



# Asset transfer

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Asset Transfer is a term used to describe the process of the transfer of the ownership (or leasehold) of property or land from one party to another. Currently, the term is being used in the context of the transfer of public sector assets to third parties – including the voluntary and community sector. Government is currently encouraging local authorities to review their buildings and land for opportunities to transfer these assets to community organisations. They have the power to dispose of land and buildings at preferential rates – often under market value – if a wider community benefit can be realised through the transfer.

Asset transfer can help to secure community use of buildings and provide a development opportunity for local community and voluntary organisations. But, like any major development, it also carries risks and groups considering asset transfer need to do a lot of work before pursuing it.

This overview explores some of the key issues involved in the transfer of land or buildings to voluntary and community organisations.

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## Introduction

Voluntary and community organisations can use asset transfer as part of a strategy to secure the long-term future of their services. Owning land or buildings can provide the basis on which to borrow money or to develop new income generating activities.

Asset transfer is a complex process and should not be entered into lightly. Many of the buildings local authorities are happy to dispose of – such as old school buildings - are old, in poor condition, don't meet current standards and are expensive to maintain and run. Such assets can quickly become liabilities if plans to develop them don't come off. But there are success stories in many neighbourhoods across the UK. Key factors to consider include the cost of refurbishing the property and whether there will be the income and the skills-base to manage and develop it.

Before considering asset transfer, an initial feasibility study should be carried out by suitably qualified people. This needs to consider:

- the revenue earning potential for the proposed use of the land or building versus its likely running costs
- the impact of any legal restrictions, either already on the asset or imposed through the funding agreement, mortgage or transfer or lease agreement
- whether there is potential for capital subsidy to improve or develop the asset, such as the £30 million Community Assets Fund
- a structural survey and initial quantity surveyor's costings for any works needed
- how the proposed transfer contributes to the organisation's aims and an assessment of any wider community benefit

A lot of initial feasibility studies fall short of providing sufficiently detailed information to base decisions on, and it is worth doing your homework before appointing someone to carry one out.

## What examples are there of asset transfer?

Perhaps the best-known example is the transfer of council housing through large scale transfers to new landlords. These transfers have tended to be to existing Housing Associations or to newly established housing trusts. Generally this has been done to enable access to finance to carry out large scale refurbishment.

## What can asset transfer do?

Asset transfer can strengthen your organisation's community ties and its ability to raise money. Because the main focus is likely to be a community based initiative or sustaining economic regeneration, there may be access to funding to refurbish the building or to support staff training and development.

Third Sector Minister, Ed Miliband, has unveiled a new £30 million Community Assets Fund to enable voluntary and community organisations to own and run public assets. It is being managed by the Big Lottery Fund and can be used to refurbish buildings so they are appropriate for transfer.

**“By freeing up and revitalising public buildings, the Community Assets Fund will catalyse the work of third sector organisations in transforming local communities”**

Ed Miliband , Minister for the Third Sector, 2007.

Whether your local council supports asset transfer depends on its property portfolio, its attitude to the sector's role in the community, and the strength of your organisation's case. But it is the Government's stated policy for councils to make use of under used or derelict land and buildings, which often carry high maintenance costs.

## What are the benefits?

Owning an asset can provide security on a long-term basis because you can use it to generate income or to borrow against, using the building as security. Securing a local asset for community use may be highly desirable – once an asset has been lost to private ownership it is usually lost forever..

## What's in it for councils?

Despite councils being under pressure to sell assets at market rates to raise funds, they are encouraged by government to balance this against the added value achieved by voluntary and community organisations in local communities.

The Government wants more council assets transferred – either by lease or sale – to voluntary and community organisations as part of a drive to improve

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communities and enhance local service delivery. Transferring assets can be part of local plans to improve local neighbourhoods and provide resources in deprived communities.

**“We would argue that for the current neighbourhood renewal strategy to succeed, the transfer of assets has to be a central concern.”**

George Nicholson , Chair of the Development Trusts Association, 2001.

**“£30 billion – the amount of public assets the Government wants to dispose of by 2010.”**

HM Treasury , 2004.

## Government support for asset transfer

It is stated Government policy to dispose of selected public assets and ministers have unveiled several initiatives to accelerate this process.

