necessary requirements to achieve optimum community benefit and use of the asset. An example of such an agreement is attached at Appendix C.

6.7 Leases longer than 7 years will normally only be granted to organisations that have an 'asset lock' and will contain clauses that prevent the asset being assigned or sold on for unintended financial gain and the loss of the agreed benefits.

6.8 Leases will contain suitable clauses to ensure the return of the asset to the council if the terms of the service agreement are not met, or in the case of dissolution, insolvency or corruption.

7. What should the business case for CAT contain?

- full details of the identified needs that will be met by the CAT
- clear evidence of the capacity and experience of the TSO to manage and develop the asset, using the DTA toolkit as a guide (example at Appendix D)
- detailed evidence that the CAT is financially sustainable over the life of the business plan and will not incur future financial liabilities for the council, eg cash flow forecasts, projected utilisation rates, and details of any financial support secured from or pledged by funders and lenders; the council will assist by making relevant information and data available

- details of the anticipated benefits that the CAT will produce and how these will be measured
- details of the type of CAT and lease terms sought
- evidence of support from council officers or departments, council members, other TSOs, other local stakeholders and potential funders
- a robust risk assessment of the CAT and details of alternative arrangements in the event that the CAT proves unrealistic or not sustainable

8. What is the assessment process for CAT applications?

8.1 The following table is intended as a guide and the suggested timescales may be subject to variation.

Steps	Elements	Assessors / decision makers	Timescales
Stage 1: formal expression of interest by the TSO	Presentation of business case and feasibility assessment: <ul style="list-style-type: none"> - why the asset is needed - aims & objectives - support from others - demonstrate effective management of the asset (for cases where the TSO already occupies the property) 	desktop assessment by council officers	max 1 month
Stage 2: if successful at Stage 1, the TSO submits a detailed business plan for the whole organisation	evidence of: <ul style="list-style-type: none"> - product/service delivery - partnership working - experience - track record - capacity - needs analysis 	1) desktop assessment by council officers 2) meeting(s) with TSO and supporters 3) site visit 4) written report & options appraisal by council officers	max 3 months

	<ul style="list-style-type: none"> - projected utilisation - cash flow forecasts - projected income & expenditure - risk assessment - SWOT analysis - professional advice obtained 	5) 'in principle' decision by Strategic Director Resources	
Stage 3: if approved 'in principle' at Stage 2, a full assessment of the proposed CAT is undertaken	<p>detailed evaluation of:</p> <ul style="list-style-type: none"> - value/worth of the CAT's benefits - benefits to the council - test against existing facilities (duplication) - test against local policies - test against local Neighbourhood Partnership action plan - test against national policies and relevant legislation, incl State Aid regulations, Local Government Act, etc 	<ol style="list-style-type: none"> 1) detailed assessment by council officers 2) consultation with local Neighbourhood Partnership 3) consultation with departmental managers 4) obtain legal advice and professional support 5) written report by council officers 6) formal decision by Strategic Director Resources, or by Cabinet if it is a lease longer than 35 years or a 'key decision' 7) written notification of the council's decision 	max 4 months
Stage 4: completion	<ul style="list-style-type: none"> - agree support plan and investment plan - draft heads of terms issued - draft lease and service agreement issued and 	This final stage requires council officers, the TSO and the TSO's solicitors to work closely together, so that unnecessary delays are avoided	max 1 month, 3 months and 6 months, respectively

	Secretary of State's consent applied for (where necessary) - completion of all agreements and documentation		
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8.2 An example of the assessment tool(s) that will be used at Stage 3 is attached at Appendix D, although it should be noted that these documents will be regularly reviewed and may therefore be subject to change.

9. What happens after a CAT has been completed?

- an organisational development plan will be agreed with the TSO, based on a skills audit and the support plan
- ongoing support from the council's Community Development team and signposting to other sources of advice and support
- annual review of the service agreement targets: measure benefits
- where applicable, 5-yearly renewal of the service agreement

10. Appendices:

Appendix A: definition of a community building

Appendix B: organisational requirements

Appendix C: example of service agreement

Appendix D: example of social value, policy and legal assessment tools

Hyperlink to Bristol City Council's corporate plan:

www.bristol.gov.uk/corporateplan

Hyperlink to Bristol Partnership's 20:20 Plan:

www.bristolpartnership.org/vision-for-bristol

Hyperlink to examples of existing community facilities & assets in Bristol:

www.bristol.gov.uk/communitybuildings

Community Asset Transfer Policy - Appendix A

Definition of a community building:

“A free-standing building that is managed, occupied or used primarily by the voluntary and community sector and where community-led activities for community benefit are the primary use of the building.”

Community Asset Transfer Policy - Appendix B

Requirements for organisations wishing to apply for CAT:

We will be using the 'pre-VISIBLE' quality standard developed by Community Matters, or an equivalent, nationally recognised standard. Full details of pre-VISIBLE can be downloaded from www.visiblecommunities.org.uk/index.php?page=10 and the main elements are listed below:

- a) have an up-to-date governing document
- b) have clearly defined roles and responsibilities for management committee members as directors and/or charity trustees
- c) have elected officers, elections and regular meetings in accordance with its governing document
- d) comply with all Charity Commission and Companies House requirements
- e) manages conflicts of interest
- f) understand its community and its current needs, monitor the quality and relevance of its services, seek feedback, and ensure that its services are fully accessible and appropriate to its community
- g) have regular financial updates for the organisation and its Trustees/Directors/Management Committee Members understand their legal obligations
- h) produce annual accounts, appropriately examined or audited, and containing the Annual Report
- i) have written policies covering payment of Trustees/Directors/Management Committee Members and volunteers, have a Reserves Policy, have procedures for paying/reclaiming the correct amounts of tax, NI and VAT
- j) operate a consistent charging and lettings policy that balances the needs of the organisation with the needs of local groups
- k) have a separate trading company with a clear legal relationship, where applicable
- l) have a clear recruitment policy and written procedures for the recruitment, induction and support of employees and volunteers
- m) have contracts of employment and written conditions of service for all staff
- n) comply with relevant equal opportunities legislation in its work and recruitment/employment of staff
- o) have the correct licences, permissions and insurance cover, where applicable
- p) comply with good health and safety practice and legislation
- q) comply with The Children's Act and The Safeguarding Vulnerable Groups Act 2006

Community Asset Transfer Policy – Appendix C

This section is being revised and the latest version can be downloaded from our website at:

www.bristol.gov.uk/cat

Community Asset Transfer Policy – Appendix D

This section is under development and the latest version can be downloaded from our website at:

www.bristol.gov.uk/cat

For more information about the CAT Policy or to make enquiries about whether Community Asset Transfer could be appropriate for your organisation please contact:

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