CHERWELL DISTRICT COUNCIL NORTH OXFORDSHIRE

Voluntary and Community Sector (VCS) and Community Asset Transfer Policy

1. Purpose of the Policy

This Policy establishes the Council's framework for the occupation, leasing and transfer of Council-owned land and property assets to voluntary, community and charitable organisations.

This Policy shall be applied in accordance with section 123 of the Local Government Act 1972, the General Disposal Consent (England) 2003, the Subsidy Control Act 2022 where applicable, the Equality Act 2010, the Council's Constitution and other relevant legislation.

The Policy supports the Council's Corporate Landlord approach and provides a consistent and transparent framework to:

- support sustainable community use of assets;
- reduce void and under-utilised property liabilities;
- support activation and meanwhile use of assets;
- protect strategic and operational assets;
- ensure appropriate governance and accountability;
- ensure subsidy and undervalue arrangements are transparent and justified;
- support regeneration and place-shaping objectives;
- ensure public assets continue to deliver long-term community benefit.
- establish a consistent framework for Community Asset Transfers (CATs) where the long-term transfer of Council assets will deliver sustainable community benefit whilst protecting the Council's strategic interests.

The Council recognises that community occupation can deliver social, environmental and economic benefits. However, all land and property assets remain strategic corporate resources and shall be managed in the wider interests of the Council and the communities it serves.

Nothing within this Policy creates any automatic right to occupation, transfer, renewal, subsidy or continued use of a Council asset.

When making decisions under this Policy, the Council shall have due regard to its Public Sector Equality Duty under the Equality Act 2010.

2. Scope

This Policy applies to:

- voluntary organisations;
- community organisations;
- registered charities;
- charitable incorporated organisations;
- community interest companies;
- social enterprises;
- other not-for-profit organisations approved by the Council.

The Policy covers:

- community leases;
- licences to occupy;
- meanwhile use arrangements;
- subsidised occupation;
- regularisation of undocumented occupation;
- community asset transfers;
- freehold and long leasehold transfers;
- temporary activation of vacant assets.

Community Asset Transfer means the transfer of a freehold or long leasehold interest in a Council-owned asset to an eligible voluntary or community organisation for the purpose of delivering long-term community benefit, subject to appropriate legal protections and governance arrangements.

This Policy should be read alongside:

- the Council’s Disposal and Acquisitions Policy;
- the Strategic Asset Management Plan (SAMP);
- the Constitution;
- Financial Procedure Rules.

3. Strategic Objectives

The Council’s objectives in relation to community occupation and transfer of assets are to:

- support sustainable delivery of community services;
- reduce costs associated with vacant or under-utilised assets;
- improve utilisation of Council assets;
- support regeneration and town centre activation;
- encourage responsible stewardship of community assets;
- ensure transparent and proportionate governance;
- protect the Council’s long-term strategic and financial interests;
- ensure community occupation arrangements remain sustainable and deliverable.
- support Community Asset Transfers where they provide sustainable long-term community benefit;
- empower communities to own and manage appropriate assets;

- reduce the Council's long-term maintenance, compliance and operational liabilities;
- encourage investment in community assets that may not otherwise be achievable by the Council;
- ensure Community Asset Transfers protect the Council's long-term strategic interests through appropriate legal safeguards and governance.

4. Corporate Principles

4.1 Corporate Asset Management

Council assets are corporate resources and shall be managed in the interests of the Council as a whole rather than individual service areas or organisations.

4.2 No Automatic Right to Occupation or Transfer

Occupation of a Council asset shall not create any automatic right to:

- renewal;
- continued occupation;
- transfer;
- subsidy;
- assignment;
- purchase;
- long-term security of tenure.

4.3 Transparent Subsidy

Where discounted occupation or transfer is approved:

- market rent or market value shall first be established;
- the level of subsidy shall be clearly identified;
- the benefit to the community shall be evidenced and proportionate.

4.4 Strategic Protection of Assets

The Council shall retain flexibility to support:

- regeneration;
- future operational requirements;
- redevelopment opportunities;
- changing corporate priorities;
- Local Government Reorganisation (LGR).

5. Excluded Assets

The following assets will not normally be considered for community transfer or subsidised occupation:

• operational assets required for service delivery;
• strategic regeneration assets;
• assets identified for redevelopment or disposal;
• investment assets held primarily for income generation;
• assets required to support Local Government Reorganisation;

• assets where transfer would materially prejudice future corporate objectives;
• assets where transfer would create disproportionate financial, legal or operational risk.

