Overview of Community Asset Transfer

Community Asset Transfer is an established mechanism used to enable the community ownership and management of publicly owned land and buildings.

The General Disposal Consent allows local authorities to transfer the ownership and management of land and buildings they own to local communities at 'less than best consideration' – at less than full market value.

Communities can enter into discussions with any public body about Community Asset Transfer where it is their intention to promote social, economic and environmental well-being.

The ultimate aim of Community Asset Transfer is community empowerment – that is, to ensure that land and buildings are retained or transformed and then operated for public benefit through community asset ownership and management.

Background

Community asset ownership isn't new – communities have a history going back centuries of owning and managing land and buildings. However, recent government policy in England has encouraged the community ownership and management of assets.

In 2007, the Government published 'Making Assets Work: The Quirk Review' and established the Asset Transfer Unit, and dedicated programmes of support to produce culture change in the community asset transfer agenda in England. This resulted in support for over 1,500 asset transfer initiatives throughout England in the period 2007-2012.

In 2009, the Government sponsored a demonstration programme to explore the Meanwhile Use of assets by and for communities – that is, the temporary or interim uses of under-used land and buildings. This work contributed to the Portas Review into the future of high streets affected by the economic downturn, requiring alternative uses for a growing number of empty shops.

In 2011, the Government refreshed the Public Request Ordering Disposal provisions – now referred to as the Right to Reclaim Land – and amended the ODPM Circular (06/2004) "Compulsory Purchase and the Crichel Down Rules" to provide guidance on Compulsory Purchase for Communities. The Right to Reclaim Land is designed to make it easier for the public to get underused or disused land owned by some public bodies back into beneficial use. Changes to the guidance on

Compulsory Purchase require local authorities to have regard to requests from community organisations who want to acquire land and buildings for regeneration purposes.

The Localism Act 2011 introduced the Community Right to Bid to address concerns that too often local buildings and land that are of great value to the community, such as a village hall or local pub, go up for sale and are purchased by a private buyer before the community has an opportunity to put together the funding to take it over themselves. The Community Right to Bid gives communities the power to nominate assets (buildings or land). If the local authority agrees that the asset is of community value, it is put on a published list. If an asset listed as an asset of community value is put up for sale, a six-week pause is triggered, during which any local community group may express an interest in purchasing the asset. If they do express an interest, there is a further four and a half months' window giving the group time to find funding and put together a bid to purchase the asset on the open market.

What is Community Asset Transfer?

Community Asset Transfer involves the transfer of management and/or ownership of land and buildings from a public sector body to a community-based organisation, e.g. a local charity, community interest company or community benefit society. The transfer may be at nil cost, or the community organisation may be offered the opportunity to purchase the asset at a discount.

Community Asset Transfer is sometimes confused with the Community Right to Bid. Although they share some of the same objectives, these are substantively different mechanisms that communities can use to acquire land and buildings. The crucial differences are:

- Community Asset Transfer is the transfer of ownership or management of publicly owned assets, whereas the Community Right to Bid applies to some public and some privately owned assets.
- Community Asset Transfer is the transfer of management or ownership at less than market value. Community Right to Bid gives a defined pause period for a community organisation to compete to buy an asset on the open market.
- Community Asset Transfer is a voluntary process entered into proactively by public bodies. The Community Right to Bid is a pre-emptive legal right for communities.

How Community Asset Transfer works

A number of public bodies, in particular local authorities, have the power to dispose of land and buildings at less than market value where they can demonstrate that doing so will result in local improvements to social, economic or environmental well-being. The legislation that allows local authorities to do this is the General Disposal Consent (England) 2003.

Most local authorities have experience with Community Asset Transfer. Many have Community Asset Transfer strategies and policies which provide detailed information about how communities can express interest in taking over a publicly owned asset in their local area. Some local authorities have proactive policies which aim to transfer specific types of assets to community organisations.

Community Asset Transfer initiated by the community

It is important to be clear from the outset why you are seeking a Community Asset Transfer – for example, to bring a much-loved building back into use, to provide a base to deliver your services, or to protect an area of green space which is valued by local people. You will need to show that a Community Asset Transfer will improve social, economic or environmental wellbeing.

Check out the website of your local authority to see if they have a Community Asset Transfer policy. This will give an outline of the process, including an initial contact. If your local authority does not publish information on Community Asset Transfer, contact the local authority's property department to discuss where to start.

