

Dorset Council
Asset Transfer Policy
High Value Assets
(Assets with a Value in excess of £15,000)

Date Published: July 2021

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1. Introduction

1.1 Dorset council recognises that the devolution of assets to local communities, particularly to town and parish councils, can make a significant contribution to enabling them to be stronger, more resilient and sustainable.

1.2 Dorset Council is committed to pro-actively seeking to transfer appropriate assets in order to provide benefits to local communities.

1.3 This policy supports the delivery of a devolution programme which aims to:-

- Improve outcomes for local communities-through enabling assets to be more tailored to meet the diverse needs of communities
- Increase local control over assets-through enabling town and parish councils in particular as democratically elected bodies, to take decisions on how best to meet local needs

1.4 This policy document will be reviewed annually and in accordance with any appropriate legislation as currently set out at Annex A.

2. Background

2.1 Dorset Council has responsibility for land and buildings through various means:-

- Owned Assets-Dorset Council hold either a freehold interest or long lease (virtual freehold, usually in excess of 100 years) of the asset.
- Dedicated assets-Dorset Council has responsibility to maintain land due to a historical contractual obligation but does not have the freehold ownership for example areas of public open space or play areas under planning agreements
- Statutory responsibility-Dorset Council has the responsibility for maintaining assets and provide services under legislations, for example highway land or closed burial grounds

2.2 The disposal of assets by Dorset Council broadly fall under two types:-

- Market sales-where 'best consideration' is obtained widely interpreted as the best price/market value (as defined by the Red Book)
- Disposal at less than best consideration-this could either be a transfer for a nominal sum or reduced purchase price but will certainly be lower than the market value

2.3 Assets will be considered for transfer where one or more of the following benefits will be provided:-

- The transfer of the asset will provide social, economic or environmental well-being benefits to the local community (for example through the ability to manage and regulate 'open spaces' at a local level)
- The transfer would be a 'tidying up' exercise passing incidental pieces of land and landscaping or parts of these to a local level
- The asset has the potential to provide for a community facility which a parish/town council, third sector or community group has demonstrated that they have the skills, drive and access to resources to deliver (for example a village hall)
- The transfer of the asset will enable the continuation of a service or use of a facility to the local community that Dorset Council is no longer able to provide (for example public conveniences)
- A community partnership can be entered into based on public access to and use of an asset
- It is believed that a town/parish council or other community group would be able to secure a grant and/or have access to funding streams not available to Dorset Council

2.4 Dorset Council reserves the right not to dispose or transfer its assets to others for reasons including but not limited to:-

- The financial impact or potential impact from loss of income or the benefit of a capital receipt which outweighs the social value being created in isolation
- Adjoining/surrounding land not being transferred
- Potential for redevelopment either with or without Dorset Council land

- Historic and or complex land issues which would make a disposal/transfer resource prohibitive to Dorset Council
- There being a large number of small non-strategic open space land parcels that require significant due diligence and incur significant legal costs and may be best served through a service delegation agreement
- There is a statutory responsibility and any transfer would also require the transfer or undertaking of any service responsibilities

3 Scope of this Policy

3.1 The scope of this policy document applies to community asset transfers.

3.2 Community asset transfer involves the transferring of land, buildings or other property assets (referred to as assets throughout this document) from a statutory body to a Town and Parish Council or community organisation in order to achieve public benefit.

3.3 The application of this policy may be triggered by either external requests from local organisations and/or triggered by Dorset Council through identifying that an asset is declared 'surplus' to requirements following a review of a particular asset or part of a programme of possible asset transfer reviews.

3.4 Those Assets that are currently outside the scope of this Policy are detailed at Annex B.

4. Transfer Arrangements for High Value Assets

4.1 The transfer of the responsibility for a high value asset will be determined by an Asset Transfer Board chaired by the Portfolio Holder for Economic Growth, Assets & Property and consisting of Portfolio Holders and Senior Council Officers as set out in paragraph 8.2 below which will meet on a quarterly basis or as appropriate to consider all such requests. All such requests will be considered and decided upon following the submission of an Asset Transfer Application Form and where considered appropriate supported by a Business Plan.