In July 2004 the Government announced an objective to dispose of £30 billion of public assets by 2010, with £24 billion of the total to come from the local government sector.

In December 2006 the Government announced a new Community Assets Fund, worth around £30 million in capital grants, to support partnerships between voluntary and community organisations and local authorities. This new grant will become operational later in 2007.

The Commission on Unclaimed Assets, an independent body formed to advise on the use of untapped assets to boost communities, is currently consulting on proposals on a new fund in the sector. The proposed fund of £150 million to £200 million over the next eight to ten years will aim to help 500-650 community organisations acquire assets.

These drives follow a raft of reports on the assets of local government:

- The Audit Commission published ‘Hot Property: Getting the best from local authority assets’ in 2000, which called on councils to review the need to retain property assets
- a Treasury-commissioned report by Sir Michael Lyons on management of public sector assets called for greater efficiency savings and disposals, in working towards the Government’s objective of £30 billion worth of assets disposed of by 2010
- Government commissioned guidance by the Royal Institute of Chartered Surveyors for councils that urged stronger links between property management and effective service delivery
- a Labour Party Manifesto commitment to boost community ownership of property assets led to a multi-departmental report in 2005 called ‘Why Neighbourhoods Matter’. This identified community ownership, along with the management of assets, as one route for improving public services and engaging citizens more directly in the improvement process
- a Government working group chaired by the Home Office has produced key findings and recommendations into community management and ownership of assets. These included urging ministers to launch a promotional campaign to highlight the benefits of community management and ownership of assets, and consider a community Right to Buy scheme

**“The Government has identified community ownership and/or management of physical assets as having an important role in achieving key objectives.”**

Communities Taking Control report , ODPM and Home Office work group, 2006.

## What are the risks?

Not all buildings or land are suitable for transfer, and some may be a drain on resources and generate too little income. Any one running a public building has to be confident that they can meet a raft of regulations covering public health and safety and disabled access. The income from utilising the building has to be sufficient to pay for:

- staff time to manage and develop the asset
- ongoing costs of heat, light, water, insurance, maintenance, repairs and security

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- putting money aside for future larger scale repairs, renewals and refurbishment

Asset transfer does not need to be outright. It could start as a local management arrangement, progress to a leasehold term, and eventually lead to freehold sale or transfer.

Local authorities may want to ensure the value of the asset is retained by the community through insisting on an 'asset lock' in the transfer agreement, which prevents a future sale to private ownership.

## Access for people with disabilities

By law, any building or land intended for public use must be accessible to disabled people. Under the Disability Discrimination Act (1995 and 2004) owners of public buildings must take reasonable steps to tackle physical features that act as a barrier to disabled people. In practice this means things like replacing steps with ramps, widening doorways to allow wheelchair access, and making signs larger for people with visual impairment. Multi-story buildings may need to install lifts, which can be very expensive.

Although all council buildings should already be compliant, buildings that have been left derelict may require considerable refurbishment.

## The power to transfer

The legal context for asset transfer is contained under Section 2 of the Local Government Act 2000, whereby every local authority has the power to undertake actions it considers are likely to achieve the economic, social or environmental well-being of the area.

The specific provision for asset transfer is provided under the Local Government Act 1972, as amended by the General Disposal of Consent (England) 2003.

## Top Tips

- is the building or land an asset or a liability? If using the building or land fails to generate the costs for its use then the transfer is not viable
- each asset transfer will have its own special circumstances, so further guidance and professional advice will always be needed – particularly in relation to financial and legal requirements
- don't forget that the transfer should be about people and not just bricks and mortar. While the building is likely to require physical improvement and

- redevelopment – the people involved might need new skills and support to make best use of the asset
- look out for local companies or developers that may have an asset they are willing to transfer as a way of securing council cooperation or planning consent. Talk to primary care trusts, regional development agencies or government offices about assets they may want to transfer
- restrictions on use will vary according to the property's status – whether leasehold or freehold – as well as on any funding. In some cases there may be a 'claw back' provision – so, if the asset ceases to be used for community purposes, any funding released may have to be paid back
- do your homework before appointing someone to carry out a feasibility study.



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