Where the community has identified a building or land, it is important to approach the local authority (or other statutory body) at an early stage. Community Asset Transfer is a voluntary process, so the local authority may not be willing to consider transferring the building or land. Confirming that the land or building could potentially be a Community Asset Transfer is the first step before you commit time and resources.

If the local authority (or other public body) is not prepared to consider a transfer, you can continue to lobby or negotiate, or you could enquire about alternative assets.

Community Asset Transfer initiated by the local authority

Local authorities may seek to transfer assets such as community centres to community organisations. Some local authorities advertise all Community Asset Transfer opportunities to ensure fairness. Others offer a transfer or consider transfer requests from organisations which currently manage a property without seeking other bids. The local authority's approach should be set out in its Community Asset Transfer Strategy.

Typical procedure for Community Asset Transfer

Whether an organisation is the only applicant or there is a competitive process, the procedure is usually similar. Ordinarily, this involves submitting an expression of interest and, subject to an invitation from the local authority, developing a business case to demonstrate that the community organisation can maintain and operate the land or building on a sustainable basis and deliver community benefit.

The local authority will decide whether to progress with the Community Asset Transfer, and decide between competing organisations on the basis of:

- Viability and sustainability – looking at financial projections, business model, governance and community involvement.
- Community benefit – details of the economic, social and environmental benefits that the Community Asset Transfer will deliver.

Transfer options

A range of agreements can be entered into to facilitate the transfer of an asset to a community organisation, but the most common form is a long leasehold. A long leasehold is typically 25 or more years. You will need to establish whether the Community Asset Transfer is at a discount or at nil cost. If it is at a discount, what is the purchase price.

Often, local authorities will explore the option to use shorter-term agreements with newly formed community organisations. This can give the community organisation an opportunity to test out ideas for operating the building.

If you are thinking of taking on a Community Asset Transfer, you should consider whether you will need to raise capital funding for purchase or refurbishment. If so, you will usually need a long leasehold of 25 or more years to meet the requirements of funders and investors. Many local authorities offer 25 years or more years. It can be very difficult to raise capital funding if you have a shorter lease. Some funders are not prepared to provide funding to purchase an asset from a local authority.

Most Community Asset Transfer leases are fully repairing and insuring. This means that the community organisation is responsible for carrying out all repairs and refurbishments. Throughout a 25-year lease, this can be a substantial cost. The community organisation may also be responsible for insurance of the asset, or the local authority may insure and recharge the cost to the community organisation. These are costs which need to be included in financial projections.

Checklist for community organisations

Any voluntary or community organisation interested in Community Asset Transfer should:

- Gather evidence to show how the community and local people will benefit from the transfer
- Gather evidence of community support for the transfer
- Check to see if the local authority has an Asset Transfer policy and if there have been other Community Asset Transfers nearby to learn from
- Develop a business plan that demonstrates the financial viability of plans for the asset.

Key considerations:

Is the land or building in question really an asset or a liability – for example, it is a liability if it cannot generate enough income to fund repairs, maintenance and ongoing operational costs? An asset can often look like an opportunity, and it can be difficult to decide not to progress with it. Putting together financial projections looking at likely income and expenditure will provide a basis for deciding.

Taking on an asset is a long-term responsibility. It is reasonable to expect the asset to still be operating successfully after the original people involved in the transfer have moved on. Think long term about how you will continue to involve the community and recruit board members and volunteers.

Detailed guidance is available in the Assets Hub on My Community including guidance on assessing feasibility, writing a business plan and raising capital funding.

Glossary

Best consideration – market value (less than best consideration – less than market value)
Disposal – sale or transfer of public land or buildings
Freehold – outright ownership of land or buildings
Funder – any organisation which might provide funding, including grant funders, statutory sources of funding (such as government and local authorities) and organisations providing loan finance
Leasehold – where one party acquires the right to occupy land or a building for a given length of time.
Long lease – a leasehold of 25 years or more
Peppercorn rent – nominal rent used in some legal agreements
Statutory organisations -– local authorities, health, other parts of local and national government.

Find out more about Locality

Locality believes in the power of community to transform lives. As the leading national experts on community assets, we help communities take ownership of land and buildings, manage finances and governance, and connect with others running similar spaces - find out more.