

Understanding the community ownership/management options relating to public assets

The social, economic and environmental benefits that flow from making the most of assets to meet community needs is widely acknowledged. The following graphic summarises the spectrum of ownership/management options that typically apply to publicly owned land and buildings. The options described here are not a hierarchy, and the intended outcomes of an initiative might be best served by any of the approaches.



License to occupy, or other short-term arrangements

Definition: An agreement to use a building for a short period of time.

Pros/cons of option: Can be very useful to build credibility, confidence and trust, but such arrangements do not usually provide any formal legal interest in the property/security of tenure. The experience of 'meanwhile' occupation has been successful in reanimating empty property on a temporary basis, for community benefit.

Relevant legislation/practice: Meanwhile Space CIC support projects to regenerate high streets and make stalled development sites more productive.

Short term lease (usually < 10 years)

Definition: A written document recording the deal made between the landlord and the tenant.

Pros/cons of option: It is generally better to have a lease that is as long as possible (particularly where external funding is dependent on a minimal lease term) but a later option to renew could be negotiated. In general, leases must be registered if they are granted for a period of more than seven years.

Relevant legislation/practice: The Landlord and Tenant Act 1954 provides a right to apply for a new lease when the previous one ends, but in practice this right is often excluded. In the event of automatic exclusion, groups should consider what impact this might have on their plans.

Long term lease (>20 years, to secure investment)

Definition: This is typical 'community asset transfer' (CAT) territory - most usually a long leasehold - but occasionally freehold.

Pros/cons of option: CAT enables statutory bodies (such as local authorities) to transfer the ownership/management of their assets to community organisations at less than full market value – in order to achieve a defined public benefit.

Relevant legislation/practice: s123 of the Local Government Act 1972 sets out the general powers of disposal that councils possess. The General Disposal Consent 2003 is a general consent for councils (and other statutory bodies), to dispose of land for 'less than best' consideration in order to achieve a public benefit.

Freehold

Definition: Complete and absolute ownership of land and all buildings on the land, (subject only to other circumstances, e.g. mortgages and other rights granted over the land).

Pros/cons of option: Generally speaking, the freedom to exploit the asset's potential in the long term is optimised with freehold ownership. But the financial and legal responsibilities involved usually increase correspondingly.

Relevant legislation/practice: The Localism Act 2011 introduced the Community Right to Bid - Assets of Community Value (ACV). When the owner of a listed ACV wishes to dispose of it, the Act introduces a delay (or 'moratorium') to give interested and eligible local groups the time to prepare a bid to purchase it.

The Community Right to Reclaim Land allows relevant groups to challenge local councils, and some other public bodies, to release their unused and underused land.

Please note: commercial property arrangements that community groups may choose to enter into are outside of the scope of this illustration.