The Asset Transfer Board will after considering recommendations from the Corporate Director for Assets & Property determine the most appropriate arrangements for a transfer on a case-by case basis taking into consideration factors such as applicant preference, financial and

legal considerations etc. The different types of arrangement are broadly:-

- Freehold transfer-this is where an asset is permanently transferred to a local organisation in accordance with Dorset Council's standard terms and conditions
- Long Term Lease-25 years or more in relation to a building in accordance with Dorset Council's standard terms and conditions
- Short term lease or other management arrangement-a lease less than 25 years or license to occupy or other tenancy agreement in accordance with Dorset Council's standard terms and conditions

These three options are Dorset Councils preferred approach.

4.2 Other types of solutions that might also be considered are:-

- Community Use Agreement with a local organisation or a local school to protect community use access and prices with zero subsidy and risk transfer to the third party within a partnership working agreement.
- Management Contract a long term lease, contract and service specification to a specialist service delivery provider which may link to a capital investment by a third party with zero subsidy, full risk transfer and potential income share.
- Service Delegation Agreements-these are usually used where there is a large number of small non-strategic open space land parcels which are most efficiently and successfully managed via a service delegation agreement, In these cases a fixed term tenancy of 7 years (less 5 days) will be granted given that a lease of this length is exempt from s123 'best consideration' tests. Longer leases would be considered but the costs of legal fees and due diligence could prove prohibitive.

4.3 There is a policy presumption that where an asset is to be transferred this will be offered on the basis of a long term lease or freehold transfer basis, rather than short lease arrangements. This is in order to maximise local control and provide opportunities for the applicant to consider investment in the asset and/or other funding opportunities.

4.4 This policy does not set out a preference or hierarchy in regard to the choice of freehold or leasehold transfer in order to enable consideration to be given to the best option on a case by case basis as

determined by the Asset Transfer Board dependent on the value of the asset.

4.5 Short term lease arrangements may be considered under pilot arrangements; however, it is recognised that they may hinder the applicant in planning and investing in community service without long term certainty.

4.6 In regard to freehold transfers the Council will reserve the right to include conditions on any transfer to protect the future community use of the property by way of restrictions, preferential arrangements for Dorset Council use, future sale of the property by way of an equitable share in any benefits derived and financial, project failure or there no longer being a requirement through the use of reversionary mechanisms. Any conditions will be considered and determined by the Asset Transfer Board, as appropriate, on a case by case basis.

5. Eligibility & Assessment Criteria

5.1 The following eligibility criteria would apply:-

Criteria	Description
a)	<p>The Asset Transfer Policy is open to:</p> <ul style="list-style-type: none"> • Parish or Town Councils • Unincorporated charitable organisations • Companies limited by guarantee with charitable status • Community Interest Companies limited by guarantee • Community Benefit Industrial & provident Societies with an asset lock • Community Interest Company limited by shares
b)	<p>Organisations must be</p> <ul style="list-style-type: none"> • Legal entities • Non profit making • Have community and or social objectives; and or • Be located within the boundaries of Dorset Council area or can demonstrate that they provide services within the area to residents
c)	<p>All community assets must remain open to the wider public. This does not disqualify special interest</p>

	proposals or groups; however, evidence must be provided of how the asset will be used in an inclusive way
d)	Applicants must provide full contact details for the organisation including someone with the relevant decision making authority
e)	Applicants must provide supporting evidence where required and complete all sections of required forms

5.2 Dorset Council will not consider expressions of interest from organisations which are political or with political affiliations, organisations engaged in supporting candidates for political office, individuals or businesses who intend to primarily run the service or use the asset for commercial gain.

5.3 In addition to the eligibility criteria set out above the assessment of requests will consider the following criteria areas:

- Community Benefit
- Local Control
- Sustainability
- Governance of legal structure
- Financial standing
- Maintenance and ability to maintain and manage assets
- Commitment

Further details on the assessment criteria are set out in Annex C.

