

# **Community Asset Transfer Policy**

*Draft v.9 – May 2016*

## Revision History

This document will be subject to amendments during the review period and will be updated during this time using formal change control procedures.

Version	Date	Reasons/Summary of Changes	Author
Draft v.1	19.03.14	First draft	B. Price
Draft v.2	30.04.14	Incorporation of vetting statement to mitigate risk of extremist groups hiring or leasing council buildings	B. Price
Draft v.3	26.11.14	Incorporation of definition of community asset and minor amendments noted by Community Assets Steering Group	B. Price
Draft v.4	April 15	Amendments by Asset Management	I Rydings
Draft v.5	May 15	Feedback from CEDU SMT	B Price
Draft v.6	June 15	Initial feedback from COMA Partnership	B Price
Draft v.7	Sept 15	Additional feedback from COMA Partnership following detailed review and insertion of Stronger Together Appendices C-E provided by L. Walker and J. Cole	B. Price
Draft v.8	Jan 16	Feedback from Head of Assets and Regeneration and Corporate Assets Manager, addition to Appendix B (model lease)	B. Price
Draft v.9	May 16	Amendments following feedback from Head of Assets and Regeneration, Thurrock CVS, Locality, Legal Services, amendments to background, purpose and commitments, heads of terms, removal of model lease, addition of decision making process, process for community and council driven CAT	B. Price

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## Vision for Thurrock

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Our Community Strategy was approved in September 2012, and refreshed in January 2015, following extensive consultation with our communities culminating in the following vision for Thurrock and five enabling strategic priorities:

***"Thurrock: A place of opportunity, enterprise and excellence, where individuals, communities and businesses flourish"***

- SP1. **Create** a great place for learning and opportunity
- SP2. **Encourage** and promote job creation and economic prosperity
- SP3. **Build** pride, responsibility and respect to create safer communities
- SP4. **Improve** health and well-being
- SP5. **Protect** and promote our clean and green environment

Thurrock Council (herein 'Council'), along with every local authority in the country, is facing significant financial pressure and savings targets, which means the way our services are delivered must change drastically. The Council has taken positive action to become an enabler of improved outcomes for communities rather than a direct provider of services using its property portfolio to support this approach.

Our relationship with partners and the community is transforming and the Council wants to enable increased community leadership across the borough for groups and individuals.

We recognise the vital role of the voluntary, community and faith sector (herein 'VCFS') as key partners in the delivery of services and links with local people. The sustainability of the sector is therefore essential to build pride, respect, cohesion and resilience in local communities whilst supporting active citizens, local assets and neighbourhood networks, community led development and management of our borough-wide community hubs.

We are clear that the way we manage our physical assets can have a very positive impact on the long-term strength of local communities and the VCFS more generally, helping the sector to grow, become more secure and gain access to additional assets and external funding. This Community Asset Transfer (herein 'CAT') policy has therefore been designed to help us to both promote and identify opportunities for CAT whilst achieving fairness, transparency and consistency through the assessment and decision making process creating a long-term partnership approach between the Council and the VCFS to support and manage suitable assets.

Whilst CAT will not always be the most suitable option for all properties or all organisations, the Council will continue to work with local organisations to ensure that programmes are in place to support the development of a strong and sustainable VCFS in Thurrock.

## Background

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In recent years the Council has adopted several approaches to support the leasing, licensing and management of the buildings and other assets that it owns.

In December 2010 the Community Sport Facilities, Leases and Licences policy was approved by Cabinet with a view to establishing a range of sustainable self-management options for tenants allowing for the variation of terms and conditions of licenses in some instances allowing for leases to be set below market value. The policy determined the criteria for organisations wishing to be a tenant of the Council; terms and conditions of related leases and licences; governance and considerations to support decision-making.

The Council's Asset Management Plan, approved by Cabinet in February 2011 established high level objectives for the future management of property, based on Government guidance, good practice, and the Council's operating environment.

These high level objectives required that the Council's property portfolio would in future be:

- managed strategically to support corporate aims and objectives;
- held and managed in support of service delivery;
- used to provide Value for Money and deliver efficiencies and savings for the future;
- procured and managed in a way that minimises the impact on the environment;
- used to support the regeneration of the Borough, and,
- used to support the activities and development of Thurrock's communities and the Council's partners.

The Asset Management Plan took into account the direction of travel established by the Localism Act of 2011 and its intention to shift power from government to individuals and communities, making it easier for them to get things done and achieve their ambitions for the place where they live. This shift in the ownership of land and buildings from public bodies to communities demonstrates localism in action.

A general consent for local authorities to dispose of property under community asset transfer rules was introduced by the Government in 2003. Local authorities are now empowered to transfer the ownership of land and buildings to communities for less than their market value through a process known as 'discounted asset transfer' or 'asset transfer' (in Thurrock) giving greater powers to:

- community and voluntary sector organisations;
- community and social enterprises;
- individuals looking to form a not-for-private-profit group to benefit their area or neighbourhood;
- charitable trusts.

As part of the Localism Act, the Community Right to Bid has also been enacted giving power to communities to nominate land and buildings to be part of a register of 'assets of community value'. If such land or buildings are then offered for sale, eligible community organisations then have six weeks to indicate an 'intention to bid'.

If a bid is subsequently received, any sale of the asset cannot be completed for six months from the date that the council is given notice of the proposed sale.

For further information on the council's process for administering the Community Right to Bid, please see: <https://www.thurrock.gov.uk/bidding-for-assets-of-community-value/community-right-to-bid>

A list of council-owned land and buildings is also available here: <https://www.thurrock.gov.uk/land-and-premises-in-thurrock/local-authority-land-and-premises>

School disposals are covered by an alternative legislative framework. Any disposal would first need approval under Section 77 of the Schools Standards and Framework Act 1998. Therefore, school buildings and landholding will not be considered under this policy.

It is important to note that Community Asset Transfer is not an automatic right referred in the Localism Act 2011 but a central government policy directed at public bodies use of their assets. It is however based on individual business cases. Not all assets are available for CAT.

## Purpose and commitments

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We believe that organisations within the voluntary, community and faith sector (VCFS) are often best placed to manage facilities, making extensive use of volunteers and their local knowledge and hands-on management achieving lower overheads and better value for money as well as a more intensive use of the asset that helps to foster a sense of belonging in communities whilst bringing together people from different backgrounds.

