

## Consultation responses - Draft Community Asset Transfer Policy and Guidance (January 2019)

### Q1 - We'd like to hear your opinions and feedback on our draft Community Asset Transfer policy and guidance.

|    | Comments  | Response  |
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| 1. | I think this is a great way to support those who add value to our local community with many organisations feeling the station of other cuts. To find a way to support in ways that doesn't cost the council too much by taking underperforming or unique assets that can serve a group is very important.   | No response required.   |
| 2. | Some Community groups may be transient. Perhaps driven by one or more charismatic individuals, and then in the future that person/group leaves/ dies, and there is no one to take responsibility. Some form of legal safeguard must be written into the conditions of Community Transfer. Perhaps a legally established body such as the Parish Council in small communities should be the body ultimately responsible for overseeing/ensuring the correct running of the "asset". Annual reports should be made to the statutory body, which could have powers to rescind the transfer, if it is no longer being run for the benefit of the Community. | <p>Each CAT application will be required to meet certain criteria and background checks where applicable will be undertaken. Leasehold arrangements will ensure that the assets are safeguarded. Freehold arrangements may require specific safeguards. A Partnership Agreement will be applied to all Community Asset Transfers. Agreements made will be reviewed as part of the process. See section 12. (Note: Service Level Agreements – changed to Partnership Agreements).</p> <p>It is proposed the following addition is made to the draft Policy under section 12:-</p> <p><i>"The organisation will be expected to provide an annual report in line with the agreed arrangements as well as confirming that the constitutional have not changed"</i>.</p> <p>Freehold transfers will be undertaken in exceptional circumstances only.</p> |
| 3. | Good idea and long overdue, will help everyone including council officers understand where they are in process.   | No response required.   |
| 4. | My main concern are public liability costs. Where possible I think a local authority should remain owners of any asset but form a management group who would be custodians of the asset. These sort of community group have a finite life and the Council should be able to take over again if the group is unable to manage.   | <p>In some cases, the Council has remained the legal body and involved a voluntary management group. The legislation enables communities to take more control over assets of importance and the policy is responding to this. Leases will include terms that will enable organisations and the Council to relinquish the arrangements if they are not fulfilled. Organisations taking on an asset will be required to have the necessary insurances and policies and procedures in place to promote their interest and the public.</p>  |

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| <p>5.</p> | <p>The overall policy and guidelines are clear and helpful.</p> <p>It would be helpful to say clearly that B&amp;NES has a policy of keeping community and public facilities open. In other words, they should only be closed down, and the asset used in another way, as a last resort.</p> <p>However good the intentions, leases do take a long time to be finalised. Therefore, at the end of the process, it is often better to include a Tenancy at Will, while the Lease is being drawn up. This needs to be mentioned.</p>   | <p>The Council will undertake an assessment of future options, which will take into consideration protecting the asset, the need for investment and the community service offered – see Section 4.</p> <p>A Tenancy at Will does not provide security to the tenant. The Council may provide a short term lease to deal with delays in the process.</p>  |
| <p>6.</p> | <p>Thank you for consulting on this.</p> <p>Key comment would be that CAT suggests a transfer of ownership and yet it seems that what is being established is a leasing arrangement whereby the community group can get use of an asset at a subsidised rate. This is clearly of value but is not the same. Could you make the legal relationships clearer. If it is the intention that the community owns the asset after the lease period then state this clearly. Also there might be other approaches to transferring ownership, for example community fundraising to secure outright purchase.</p> <p>Assets are defined as land and buildings but in many places the document only refers to buildings and the annexes are set up to refer to buildings. Is this because there is no plan to dispose of land? If so maybe you could make this clearer. Also will there be a database of assets that communities can gain access to? Or will it just be up to them to listen out for council announcements. How will these announcements be made and how will you ensure that people get to hear about them?</p> <p>Section 3 highlights 3 priorities for the council which have a strong social focus, which is good. However they do not cover the other two priorities associated with General consent, ie economic and environmental well being. Is this a conscious decision by the council to focus only on social outcomes? If so this would be a shame and will significantly minimise the impact of this policy.</p> <p>Section 4 refers to the assessment process that will also consider open market disposal. What criteria will council use to chose CAT rather than the open market that will always be financially better for the council.</p> | <p>Community Asset Transfer is a nationally recognised term. The term is defined by Locality as follows: “Community assets are land or buildings that have current or future potential use for community value. They can be brought into community ownership through a number of routes, and can involve different organisational structures and terms of ownership.” This is referenced in section 2 and section 6 under ownership arrangements.</p> <p>Amendments have been made throughout the document to reference buildings and land.</p> <p>The Policy will form part of the Corporate Asset Management Plan which sets out the categories of the assets owned.</p> <p>The Council will continue to receive expressions of interest from the community as well as a promoting some assets where appropriate that may be of interest. This may lead to a number of expressions of interest for a property. The Council will use a range of methods to promote these opportunities such as the local press, parish and town councils, Connecting Communities Forums, newsletters etc.</p> <p>The CAT will be assessed on all three elements of the general consent. Section 3 is the Council priorities as set out in its Corporate Plan.</p> <p>The Council will undertake its assessment of surplus land as set out in Section 4. The Localism Act provides for communities to request that local assets be registered as Assets of Community Value. Once an asset is registered, communities are given time to put together a bid to buy it when</p> |

