



Somerset County Council **Policy for Community Asset Transfer (CAT)**

This policy should be read in conjunction with:

- Somerset County Plan 2013 – 17
- Policy for the Disposal of Property Assets (2014)
- Asset Disposal Through Rationalisation Strategy (2013)

Policy Objectives

This policy defines the purpose, qualifying criteria and under-pinning principles which are applied when Somerset County Council (SCC/the Council) considers transferring its land, buildings or other property-related assets into the ownership or direct day-to-day control of a voluntary, community or social enterprise (VCSE) organisation. It also outlines the decision-making process and provides links with other key documents.

Purpose

It will assist officers and members to balance the needs of the particular community linked with the property asset with the interests of the Council and thus the wider Somerset community. It will also help ensure that the CAT disposal route is used appropriately. The policy may also assist members of the public and other stakeholders to understand the Council's approach and actions.

Definitions

A **Community Asset Transfer** is the successful transfer of ownership of an asset from the County Council to a third party where the asset, applicant and activities meet the qualification criteria. There is a presumption that the Council will wholly or largely waive the right to a market value for the asset to reflect the resulting community benefit.

In this context, an **asset** is a building, land or other property-related asset in the ownership and control of the Council.

The **transfer** is the process by which the legal ownership and/or day-to-day control of and responsibility for the property asset passes from SCC to a third party. The transfer may take the form of a freehold change of ownership (in perpetuity) or in the form of a lease to the third party. In some circumstances the terms of the transfer may combine both forms, with a lease preceding eventual freehold transfer. This can be a useful method of balancing risk for both parties.

The term **community** encompasses voluntary sector organisations and social enterprises which operate on a not-for-commercial-profit basis.

The **CAT process** is a voluntary exercise entered into willingly and without legal commitment by both parties at their own expense. It seeks to ensure that the most appropriate activity is secured and the asset preserved for long term community use.

SCC Context

The Community Asset Transfer (CAT) policy and process is part of the Council's portfolio of ways in which it can dispose of its surplus or under-utilised assets. The CAT is one disposal route with specific qualification criteria and operates within the Council's overarching policy and protocols governing the disposal of publicly-owned assets (see www.somerset.gov.uk/information-and-statistics/financial-information/council-buildings/).

SCC has a responsibility to use its resources to their best effect and to promote sustainable, well serviced communities. The CAT policy can assist by helping to ensure the best use of property assets.

Community Context

Communities and individuals may identify unmet needs for local services and often require access to some suitable premises from which to deliver those services. The need for an asset normally follows the identification of the need for a service; rarely the reverse. An application to acquire a council property asset can be made independently of the Council's own asset disposal schedule and priorities.

Groups or individuals which wish to deliver services already being met by SCC may decide to invoke a "Community Right to Challenge" bid (see www.somerset.gov.uk/crtc). Such a bid will not always involve a corresponding asset transfer.

Communities (or individuals and groups acting on their behalf) may seek to acquire available (surplus) public sector assets by being given the opportunity to raise the funds to meet the full market value. In some cases, an application will be made to the relevant district council to have the property listed as "an asset of community value" (see www.somerset.gov.uk/information-and-statistics/financial-information/council-buildings/)

Legislation

Councils have long had the power to transfer their buildings and land into community management or ownership. This can be at full market value although *The Local Government Act 1972: General Disposal Consent 2003* also allows local authorities to transfer land or buildings at less than market value ("less than best consideration") provided the transfer is likely to contribute to the "promotion or improvement of the economic, social or environmental well-being of the area", and the difference between market value and actual price paid is less than £2m.

The Localism Act (2011) added new rights for local communities including the framework for the Community Right to Bid and the Community Right to Challenge (see www.somerset.gov.uk/crtc). The Act has strengthened the rights (and awareness) of communities to be proactive in changing the way services are delivered and local authorities are obliged and encouraged to positively consider those proposals (see www.gov.uk/government/publications/localism-act-2011-overview).

General Context – Local Influences

The concept of *Community Asset Transfer* is relevant in the context of one of the four Priorities within the *County Plan 2013-17* (see www.somerset.gov.uk/policies-and-plans/plans/county-plan/).

“Our priority is that Somerset is a place where people have the good quality services they need by –

- Giving residents a voice and acting on what they say.
- Joining-up with partners, organisations and communities to provide and run efficient services to make every pound work hard for Somerset.
- Helping individuals and communities to help themselves, to volunteer and take control of services they believe are important to them.”

Qualifying Criteria for Considering a CAT

A Community Asset Transfer proposal will be considered where:

- ✓ The successful transfer would provide future protection for an important community building or piece of land; **and**
- ✓ The applicant represents a local organisation which is a transparently constituted, community-orientated body, with an open membership and democratically elected governance; **and**
- ✓ The proposed activities deliver services to the community which SCC would both support and rely upon.

Meeting each of those criteria will not guarantee that a CAT will be agreed. However, failure to qualify for a CAT may mean that an alternative route to acquiring the property asset may still be identified and considered. A CAT would not normally be considered where an alternative disposal route would achieve the same benefits. **The CAT route is reserved for the most deserving cases as it has the potential to be onerous for both the applicant and the County Council.**

Principles underpinning a CAT

The CAT disposal route will be considered where:

- The property asset is surplus to SCC requirements and the capital receipt from the sale, or the income from a lease out, is not required to fund another activity or programme.
- The applicant (or receiving organisation) is a local, non-profit distributing charity/community group/social enterprise or parish/town council, locally controlled, open to all in the community, democratic and accountable.
- There is clear evidence of local community need for the activities proposed.