This policy sets out the Council's approach to enable the community, voluntary and faith sector to achieve successful, vibrant, inclusive and sustainable community managed assets that meet local needs, maximise social value, support growth and resilience in the VCFS and deliver the most efficient use of publicly owned buildings and spaces in Thurrock.

It outlines a framework that supports the identification, transfer and sustainable management of council assets by the VCFS if the anticipated social value and financial viability outweigh the potential risks. The policy also provides a structure by which the Council can initiate the CAT process following a review. It is founded on the principles of **fairness, transparency, and consistency** in the assessment and administration of CAT.

Through the delivery and application of this policy we are therefore committed to:

- Community Asset Transfer (CAT) where it will achieve benefits to local residents and contribute towards the council's vision and objectives;
- acknowledging the social, economic and environmental value of CAT and the opportunities this may present to offset this value against economic rent;
- using Council assets to form long-term partnerships with the VCFS in order to create stronger, more cohesive and more sustainable communities;
- proactively investigating potential opportunities for CAT to local communities and social enterprises, and seeking to minimise processes associated with administering this policy;
- creating a fair, transparent and consistent process for CAT, and,
- reviewing the application of this policy with the VCFS at annual intervals.

It is important to note at this point however that we will **not** invite or accept expressions of interest for assets:

- that are, or it is anticipated maybe required in future, for the Council's operational purposes;
- where the Council considers that the property will achieve full market rent;

- where the Council has identified the property for disposal for a capital receipt. (in this case VCS organisations may still choose to submit a bid when the asset is marketed), and,
- where there are known or anticipated plans or strategies that may affect the potential for CAT.

## What is the process?

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The Council has determined two potential options that may instigate a Community Asset Transfer process:

1. **Community driven** – where an expression of interest for an asset transfer is received by the council from an eligible organisation, or,
2. **Council driven** – where a **service review** leads to a preferred option that includes CAT to support ongoing delivery, or, where a **surplus property** has been identified and deemed suitable for CAT

All CAT nominations need to demonstrate how they will directly benefit local residents and the wider communities of Thurrock and how their activities and expected outcomes will contribute to the delivery of the Community Strategy vision and strategic priorities.

The process for both options is presented in **Appendix 1** to this policy.

## How will decisions be reached?

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Detailed guidance on the decision making process is provided in Appendix 1 to this policy including the roles and responsibilities for the Corporate Assets Team, Community Development and Equalities Team, CAT Assessment Panel, Corporate Property Board and councillors.

In some cases, the Corporate Property Board will be able to reach a final decision of the proposal for CAT. Should a proposal involve entering a lease of over 21 years, a decision will be made by the council's Cabinet.

## What is a Community Asset?

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For the purpose of this policy, the council has used the Localism Act 2011 (Section 88 (1) and (2)) to define an asset of community value in Thurrock as:

A building or other land in the local authority's area that:

- (a) has an actual current use of the building or other land that is not an ancillary use, furthers the social wellbeing or social interests of the local community, and;
- (b) it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.



- (c) has furthered the social wellbeing or social interests of the local community in the recent past, and which it is realistic to consider will do so again during the next five years.

Such assets are not always in public or local authority ownership, but when they are, the Council will take a pragmatic view of ownership and management arrangements, seeking to balance the costs of management and maintenance, the social, economic and environmental benefits realisable from the asset's use.

## **What is a Community Asset Transfer?**

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At the simplest level, community asset transfer (CAT) is a change in management and/or ownership of land or buildings, from public bodies to communities.

The range of transfer options can vary widely although communities typically take on the ownership or management of a community asset on a management agreement, long lease, shorter lease or a licence to occupy.

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

## **For how long will leases be granted?**

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We will carefully consider the specific needs of the organisation, 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 organisation's business plan and on its capacity to manage the asset. In certain cases we may offer a phased transfer.

The following is a guide to the type of property arrangement 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 21 years
- in exceptional cases, a lease longer than 21 years, or a freehold transfer, protected by appropriate covenants may be appropriate if supported by a business case that demonstrates special circumstances or requirements from funders or lenders.

## **Which organisations can be considered for CAT?**

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We are interested in discussing community asset transfer with community groups and VCFS organisations. A key consideration however will be the sustainability of the organisation and its capacity to manage and develop the asset.

Organisations that benefit from the transfer must be credible, constituted, financially viable with a clear business case.

Organisations that will be considered through this process are those that are not for private profit and specifically:

- an unincorporated charitable organisation with at least 21 local individual members (who appear on the electoral roll within Thurrock Council or a neighbouring Local authority) and which does not distribute any surplus it makes to its members;
- company limited by guarantee with charitable status;
- company limited by guarantee which does not distribute any surplus it makes to its members;
- community benefit society (or industrial and provident society registered with FCA prior to the 2014 Act) which does not distribute any surplus it makes to its members;
- community land trust;
- community interest companies (CIC) limited by guarantee, or,
- CIC limited by shares,
- charitable incorporated organisations, and,
- community benefit societies

CAT recipients can be of any size but need to:

- generate social, economic or environmental benefits in Thurrock;
- directly benefit the local people of Thurrock;
- benefit as wide and diverse a range of local people as possible, and,
- provide evidence of these benefits

Privately owned or commercial organisations can only be considered if their main aim is to deliver social, economic or environmental benefits in Thurrock. Any organisation that is not a registered charity must also have an asset lock to ensure the asset remains in community use in perpetuity.

### **Which organisations and activities will not be eligible for CAT?**

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In accordance with the Equality Act 2010, it is our duty to ensure that anyone can use our services regardless of age, gender, disability, race, sexual orientation, and religion or belief. We oppose all forms of prejudice and discrimination and promote diversity and tolerance in Thurrock that prevents the harassment and victimisation of our residents, service users and employees.

Through the application of this policy, we will endeavour to prevent both the use of space or transfer of assets to groups or individuals that seek to promote hatred or extremism against individuals and/or society.

We expect these terms, and those set out in the Equality Act 2010, to be upheld by community groups and organisations using or accessing land and buildings that are the subject of CAT.

## **What are the key considerations that organisations will need to meet to be eligible for CAT?**

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Interested organisations should complete the Expression of Interest Form presented in **Appendix 2** and must be able to demonstrate:

- a clear community/social demand for the proposal that is inclusive and does not duplicate activities, services or facilities already provided in the local community,
- the benefits for local residents, and,
- alignment with the Community Strategy vision and strategic priorities.

