

**HORSHAM DISTRICT COUNCIL
COMMUNITY ASSET TRANSFER POLICY
JULY 2025**

1. Introduction

This Policy sets out the process governing the transfer of assets to Town and Parish Councils and other community organisations.

It outlines what is expected of organisations who wish to apply to have assets transferred to them, and sets out the decision making framework.

The Policy does not apply to any asset transfer that is being delivered following a Community Governance Review. It also does not apply to housing stock or commercial premises.

Horsham District Council (“the Council”) will maintain an ‘Asset List’ that sets out which assets bodies can apply to have transferred to them.

2. Definition of a Community Asset Transfer?

Community Asset Transfer is defined as “the transfer of land or buildings from the Council into ownership of community organisations as listed in section 6 below”.

3. Principles

The transfer of any community asset must:

- be undertaken in line with relevant statutory and constitutional provisions;
- align with the Council’s priorities and strategic objectives;
- be surplus to the Council’s operational requirements and not required for core service delivery or future strategic use.

Before undertaking any transfer, the Council will undertake a thorough assessment of the associated risks and benefits. In doing so, it will have regard to the following key considerations:

- The nature, purpose and capacity of the applicant;
- The governance structures of the applicant;
- The outcome of an option appraisals, particularly in the context of the Council’s wider asset management strategy including the consideration of any financial implications to the Council;
- Any alignment with the Council’s objectives, including contributions to community wellbeing and service delivery;
- A comprehensive risk assessment, identifying and mitigating potential liabilities;
- The strength and sustainability of the applicant’s business case; and
- Any demonstrable Social, Economic or Environmental benefits arising from the proposed transfer.

Land or property can be deemed surplus to requirement where it meets one or more of the following:

- (a) It makes no contribution to the delivery of the Council's services, strategic or corporate objectives;
- (b) An alternative site has been identified which would be more cost effective in delivering the Council's services;
- (c) It has no potential for strategic or regeneration/redevelopment purposes in the near future;
- (d) It will not contribute to the provision of a sustainable pattern of development;
- (e) It makes no contribution to protecting and enhancing the natural, built and historic environment, including making no contribution to helping improve biodiversity; and
- (f) Where the Council deems it to be on other reasonable grounds, including that of being "under-used".

4.1 What Assets can be suitable for transfer?

Any Asset included on the Asset List is considered suitable for potential transfer, subject to further assessment and legal due diligence.

Any Assets suitable for transfer will be fit for purpose and in a reasonable state of repair, in the opinion of the Council, acting reasonably.

If the potential transferee considers that investment in the Asset would be appropriate, this will be negotiated between the two parties.

The Council is under no requirement to transfer an asset and retains the discretion to decline a transfer request in any circumstances.

The Council will not consider applications for an Asset transfer where it:

- Has been identified as being required for strategic, planning or redevelopment/regeneration purposes;
- Would be used solely for religious purposes/activities; and
- Would be used solely for political purposes/activities.

5. Financial and Legal Considerations

5.1 Financial Considerations

The financial implications associated with any Asset transfer will be fully considered. Accordingly, the Council's section 151 Officer will provide an assessment on the financial impact of the potential Asset transfer.

5.2 Legal Considerations

5.2.1 The terms of any Asset transfer will be determined solely by the Council and may include, but are not limited to, the following provisions:

- (i) Clawback provisions (overage clauses to recover the value in the event of future disposal or change of use);
- (ii) Pre-emption rights (granting the Council the first right of refusal should the Asset be offered for sale);
- (iii) Use restrictions (limiting the Asset's use to specified community purposes);
- (iv) Reversion clauses (allowing the Asset to revert to the Council in the event of non-compliance or mis-use); and
- (v) Restrictive covenants (prohibiting disposal without the Council's consent, requiring that any disposal be for community benefit only, preventing sale for private or commercial gain).

5.2.2 The transfer of any Assets will comply with all applicable legislation including, but not limited to: (i) the Local Government Act 1972 (disposals at best value), (ii) the General Disposal Consent 2003 (disposals at undervalue), (iii) the subsidy control regime, and, (iv) the Local Government Transparency Code 2015 (the requirement to publish details of land and property declared surplus to requirement).

6 Eligibility Criteria

Applicants must be constituted for community, social or environmental purposes and operate on a not-for-profit basis.

It is anticipated that in most cases, the transfer of Assets will be to Town or Parish Councils.

Other types of organisation that are eligible to apply for Asset transfers include:

- Community Interest Company;
- Charitable Trust;
- Charitable Incorporated Organisation;
- Charitable Company; and
- Other legal entities provided they are a wholly Voluntary or Community Organisations.

Additionally, any such organisation would need to be based within the area of the Horsham District and have strong links with and be of benefit to the community within Horsham District.

The Council reserves the right to waive compliance with any conditions where it considers such a waiver to be appropriate and reasonable in the circumstances.

7. Application Process

- (i) Expression of interest:

The applicant should submit a written expression of interest detailing the specific land/building that is the subject of the application, an explanation of the reasoning behind why it is needed and the aims and objectives of the transfer.

(ii) Internal review – officers, SLT and Ward Councillor consultation

First, relevant teams within the Council will review the expression of interest and seek the views of the Statutory Officers to establish if (i) the applicant is suitable and meets the requirements laid out in this policy, and, (ii) the Asset is deemed suitable and appropriate for transfer.

Second, relevant Ward Councillors, the Chairmen of the Policy and Scrutiny Committees and the relevant Cabinet Member(s) will be invited to comment on the proposals.

Third, the relevant officer team will make a recommendation on whether the Asset transfer should proceed, which will be submitted to the Council's Senior Leadership Team (SLT). (This recommendation will take into account the views of the Council's Statutory Officers and the Ward Councillors).

Fourth, should SLT deem the applicant or Asset unsuitable for transfer, the applicant will be notified. Any decision is final and not open to challenge.

If SLT agree that the application should progress the applicant will be invited to submit a detailed, evidenced business case and feasibility study. This will be assessed and evaluated against the criteria laid out in this policy.

(iii) Formal application

Applicants must submit:

- A business case demonstrating community benefit (social, economic, environmental) and sustainability;
- Evidence of community support and engagement;
- Details for the proposed use of the Asset and how it will be retained for community use and benefit;
- A management plan for the Asset;
- Evidence of good governance and financial sustainability;
- Details of its governance structure and constitution (or equivalent document);
- Any other information as is deemed appropriate by the Council having regard to the nature of the Asset and the identity of the applicant.

The Council reserves the right to request any additional information it considers necessary following its review of the documentation submitted with the initial application.

8. Decision-Making

The final decision to approve an Asset transfer will rest with either the relevant Cabinet Member or the Cabinet, based on officer recommendation and, where appropriate, the outcome of community consultation.

9. Completion

Heads of Terms will be agreed detailing all the main aspects of the transaction leading to the Council's legal team drafting formal documentation. This final stage will require the applicant to work collaboratively with the Council in order to avoid delays to the completion of the transfer.

10. Review

This policy will be reviewed as and when required to incorporate legislative requirements, regulatory amendments, best practice developments, or to address any operational issues that arise as a result of this policy.