6. Principles

6.1 Dorset Council is committed to applying the following principles in how it considers property transfer requests:-

- Being transparent in the process for asset transfers including timelines and decision making with as much information published on line as possible
- Providing timely information to local organisations to make an initial view on whether they are interested in discussing property transfer arrangements
- Assessing property transfer requests fairly through the application of this policy

- No capital or other funding will be provided as part of the transfer and all future costs would be covered by the organisation taking on the asset
- No rents or charges will be applied for use by Dorset Council should there be any potential ongoing or temporary space requirement identified by the Council provided the requirement for such space is not unreasonable and does not exceed 25% of net internal area or of the available hours
- Where assets are identified as being surplus and no interest in them has been expressed by other parties the Council will consider closure of a facility, cease maintaining an asset where it is safe to do so, 'stopping up' a building or facility' and/or its possible demolition taking due regard of any historical significance and requirements to consult.
- Provision of a named contact and respond in a timely manner to all property transfer requests

7. The Asset Transfer Process

7.1 The Asset Transfer Process is set out at Annex D and consists of the following elements as set out in paragraph's 8 to 14 below:-

8. Decision Making

8.1 Any organisation expressing an interest in particular assets will need to submit a request using the Council's standard Asset Transfer Application Form as provided at Annex E.

8.2 The application will be initially screened by the Dorset Council's Property Dept so as to determine whether they fall within or outside of this policy and whether the value of the asset being the subject of any request is above £15,000.

8.3 An evaluation will also be undertaken as to the financial impact or potential impact to Dorset Council weighted against the social value being created in isolation.

8.4 Following consideration of asset transfer requests a decision by Dorset Council and the respective applicant organisation is needed on the sign-off of individual asset transfers. All such decisions will be taken in accordance with this policy and endorsed by the Cabinet Portfolio Holders for Property & Assets and Customer & Community Services when acting in agreement with each other as delegated by Cabinet.

8.5 An Asset Transfer Board will consider all Asset Transfer Requests for any asset whose value exceeds £15,000 and will oversee the transfer programme. This Board will comprise the Cabinet Portfolio Holders and senior officers within the Council namely the Corporate Director of Property & Assets, Representatives from Finance & Legal and other appropriate Service Directors as required. The Board will make recommendations to the relevant decision makers (the Portfolio Holders) on the detail of the transfer agreement terms and sign off.

8.6 The Council may need to balance the competing interests of community groups and an assessment will need to be made as to the option that will deliver most sustainable benefit to the local community.

8.7 In considering the best terms for an individual asset transfer a recommendation will be made on the appropriate rental or capital subsidy, if required, below market value in order to maximise the use of the asset for community benefit. Rental or market subsidies will only apply in relation to assets considered under this policy.

9. Pre Application Stage

9.1 As part of Dorset Council's commitment to the transfer of assets support will be provided to town and parish councils and community organisations, where required, to enable them to consider submitting an Asset Transfer Application Form. In particular this will include:-

- Online guidance and information including template Asset Transfer Application form and business plan guidance
- A named contact to support organisations to submit Asset Transfer Applications and to keep applicant updated at all stages of transfer process

10. Stage 1 Expressions of Interest Submission

10.1 On receipt of an Asset Transfer Application form Dorset Council's Property Dept will then:-

- Check that the application meets the policy criteria and the value of the asset
- Check that the applicant meets the eligibility criteria to be considered and notify the applicant accordingly
- Inform the applicant if there is more than one interested party and whether a shortlisting process is required

10.2 Once an application has been confirmed as meeting the policy criteria and the Council confirms it is willing to consider any such transfer Dorset Council's Property Dept will then:-

- Notify the local member(s) and seek their views
- Supply the following information to the applicant, if requested:-
 - estimated maintenance costs
 - estimated value of the property (if any)
 - condition survey report and any other relevant information

10.3 Parishes/Town Councils & Community Groups may wish to undertake their own due diligence exercises and in doing so will be responsible for any such works and legal costs associated with them.

10.4 If the applicant wishes to then proceed with the transfer request, in light of this information, then the application will be considered by The Asset Transfer Board who will determine if the application passes the Stage 1 assessment, if more than one applicant those that are being shortlisted for consideration and the next step options which are:-

- Business Plan required before decision
- Business Plan not required and decision can be agreed
- Application rejected

The Guidance and Expression of Interest Form is shown at Annex E

11. Stage 2 Business Plan Stage

11.1 The Council wishes to ensure that the transfer is successful as such a business plan may be required where an asset request is of value greater than £15,000

11.2 The Council recognises that completing a business plan will take the applicant time and effort and will only ask organisations that meet all of the eligibility criteria

11.3 Where it is agreed to carry out a pilot of a widespread devolution of properties a single business case will be required.