Organisations must also:

- have a strong financial background and/or a demonstrable financial plan for the asset;
- set out a clear, financially viable vision for the asset that will contribute to its sustainability;
- continue to provide access to community and voluntary groups currently using the premises;
- demonstrate strong governance by operating through transparent, accountable and co-operative principles, and,
- demonstrate the skills and capacity within, or available to, it's managing body to effectively deliver services and manage the asset.

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.

Depending on the type of asset, there may be additional criteria, for example, running a library service. This will be communicated to the applicant on the council's consideration of their expression of interest.

## **How do we express an interest in CAT?**

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If you are interested in a specific asset you will first need to submit an Expression of Interest Form (**Appendix 2**) and return it to [CAT@thurrock.gov.uk](mailto:CAT@thurrock.gov.uk) where it will be acknowledged within 10 working days.

If this is the first time that the property has been brought to the attention of the Corporate Assets Team, the eligibility of the asset itself for CAT will be assessed by the Corporate Property Board. The process flowchart illustrated in Appendix 1 will be applied.

If the asset is considered suitable for transfer, it will be advertised. If your initial Expression of Interest is considered viable, you will be asked to prepare a full business plan using the guidance at **Appendix 3**.

## **Lease Terms:**

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Key lease heads of terms will ordinarily contain the following:

1. Full repairing and insuring lease.
2. Contracted out of the Landlord and Tenant Act 1954.
3. A mutual break clause (e.g. periodic break clauses, potentially after 3 years and every 5 years thereafter or on 6 months written notice from either party).
4. The ingoing tenant may not sub-let the asset (land or property) but subject to landlords consent we may agree sub-letting/licenses or shared use subject to a business case.
5. Rent reviews every 5 years and to be uplifted by the consumer price index.
6. The tenant will be required to keep the whole of the asset (land or property) in good repair, decoration and maintenance at all times.
7. Tenant to pay for all utilities, Rates, and any costs and expenses incurred or associated with their use and occupation of the premises.
8. The lease to be entered into on the Council's standard terms containing terms as the Borough solicitor considers appropriate.
9. The lease will contain a permitted use clause. A service agreement will be appended to the lease.

Once granted, leases can be extended or restructured at a future stage to meet the organisations changed activities or circumstances, or to meet the requirement of potential funders or lenders, subject to receipt of a business case by the Head of Regeneration and Assets.

## **What happens after a CAT has been approved?**

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After a CAT has been approved a service agreement will be determined with the applying organisation, with ongoing support provided by the council's Corporate Assets Team working with the Community Development and Community Development and Equalities Team signposting to other sources for advice and guidance where appropriate.

Once agreed, it will form a legally binding agreement that will be an appendix to the lease.

An annual self-assessment of the service agreement targets, measurement of benefits etc will be completed by the applicant and submitted to the council's Corporate Asset Team. The Council may require further information, face to face meetings and a site visit as necessary before providing formal feedback on the self-assessment.

## **Further advice, guidance and resources**

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For further information on the council's CAT process, please email:

[CAT@thurrock.gov.uk](mailto:CAT@thurrock.gov.uk)

Advice, guidance and support for VCFS organisations is also available from Thurrock Council for Voluntary Services (TCVS). For further details please see:

[www.thurrockcvs.org](http://www.thurrockcvs.org) or email: [info@thurrockcvs.org](mailto:info@thurrockcvs.org)

Additional information and supporting resources can be found in Appendix 4-6 to this policy.

## **Appendix Reference**

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**Appendix 1:** Community Asset Transfer Process: Community/Council Driven and Decision Making Process