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|    | <p>What confidence can communities have that they will get the opportunity to bid for good assets? The report says that communities won't just get the hard to dispose of assets, but it would be good to be able to have greater confidence that this won't be the case through clear guidance on how the council will decide on the route to be chosen.</p>   | <p>it is put up for sale. The Assets of Community Value regime differs from Community Asset Transfers, particularly as the latter does not provide for an automatic right to make a bid on disposal.</p> |
| 7. | <p>1. In general we found the draft policy, the explanations, the templates, and the guidance very clear, detailed and helpful. The offer of further help in making an application and completing the documents is also welcomed.</p> <p>2. Our potential CAT does not involve buildings. Whilst much of the initial text refers to "land or Building" and "assets" more generally, there are significant amount of wording in Sections 8, 10, 12 and Appendices 1-4 that refers only and specifically to a "building". We suggest that these Sections and Appendices are revised to make them expressly applicable to all land, buildings or other assets that could be part of a CAT.</p> <p>3. The Stages are a little confusing. Appendix 3 refers to the "Expression of Interest" and "Business Plan" stages as Stages 2 and 3, whereas Appendix 5 refers to them as Stages 1 and 2.</p> | <p>1. No response required.</p> <p>2. Amendments have been made throughout the document to reference building and land.</p> <p>3. This has now been amended.</p>   |
| 8. | <p>Assessment criteria needs to be in line with procurement standards. What is the scoring methodology for the application or is it simply pass/fail for each question? Financial arrangements seem very light. No requirement for statutory accounts etc. I can't see where you are asking the organisation for its status along with relevant registration details to allow us to check to Charity Commission site etc. Section 3 priorities – I wonder if this is too detailed. Could you place in an appendix to make it easier to update?</p>  | <p>The Assessment template has been updated to reflect these comments.</p>   |
| 9. | <p>I felt that there needed to be more indication that there are legal obligations and compliance that go along with taking on an running these projects.</p> <p>Suggest amendments to business plan template that includes:<br/> <b>Staffing and volunteer resources</b></p> <ul style="list-style-type: none"> <li>How do you ensure that staff and volunteers have skills/knowledge relating to safeguarding, equalities and health and safety duties? Trustees in particular should demonstrate</li> </ul>  | <p>These suggestions have now been incorporated in the document under Appendix 4 – Business Plan.</p>  |

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|     | <p>that they are aware of their legal responsibilities and have undertaken relevant training where required .</p> <p><b>Management and supervision resources (organisation structure and project structure)</b></p> <ul style="list-style-type: none"> <li>• who will be responsible for ensuring regulatory compliance with health and safety, food safety and licensing legislation etc, where applicable</li> <li>• what training and experience do key staff have to enable them to carry out their roles effectively</li> </ul>  |   |
| 10. | <p>Overall The Widcombe Association supports the proposed policy designed to facilitate Community Asset Transfers. The drafted policy and guidance is comprehensive and in our view makes clear to prospective recipients of a CAT the processes and information required to succeed. By way of context, we are an unincorporated community group / Residents Association and are currently seeking to lease some land from BANES as part of a competitive process (Lyncombe Farm fields).</p> <p>We would like to suggest two areas of comment one significant one more minor:</p> <p>Significantly S9 lists eligible organisations. The listed organisations are in effect incorporated organisations. This seems at odds with the Definition in section 2 which describes Third Sector with a wider definition including social enterprises, mutuals and cooperatives. For smaller assets we feel that incorporated groups, such as Resident Associations like us, should not be excluded from Community Asset Transfers all be it with appropriate safeguards. The alternative is that we would be forced to become a CIC which may be disproportionate.</p> <p>On a more minor drafting point the policy is clearly intended to apply to assets of both land and buildings. However, the document lapses on several occasions to refer to just buildings e.g. Section 10 first sentence, Appendices 2 and 4 refer mostly to buildings. This should be clarified or all references changed to 'assets'.</p> | <p>Effective governance arrangements are crucial to the success of all Community Asset Transfers. Unincorporated Associations have no separate legal identity which means that individuals are liable for debts and the liabilities. The Council does not wish to place individuals at risk of personal liability.</p> <p>However, there may be cases where it will consider negotiating such a leasing arrangement with an unincorporated organisation. It is proposed therefore that the following amendment is made to the draft Policy under section 9:</p> <p><i>“For certain assets, the Council may consider leasing a building or land to an unincorporated organisation. The lease arrangements agreed will depend upon the length of lease required and the governance arrangements in place. In all cases the Council will need to be assured that the liabilities are properly held and managed.”</i></p> <p>Amendments have been made throughout the document to reference buildings and land.</p> |