11.5 If a business plan is required it is anticipated that supporting evidence will also be requested on the following areas:-

- Health & safety arrangements in place

- Safeguarding arrangements
- Staffing and/or contractual arrangements
- Insurance
- Operational procedures & Maintenance Management
- Governance

11.4 All business plans will initially be evaluated by the Property Dept and presented to the Asset Transfer Board who will recommend to the Portfolio Holders, for their determination, the preferred applicant (if more than one interested party, whether to agree to the transfer and any conditions that may form part of the transaction or to place it on hold for further investigations into other possible options or to reject it.

11.6 The Council will consult local member(s) and Community Boards prior to a decision on transfers that require a business plan.

12. Stage 3 Basis of Any Transfer

12.1 Dorset Council will determine the basis of legal agreements for the transfer of an asset following either acceptance of the Application or the approval of a business plan (where appropriate). Any such terms and conditions stipulated by the Council will be non-negotiable.

12.2 Dorset Council's standard form of contract/lease will be used for all asset transfers

12.4 The decision on the sign off of all transfers will be delegated by Cabinet to the Portfolio Holders for Customer and Community Services and Economic Growth, Assets & Property.

13. Appeals

13.1 All applicants are entitled to appeal against an element of this policy if they feel that a decision has been unfair/and or there has been a breach of policy,

13.2 Appeals should be made in writing via the Complaints Team stating clearly the issue or reference to the part of the policy that has been breached, within 28 days of the decision being made.

13.3 The appeal will be managed in line with the Council's complaints procedure. Dorset Council's decision is regarded as final.

14. Timescales

14.1 All asset transfers are unique and it is difficult to provide specific timescales. However, Dorset Council will endeavour to:-

14.2 Pre-Application

Allow 4 weeks for Applications to be submitted from time property is first declared surplus/advertised.

14.3 Stage 1

In order to assess and evaluate an application (particularly where a number of expressions of interest have been submitted for the same assets and a short listing process is required) a period of between 8-12 weeks from receipt of an application (note this may vary depending on meeting dates of the Asset Transfer Board and volume of requests received) should be allowed. Should an application be placed on hold the Applicant will be informed within this timeframe of the time required by the Council to consider alternative options (dependent on the number of applications received and being considered at any one time).

14.4 Stage 2

Allow applicant(s) 6-8 weeks if full business plans are required and make final decisions within 8-12 weeks following submission of Applications or 14-20 weeks if full business plans required (timescales may vary depending on Asset Transfer Board meeting dates and volume of business cases received)

14.5 Stage 3

Work with successful applicant(s) to agree a realistic timetable for final completion of the asset transfer with a target timescale of 12 weeks (dependent on type of transaction and Legal casework)

15. Ongoing Reviews

15.1 The Council may wish to undertake ad hoc reviews so as to ensure the Community benefits are being delivered as per the bid submission and to reserve the right for assets to revert if the proposed benefits do not materialise.

16. Adoption of Policy

16.1 Following the approval and adoption of this Policy by Cabinet guidance and templates will be developed and published to support organisations to submit expressions of interest.

16.2 This policy will apply for all transfers as from the beginning of August 2021 and will not be applied retrospectively.

16.3 Where leasehold arrangements are currently in place this policy will be applied at the point in time where any such leases are due for renewal

ANNEX A CURRENT LEGISLATION

Local Government Act 1972 (1972 Act)-S123 sets out that Local Authorities must obtain 'best consideration' for all disposals

Local Government Act 1972: General Disposal Consent 2003 ('General Consent order')-gives permission for Councils to dispose at less than best consideration provided if the value foregone is less than £2m (in capital terms) and the transaction benefits the economic, social or environmental wellbeing of the area. If the value foregone is greater than £2m approval from the Secretary of State is required.

Local Government finance act (1988)

RICS Valuation-Professional Standards ("Red Book")-defines market value when considering the price obtained from a disposal

Localism Act 2011-introduced the concept of local communities taking more control of assets in their area.