**Appendix 2:** Expression of Interest for a Community Asset Transfer

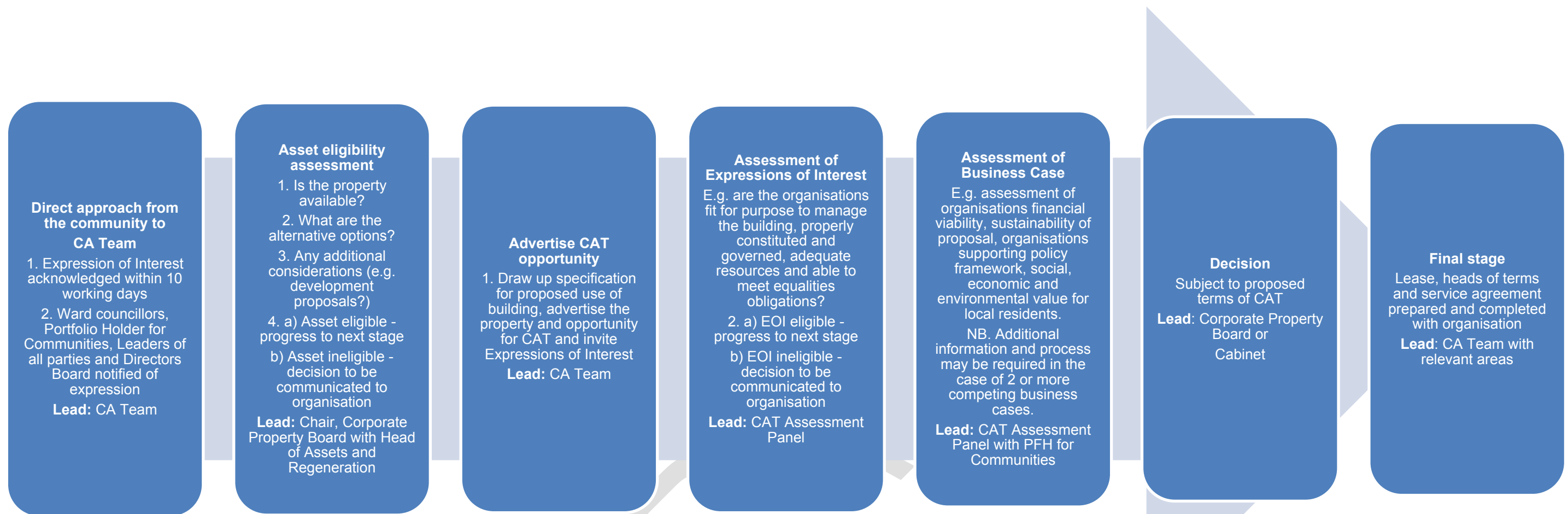
**Appendix 3:** Business Plan Guidance

**Appendix 4:** Types of governance models for community organisations (Stronger Together)

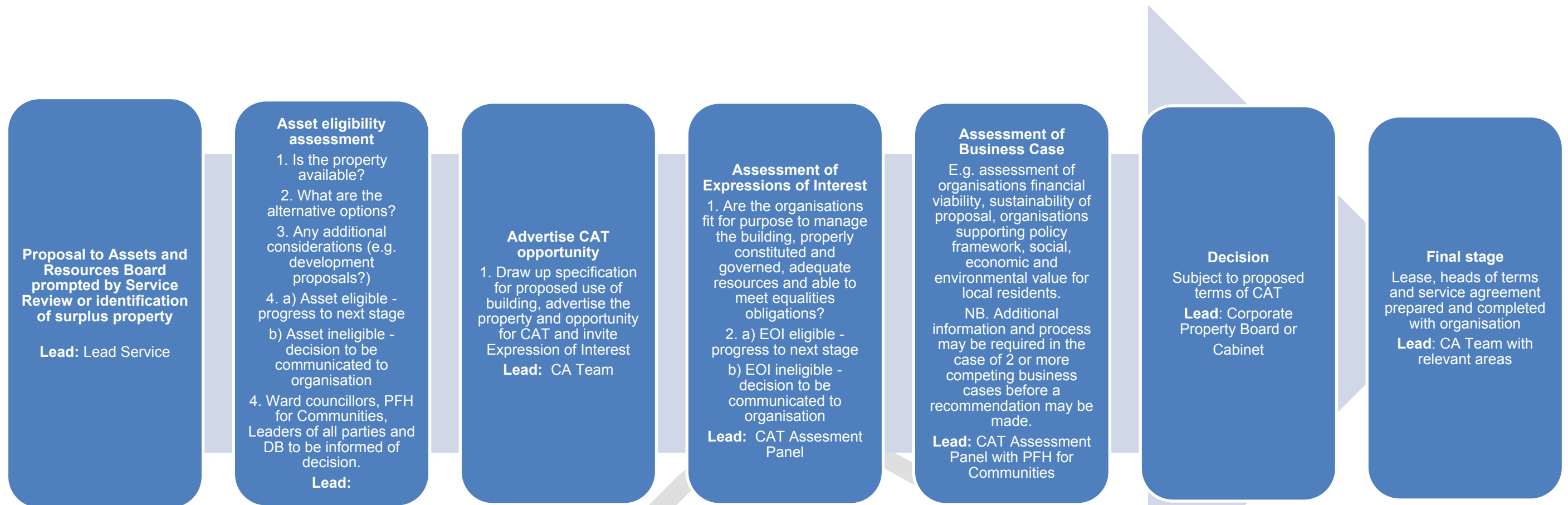
**Appendix 5:** Community Asset Transfer: Resources (Stronger Together)

**Appendix 6:** Community Asset Transfer: Sources of Support (Stronger Together)

## Appendix 1 – Community Asset Transfer Process: Community Driven



**Appendix 1: Community Asset Transfer Process: Council Driven**



## **How will decisions be reached?**

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### **Stage 1: Expressions of Interest**

'Expressions of Interest' (EOI) will be received and acknowledged by the **Corporate Assets Team within 10 working days**.

The team will complete an initial eligibility assessment that will include consideration of the status of the organisation submitting the EOI as well as the current occupation and lease arrangements for the asset. Additional information may be sought from the organisation at this stage to clarify eligibility.

During this stage, notification of the EOI will be provided to Ward Councillors, the Portfolio Holder for Communities, Leaders of all parties and Directors Board with a copy of the supporting process.

The CA Team will highlight the outcome of the eligibility assessment to the **Head of Assets and Regeneration**.

### **Stage 2: Asset eligibility assessment**

The **Head of Assets and Regeneration and Chair of the Corporate Property Board** will use information from Stage 1 to complete a basic eligibility assessment of the asset identified as a potential CAT opportunity.

Their considerations will clarify:

- whether the property is available;
- alternative options to CAT (where relevant);
- known or anticipated plans or strategies that may affect the potential for CAT, and,
- potential conflicts of interest.

If the asset is deemed eligible for CAT, the application will proceed to Stage 3.

Nominations to the **CAT Assessment Panel** will be sought from the Corporate Property Board. The panel will be Chaired by the Head of Assets and Regeneration (or a nominated substitute at senior management grade) and include representatives from the Corporate Assets Team, Community Development and Equalities Team and other relevant services.

If the asset is deemed ineligible, information on the rationale for such a decision will be provided to the applying organisation and parties notified at Stage 1.

The outcome from this stage will be provided to the **CA Team** who will notify the applying organisation (and other parties if necessary) of the decision and next steps.



### **Stage 3: Advertising CAT opportunity**

If the EOI is considered eligible at Stages 1 and 2, the opportunity for CAT will be advertised through a range of local mediums including the council's website for a period of 6 weeks during which additional EOI's will be invited. The **CA Team** will lead this process.

The advertisement will include a specification for the proposed use of the asset.

Additional information (e.g. running costs) may also be provided by the CA Team, where available, on direct application to [CAT@thurrock.gov.uk](mailto:CAT@thurrock.gov.uk)

### **Stage 4: Assessment of Expression/s of Interest**

As soon as possible after the advertised close date for EOI's, the **CAT Assessment Panel** will be convened with additional representation from the Portfolio Holder for Communities (where no conflict of interest is identified), to complete a formal EOI eligibility assessment.

If more than one EOI is received a competitive process will be invoked in which case notification will be provided to the applying organisations and additional parties identified in Stage 1.

In the case of just one application, the panel will consider:

- the constitution and governing documents for the organisation;
- the proposed use of the asset and community benefit;
- alignment with the community strategy vision and priorities;
- the financial resources to take on, manage and maintain the asset,
- any additional skills and experiences of members of the organisation that would support a successful CAT;
- an assessment of the mitigation of risk factors;
- gaining an understanding of the community demand, benefits and involvement and supporting evidence, and,
- any additional support required by the organisation.

A standard assessment template will be prepared for members of the panel to 'score' the EOI. The panel may require additional information from the applying organisation before a decision is reached.

If the EOI is deemed eligible, the applying organisation will be notified and invited to submit a business case allowing the process to move on to Stage 5. A timetable for the submission of a business case will be developed on a case by case basis and also notified to the organisation depending on any additional support requirements highlighted in their EOI.