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| 11. | <p>Thanks for sending this through, which I have read. It contained what I expected based on my recent experience with Saltford Post Office. Saltford Community Hall was already on the same basis but based on a 99 year lease issues in in the early 1950s.</p>  | No comment required.   |
| 12. | <p>Keynsham Town Council welcomes the production of a Community Asset Transfer Policy outlining the process by which third sector organisations can apply to bring assets into community ownership, together with safeguards imposed by B&amp;NES to ensure the asset remains protected for the community. Having reviewed the draft policy, the Town Council would comment on specific subjects as follows:</p> <p>1. TOWN/PARISH COUNCILS – STATUTORY ELECTED BODIES<br/>The policy also applies to Town and Parish Councils which are not third sector organisations but statutory public bodies elected by the local taxpayers and with the power to precept. Their governance procedures are enshrined in law, accounts must be published, audited and open to public inspection, meetings must be open to the public and legislation requires transparency, accountability and mechanisms of internal control to be in place.</p> <p>As a Local Authority, the Council is defined under s2 of the Local Government Act (1999) as a “Best Value” Authority and has a “General Duty” under s3 of the Act to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness”. Furthermore it is tasked to take all steps necessary to safeguard public money (including assets) and is bound by the same legislation as B&amp;NES in respect of asset disposal.</p> <p>In this respect, the policy does not go far enough to differentiate the unique position of Town/Parish Councils in comparison to third sector organisations and as such some of the policy requirements for asset protection and reporting are not in the best interests of the Town Council and do not reflect the Town Council’s legal obligation to safeguard public money. As such Town and Parish Councils already satisfy many of the criteria specified.</p> <p>2. LEASEHOLD VS FREEHOLD<br/>The Town Council currently leases 7 play areas, Manor Road playing</p> | <p>1. The Council recognises the statutory role of town and parish councils which has been reflected in its Parish Charter May 2018. The Council will give full consideration to the needs and wishes of the parish councils in our area including those which do not have the capacity or resources to take on assets as well as areas which are not parished.</p> <p>It is proposed the following amendment is made to the draft Policy under section 9:</p> <p><i>“This policy will adhere to the commitments made in the <a href="#">Parish Charter May 2018</a> which recognises the distinctive statutory role and functions of parish councils. The Parish Charter sets out a number of key principles for joint working . For example, on devolution of services, the following principles are set out which are relevant to Community Asset Transfer::</i></p> <ul style="list-style-type: none"> <li><i>• By choice, not imposed</i></li> <li><i>• One size doesn’t fit all</i></li> <li><i>• All liabilities to be declared openly on both sides</i></li> <li><i>• Give proper notice of changes</i></li> <li><i>• Be clear on what is being transferred, and over what timescales</i></li> <li><i>• Encourage parishes to cluster</i></li> <li><i>• Set up a ‘support’ offer”- e.g. training/equipment</i></li> </ul> <p>2. Each asset will be considered on a case by case basis. Term lengths of any Community Asset Transfer will reflect any certain amount of investment required. The Council will work with organisations to ensure the terms of the lease provide maximum benefit. Freehold will only be considered in exceptional circumstances. As mentioned above in 1, the district has a large area which is not parished as well as some small parished areas which may not have the capacity to take on an asset.</p> <p>3. The Policy will form part of the Corporate Asset Management Plan which sets out the categories of the assets owned. The Council will continue to receive expressions of interest from the community as well</p> |

