



Oldham
Council

Report to Cabinet

Proposed Revisions to the Co-operative Approach to the Use of Council Assets Policy

Portfolio Holder:

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Reason for the Report

To consider proposed revisions to the existing Co-operative Approach to the Use of Council Assets (CAUCA) Policy with a view to promoting an alternative approach to the Community Asset Transfer (CAT) procedure. The proposed changes are aimed at improving and streamlining the process, adopting a more consistent approach and also seek to address a number of current issues.

Executive Summary

The Medium Term Property Strategy was approved in August 2018 and one of the property workstreams within this relates to increasing the number of assets to be transferred under Community Asset Transfer in order to reduce the Council's current "holding costs" associated with this portfolio of assets. This report outlines issues / difficulties arising from the current CAT process and proposes a revision of the Council's CAUCA Policy to address these and improve / streamline the procedure.

Recommendations

It is recommended that the proposed amendments to the Council's current CAUCA Policy are approved as these should further clarify the process of Community Asset Transfer from both the Council's and applicant's perspectives thereby making it more streamlined and user friendly.

The recommendations include approval to:-

1. The proposed revised Co-operative Approach to the Use of Council Assets policy.
2. Use of an application form and assessment matrix as appended with effect from the 1 April 2019.
3. Limiting applicants to a period of 12 months in which to complete a lease or other form of occupational agreement otherwise the group has to either re-apply or the Council may withdraw and seek to dispose of the asset if substantive / meaningful progress towards a CAT is not made by the applicant / group.
4. Request CAT applicants where the Council has yet to receive a full business case to complete the application form and to also be advised of the assessment matrix / the revised process / time limits in order to progress matters.
5. Note that groups occupying Council assets and where no formal lease is currently in place that the Council will no longer be in a position to cover the running costs and repairs & maintenance. Notice periods and engagement with groups will follow if this is approved.

Proposed Revisions to the Co-operative Use of Council Assets Policy

1 Background

1.1 Oldham Council is a Co-operative Council and consequently it wants to encourage and support local community groups / residents to become more confident and self-sufficient to allow them to successfully engage with the Council and its' partner organisations to help bring about a co-operative vision for the benefit of all within the Borough.

1.2 The Council views community asset transfer positively for the following reasons:

(i) The potential benefits of asset transfer for Voluntary and Community Sector (VCS) organisations include:

- It can strengthen the organisation's confidence.
- It can strengthen the organisation's community ties.
- It can provide opportunities for income generation.
- It can strengthen the organisation's ability to raise money.
- It can provide the opportunity for the organisation to develop the asset to meet the needs and aspirations of a community.

(ii) The potential benefits of asset transfer for the Council include:

- It creates the opportunity for investment in the asset that may not be possible within Council ownership and can provide a catalyst for inward investment through local purchasing and employment.
- It can contribute to the Council's objective to rationalise its' estate and facilitate more effective and efficient use of its asset base where the focus is on better services and community outcomes through a neighbourhood approach.
- It can deliver social, economic and environmental benefits.
- It can be a stimulus for partnership working between VCS organisations, the Council and other partners, providing opportunities for long-term working between sectors, improving provision and accountability of services within communities, which in turn helps the Council to achieve its' corporate priorities and outcomes.

1.3 Oldham Council's current approach to CAT is outlined within its' CAUCA Policy, which was approved at Cabinet on the 18 November 2013 (Minute No. D1544 refers) and subsequently Full Council on the 18 December 2013.

2 Current Position

2.1 Community Asset Transfer Issues

Since the introduction of the CAUCA Policy, there continue to be issues with the CAT process and these can be summarised as follows:-

2.1.1 Requests

- CAT requests are often speculative and there is currently no proper screening via a controlled and consistent assessment process.
- A general willingness to consider all requests regardless of whether the asset is suitable for CAT and / or the applicant is ready and able to assume control.

2.1.2 Resources

- Limited resource within Unity Partnership - currently one part-time member of staff working 10 hours per week.
- Lack of resource / competing work-streams within Legal Services / Finance.
- Lack of resource / funding for Action Together ie the Council's partner in assisting groups with the CAT process.

2.1.3 Process

- The current process is seen as being slow and cumbersome due in part to the lack of resource as highlighted above, but also by virtue of the applicant not always being in a position to proceed with a CAT. It is therefore time consuming and often results in frustration manifesting itself.
- The Council's requirement for a robust business plan, which often can take some time to develop and very much depends on the capabilities / skill set of the CAT applicant.
- The length of time for internal consideration / review of business plans.
- Applicants are not always a legal entity capable of taking a CAT.
- The applicant's governance structure / constitution is not always in place.
- Some applicants seek charitable status via the Charity Commission and this process can take some time to achieve.
- Interest in a CAT can be dependent on securing external grant funding.