If the asset is deemed ineligible, information on the rationale for such a decision will be provided to the applying organisation and other parties notified at Stage 1. The CAT opportunity will therein be withdrawn.

The outcome from this stage will be provided to the **CA Team** who will notify the applying organisation (and other parties if necessary) of the decision and next steps.

The council may consider reinstating the process at Stage 4 if a further EOI is received within 6 months from the close date of the original advertisement for the CAT opportunity.

### **Stage 5: Assessment of Business Case/s**

On receipt of the business case, the **CAT Assessment Panel** will convene to complete a detailed assessment of the business case that will include an evaluation of:

- the organisations track record, financial viability and ability to run and maintain the asset;
- the sustainability of the proposal;
- the supporting policy framework (e.g. Health and Safety, Equal Opportunities);
- the range of social, economic and environment benefits for local residents and communities;
- how it will help to realise the community strategy vision and priorities
- any additional factors that may affect the proposal (e.g. dependency on acquiring planning consent).

A standard assessment template will be prepared for members of the panel to 'score' the business plan.

The panel may require additional information from the applying organisation before preparing a recommendation to the Corporate Property Board based on their assessment.

### **Stage 6: Decision**

The Corporate Property Board will receive the recommendation of the CAT Assessment Panel following their assessment of the business case.

Depending on the nature of the CAT, and recommended lease period, the Corporate Property Board may reach a decision to accept, accept with variations or reject the proposal.

Notification of this decision and next steps will be provided to the applying organisation within 10 working days of the meeting of the Corporate Property Board where this decision was reached.

In the case of CATs that involve a proposed lease in excess of 21 years, the Corporate Property Board may provide its in-principle acceptance for the proposal before making a final recommendation to Cabinet in the form of a report.

If a referral to Cabinet is necessary, the applying organisation will be notified within 5 working days of the meeting of the Corporate Property Board and provided with a supporting timeline for the decision.

Formal notification of the Cabinet decision and next steps will be provided to the applying organisation within 3 working days of the meeting by the CA Team who will also notify the applying organisation (and other parties highlighted in Stage 1 if necessary) of the decision and next steps.

### **Final Stage**

The final stage of the process will involve the preparation of the lease, heads of terms and service agreements with the applying organisation.

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## Appendix 2 – Community Asset Transfer Policy

### Expression of Interest for a Community Asset Transfer

This application form should be completed by all groups wishing to have their application for an asset transfer from Thurrock Council to be considered.

Guidance relating to the key considerations and eligibility criteria for organisations is set out in the Community Asset Transfer Policy

1	<b>Name and Location of Asset in which you are interested</b>	
2	<b>Name of your organisation</b>	
3	<b>Name and contact details of the Lead Contact, including email (this will be the lead person for correspondence etc)</b>	
4	<b>What type of organisation are you? e.g. registered charity?</b>  <b>Please provide your company or charity registration number (if applicable)</b>	
5	<b>Do you presently occupy the asset or are you aware of any existing occupancy arrangement?</b>	Yes/No Please describe:
6	<b>What do you want to use the asset for?</b>  <b>Please include brief details of any activities or services which will be delivered and specify whether these are existing activities or new ones.</b>	
7	<b>How will your proposal be funded?</b>  <b>Include details of grants, sustainable income streams etc</b>	

8	<p><b>How will your proposal help to realise the Community Strategy vision and priorities?</b></p>	
9	<p><b>Do you have any plans to improve the physical condition of the asset?</b></p> <p><b>Please specify, including details of how improvements will be funded and if they are dependent on gaining any additional consents (e.g. planning permission)</b></p>	
10	<p><b>If this asset is transferred to you what do you think will be the main benefits for the local community?</b></p>	
11	<p><b>How long are you seeking to lease/manage this asset for?</b></p>	
12	<p><b>Please provide evidence of any consultation you have undertaken with the community or other organisations about your proposals</b></p>	
13	<p><b>Who are the key people involved in your organisation, with a summary of their role and key skills?</b></p>	
14	<p><b>What do you think are the key risks to your proposal and how will you mitigate them?</b></p>	
15	<p><b>Are there any areas in which you think you need help and support to enable you to successfully manage this asset?</b></p>	

### **Attachment Checklist**

- Copy of group constitution (or Registration Form and Interest Statement for Community Interest Company)
- Evidence of decision of organisation or group to submit this Expression of Interest
- Name and home addresses of 21 members registered to vote in nomination area (if group is not constituted)

### **Conflict of Interest Questionnaire**

Officers and Members have a duty to act in the best interest of the Council. They must avoid situations where their personal interest conflict or duties conflict with their duty to the Council unless they have been authorised to do so in accordance with the Council's procedures. The duty also extends to conflicts that arise because of persons connected with them. Conflicts of interest can occur in many ways. A conflict of interest can occur where an Officer/ Member or connected person stands to benefit personally from the Council. Conflicts of interest must therefore be appropriately identified and this questionnaire should help.

### **Questionnaire**

Please answer the following questions:

1. 1. Are you a Councillor or Thurrock Council Employee?  
Yes/No
2. Do you have a spouse, co-habiting partner, child, parent or business associate who is employed by Thurrock Council at a senior level or who is a Councillor?  
Yes/No
3. Have any of your directors/partners/company secretary ever worked for or are currently employed by Thurrock Council?  
Yes/No
4. Have any of your directors/partners/company secretary ever served as or are currently a Councillor at Thurrock Council?  
Yes/No
5. Does any of your directors/partners/company secretary have a spouse, co-habiting partner, child, parent or business associate who is employed by Thurrock Council at a senior level or who is a Councillor?  
Yes/No
6. Is there any basis on which there maybe or perceived to be a conflict or interest, i.e. a connection that may provide you with a potential advantage over other bidders or put you in a position where there maybe a conflict of interest between you/your organisation and Thurrock?  
Yes/No

If the answer to any of the questions 1-6 is yes please provide more details on a separate page, including details of the connection, the person's name and role.

### **Next steps**

If a conflict is identified you must not use your position in any way to gain an advantage. Officers will treat conflicted applicants in the same manner as any other bidder so that the Council can demonstrate that it has not shown any favouritism to you and any declaration will be appropriately reported. The connection will be reported to the appropriate officers and an approach agreed. All connections will be reported in decision making reports and recommendations.