The Council reserves the right to determine whether an asset is appropriate for inclusion within this Policy.

Some assets may be subject to planning obligations, transfer covenants, trusts or other legal restrictions. These shall be identified and considered before any occupation or transfer is approved. Where such restrictions conflict with this Policy, the legal restrictions shall take precedence.

6. Occupation Routes

6.1 Standard VCS Occupation

Standard VCS occupation will normally be granted by way of a lease or licence for a maximum period of five years.

The maximum term enables the Council to periodically review community need, community benefit, utilisation of the asset, the occupier's continued eligibility and the most appropriate long-term use of the asset, ensuring that Council-owned community facilities continue to meet the changing needs of local communities.

Longer-term occupation arrangements will be considered outside the scope of this Policy and in accordance with the Council's Constitution and relevant property policies.

6.2 Community Asset Transfer (CAT)

Community Asset Transfer provides a mechanism for the long-term transfer of appropriate Council assets where this will deliver sustainable community benefit while protecting the Council's long-term strategic interests.

Community Asset Transfers will normally comprise:

- freehold transfers;
- exceptionally, long leasehold interests where justified.

The Council's preferred position is to retain the freehold wherever possible. Freehold transfers will therefore only be considered in exceptional circumstances where the Council is satisfied that long-term community ownership represents the most appropriate option.

Unlike standard VCS occupation arrangements, Community Asset Transfers will normally transfer responsibility for:

- repair;
- maintenance;
- lifecycle replacement;
- health and safety responsibilities;
- insurance;
- utilities;
- day-to-day asset management.

6.3 Community Asset Transfer Process

Applications will normally follow the following stages:

1. Expression of Interest.
2. Initial eligibility assessment.
3. Strategic assessment of the asset.
4. Submission of a detailed Business Plan.
5. Submission of a Community Benefit Statement.
6. Financial and governance due diligence.
7. Independent valuation of the restricted legal interest.
8. Approval in accordance with the Council's Constitution.
9. Completion of legal documentation.
10. Post-transfer monitoring where appropriate.

The Council reserves the right to discontinue the process at any stage.

6.4 Meanwhile Use

Meanwhile use refers to temporary occupation pending:

- redevelopment;
- regeneration;
- disposal;
- future operational use;
- strategic review.

Meanwhile use arrangements:

- shall normally be limited to a maximum term of 5 years;
- shall be reviewed annually;
- shall not imply permanence or renewal rights;
- may be terminated where required to support Council objectives.

The Council may use:

- licences;
- short-term leases;
- rolling occupation agreements;
- flexible occupation arrangements

to support meanwhile use.

Meanwhile use is intended to support:

- activation of vacant assets;
- reduction of void costs;
- reduction in anti-social behaviour;
- temporary community benefit;
- town centre vitality and animation.

7. Existing Undocumented Occupation

The Council recognises that some historic occupation arrangements may not currently be documented through formal legal agreements.

The Council may regularise such occupation where:

- continued occupation is considered appropriate;
- the use aligns with this Policy;
- the occupier meets the Council's governance and eligibility requirements.

Regularisation of historic occupation shall not:

- create any automatic right to future occupation;
- create any right to transfer;
- imply that historic arrangements were compliant or approved.

The Council reserves the right to:

- require occupation to cease;
- require formal documentation;
- review subsidy levels;
- require evidence of community benefit;
- require compliance with this Policy.

Competitive marketing requirements may be waived where the purpose is to regularise existing undocumented occupation.

Existing leases, licences, statutory rights and other legal interests will continue to be recognised. Nothing within this Policy overrides existing legal rights or prejudices statutory protections afforded to occupiers. Existing occupation arrangements will be reviewed and regularised as opportunities arise and in accordance with applicable legislation.

8. Eligibility Criteria

Organisations seeking occupation or transfer must demonstrate:

- appropriate governance arrangements;
- financial viability;
- appropriate safeguarding arrangements where relevant;
- appropriate insurance arrangements;
- a sustainable business plan;
- clear community benefit;
- alignment with the needs of the local community;
- operational capability to manage the asset;
- ability to comply with occupation and operational obligations;
- appropriate equality and inclusivity principles;
- ability to cooperate with the Council's statutory compliance, inspection and maintenance arrangements.