European Commission State Aid Rules-rules to avoid state aid rules which could distort competition to be reviewed post Brexit.

ANNEX B PROPERTY OUT OF SCOPE TRANSFER PROCESS

It is proposed that some types of properties are considered out of scope of this policy. This means that Dorset Council will not consider such requests under this policy.

The Council is undertaking a range of strategic property reviews to inform the best use of those assets for the benefit of all Dorset residents.

Some types of assets are best managed strategically and thereby retained by Dorset Council just as others are best managed locally.

The following property areas are out of scope:-

- Assets held for investment purposes both those assets that generate a net income for Dorset Council and those held for future capital, revenue regeneration or corporate realisations
- Vacant land or buildings that may generate a capital receipt, regeneration revenue or corporate aspirations
- Assets of a rural nature given Dorset Council's role as a small holding's authority
- Education and statutory early years premises due to Dorset Council's role as a Local Authority for education purposes (unless such assets have been declared surplus)
- Care facilities that form part of a Care contract
- Residential Properties given Dorset's role as a Housing Authority
- Land held for future development by Dorset Council or partner schemes as it would not be financially prudent to devolve land and be required to repurchase it in the future
- Car parks owned and run by Dorset Council
- Buildings used primarily as delivery sites for Dorset Council Services
- Potential buildings which may be considered as Community Access Points/Hubs in later years to ensure maximum potential for building redevelopment/investment
- Vacant Land or buildings that can generate a capital receipt in excess of £10,000 which is the de-minimus level for capital accounting purposes.