The Members and Officers Codes of Conduct outlined in the council's constitution emphasises the responsibility of Officers and Members to declare conflicts of interest.

### **Declaration**

I declare that to the best of my knowledge the information submitted in this form and the associated documents are correct. I understand that the information will be used in the process to assess the eligibility of my Expression of Interest for Community Asset Transfer.

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Name:

---

Date:

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Signature:

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### **Data Protection Statement**

We will process the information provided in accordance with the Data Protection Act for the purposes of administering the Community Asset Transfer procedure. The information provided will be stored securely by Thurrock Council and will be destroyed within 6 years. The information provided will be subject to the Freedom of Information Act, but personal information (names and contact details) will not be released in responses to Freedom of Information requests.

### **Further advice and guidance**

We welcome informal discussions prior to the submission of your Expression of Interest. If you would like to arrange such a discussion please email:

[CAT@thurrock.gov.uk](mailto:CAT@thurrock.gov.uk)

Additional sources for support are noted in Appendix 6 to the Community Asset Transfer Policy.

### **Please return your completed Expression of Interest to:**

[CAT@thurrock.gov.uk](mailto:CAT@thurrock.gov.uk)

**or post to:** Corporate Assets Team, 4<sup>th</sup> Floor, Thurrock Council, Civic Offices, New Road, Grays Thurrock, Essex, RM17 6SL

## Appendix 3: Community Asset Transfer Policy

### Community Asset Transfer: Full Business Plan Guidance

You can structure your business plan in any way you like but it should contain as a minimum the following information

Business Plan Element	Detail to be included
Summary	<p>This is usually written last and should include a clear summary of</p> <ul style="list-style-type: none"> <li>○ Who you are</li> <li>○ What you want to do</li> <li>○ How you intend to do it</li> </ul>
About your organisation	<p>This should include details about:</p> <ul style="list-style-type: none"> <li>○ Your track record</li> <li>○ What you currently do</li> <li>○ How you run your organisation, for example details about your staff (paid and volunteers), governance and your legal structure</li> <li>○ Any relevant partnership working</li> </ul>
Summary of the project	<p>This includes:</p> <ul style="list-style-type: none"> <li>○ Project objectives</li> <li>○ How you will deliver these objectives</li> <li>○ The impact and benefit of your project</li> <li>○ Proposals for the management and operation of the asset</li> <li>○ Proposals for any improvements to the asset you intend to undertake (and where relevant proposals for the management of any construction phase)</li> <li>○ How your proposal aligns to the Community Strategy vision and priorities and the delivery of the same</li> </ul>
Community demand and benefits	<p>In this section you need to consider:</p> <ul style="list-style-type: none"> <li>○ Needs – what community needs will you be meeting? Who will be the beneficiaries of your project? How many local residents? How many community organisations?</li> <li>○ Supply – who else is delivering similar activities in the same area? Is there potential for collaboration or competition?</li> </ul>



	<ul style="list-style-type: none"> <li>○ Which organisations are already using the assets?</li> <li>○ Pricing – what is the rationale for pricing (e.g. for services, renting space etc)</li> <li>○ Are there any additional social, economic or environmental benefits the CAT will help to achieve?</li> </ul> <p>Be as specific as you can</p>
<p>Inclusion and promoting the asset</p>	<p>How will you ensure the asset is open to all members of the community? How will you promote your asset and encourage people to use it. You should include details about your marketing strategy, including:</p> <ul style="list-style-type: none"> <li>○ What methods you will choose (online, direct to the customer)</li> <li>○ Who will you target?</li> <li>○ Who will do this?</li> </ul>
<p>Resources (Financial Information)</p>	<p>How will you fund the organisation to meet the running costs for the proposed use and operational costs of the asset?</p> <p>This is a critical section. You should include explanations explaining the rationale for any projections and any assumptions made.</p> <p>You need to be clear about the different types of income/expenditure for your project. This includes:</p> <ul style="list-style-type: none"> <li>○ Capital (this includes one off expenditure, for example improving or altering the building, purchasing equipment). Be clear about how such expenses will be financed, for example through specific grants or from surpluses from other parts of the business.</li> <li>○ Revenue, these are on going expenses, for example payment of staff, costs associated with delivering services, ongoing maintenance costs. Again be clear about your income streams e.g. payments for delivery of services, rental income, grants etc.</li> </ul> <p>You should include:</p> <ul style="list-style-type: none"> <li>○ Financial projections with funding sources</li> <li>○ Your cashflow for the first two years</li> <li>○ Your expected budget (for the next 3-5 years)</li> <li>○ Longer term projections/assumptions about the long-term sustainability of your project.</li> </ul>

Risk assessment, management and mitigation	<p>This should include:</p> <ul style="list-style-type: none"> <li>○ Identifying the different risks associated with the project and a description of the implications of those risks occurring.</li> <li>○ Risks should be evaluated in two ways – the likelihood that the risk will occur and the level of impact if the risk item does occur.</li> <li>○ For each risk you should set out the actions that will be taken to prevent the risk occurring, or to cope with the risk if it occurs.</li> </ul>
Additional considerations	<ul style="list-style-type: none"> <li>○ Are there any additional considerations or dependencies that may affect the CAT (e.g. is planning consent required)? If so, please provide details.</li> </ul>

The organisation will also be expected to submit additional supporting evidence, for example, copies of governing documents, expressions of support from partners/customers, copies of accounts, plans etc.

### Equalities Information

Under the Equalities Act 2010, the Local Authority has a duty to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

There are eight protected characteristics of people who use services, which are

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion and belief
- Sex (gender)
- Sexual orientation

As part of the assessment of your application we will assess the extent to which your application will help us to achieve the above duties.

