

CABINET – 19 NOVEMBER 2019

UPDATED COMMUNITY ASSET TRANSFER POLICY

Report by Director for Property, Investment and Facilities Management

RECOMMENDATION

1. **The Cabinet is RECOMMENDED to adopt the revised Community Asset Transfer Policy.**

Executive Summary

2. The report sets out the background to the community asset transfer policy and the issues that have arisen from its application in its current form, most recently through the children's services transformation. Revisions to the policy are proposed to improve the process for all parties in future, to provide greater clarity when we are working with community organisations interested in taking on council buildings.

Introduction

3. Oxfordshire County Council owns circa 704 assets comprising 124 parcels of land (excluding highway land) and 580 buildings which include schools, offices, libraries, fire stations, children's centres, day centres, museums, staff houses, depots, children's homes, register offices, etc. When buildings are not required for OCC operational purposes they are leased out wherever possible. Of these properties which are leased out 85 are leased to community organisations and provide an income to the council of circa £170k per annum. The Estates Team manage these property transactions, e.g. new leases, lease renewals, rent reviews, terminations, landlord's consent.
4. The asset transfer policy was first adopted in 2011 and subsequently revised in 2012 following the experiences of transferring assets (primarily youth centres) under the Big Society Fund.
5. It was revised again in 2016 in anticipation of the Children's Services Transformation Programme which saw 19 children's centres transferred to community groups. This version of the policy has been seen to be very rigid and acted as a barrier to delivering our vision of thriving communities. It has caused some lengthy negotiations with community groups which has been a significant resource issue across multiple council departments and was flagged for review as part of the action plan following the Voluntary and Community Sector Peer Review last year.
6. The revised policy is therefore intended to enable greater flexibility to agree appropriate terms with community groups in future transfers, reinforce support

for the approach and ultimately maximise the use of our assets for community benefit.

7. Lease arrangements for Early Years and Childcare Providers Operating on School or Council Sites are covered by a separate policy which has been recently reviewed in conjunction with Children Education and Families colleagues due to the link with our statutory requirement for the sufficient provision of early years places.
8. Where existing leases are in place these will continue until the contractual end date, at which point the revised policy will apply, unless the tenant has an automatic right of renewal on the same terms.

Overview of revisions to the policy

9. The issue that has remained most contentious with community groups has been the calculation of rent and the levels of responsibility for repairs and maintenance of transferred buildings.
10. We are proposing that community rent charged by OCC will be calculated with reference to rental for comparable premises rather than 50% of commercial values. This will give the council greater flexibility to work with community groups interested in taking on buildings to agree a suitable rent and make best use of the asset. We have found that the current stipulation of 50% commercial rent has proved too rigid.
11. This policy revision proposes flexibility in respect of the repair liability in the lease as it will not automatically require the tenant to take on the Full Repairing liability of the premises and each asset will be reviewed on an individual basis. This has frequently been a concern to community groups particularly in scenarios where they are taking on a building which has suffered from under investment in previous years. The new policy will enable the council to treat each transfer on a case by case basis with the intention to encourage the group to be able to take on the building (without undue ongoing liability to the council).
12. This does not compromise the key tenet of the policy which is not to create an indirect subsidy to a community group by offering them discounted premises costs compared to other groups using non-council properties.
13. The policy has also been reviewed to provide more clarity about the process including when the CAT policy applies, business case requirements, decision making process and details of transfers to schools

Financial Implications

14. The proposed revisions to the policy are not anticipated to have a negative financial impact on the council but any changes will be managed within current revenue property budgets. Whilst they retain the flexibility to set rent levels and repairing responsibilities the figures involved are expected to be small and

are off-set by the likelihood that this will encourage community groups to take on assets and generate the council income as well as social return as opposed to the ongoing liability of vacant properties within our estate.

Equalities Implications

15. The revision to the policy has been designed to support community groups of all kinds to take on the council's surplus community assets.
16. All groups will be expected to outline the social or community benefit of the transfer as part of their expression of interest. The policy makes provision for a transparent process to judge competing bids where there are multiple proposals for the same asset.
17. No equality characteristics should be negatively impacted by the policy.

Legal Implications

18. S123 Local Government Act 1972 requires that, except for a lease of 7 years or less, the disposal must be at the best price reasonably obtainable. It is envisaged that in most instances this will be the case. If not it will be addressed by compliance with the General Disposal Consent 2003 which recognises that there may be circumstances where local authorities consider it necessary, or desirable, to dispose at less than best consideration - central government authorised this where the purpose for which the asset is to be transferred is likely to contribute to the promotion or improvement of the economic, social, or environmental wellbeing of the area and the undervalue calculated in accordance with the technical annex to the consent is no more than £2 million. Disposals of less than best consideration also require compliance with the 2003 Executive resolution which will shortly be reviewed. Any such disposals will also be vetted to ensure that there is no unlawful state aid.

Risk Management

19. These revisions maintain the key principles of the existing policy so should not have an adverse impact on any existing leases in place.
20. By creating flexibility in the policy we are minimising the risk of community groups taking on leases only to find that they are unsustainable and seeking to renegotiate the terms at further cost to both parties.
21. The policy already ensures that the council maintains its responsibility for risk by retaining the insuring liability.

CA8

GEORGE ELEFTHERIOU

Director for Property, Investment and Facilities Management

Contact Officers: Claire Phillips, Asset & Investment Manager and Karen Lister, Head of Estates

Attached: Community Asset Transfer Policy 2019