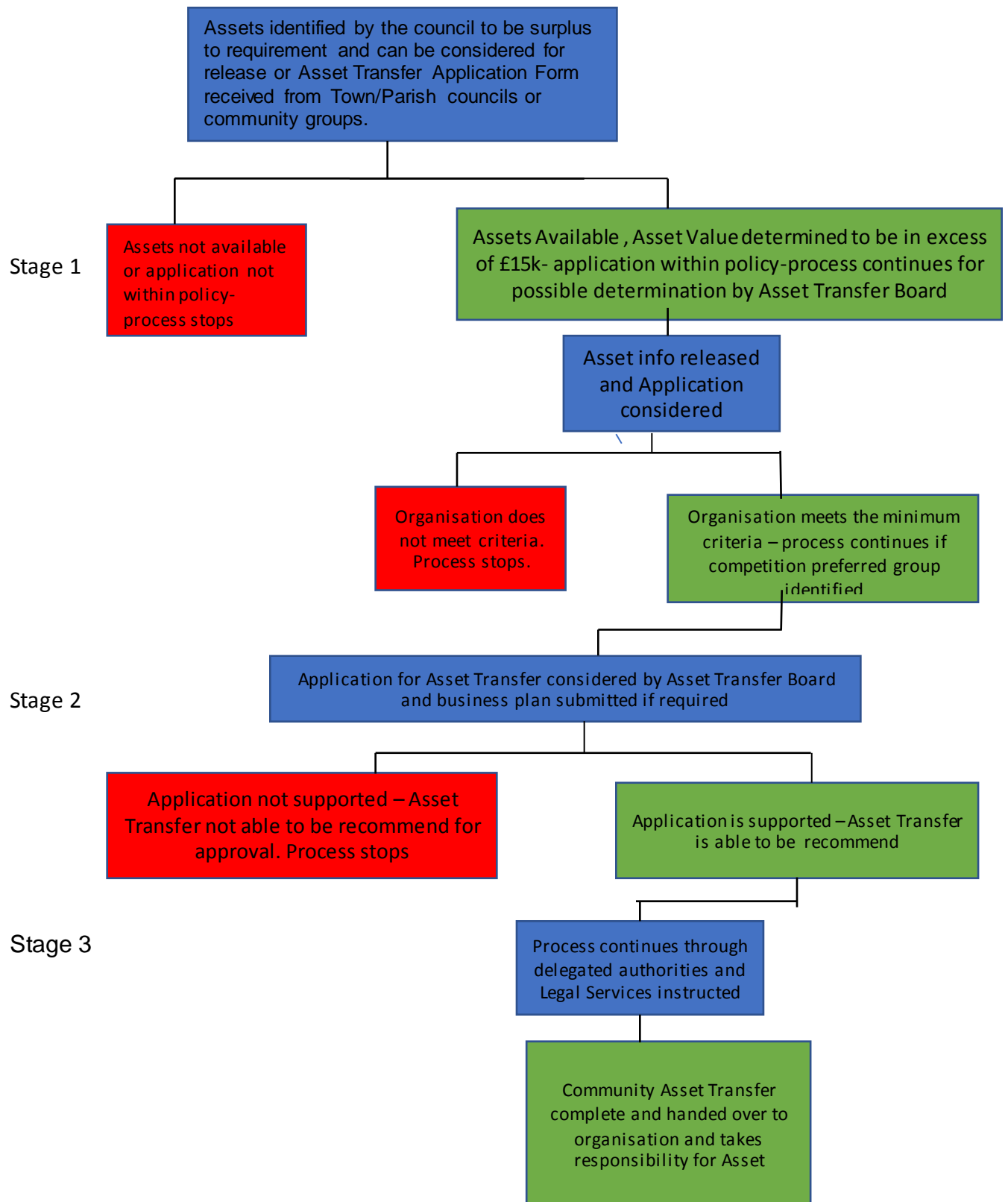
ANNEX C ASSESSMENT CRITERIA

All applicants will be required to complete an Expression of Interest. A Business plan may also be required at stage 2 in relation to transfer requests over the value threshold of £15,000 for properties.

Template Forms will be published online as part of a transfer toolkit. These template forms will include sections to complete in relation to the criteria areas with an expectation that more detailed information would be provided where a business plan is required.

Assessment Criteria Area	EOI Evidence	Business Plan Evidence
A) Community Benefit	Statement of intended community benefits	Strong track record of delivery of community benefit Evidence of community impact and residential consultation on proposal
b) Local Control	Meet organisational eligibility criteria	Evidence that residents will have a say in future decisions on the property
c) Sustainability	Ability to manage property	Clear long term plan for viability A risk assessment and how risks will be mitigated
d) Governance & Legal Structure	Meet eligibility criteria	Settled legal entity with proven ability to manage change
e) Financial standing	Established record of financial probity	Established record of financial probity with evidence of long term plan
f) Maintenance	Ability to manage property	Proven record of managing maintenance issues
g) Commitment	Willingness to participate in evaluation	Willingness to participate in evaluation and share learning

ANNEX D TRANSFER PROCESS FLOWCHART



**ANNEX E
TRANSFER OF PROPERTY
GUIDANCE & APPLICATION FORM**

Dorset Council
Asset Transfer Guidance Document
&
Application Form
(For All Asset Values)

Date:
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1. General Considerations

Before making an application for the transfer of an asset from Dorset Council it is important to consider your options carefully. Below are some general aspects which should be considered before making an application.

The aims and objectives for the land and building-by having clear objectives it is possible to determine whether premises are needed and whether the amount of space and type of facilities are required.

The need and demand for the asset.

The decision to take responsibility for an asset should benefit the local community by allowing you to provide facilities more efficiently and effectively. It is important to consider the monetary costs and time needed to maintain a building.

2. Practicalities

It is important to have a financial plan outlining the funding of the assets.

Where an asset is to be transferred initial costs may include surveying and legal fees, each party will be expected to pay their own costs. It is also important to consider that an asset can generate a number of ongoing costs.

These may include:-

- Council tax/business rates
- Utilities (electricity, water etc)
- Insurance-building, contents and public liability
- Repairs-reactive and planned maintenance
- Security
- Administration
- Alterations and adaptations
- Cleaning and caretaking

Dorset Council will be able to provide limited information in this respect. As such it is advisable for Town/Parish Councils or Community groups to undertake their own due diligence.

Where an asset is proposed to transfer, a Premises Management Plan is required detailing who will be responsible for decisions relating to the property, along with responsibilities for the day to day management arrangements and compliance legislation issues which need to be addressed which can include fire safety, health and safety, security etc. Dorset Council reserves the right to challenge plans submitted.