**Please describe how you will ensure your activities/services will be accessible to, and foster good relation between groups in relation to the eight protected characteristics above.**

**Please describe how your activities/services will be accessible to and benefit communities or individuals who experience financial or social disadvantage?**

Advice, guidance and resources for organisations that wish to find out more about CAT is also available from Thurrock Council for Voluntary Services (TCVS). For further details please see: [www.thurrockcvs.org](http://www.thurrockcvs.org) or email: [info@thurrockcvs.org](mailto:info@thurrockcvs.org)

## **Appendix 4: Community Asset Transfer Policy**

### **Community Asset Transfer: Types of governance models for community organisations and their features**



#### **Unincorporated Association**

Governing document	Constitution
Governing body	Management Committee (or Trustees)
Membership	Participating membership or an Open membership
Charity	May be set up as a charity
Reports to	Charity Commission (if a registered charity)
Surpluses	No profit distribution permitted

Management committee members are personally liable as the organisation has no legal identity. The management committee / trustees can insure themselves against this liability but this would not protect them from reckless or negligent management of the organisation. To be a charity an unincorporated association must exist for a purpose that the law recognises as charitable, and its activities must be solely for public benefit. The Charities Act requires 'charitable' associations to

register if they have an annual income of over £10,000. There are some benefits in being registered as a charity (exemptions from some taxation, rate relief, funding sources) but there are also additional administrative burdens.

No member can profit from the association (although expenses can be reimbursed). The surplus on winding up must be transferred to an organisation with similar objects.

### Trust

Governing document	Trust Deed
Governing body	Trustees
Membership	Closed - the only members are the trustees
Charity	May be set up as a charity
Reports to	Charity Commission (if a registered charity)
Surpluses	No profit distribution permitted

This governance model is ideal for the holding of an asset or land (with an association set up to run activities) known as holding trustees – as happens with community buildings.

This is also the traditional model for an organisation that wants to distribute grants (an endowed grant giving trust) – sometimes to rapidly raise and distribute funds e.g. for humanitarian crisis. Trustees make the distributions of funding. It is most likely to be set up as a charity

This model is not suitable for an organisation that wishes to encourage participation in its own governance.

No member can profit from the trust (expenses can be reimbursed). This payment of expenses must not be confused with grant distribution.

### Company Limited by Guarantee

Governing document	Memorandum & Articles of Association (Mem and Arts)
Governing body	Directors
Membership	Participating membership or an Open membership
Charity	May be set up as a charity
Reports to	Companies House (and Charity Commission if registered)
Surpluses	Profit distribution permitted if not a charity

Membership is very flexible like an unincorporated association. For a 'Charitable' Company Limited by Guarantee, this model has the potential to encourage member participation. This structure is most common form for a charity at present.

It does allow profit distribution to members (unless the company is also a registered charity). The rules on profit distribution will be specified in the Mem & Arts.

### Charitable Company Limited by Guarantee

Governing	Memorandum & Articles of Association (Mem and Arts)
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document	
Governing body	Directors / Trustees
Membership	Participating membership or an Open membership
Charity	Charitable status
Reports to	Companies House and Charity Commission
Surpluses	No profit distribution permitted

A company limited by guarantee (see previous type of organisation) that is also a registered charity. For charitable companies, profits cannot be distributed and there is an asset lock to ensure land and buildings owned by the charitable company remain in community ownership. There are specific purposes that are recognised as charitable and there is a 'public benefit test' to comply with

### **Community Interest Company (CIC)**

Governing document	Memorandum & Articles of Association (Mem and Arts)
Governing body	Directors
Membership	Participating membership or an Open membership
Charity	Not eligible for charity status
Reports to	Companies House
Surpluses	Possible profit distribution

The CIC governance model was established as a new structure to recognise social enterprises – i.e. organisations that are socially motivated and intend to make profits to use for the public good. Mem and Arts contains an 'asset lock' to prevent any assets owned by the CIC being transferred. Although not a charity, a CIC must satisfy a 'community interest test' to demonstrate how it will benefit the community. As a company it will be subject to corporation tax (whereas charities are not).

A level of profit distribution may be permitted in the form of bonuses, but is subject to the discretion of the CIC Regulator. On dissolution, any assets or surpluses must go to another organisation with an asset lock.

### **Charitable Incorporated Association (CIO)**

Governing document	Constitution
Governing body	Trustees
Membership	Closed, Participating membership or an Open membership
Charity	Charitable status
Reports to	Charity Commission
Surpluses	Profit distribution not permitted

Membership – there is a full choice of membership structures. A CIO can be set up either with just the trustees as the members, or with a participating or open membership. The CIO model was created to remove the requirement for organisations requiring incorporation and charitable status to register with both Companies House and the Charity Commission. The CIO will register only with the Charity Commission which will ease the burden of regulation. Hence the membership requirement being as open as possible.

This governance model is only available to charities therefore all surpluses must be retained and reinvested in the organisation

### **Community Benefit Societies (BenComs)**

Governing document	Rules
Governing body	Directors
Membership	Open membership
Charity	Can apply for charitable status if operating for public benefit
Reports to	Financial Conduct Authority (FCA)
Surpluses	Surpluses cannot be distributed in the form of dividend but interest can be paid to shareholders as an operating expense

Membership – Society legislation has little to say about membership. The rules must state who can (and cannot) be a member, including individuals, corporate bodies, and the nominees of unincorporated bodies. This includes joint members, where one member must be the nominee representing the interests of the joint members. The FCA does not require members to participate in the business, which means that, unlike a co-operative society, anyone is able to invest in a community benefit society, subject to its rules. Although a society is required by the FCA to specify the community it serves, membership is not restricted to this community.

A community benefit society can issue community shares to raise funds to enable it to start up or to expand. The term 'community shares' refers to non-transferable withdrawable share capital; a form of share capital unique to co-operative societies and community benefit societies, including charitable community benefit societies.

### **Co-operative Societies (Co-ops)**

Governing document	Rules
Governing body	Directors
Membership	Open membership
Charity	Cannot be a charity (run for the mutual benefit of its members)
Reports to	Financial Conduct Authority (FCA)
Surpluses	Surpluses can be distributed in the form of dividend

Membership – the FCA must be satisfied that a co-operative society is a bona fide co-operative, which implies that it must meet internationally agreed principles for membership of co-operatives. The rules must state who can (and cannot) be a member, including individuals, corporate bodies, and the nominees of

unincorporated bodies. This includes joint members, where one member must be the nominee representing the interests of the joint members.

A co-operative society can have more than one category of membership but must ensure that such membership rules are consistent with the International Co-operative Alliance's Statement on co-operative Identity.

A co-operative society operates for the mutual benefit of its members and may or may not be a social enterprise, depending on its activities and how it distributes profits. Co-operatives cannot be established as charities. Co-operatives 'are based on the values of self-help, self-responsibility, democracy, equality, equity and solidarity. In the tradition of co-operative founders, co-operative members believe in the ethical values of honesty, openness, social responsibility and caring for others'.

