

Mid Sussex District Council Community Management and Asset Transfer Policy

General principles

1. Fundamental to the success of any asset transfer is the applicant demonstrating to the Council that they have a clear rationale, backed by a robust business-case, and the ability to manage the asset effectively. This needs to include an assessment of the financial and organisational capacity of the organisation.
2. Applicants must be appropriately constituted, operate for community, social or environmental benefit and be non-profit distributing.
3. Community asset transfers will be by means of a full repairing Lease Agreement. Freehold transfer will only be considered in exceptional circumstances and must be the subject of a specific report to Council to gain approval. A Meanwhile Use Lease or License may be issued for short term temporary arrangements.
4. Community asset transfers must comply with legislation and general policies. They will be cost neutral or generate an income for the Council.

Criteria for considering requests

5. Requests for the transfer of Council owned assets would be considered where all of the following criteria are met:
 - a) **The applicant must:**
 - be established for community / social / environmental benefit objectives
 - be non-profit distributing – it must reinvest any surpluses to further its social aims
 - be appropriately constituted, for example, a registered charity, a community interest company or a charitable incorporated organisation, parish council, a not for profit company; a co-operative. Such constitution allows the management / ownership of buildings and or provision of services
 - demonstrate good governance, management experience and a track record of delivering services or property management
 - have the skills and capacity within or available to its managing body to effectively deliver services and manage the asset;
 - be non-discriminatory, fully inclusive, embrace diversity and comply with all relevant employment and equality legislation
 - not promote political activities or religious beliefs
 - submit a detailed proposal explaining how the premises will be managed on a day to day basis and policies to ensure compliance with any legislation regarding premises management and / or running a service.
 - provide copies of the accounts of the organisation.
 - have a clear purpose and understanding of the activities it wishes to deliver
 - b) **The Asset**
 - is in the freehold/leasehold ownership of the Council.
 - is not currently needed or identified for future investment value or disposal (in accordance with District Plan Policy DP25) or use for direct service delivery, which could best be provided directly by the authority rather than through the community.

- is fit for purpose and would not impose an unreasonable liability to the transferee or the Council
- transfer would not be contrary to any obligation or existing covenant placed on the Council
- before any asset transfer the Council will need to be satisfied that it is within its legal and financial powers

c) Proposed use

- the proposed use will offer a service which contributes toward Mid Sussex District Council's corporate priorities and community development plans
- will maximise opportunities for income generation to ensure sustainability, for example, through the hiring of space and facilities
- there is both a need and demand for the activities being proposed and consideration is given to whether or not this is being satisfactorily addressed by another organisation.
- must make good use of the facilities, accommodate any existing users (if applicable) and be accessible

In the case of vacant premises or new build projects the Council will advertise the development to voluntary sector organisations, sports clubs, not-for-profit leisure providers, town and parish councils and statutory sector partners and invite Expressions of Interest from community groups who are interested in running the facility or want to hire space for activities. In some instances, the Council will invite targeted bids from voluntary sector organisations in order to address specific local needs.

6. This information will help inform the business plan and design of the new facility. New facilities should generally be designed as multi-purpose flexible spaces, suitable for a wide range of activities and services, so they can meet current and future needs. Sustainable and vibrant community hubs can potentially include retail, café, childcare provision, meeting and activity rooms, workshop space and co-working facilities.
7. If more than one organisation is interested in running a facility the Council will work with all stakeholders, including Ward Councillors, Town and Parish Councils, to discuss their needs and encourage them to work in partnership. If there is no clear lead body the Council could support the formation of a new organisation established to manage the facilities on behalf of the community.

Submissions

8. Before the Council can agree to issue a Lease it will need to be satisfied that there is a sustainable business plan in place to ensure the facility will be effectively managed for the benefit of the local community in the long term.
9. At the most basic level this would mean ensuring there are keyholders to enable access to facilities, a phone and email booking system, and policies in place to deal with statutory responsibilities such as equal opportunities, health and safety, safeguarding and licensing.
10. The expectation is that sufficient income will be generated from the facility to cover site revenue and maintenance costs and an operational budget will be required. An outline programme of varied groups / activity providers will be needed to estimate bookings by casual one-off hirers and regular users. A strong marketing plan will also be needed to show how the facility will be promoted to community users.