2.1.4 Conflicts for the Council

- The need to drive savings via the Medium Term Property Strategy (MTPS) versus the Co-operative Agenda ie a commercial approach versus social benefit / value.
- CAT is often deemed to be a high priority but the assets are generally of low value – current resource mis-match and contrary to accepted Asset Management practice.
- Whether to lease on a full repairing basis or for the Council to continue to have responsibility for repair and maintenance with its' attendant cost implications.
- Assets with significant backlog maintenance liabilities often means it is difficult for the applicant to produce a robust / viable business case.

2.1.5 Others

- Pressures to allow groups into early occupation under licence or an interim management agreement, which is not always completed beforehand. This
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can result in less incentive for an applicant / group to progress with a business plan / complete a CAT thereafter.

- The Council often continues to pick up all running costs including business rates, statutory servicing and utilities.
- A lack of awareness with regard to the need for statutory compliance. There is a continued risk to the Council if the group does not undertake such matters to the required standard. Such services can however be bought in from Unity Partnership.
- Difficulties in arranging and payment of recharges where assets are shared for example utility costs and possible need for sub-metering.
- Lack of resource to manage / regularly monitor any social value outcomes that may be sought by the Council.
- Some CAT requests are considered to be more of a commercial arrangement and should be progressed as such.

2.2 Medium Term Property Strategy

2.2.1 On the 20 August 2018, Cabinet approved its Medium Term Property Strategy (MTPS), which essentially divides the Council's corporate property portfolio into six property estate categories. The table below shows a narrative of the description and outcome characteristics of the Co-operative Estate.

	Description	Outcome Characteristics
Co-operative Estate	<p>Property held by the Council and occupied by a 'community organisation' to deliver community based services.</p> <p>This includes all Community Asset Transfers.</p>	<p>The Council's ambition for Oldham is to deliver a co-operative future where everyone does their bit to create a confident and ambitious borough.</p> <p>Co-operative assets are those that empower residents to take greater control of their own lives. Community use of assets is the transfer (or temporary use) of land and or buildings from the Council's ownership into the stewardship and / or ownership of third sector organisations.</p> <p>Transfer brings responsibility. Accordingly, the management of risks including those relating to health and safety, finance, reputation, repair and maintenance, insurance need to be identified whilst also complying with the Council's statutory duties and responsibilities.</p>

2.2.2 With the Council faced with unprecedented financial challenges as its funding arrangements change, the development of the MTPS is focused on realigning the Corporate Estate to meeting the Council's Corporate Objectives and Medium Term Financial Plans.

In terms of the Co-operative Estate the following performance target as approved by Cabinet is:-

- A 20% increase in the number of assets transferred to community groups.

2.2.3 The number of assets within the Co-operative Estate as of the 1 July 2018 was 30, so the target to increase by 20% ie 6 in number over the life of the strategy (2018-2022) should be achievable, particularly if the proposed changes to the CAUCA Policy are implemented.

However since reporting to Cabinet, further work has been undertaken and not all proposed CATs had been included. Via the Community Horizons and Asset Transfer Steering Group, which meets on a quarterly basis, the number of CATs have been reduced and some cases have been re-designated as purely Estates matters.

Consequently, the current extent of the Co-operative Estate (including CAT cases) is now established at 40 assets (See Appendix 1) which sets a revised target to increase the number of CATs to a further 8 over the life of the MTPS. However, as highlighted within the schedule there are a number of assets that could potentially move to other Estates such as Surplus or Income Generation (Existing) so this may change again in the future.

2.2.4 It is clear from the MTPS (Section 6.6) that:-

“To support a community asset transfer, applicants will need to prepare a business case with a robust financial plan that demonstrates a clear community and social demand for the proposed use. The business plan will also address the organisational capacity of the group that wishes to take over the asset and an appreciation of the on-going property management responsibilities; as when an asset is transferred these responsibilities will pass from the Council to the organisation applying for the asset.”

2.2.5 The Co-operative Estate is not significant in terms of the overall savings target identified within the MTPS because of the small number and size of the assets in question. It does however consume significant resource and also continues to be a draw on the Council financially especially if it continues to retain responsibility for buildings, their backlog maintenance, future repairs and maintenance, statutory compliance and running costs, which is contrary to the aims of the MTPS as highlighted above in paragraph 2.2.4.