The Council may request:

- accounts;
- funding evidence;
- governance documentation;
- policies and procedures;
- business plans;
- references;

- evidence of community demand.

In addition to the general eligibility criteria, applicants seeking a Community Asset Transfer shall demonstrate:

- long-term financial sustainability;
- governance capability;
- asset management experience;
- ability to maintain the asset throughout its lifecycle;
- ability to discharge all statutory obligations;
- proposals for future investment;
- measurable community benefit;
- alignment with Council priorities.

For the purposes of this Policy, community benefit includes the delivery of activities, services or facilities that are accessible to the local community and contribute to the Council's Corporate Plan priorities.

9. Market Rent and Subsidy

The Council shall establish market rent or market value through a suitably qualified valuer (whether internal or external), prior to considering any discounted occupation or transfer.

Discounted occupation may be considered where:

- community benefit shall be evidenced;
- the organisation satisfies the Council's assessment criteria;
- the subsidy is proportionate and justifiable;
- the proposed arrangement represents an appropriate balance between community benefit, financial sustainability and the Council's retained landlord responsibilities.

For standard VCS occupation arrangements, the Council may offer rent at 50% of market rent, representing a 50% subsidy, for the duration of the VCS lease, which will normally be granted for a maximum period of five years.

Where discounted occupation constitutes a subsidy for the purposes of the Subsidy Control Act 2022, officers shall ensure that the requirements of the Act have been considered before any decision is taken.

This level of subsidy reflects the Council retaining responsibility for statutory building compliance, planned compliance activity and associated landlord risk for the building, subject to the terms of the relevant lease or licence.

All discounted occupation shall be supported by a delegated decision report which will set out the market rent, level of subsidy, community benefit, legal basis for the transaction and the Council's retained responsibilities. Following approval by the Assistant Director of Property, in consultation with the Portfolio Holder for Property & Assets, a Delegated Decision Notice shall be published in accordance with the Council's Constitution.

The Council may agree a lower subsidy than 50% where justified by the nature of the asset, the level of responsibility transferred to the occupier, commercial activity undertaken from the premises, or other relevant circumstances.

Discounts shall be:

- reviewed periodically;
- subject to continued eligibility;
- capable of withdrawal where circumstances change;
- subject to the occupier complying with its obligations under the lease or licence.

Peppercorn arrangements will not normally be granted (subject to any S106 requirements).

10. Commercial Activity

Commercial or trading activity does not automatically exclude an organisation from consideration under this Policy.

However:

- commercial activity shall be assessed proportionately;
- community benefit shall be evidenced within the decision report;
- retail or trading activity shall not automatically qualify for discounted occupation.

The Council may distinguish between:

- direct community service provision;
- commercial trading activity;
- retail charity operations;
- income-generating subsidiary operations.

11. Assignment, Subletting and Protection of Community Benefit

Assignment of leases or occupation agreements shall not be permitted.

Subletting, shared occupation or commercial use shall require prior written approval from the Council.

Where approved, the Council may:

- restrict subletting arrangements;
- recover income in accordance with this Policy;
- review subsidy arrangements;
- impose additional conditions.

The Council shall recover a proportion of income generated through approved subletting or commercial occupation of 25% of income.

Where the Council approves subletting of part of a Council-owned asset, 25% of the gross rental or licence income received from that approved subletting shall normally be payable to the Council. However, the Council may agree a lower percentage where it is satisfied that there are circumstances which justify a departure from this requirement and the reasons for doing so are recorded.

The purpose of this provision is to ensure that public subsidy continues to support community benefit rather than private financial gain, whilst allowing occupiers to generate additional income to support the ongoing operation and sustainability of the facility.

For the purposes of this Policy, gross rental or licence income means consideration received from approved third-party occupation of part of the premises and does not include income derived from hall hire, community events, fundraising activities, grants, donations or membership subscriptions.

12. Community Asset Transfer Protections

12.1 Legal Protections

Where a Community Asset Transfer is proposed at less than the best consideration reasonably obtainable, the Council shall ensure that the transfer is undertaken in accordance with section 123 of the Local Government Act 1972 and the General Disposal Consent (England) 2003. The Council shall be satisfied that the transfer will contribute to the economic, social or environmental wellbeing of its area and that any undervalue does not exceed the applicable statutory threshold, unless any consent required by law has first been obtained. The extent of any undervalue shall be assessed by a suitably qualified valuer, whether internal or external, taking account of all restrictions, covenants and obligations contained within the proposed transfer documentation.