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| <p>fields and tennis courts/bandstand/skatepark in Memorial Park from B&amp;NES on medium-term repairing leases for a peppercorn rent. The Town Council is responsible for all aspects of asset management including building and contents insurance, repairs and maintenance and, subject to permission from the landlord, capital improvements. The Council's first concern therefore is that the policy proposes most transfers will be repairing leases with subsidised rental payments and service level/monitoring agreements that will actually be less advantageous to the Council than its current arrangements.</p> <p>In order for the Council to feel secure about raising funds and investing public money to improve assets, it would require a level of assurance that the asset will not be demanded back after investment has taken place. This can only be guaranteed by a freehold arrangement which the policy states will only be granted in exceptional circumstances.</p> <p>Whilst the Council fully appreciates the need to continue to protect assets once transferred and agrees with the measures in the policy, these are applicable to third sector organisations which perhaps cannot offer B&amp;NES the long term security of their continued existence that statutory public bodies can. Indeed other CAT policies (e.g. Essex County Council) make this distinction and actually encourage freehold transfers to Town/Parish Councils whilst offering leasehold to third sector organisations.</p> <p>Nonetheless, thirds sector organisations may feel similarly that they require a measure of guarantee that any lease will be renewed in order to protect the community organisation's investment.</p> <p>The Council therefore suggests that:-</p> <p>a) Town and Parish Councils should be defined separately in section 2 and treated somewhat differently to third sector organisation in respect of possible freehold arrangements which, subject to suitable business plan, should be encouraged</p> <p>b) An asset lock could be requested for community organisations to protect the asset which would then provide a measure of security for B&amp;NES but also provide for freehold transfers in future to third sector organisations</p> | <p>as a promoting some assets that may be of interest.</p> <p>4. Noted that the consultation with elected members and parish or town council is too late in the process. It is proposed the following amendment is made to the draft Policy under Appendix 3:</p> <p>Add to Step 4 <i>“Ward Councillors and, where applicable the local parish or town Council and other key stakeholders will be consulted on the proposal inviting comments”</i>. Remove from Step 9 <i>“which will include consultation with the local parish or town council, elected members and other key stakeholders where appropriate”</i></p> <p>5. Noted. Parish and Town councils must include a link to the relevant documents in their application if these are available on their website.</p> <p>6. Noted. It is proposed the following amendment is made to the draft Policy under Appendix 3:</p> <p><i>“Stage Four: Completion (please allow at least six months to complete)”</i>.</p> <p>7. All organisations will be required to report against a Partnership Agreement. (Note: Service Level Agreements – changed to Partnership Agreements).</p> <p>8. The Policy will include a standard condition of repair as part of its appendices.</p> |
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c) An assurance/guarantee in respect of lease renewal be provided within the policy

### 3. ASSET REGISTER

The policy could refer to where a list of B&NES assets can be found on the website (ie asset register) prior to any assessment on whether it can be categorised as appropriate for community transfer. This will inform organisations in advance of expressions of interest being invited and enable them to identify potential assets in their area that may at some later point become available.

### 4. ASSESSMENT PROCESS

In respect of the s11 assessment process, the Council would suggest that Ward Councillors are included on the assessment panel rather than it being restricted to B&NES officers who may not have local knowledge. In addition, Town/Parish Councils and other key stakeholders should be notified when applications are received. Currently the policy only plans to notify/consult with these key groups once the business plan is being assessed and the Town Council feels this notification is far too late in the process.

### 5. APPLICATION PROCESS – BUSINESS PLAN (Appendix 4)

The Council commends the detailed guidance included for preparing the Business Plan. However the Council would draw B&NES attention to the requirement to provide supporting documentation of all the organisation's policies and procedures, health and safety etc. For Town/Parish Councils that have to satisfy a wealth of legislative requirements in respect of governing documents, this will be a substantial (and impractical) amount. The Council feels that, in the case of Town/Parish Councils, a few key documents should be requested as all the rest will (should) be available on the website in accordance with the Transparency Codes.

### 6. TRANSFER PROCESS (Appendix 3)

Owing to the Town Council's experience to date with B&NES in respect of the substantial length of time taken to resolve legal matters in connection with leases, the Council strongly suggest that an indicative timescale should be included to detail the length of time envisaged between each of the key steps 9 through 14.