2.2.6 With regard to the current position in terms of 18 live CAT cases, Appendix 2 provides further detailed information.

2.2.7 As referred to above, one of the specific targets within the MTPS is to increase the number of CATs in line with the Thriving Communities strategy, which in turn will provide added social benefit / value to local communities.

For clarification this is not related to the Assets of Community Value procedure where both privately or publically owned assets such as public houses, parks, open spaces, community centres etc may be nominated and if the asset is subsequently offered for sale then the community / nominee has the right to bid within a period of six months.

3 Proposed Amendments

3.1 In light of the issues / difficulties as discussed above, it is proposed that the CAUCA Policy is amended to make the CAT process more robust. Use of a standard application form and assessment matrix (as modelled on the approach adopted by Wigan Council) is expected to make the process simpler to understand and more user friendly.

3.2 Firstly it should be recognised that CAT is not suitable for all properties or for all organisations. The Council will continue to work with local organisations to ensure

that a range of tools, programmes and initiatives are in place to support the development of a strong and sustainable voluntary and community sector within the Borough.

3.3 Assets will only be deemed surplus and possibly available for a CAT if the answer to the following 4 key questions is **NO**:

- (i) Has a capital receipt for this asset already been ring-fenced to support a corporate project?
- (ii) Is the estimated capital receipt needed as a contribution to the Council's Capital Programme?
- (iii) Does the Council require the asset to support its own requirements / objectives or does it need a specific organisation to manage the asset to help deliver the Council's objectives and is there already an established working relationship between the parties.
- (iv) Is there any other reason why the asset should not to be made available for CAT, for example due to its' physical condition, backlog maintenance.

It is crucial that an objective view is taken as the Council does not wish to potentially set up a CAT to fail with the asset potentially returning to the Council sooner than anticipated.

If the answer to any of the above questions is "YES" then the asset will be declared surplus for sale on the open market or used to achieve another corporate objective.

3.4 If an asset becomes available with potential for CAT, the Council is recommended to advertise as such via a number of sources including:

- Local press
- Council website
- Community Networks / partners
- Potentially other websites

Where applicable, criteria specific to the asset will be outlined within the advertisement.

3.5 Alternatively and is often more the case, a speculative request is received from a group or body interested in taking on a particular asset for CAT.

In both of the above scenarios, it is now proposed that the group or body completes an Application Form (See Appendix 3), which will then be measured against criteria within the Assessment Matrix (See Appendix 4).

A recommendation will then be reported to the Community Horizons and Asset Transfer Steering Group for an initial view prior to a more formal decision being made in accordance with the Land & Property Protocols ie whether to proceed with / accept a CAT or not.

3.6 Should the new approach be formally adopted then it is further proposed that that all future applications for CAT be considered via the application form and assessment matrix process and where existing cases have not yet submitted a business plan that they are also required to complete an application form.

Furthermore, the Council's acceptance of a CAT request shall be on the basis that it expects the applicant group to complete a lease or some other form of occupation agreement (thereby taking on responsibility for the asset and its running costs, statutory compliance, repair and maintenance etc) within a maximum period of 12 months.

If this does not occur, then the applicant will either be requested to re-apply or alternatively the Council may withdraw and re-categorise to the Surplus Estate with a view to disposing of the asset.

4 Potential Outcomes

4.1 For the Council, these are as follows:-

- A more robust, consistent and controlled method of dealing with CAT.
- A more definitive timescale for delivery of CAT.
- The ability to limit continued Council expenditure whilst a CAT is progressing ie to a maximum period of 12 months.
- Any extension to a proposed CAT via any re-application will be dependent on the applicant's progress.
- The new process is aimed at providing focus and the need to proceed in a timely manner.
- The new process is expected to reduce the number of speculative requests thereby allowing the Council to concentrate on CATs that are more achievable. In this way the Council would be using its' existing limited resource in a more targeted way ie to achieve higher revenue savings and at the same time delivering on its' co-operative vision.

4.2 For the Voluntary & Community Sector, these are as follows:-

- It provides a clear and consistent approach for potential CAT applicants to follow.
- The rate of progress / completion of CATs should improve if the Council's resource is more effectively targeted ie fewer cases to progress.
- The opportunity to engage in partnership with the Council and contribute to the running costs of an asset whilst the CAT process is progressing.
- Improved confidence in the new approach.