Your organisation must also have the capacity to take on the ownership of the property, along with the statutory considerations that can include but are not limited to:-

- Health & Safety at Work Act 1974
- Regulatory Reform (Fire Safety) Order 2005
- Occupiers Liability Act 1957
- Landlord & Tenant Act 1954
- Charities Act 2011
- Town & Country Planning Act 1960 and subsequent regulations
- Equality Act 2010
- Building Act 1994
- Defective Premises Act 1972
- Control of Asbestos Regulations 2012

3. Application Guidance

If you are satisfied that your Organisation has a genuine need to take on the asset and the ability to do so, please complete the Application Form below.

When completing the application form(s) it is important that you provide as much information as possible so that your application can be properly assessed. Please do not hesitate to provide additional sheets if required.

If you require any additional guidance on the process or help with the completion of the application forms please contact the Personal Assistant to the Corporate Director of Property & Assets who will organise the necessary assistance. A copy of the Dorset Council's Asset Transfer Policy is also available on our website or by request.

ASSET TRANSFER APPLICATION FORM

4. Organisation Details

Name of Organisation	
Address of Organisation	
Post Code	
Telephone Number	
E Mail Address	

Contact Details

Name of Contact	
Position Held	
Address (if different from above)	
Post Code	
Telephone Number	
E Mail Address	

Solicitor's Details

Name of Solicitor	
Contact	
Address	
Post Code	
Telephone Number	
E Mail Address	

Where assets are transferred for a nil or less than market consideration the financial cost to Dorset Council will be weighed against the community benefit. Please indicate which of the following community benefits will be provided by the transfer of this asset:-

1. The transfer of this asset will provide social, economic or environmental well-being benefits for the local community. For example, through the ability to manage and regulate an open space at local level
2. The transfer would be a 'tidying up' exercise, passing incidental pieces of land and landscaping, or parts of these, to local level
3. The asset has the potential to provide for a community facility, for example, a village hall, which the Council, Community Group or other body has demonstrated they have the skills, drive and resources to deliver
4. The transfer of the asset will enable the continuation of a service to the local community that Dorset Council are no longer to provide eg public conveniences
5. A community partnership can be entered into based on public access to and use of an asset
6. It is believed that the applicant would be able to secure grant funding and or have access to funding streams not available to Dorset Council

Name & Address of Asset to be transferred and Land Registry DN reference:-

Proposed use of the Asset:-

Proposed Means of transfer (ie lease or freehold):-

The Council has the discretionary power under the General Disposal Consent (England) 2003 and S123 of the Local Government Act to consider disposals of surplus assets at less than best consideration where such disposal is likely to contribute to the promotion or improvement of the economic, social or environmental wellbeing of the Dorset Council area and its residents. Please indicate below how this proposed transfer will contribute in any of these ways:-

5. Economic Benefits

How will the transfer benefit the local economy?	
--	--

Social Benefits

How will the transfer provide the social benefit to the community?	
--	--

Environmental Benefits

How will the transfer benefit the environment?	
--	--

Other

Any other information to support the transfer?	
--	--

Should Dorset Council consider that the transaction at less than best value will meet the requirements of the General Disposal Consent Act, a valuation of the property asset will be undertaken to determine best value. Any costs incurred by Dorset Council in seeking the relevant valuation advice will be met by the applicant.

When considering the disposal of public open space, the legal requirements of the Council to advertise proposed disposals and consider objections must be complied with. Applicants will be required to meet the costs of advertising the proposed disposal.

6. Declaration

I confirm that I am authorised to sign this application on behalf of (name of organisation) and that to the best of my knowledge and belief all the information provided is true and correct. I confirm that I have considered all the financial implications of the asset acquisition and that I am satisfied that (name of organisation) is able to meet all anticipated costs and obligations.

I enclose copies of:-

- Plan outlining the asset to be considered for transfer with the site boundary marked in red.
- Management structure if required
- Premises Management Plan
- Community Consultation (if available)
- Business Plan (if available)

Any other documents you think may be helpful when assessing your application.

Name (print)	Signature
Position	
Date	

Please return this completed form to:

Carly Galloway
Senior Projects, Contracts & Funding Manager
County Hall
Colliton Park
Dorchester
DT1 1XJ

Or e mail:-

Carly.Galloway@dorsetcouncil.gov.uk