### 7. MONITORING/SLA

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|     | <p>Given the legislative requirements the Town Council is bound by, the SLA/reporting will provide an additional level of administration that would be deemed somewhat onerous to Town Council staff and for the most part is actually unnecessary as these conditions are already adhered to by statutory public bodies.</p> <p>8. DILAPIDATIONS<br/>Provision needs to be made within the policy to record the state of the asset at handover, in order to ensure that any dilapidations schedule issued at the end of the lease reflects the condition in which the asset was handed over. It is unfair to expect the tenant to conduct a survey unless this is going to be accepted and incorporated as part of the legally binding terms of any repairing lease. In addition there may need to be an element of works conducted by B&amp;NES before an organisation would be willing to take on an asset – perhaps there should be a statement made in respect of the minimum condition in which the asset will be presented for lease transfer.</p> |  |
| 13. | <p>Point 2. Applies to page 8; para 11 - Assessment Process. Could I suggest final approval be made by majority vote amongst a panel of 3 Cabinet Members to avoid any - hopefully = conscious or unconscious personal interest or prejudice.</p>   | <p>All Single Member and Cabinet decisions are part of the Council's decision making process and are open to scrutiny. All decisions are bound by a statutory process and are subject to the call-in procedure. See below for more information.</p> <p><a href="http://www.bathnes.gov.uk/services/your-council-and-democracy/policy-development-and-scrutiny/call-cabinet-decisions">http://www.bathnes.gov.uk/services/your-council-and-democracy/policy-development-and-scrutiny/call-cabinet-decisions</a></p>   |
| 14. | <p>Overall, we support the formalisation of B&amp;NES existing practice into a more explicit and transparent Policy. But a number of issues require clarification, particularly since the Policy primarily focuses on the transfer of buildings, much of which does not apply to land.</p> <p>1. Although the Policy states that it applies to both land and buildings, in practice it focuses exclusively on buildings. The supporting text, sample Heads of Agreement, Application Assessment, pro-formas etc apply exclusively to buildings. It would be helpful to set out any specific or additional requirements relating to LAND.</p> <p>2. No guidance is given or criteria set to guide whether an asset would be transferred on a leasehold or freehold basis, save that freehold should be regarded as 'exceptional'. Please clarify the circumstances under which transfer on a freehold basis would be considered</p>  | <p>1. Amendments have been made throughout the document to reference buildings and land.</p> <p>2. Section 6 states that the terms of each asset will be considered on a case by case basis. The Council will work with organisations to ensure the terms of the lease provide maximum benefit. Freehold will only be considered in exceptional cases.</p> <p>3. The responsibility of the public liability will be the responsibility of leaseholder/freeholder.</p> <p>4. The timescales proposed recognise that some groups have limited capacity and therefore the timescales will vary case by case. These have been provided as a guide only. It is proposed the following amendment is made to the draft Policy under Appendix 3:</p> |



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| <p>preferable.</p> <p>3. Please clarify the specific insurance arrangements and responsibilities for LAND that has been transferred on a leasehold basis; in particular, would the Council continue to bear insurance liabilities and if so, what would be covered in relation to land and would this include public liability insurance?</p> <p>4. No timescales are given for the Council's decision on applications for CAT, nor information about any right of appeal in the event of an application being refused. Can you please clarify?</p> <p>5. I understand that the section on the minimum standard of repair of buildings is currently being drafted. Does the Council intend to also include an equivalent section relating to the condition of LAND? If so, FAHLAG would like to comment further on this aspect.</p>  | <p><i>Stage Four: Completion (please allow at least six months to complete)".</i></p> <p>5. The policy and guidelines provide a clear and transparent process. Organisations may appeal the process by making a formal complaint. Appendix 6 will include building and land.</p>  |
| <p>15. - We welcome the council's overall intent and approach. It should give clarity and assurance to communities who are interested in this growing topic.</p> <p>- It's heartening to see that the council will not restrict CATs to 'low value' or difficult to dispose of assets only. It will be exciting to see how this good intention plays out in practice in the future.</p> <p>1. Whilst freehold isn't explicitly excluded, it's clearly only by exception. We wonder whether the option of freehold could be promoted equally alongside leasehold?</p> <p>2. The capacity building needs of a typical recipient organisation should not be underestimated. In our experience, a dedicated programme of assistance, linked to a small grants pot for essential repairs or initial working capital, is a good investment and can facilitate more robust and self-sustaining solutions. Creating a peer support network would be a positive action by the council.</p> <p>Aspects that we would suggest including/clarifying in the final version:</p> <p>3. Is it possible to link to the most up to date version of the council's corporate priorities?</p> <p>4. There's a reference to the 'B&amp;NES Property Board' as part of the early decision-making group. Do you think that it is sufficiently clear who they are and what their role is?</p> <p>5. Timeline for decision-making at different stages – Could be a bit</p> | <p>1. Each asset will be considered on a case by case basis. The Council will work with organisations to ensure the terms of the lease provide maximum benefit.</p> <p>2. The Council's Communities team will provide support to organisations seeking to take on. The policy includes a series of useful links, this is included in Section 15. The Council has a dedicated page on its website providing information about model constitutions, policies and procedures, funding etc. This is referenced in the policy.<br/><a href="http://www.bathnes.gov.uk/services/neighbourhoods-and-community-safety/community-activities/voluntary-and-community-groups">http://www.bathnes.gov.uk/services/neighbourhoods-and-community-safety/community-activities/voluntary-and-community-groups</a></p> <p>3. The report references the current Council Corporate Priorities.</p> <p>4. The Property Board is an advisory board only. Decisions will be made by Single Member or Cabinet. Further information has been included as a note in Appendix 3.</p> <p>5. The timescales proposed recognise that some groups have limited capacity and therefore the timescales will vary case by case. These have been provided as a guide only.</p> <p>6. The Heads of Terms are provided as a template. Negotiations on the</p> |