A co-operative society can issue community shares to raise funds to members to raise funds which enable it to start up or to expand. The term 'community shares' refers to non-transferable withdrawable share capital; a form of share capital unique to co-operative societies and community benefit societies.

A co-operative society can pay interest on share and loan capital provided it is not more than a rate necessary to obtain and retain enough capital to run the business. It is not a bona fide co-operative if it carries on business with the object of making profits mainly for paying interest, dividends or bonuses on money invested with or lent to it. If the rules of the society allow profits to be distributed, they must be distributed among the members in line with those rules. Each member should receive an amount that reflects the extent to which they have traded with the society or taken part in its business. For example, in a retail trading society or an agricultural marketing society, profits might be distributed among members as a dividend or bonus on purchases from or sales to the society. In other societies (for example, social clubs) profits are not usually distributed among individual members but members benefit through cheaper prices or improvements in the amenities available.

## **Appendix 5: Community Asset Transfer Policy Community Asset Transfer: Resources (Stronger Together)**



### **Understanding Community Asset Transfer**

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

This guide provides you with a basic understanding of Community Asset Transfer.

[Link](#)

### **To Have and to Hold**

A guide to long-term community ownership and development of land and buildings.

It's aimed at individuals and community groups and organisations, as well as local authorities and registered social landlords. Each of these groups has the power to be an asset project champion or stakeholder supporter.

[Link](#)

### **Community Led Space**



A guide for community organisations and local authorities around the community asset transfer of public spaces such as parks, gardens and woodlands. The guide includes considerations for local authorities around transfer and advice for community organisations around viable and sustainable transfer.

[Link](#)

### **The show must go on**

This publication is based on presentations at the Community Owned Civic Buildings event held in November 2012. The event aimed to inspire the reinvention of civic buildings in community ownership and to inform proposals for the future community asset transfer of theatres, performance, event and exhibition venues and town halls.

[Link](#)

### **A history of community asset ownership**

A history of community asset ownership was written by Steve Wyler, ex-CEO of Locality.

It gives an overview of the long history of community assets, starting from pre-1066, a time when local communities really did own the land they lived on, all the way up the present day.

With the issue of community ownership of local land and buildings currently high on the national agenda, this short book gives a useful potted history of community assets.

[Link](#)

### **Pillars of the community: the transfer of local authority heritage assets**

Aimed at both local authorities and community groups, this guidance is designed to provide clear, useful advice on when and how to transfer heritage assets from public to community ownership. The guidance also provides links to case studies, checklists, a glossary, bibliography and additional sources of information.

[Link](#)

### **Multiple Asset Transfer**

This document gives an overview of the multiple asset transfer process.

[Link](#)

### **Empowering Communities: making the most of local assets – an officers' guide**

This guide aims to provide support to council officers and introduces the full suite of tools available to unleash the creativity, innovation and growth flowing from community asset ownership and management.

[Link](#)

### **Empowering Communities: Making the most of local assets – a councillors' guide**

This guide explores the range of tools available to unleash the creativity, innovation and growth flowing from community asset ownership and management.

[Link](#)

### **Making buildings work for your community**

This guide provides an introduction to the design process and practical advice on how to ensure that your building can be the best possible facility for your community.

[Link](#)

### **Making Land Work: Case Studies in Collaboration**

The report describes case studies of four examples of shared management of a range of different environmental assets that are in private, charitable and local and national public ownership. It identifies some of the benefits of shared management, the success factors that make collaborative approaches work, and the particular role of intermediaries in the process.

[Link](#)

### **Supporting land-based social enterprises**

This report explores some of the key issues to consider when supporting new land-based social enterprises. The findings are drawn from interviews with 13 representatives from land-based social enterprises who received direct technical, business and training support from Shared Assets.

[Link](#)

## **Appendix 6: Community Asset Transfer Community Asset Transfer: Sources of Support**



Sources of funding are changing all the time and therefore the information below should not be treated as comprehensive. It is intended as a starting point to help you in your search for funding for your project or organisation.

Up to date advice, guidance and resources for organisations is available from Thurrock Council for Voluntary Services (TCVS). For further details please see: [www.thurrockcvs.org](http://www.thurrockcvs.org) or email: [info@thurrockcvs.org](mailto:info@thurrockcvs.org)

### **Search Engines**

#### **Funding Central search engine for grants**

There are many sources of grant funding, and new initiatives are launched all the time by national bodies such as the BIG Lottery Fund as well as various trusts and foundations. It can be very time consuming to keep a track of all of the various grant opportunities, so we recommend that you use an internet-based tool to take the strain out of your search. This free website will help you search under particular themes. It will also keep you up to date with new opportunities tailored to your needs:

- <http://www.fundingcentral.org.uk/>

## **Social Finance**

There is a range of advice, grants and support available for social and community enterprises for start-up and development. Grants, gifts and donations are the best because they are not repayable. However most successful community enterprises tend to blend grants, loans and equity.

Regarding loans, ie: debt finance, it comes in a variety of forms, and its 'cost' will depend on whether the loan is secured/unsecured, the repayment period, fixed/variable rates, arrangement fees, penalties, etc. Sources of loan finance include high street retail banks, some of whom have specialist teams dedicated to the sector, eg: RBS Nat West

- <http://www.rbs.co.uk/corporate/banking/g2/expert-industry-teams/notprofit.ashx#tabs=section1>

It may also be worth joining networks like:

- <http://www.theguardian.com/social-enterprise-network>

## **Start-up funding**

New social enterprises often face difficulties raising capital finance. Social enterprises are just like any other business, they need to raise capital as pre-starts, when they start-up and when they grow.

Apart from using your own money, (or friends and family), you'll need to look at all the alternatives from banks, grants, loans, 'business angles', and other potential investment routes. It won't be quick or easy, (unless you're very fortunate!), but if you've got an 'investable' idea, you will find someone eventually who will take a financial interest.

A good place to start your research is the Government's Business Link service:

- <http://www.businesslink.gov.uk/bdotg/action/layer?r.i=1083154049&r.l1=1073858790&r.l2=1084705429&r.l3=1087443481&r.l4=1074441426&r.s=m&r.t=BLTTOOL&topicId=1084705429>

Also, Social Enterprise London will probably have a good idea of the funding scene in London:

- <http://www.sel.org.uk/funding-and-finance/>