5 Options/Alternatives

5.1 Option 1

To retain the current Co-operative Approach to the Use of Council Assets Policy and the Council's approach to Community Asset Transfer.

If approved, the current issues as highlighted within paragraphs 2.1.1 – 2.1.5 will remain and given the Council's current financial circumstances it is unlikely to be able to resource its' implementation on this basis via a possible internal restructure.

5.2 Option 2

In order to improve / streamline the CAT process and as a means of objectively filtering expressions of interest from community groups etc to agree to:-

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- The proposed revisions to the Co-operative Approach to the Use of Council Assets Policy.
 - Use of the application form and assessment matrix with effect from the 1 April 2019.
 - The Council limiting applicants to a period of 12 months in which to complete a lease otherwise the group has to either re-apply or the Council may opt to withdraw and re-categorise the asset to the Surplus Estate for subsequent disposal if substantive / meaningful progress towards a CAT is not made by the applicant / group.
 - Where the Council has yet to receive a full business case from existing CAT applicants (ie as indicated in Appendix 2), then they are to be requested to complete the application form and also advised of the assessment matrix / the revised process / time limits to progress matters as outlined above.
 - Note that groups occupying Council assets and where no formal lease is currently in place that the Council will no longer be in a position to cover the running costs and repairs & maintenance. Notice periods and engagement with groups will follow if this is approved.

6 Preferred Option

6.1 It is recommended that Option 2 is approved.

7 Consultation

7.1 The principle of adopting the preferred option was considered and approved at Corporate Property Board on the 10 December 2018, People and Place DMT on the 29 January, SMT on the 26 February and Leadership on the 11 March 2019.

8 Financial Implications

8.1 There are no direct financial implications that arise as a result of the changes to the revision of the policy. However, the revised policy should enable the Community Asset Transfer activity to be more focused and streamlined and reduce the overall burden on officer time.

8.2 The financial impacts of Community Asset Transfers will be reported on an individual basis including any revenue saving to the Council and / or any capital receipt foregone will be reported on an individual basis as the Transfers progress. (James Postle)

9 Legal Services Comments

9.1 By virtue of Sections 87 to 108 of the Localism Act 2011, the Council has the necessary statutory powers to implement and thus update / amend the Co-operative Approach to the Use of Council Assets Policy in accordance with the Land and Property Protocols.

9.2 Any materials online or otherwise giving information about the relevant Policy will need to be updated once the formal decision to amend the Policy has been made. (Rebecca Boyle)

10 Co-operative Agenda

10.1 The Cooperative Estate is property held by the Council and occupied by community organisations to deliver community based services and hence is in accordance with the Council's Co-operative Agenda.

11 Human Resources Comments

11.1 None

12 Risk Assessments

12.1 Having completed a Community Asset Transfer to a VCS organisation, there is a risk that despite undertaking all relevant due diligence and taking appropriate precautions, it may ultimately fail in which case the asset could potentially revert back to the Council at some future date.

13 IT Implications

13.1 The transfer of building assets may result in the need for amendments to the Council's ICT network and telephony provision at those sites. The impact on fire and intruder alarms as well as TREND monitoring will also need to be considered. These will be dealt with on a case by case basis and must be agreed in advance of the transfer taking place. (Alison Heneghan)

14 Property Implications

14.1 These are fully covered within the report. (Mark Elton)

15 Procurement Implications

15.1 None.

16 Environmental and Health & Safety Implications

16.1 Property has to be managed in accordance with statutory regulations relating to health & safety and environmental matters. These are addressed as part of the delivery of the Community Asset Transfer process.

17 Equality, Community Cohesion and Crime Implications

17.1 The proposed changes to the Community Asset Transfer process should assist in enhancing community cohesion and potentially reduce instances of anti-social behaviour.

18 Equality Impact Assessment Completed?

18.1 No.

19 Key Decision

19.1 No.

20 Key Decision Reference

20.1 N/A.

21 Background Papers

21.1 Cabinet Report: “A Co-operative Approach to the Use of Council Assets” dated the 18 November 2013 (Minute No. D1544).

21.2 Cabinet Report: “Medium Term Property Strategy 2018-22” dated 20 August 2018.

22 Appendices

22.1 Appendix 1: Co-operative Estate (including CAT cases)

22.2 Appendix 2: CAT Live Cases – Current Position

22.3 Appendix 3: CAT Application Form

22.4 Appendix 4: CAT Assessment Matrix