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|     | <p>clearer about when the key decisions will be made, perhaps as a separate table. Is there an opportunity to 'fast-track' any of the stages, especially if there's a critical funding decision or other external time-dependency involved? Up to 3 months to make a decision on the receipt of the initial EoI feels particularly long; the EoI is relatively brief and if the group/proposal is already familiar to the council one might assume that a speedier response could be managed, say 6-8 weeks?</p> <p>6. The repair liability in the HoT appears to be quite onerous, particularly for a new group, depending on the asset in question. Is there scope for a more balanced offer, where the council takes on structural responsibilities, etc?</p> <p>7. You ask for a 5 year business plan. Three years would seem more than adequate/realistic.</p> <p>8. Alongside a budget, we would expect to see a cash flow forecast.</p> | <p>terms of each asset will be undertaken on a case by case basis.</p> <p>7. The length of business plan has been amended to reflect these changes: three to five years. It is proposed the following addition is made to the draft Policy under section 8:</p> <p><i>The length of any business plan will depend on the nature of the lease arrangement proposed (three – five years).</i></p> <p>8. The income and expenditure sheet is considered sufficient.</p>  |
| 16. | <p>I think the policy is well written and clear. Two comments:</p> <p>1. There needs to be better guidance on the valuation methodology.</p> <p>2. The bar that has been set for due diligence is high in terms of documentation (numerous procedures in place, audited accounts etc) - the policy should allow some flexibility/discretion where there are organisations who do not yet have all of these things in place. This will enable innovation.</p>   | <p>1. The policy will form part of the Corporate Asset Management Plan. The Council has a team of specialists within its Estates Team that undertake valuations of its property estate. A valuation of each asset will be made available to Organisations who have expressed an interest.</p> <p>2. The Council has developed the policy in line with its procurement procedures as well as experience drawn from existing CATs and Community Run Libraries. As review has been built into the policy.</p>  |
| 17. | <p>Fairfield House Bath is in the process of registration as a community interest company. Its aim is to protect and develop the legacy to the people Bath of HIM Haile Selassie I including the building Fairfield House, 2 Kelston Road.</p> <p>This response has been drafted by the individuals indicated above who are designated as the first directors of what will be Fairfield House Bath CIC.</p> <p>Publication of this policy is extremely helpful. It sets out a clear and practical road map and agreed rules for a process, which will be a useful guide. The steps B&amp;NES proposes are consistent with what we would broadly expect.</p> <p>That said there are issues that need addressing and the purpose of our reply is to focus on those. So more than 80% of our reply will focus on</p>  | <p>The Council will not impose any additional regulations. Organisations will be required to adhere to the agreements upon which the transfer is made. This will be required in an annual report. The Council has a legal duty under the Local Government Act 1972 to ensure that any disposal in excess of 7 years obtain "best consideration", unless the General Disposal Consent (England) 2003 can be applied or a specific consent is obtained.</p> <p>It is noted the references made regarding the terminology used in relation to Service Level Agreements. Propose changing to Partnership Agreements throughout the document.</p> <p>The Council will work with organisations to ensure the terms of the lease provide maximum benefit. Freehold will only be considered in exceptional circumstances.</p> |