11. In terms of proposing a business case for consideration by the Council any applicant will need to submit:
 - organisational contact details, constitution and 3 years financial accounts
 - track record of delivering services and or managing property
 - the planned programme, hiring arrangements, user groups and information about community consultation, partners and stakeholder engagement
 - details of governance structure with capability to sustain asset transfer and has identified necessary capacity building requirements within their organisation.
 - how the asset will be managed on a day to day basis and maintained in the longer term, including details of any policy requirements i.e. safeguarding, health and safety
 - where transfer is requested at less than market value the applicant has justified and quantified the outcomes and community benefits to result from the asset transfer
 - at least 5 years revenue or capital funding plans and projections of managing and operating the asset.
12. Submissions will be assessed against the criteria outlined above (see Appendix B). This information will be reviewed by Community Services, Performance and Partnerships and when satisfied that the submission meets the Council's criteria, Estates & Facilities will be directed to prepare Heads of Terms.
13. If more than one proposal were submitted for the same facility the Council would need to consider both and assess which option best meets the criteria. Any disputes will be referred to the Cabinet Member for Community Services who will have the final decision.
14. Proposals for developments on recreation land must be approved by the Business Unit Leader for Waste, Landscapes and Leisure. The final decision to grant a lease will be taken by the Cabinet Member responsible for Corporate Estates and Facilities.

Lease Terms

15. The Local Government Act 1972: General Disposal Consent 2003 gives the Council the power to make disposals of Council owned land subject to certain constraints.
16. If the Lease relates to an area of open space, the Council must advertise the disposal and invite members of the public, who may oppose or object, to make their views known. The Council must consider any objections before deciding whether or not to grant the proposed lease.
17. Corporate Estates will produce a statement by a RICS qualified surveyor¹ when adopting a rent for the community building which will have regard to the marketing that has been undertaken, open market rents, reference relevant comparable community buildings rents and justification of any discounts being applied.

¹ prepared in accordance with the Technical Appendix to the Consent.

18. If the business plan submitted indicates that the market rent is unachievable, the Council could agree to a rental subsidy if it can be demonstrated that the asset transfer will result in economic, social or environmental benefits and the difference between the unrestricted value of the asset and the consideration accepted is £2m or less.
19. The amount of any rent subsidy will be considered on a case by case basis. Factors influencing such a decision will include; proposed uses, extent of revenue producing opportunities, financial accounts and forecasts, benefits to the community.
20. In order to ensure the Council can step-in if the Lessee fails to keep the building in good repair, does not comply with the agreed use or breaches any of the Lease covenants the standard Lease term should be limited to 35 years with a mutual break clause at 15 years. This period is generally sufficient to enable community organisations to apply to external funders for grants toward capital investment in the facilities. Any alterations to the building will generally require Landlords Consent.
21. To ensure the facility continues to be used by the Lessee for the agreed purpose the Lease should specify the Permitted Use, the number of hours of operation that the facility will be made available for community use and include an alienation clause to prohibit assignation and restrict sub-letting, except to designated organisations as agreed with the Council.
22. In all cases, leases will include a Management Agreement and / or terms that ensure the arrangement is reviewed if these agreements are not met and the asset is returned if the organisation is dissolved, becomes insolvent or ceases operation due to any other circumstances.
23. The Management Agreement and / or lease terms will set out the approved use of the asset and Lessees will periodically be required to demonstrate how they have complied with the conditions. If they fail to comply with the Management Agreement, there will be a review period which could result in a rent increase, based on the market value.
24. The Council will seek to appoint a Councillor as an observer or nominated non-executive representative on the Board of the Lessee.
25. Any proposal to enter into a Lease Agreement or Agreement for Lease must be formally approved by Cabinet.
26. When the Lease comes into effect the Council will provide the Lessee with a Tenant Handbook providing instructions for the operation and maintenance of the premises i.e. insurances, utility suppliers, servicing requirements, guarantees and warranties.