Where long-term leases or freehold transfers are approved, the Council may require:

- restrictions on permitted use;
- community use obligations;
- restrictions on disposal;
- restrictions on assignment;
- restrictions on charging the property;
- overage provisions;
- clawback provisions;
- maintenance obligations;
- minimum occupation requirements;
- approval for any change of use;
- business plan obligations;
- reporting requirements;
- rights of inspection;
- rights of reversion where community use ceases;
- any other covenant necessary to protect the Council's long-term interests.

The purpose of these provisions is to:

- protect public investment;
- preserve community benefit;
- prevent inappropriate private gain;
- maintain long-term strategic control where appropriate.

12.2 Suitability of Assets

Community Asset Transfer will normally only be considered where:

- the asset is no longer required for operational purposes;
- long-term community ownership supports Corporate Plan objectives;
- transfer reduces the Council's future liabilities;
- the organisation has demonstrated long-term sustainability.

13. Governance and Decision Making

Property transactions shall be considered in accordance with:

- the Constitution;
- Disposal and Acquisitions Policy;
- this Policy;
- statutory requirements.

Decisions under this Policy shall be taken by the Assistant Director of Property in accordance with the Council's Constitution and Scheme of Delegation, in consultation with the Portfolio Holder for Property & Assets. Each decision will be in accordance with the delegated decision process as set out in the Scheme of Delegation accompanied with the delegated decision report.

. Following approval, a Delegated Decision Notice shall be published in accordance with the Council's Constitution.

This Policy provides the framework within which decisions are considered. It does not amend or replace the Council's Constitution or delegated powers.

Freehold Community Asset Transfers shall require Executive approval if above the threshold or where the Leader and/or relevant portfolio holder require the decision to be made by the Executive.

14. Competitive Allocation

Where appropriate, community occupation opportunities shall normally be openly advertised and subject to a competitive application process.

The Council may waive competitive allocation where:

- regularising existing occupation;
- supporting meanwhile use;
- operational urgency applies;
- there is only one suitable occupier;
- strategic reasons justify direct negotiation.

The Council reserves the right not to proceed with any occupation or transfer process.

15. Asset of Community Value (ACV)

Listing of an asset as an Asset of Community Value (ACV) does not:

- require the Council to transfer the asset;
- create any automatic right to occupation;
- override the Council's strategic asset management responsibilities.

ACV status and Community Asset Transfer are separate processes and shall be assessed independently.

16. Monitoring and Review

The Council shall:

- periodically review occupation arrangements;
- monitor compliance with lease and licence conditions;
- review subsidy arrangements;
- review community benefit delivered against the objectives set out within the approved business plan and/or Delegated Process Report (DPR);
- maintain responsibility for statutory building compliance where this responsibility has been retained by the Council;
- programme and arrange relevant statutory inspections, testing and compliance works;
- keep under review the financial and operational impact of retained compliance responsibilities.

Occupiers shall be required to:

- provide reasonable access for inspections, testing, maintenance and compliance works;
- promptly report defects, incidents, hazards or concerns affecting the building;
- comply with fire safety procedures, evacuation arrangements and other site-specific requirements;
- maintain appropriate records relating to their own activities, equipment and operations;
- ensure that any equipment, alterations, events or activities introduced by them do not compromise the building's compliance status;
- cooperate with reasonable directions issued by the Council in relation to building safety and compliance.

In addition, Community Asset Transfers shall normally be monitored through:

- continued delivery of community benefit;
- compliance with user restrictions;
- compliance with transfer covenants;
- ongoing financial sustainability;
- maintenance of the asset;
- trigger events that may activate reversionary provisions.

17. Policy Review

This Policy shall be reviewed periodically to ensure continued alignment with:

- corporate priorities;
- governance requirements;
- financial sustainability;
- legislative changes;
- strategic asset management objectives.

Appendix 1

Document Control and Overview

Organisation(s)	
Policy Title	
Author	[INSERT JOB TITLE]
Owner	[INSERT JOB TITLE]
Version	
Document Reference	
Approval Date	
Policy Review Cycle	
Latest Review Date	

Document Revision History

Revision Date	Reviser	Previous Version	Description of Revision

Document Approvals

This document has been approved by:

Approval	Date

Document Distribution

Name	Job Title