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| <p>the less than 20% that needs to be fixed. That should not be taken to mean anything other than broad support for the policy and for the consultation process.</p> <p>Level of control and oversight</p> <p>We're concerned that some of the language suggests that B&amp;NES envisages retaining a greater level of control and bureaucratic oversight than is necessary or appropriate after asset transfer. That might be inhibiting and expensive for the social enterprise.</p> <p>Clearly CAT works only if the Social Enterprise is viable and properly regulated. As a matter of principle the Council should commit not to impose any additional regulatory burden to what is required already by Companies House or the Charities Commission and other existing statutory regulators. This commitment should be clearly stated in the policy.</p> <p>Service Level Agreement: wrong language. It's tempting to propose the language of Service Level Agreement (SLA). It feels responsible, and officials will be familiar with how to draft and apply them. But it is the wrong language. The Community Asset Transfer is not an outsourced service. It's the transfer of an asset to a different organisation which must in turn have appropriate governance and meet stated community service commitments. The Social Enterprise may be using an asset transferred from the Council, but it is providing a service to community clients or customers, not to the Council.</p> <p>What B&amp;NES is trying to achieve by applying an SLA is better achieved via upfront scrutiny of (and possibly adjustments to) the statutory aims and objectives of the Transferee. It then has the broad terms of the lease. It should not seek to replicate existing Companies House and Charities Commission regulatory processes when it lacks the experience and resources to do so.</p> <p>To underline this: SLA is not appropriate for the transfer of a building of historical and cultural significance. We are concerned that an outsourced service/SLA conformance mentality would be an overhead and distraction on the normal goals of an organisation.</p> <p>The tenant will be required to provide an annual report to the Council which will demonstrate how they have complied with the conditions of</p> | <p>It is proposed the following amendment is made to the draft Policy under section 4:</p> <p><i>"This will normally be in a form of a lease; a licence for very short-term arrangements where flexibility is needed, and freehold in exceptional circumstances"</i>. Delete sentence: This will be in the form of a lease.</p> <p>The Council will continue to receive expressions of interest from the community as well as a promoting some assets where appropriate that may be of interest. This may lead to a number of expressions of interest for a property. The Council will use a range of methods to promote these opportunities such as the local press, parish and town councils, Connecting Communities Forums, newsletters etc.</p> |
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| <p>the agreement.</p> <p>It is helpful for the policy to point out the existing laws and regulations Social Enterprises need to be aware of and abide by (equality, environmental etc). Clearly new tenants must meet the terms of any lease after CAT, and the Council needs to be able to assure itself that is the case.</p> <p>But there are already existing reporting obligations under charity law or CIC regulations to report on community benefit. The Council should be satisfied with those and not place any additional regulatory burden on volunteers charities and social enterprises.</p> <p>If the Council has concerns about the implications of a CAT “going rogue” or failing to meet its community commitments the policy could leave space for language such as “the Council has the right in exceptional circumstances to require additional annual reports” etc. But that should not be the norm.</p> <p>Don’t set the bar higher for others than for yourself. We think as a matter of principle the Council should not apply more stringent standards and requirements to the Social Enterprise than it was prepared to meet itself. Again, this should be a clearly stated matter of policy. It should not place on other parties any additional costs or regulatory burdens that in practice it did not itself assume. Because there is a danger of being overzealous when specifying standards others have to meet we would like to see that principle written into the CAT policy.</p> <p>Licence, leasehold or freehold?<br/>The draft policy is inconsistent on lease and freehold. Where the draft policy in one place states</p> <p>This will be in the form of a lease.</p> <p>This seems unequivocal. But where it later states licence to occupy...lease...Freehold In exceptional cases this is nuanced. This needs to be consistent. We suggest the sensible and pragmatic policy is something like: normally a lease; a licence for very short-term arrangements where flexibility is needed, and freehold in exceptional circumstances.</p> |  |
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|     | <p>There's one community, not a free market in communities CAT to a community group is not like outsourcing services in a competitive market. Generally there will be one community group associated with a particular asset. The policy needs to make it clear whether it is trying to create competition in CATs, ie to set projects one against the other, or to work with a community to find the most viable community solution. The language "the Council, will invite expressions of interests" might seem to suggest the former.</p> <p>We suggest the Council identify the most representative and viable potential partner for any potential CAT and work with it, and make it quite clear that that is its policy. It would be an easy mistake for the CAT process - intended to strengthen and build communities - inadvertently to cause rifts and divisions in the communities it is trying to help.</p> <p>Apart from these matters which are easily addressed, we welcome this helpful and clear policy which will make the CAT process more feasible and practical for all parties.</p> <p>Thank you for the opportunity to respond to this draft policy.</p> |   |
| 18. | <p>Broadly, Ubley Parish Council understands and supports the draft Community Asset Transfer Policy. As a small Parish Council we don't believe we will be heavily involved but would undoubtedly want to use such a scheme if the right circumstances arose.</p> <p>We don't get a clear note from the document as to the unique position of Parish Councils in comparison to third sector organisations so would welcome some stronger recognition of this.</p> <p>It would be useful for B&amp;NES to publish and regularly update a list of B&amp;NES assets.</p>  | <p>The Council recognises the statutory role of town and parish councils which has been reflected in its Parish Charter May 2018. The Council will give full consideration to the needs and wishes of the parish councils in our area including those which do not have the capacity or resources to take on assets as well as areas which are not parished.</p> <p>It is proposed the following amendment is made to the draft Policy under section 9:</p> <p><i>"This policy will adhere to the commitments made in the <a href="#">Parish Charter May 2018</a> which recognises the distinctive statutory role and functions of parish councils. The Parish Charter sets out a number of key principles for joint working . For example, on devolution of services, the following principles are set out which are relevant to Community Asset Transfer::</i></p> <ul style="list-style-type: none"> <li><i>• By choice, not imposed</i></li> <li><i>• One size doesn't fit all</i></li> <li><i>• All liabilities to be declared openly on both sides</i></li> <li><i>• Give proper notice of changes</i></li> </ul> |