- The proposed activities have tangible support from SCC, with aims and objectives which generate social, economic or environmental benefits and closely link with SCC's County Plan (see www.somerset.gov.uk/policies-and-plans/plans/county-plan/)
- The applicant demonstrates that they have access to the necessary skills and experience to deliver the proposed services and to manage and preserve the fabric of the property asset for long term community use.
- The applicant demonstrates, through a costed and audited business plan, that the proposed activities have a firm financial basis, ensuring the long term sustainability of both service and property asset and, ultimately, independence from the Council's resources.
- There is not a more appropriate disposal route which achieves the same objectives for both the applicant and the Council.

CAT Evaluation

The following key factors will need to be considered and evaluated when considering each individual CAT proposal. The information necessary to address these questions is gathered during a two stage process (see www.somerset.gov.uk/information-and-statistics/financial-information/council-buildings/)

1. How well does the applicant meet the CAT criteria? Is the applicant the most suitable likely candidate to take control of this asset? Would further suitable applicants be likely to come forward with an expression of interest if the opportunity was advertised?
2. Are the proposed activities considered to be the best use of the property asset? Would accepting this proposal be likely to jeopardise a more beneficial or strategically-aligned activity from this asset?
3. Would an asset transfer strongly compliment or be essential to the delivery of the Council's services, strategy, priorities and forward planning or meet a demand resulting from a reduction in services?
4. What likely capital or revenue income will SCC forego by transferring this asset at a significantly reduced (or free) value?
5. What annual revenue savings can SCC achieve by transferring the asset to the applicant?
6. Should this application be processed at this time or ought SCC wait for the outcomes of other programmes and projects or expressions of interest from other local parties?
7. How would the proceeds of an open market sale contribute to the Council's wider strategy for asset planning and priorities for future investment? Would the community benefit more from access to the proceeds from a full market value sale? How could the proceeds be used to support this community?
8. Is the community already well served with facilities or does the asset provide a unique opportunity for essential local community provision?

9. Would a transfer to the voluntary/community sector enhance or improve the management of the asset and sustain future service provision? Is the application “aspirational” or based upon existing demand?
10. How confident is SCC that the proposed activities are sustainable by the current applicant for the duration of the intended transfer? Is it likely that the applicant will be in a position to maintain the property asset to an appropriate standard?
11. Will the applicant have access to funding opportunities not available to the Council that could benefit the local area and/or help to stimulate local economic development and social enterprise activity?
12. Is there any potential long term risk for the Council and, if so, is this fully identified and understood? Is the Council expected to retain any role or responsibility in the future operation of the asset or services provided from that asset?
13. Is the Council able to regain control of the asset if the proposal should fail? Would the Council want to be able to regain control of the asset in the event of a failure?
14. Would the community still be likely to receive the proposed services if SCC **did not** transfer the asset to the applicant via a CAT?
15. Would an alternative disposal route e.g a sale or lease out at moderately or slightly reduced prices still enable the applicant to proceed with their proposals?

In essence, SCC must weigh the benefits and risks between taking the full market value for the surplus property (and possibly reinvesting in local services) or waiving the full market value and using the low cost/free transfer to promote local involvement in providing those services from within the community.

Each qualifying CAT application will be considered on its own merits against the Council’s objectives and constraints applicable at the time.

Outline CAT Process

A CAT proposal must be seen within the context of the Council’s disposal policy (www.somerset.gov.uk/information-and-statistics/financial-information/council-buildings/). All disposals of surplus assets which have the potential to deliver community benefits, in return for a reduction in the transfer price, would be required to adopt this process.

Step One – “light touch” data gathering and disposal route appraisal

- Completion by applicant of an “**Initial Expression of Interest Form**” (www.somerset.gov.uk/information-and-statistics/financial-information/council-buildings/)
- Objective assessment by Council Lead Commissioners of the proposed activities and applying organisation’s constitution.
- Decision by the Council’s Head of Corporate Property on suitability of property asset for a CAT.
- Recommendation on appropriate disposal route by officers to SCC’s Asset Strategy Group.
- Decision notified to applicant (with advice on disposal route identified) (see ‘Please note’ below).

Please note

- It is possible for the CAT process to be halted at any point and a more appropriate disposal route embarked upon.
- In some cases, applicants may be given advice about how their applications should be strengthened to meet to the qualification criteria necessary for a successful CAT to proceed.
- In order to secure the best use of the asset, several competing applications may be considered simultaneously.
- In some instances opportunities to strengthen bids and achieve better use of the asset through collaboration between competing applications may be identified and recommended to all parties.

Step Two – detailed analysis of proposal and CAT decision

- Further information requested from applicant (including evidence of assertions made in the Initial Expression of Interest Form).
- Validation of evidence and assessment by SCC Corporate Finance of costed business plan.
- Recommendation by officers to SCC Asset Strategy Group on CAT decision (and terms of transfer, if applicable).
- Legal transfer of asset completed (or alternative route explored).

On-going Monitoring and Evaluation

Whilst acknowledging that the transfer of an asset to a third party reduces SCC's property liabilities, it is also implicit that a successful transfer will recognise the Council's dependence upon the services provided by that third party. It will be important for SCC to monitor and evaluate the success of the proposal to ensure compliance with the terms of the transfer. This will be particularly vital where the transfer is dependent upon the voluntary or community group specifically meeting a need resulting from a corresponding planned reduction in SCC's own direct provision.

The level of monitoring and reviewing is agreed within the terms of transfer. There are also legal covenants and restrictions that can be incorporated within the transfer documentation to preserve the asset (or its value) for public benefit (see <http://www.somerset.gov.uk/information-and-statistics/financial-information/council-buildings/> Policy for the Disposal of Property Assets (2014 revision)).

Key contacts**Council Property**

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