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|  |  | <ul style="list-style-type: none"> <li>• <i>Be clear on what is being transferred, and over what timescales</i></li> <li>• <i>Encourage parishes to cluster</i></li> <li>• <i>Set up a 'support' offer"- e.g. training/equipment</i></li> </ul> <p>The Policy will form part of the Corporate Asset Management Plan which sets out the categories of the assets owned.</p> |
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**Q2 - Please provide any suggestions about what support we can offer organisations applying for a Community Asset Transfer**

|    | Comment  | Response  |
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| 1. | The whole process needs to be as simple as possible for the group taking over the asset.   | The Council will produce a shortened version of the process and steps involved. This will be available in due course.   |
| 2. | <p>I believe step 1 should be proactive only, I am also not sure there is value in assessing all assets if no one has expressed an interest. We should allow for the community to propose an asset is under used and assess it in response to that.</p> <p>Step 2 3 months to complete is unnecessarily slow. A 4 pager will be relatively quick for the community group to complete (which is good) but why take 3 months? Also, the panel of officers looks to me to be vague, why is this not one of the councils current standing groups of officers/members?</p> <p>Step3 at 6 months is now ridiculous, there is absolutely no basis for this sort of timescale.</p> <p>Step 4 no timescale at all, so you have done all the work and now it gets left to legal and property, the black hole of ambitions for community groups that have got all fired up about there immediate need and plan. This needs to be 6 weeks. Better lease/licenses do not arise from longer processes, longer processes are excuses for lawyers to que up work to maximise their active/billable time.</p> | <p>The Council will continue to receive expressions of interest from the community as well as a promoting some assets where appropriate that may be of interest. This may lead to a number of expressions of interest for a property.</p> <p>Throughout the document the timescales put forward reflect both the time required by both the Council and the organisation to work up the proposal. In some cases these stages may be considerably shorter however, timescales recognise that some groups have limited capacity and therefore the timescales will vary case by case. These have been provided as a guide only.</p> <p>The Panel will be convened as required to deal with the detail of applications, their detail assessment will be presented to the Property Board prior to decision making by the Cabinet Member or Cabinet.</p> <p>Step 4 noted on timescales given. It is proposed the following addition is made to the draft Policy under Appendix 3:</p> <p><i>Stage Four: Completion (please allow at least six months to complete).</i></p> |

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| 3. | It would be helpful to make it clear that business plans can include the renting out of part of the asset to other users, so that the rental income can then be used to support the costs of maintaining the building and delivering charitable activities in another part of the building (or at another time of day/week).  | In the Income and Expenditure sheet there is a line for rental and room hire. Amended bullet point under section 9 of business plan - “sources of income, (such as grants, donations, <u>rental/room hire</u> , sales etc) including details of any assumptions behind your projections, funding, reserves”.   |
| 4. | <p>I think the key issue will be around initial communications, making sure that the availability of an asset is really clearly promoted. Can communities be proactive and come to the council? If so there needs to be some database of assets that communities can review.</p> <p>Also support could be required around business planning and development funding (not necessarily via council, though that would of course be good).</p> | <p>The Council will continue to receive expressions of interest from the community as well as a promoting some assets where appropriate that may be of interest. This may lead to a number of expressions of interest for a property. The Council will use vary methods to promote these opportunities such as the local press, parish and town councils, Connecting Communities Forums, newsletters etc.</p> <p>The Council will manage the process within existing resources and will offer support to organisations. It will also ensure it signposts to useful information, toolkits and resources that are relevant to an organisation.</p> |
| 5. | Legal and administrative support and, with an eye on Brexit, a back stop.   | No response required.  |
| 6. | Where discussions have already commenced (as is the case with Saltford Lawn Tennis Club) it would be helpful to identify if any aspect of the documents and communications held to date are amended or affected in any way by the new policy. We will write separately on this issue.   | The Council recognises that a number of discussions and negotiations have already been undertaken. The Council will build on the discussions already taken place and incorporate them into the policy process.   |
| 7. | Clear key contacts points established through the process and clearly set out expectations on the time the process will take.   | No response required.  |
| 8. | The Communities Team already provide a good service in this regard. Perhaps consider establishing more detailed practical guidance online that organisations can access, with model examples of the types of documentation, model pro-formas etc likely to be required to support an application.   | <p>The Policy includes a series of useful links, this is included in Section 15. The Council has a dedicated page on its website providing information about model constitutions, policies and procedures, funding etc. This is referenced in the policy.</p> <p><a href="http://www.bathnes.gov.uk/services/neighbourhoods-and-community-safety/community-activities/voluntary-and-community-groups">http://www.bathnes.gov.uk/services/neighbourhoods-and-community-safety/community-activities/voluntary-and-community-groups</a></p>   |

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| 9.  | <p><b>FUNDING</b></p> <p>Unlike other CAT policies, this one does not make any reference to whether s106/CIL monies might be available to assist with capital improvements providing eligibility criteria were satisfied. If there were eligible funds available, this would greatly enhance the prospect of obtaining matched grants funding from external organisations for larger capital projects.</p> | The Council's funding bulletin includes CiL funding where the process is open for organisations to apply. The funding bulletin is referenced in Section 15.  |
| 10. | If the Asset is proposed for Arts purposes, it would have been helpful if the ADT had not been terminated. This specialist Team could have been of considerable assistance.  | Noted.   |
| 11. | <p>Template the procedures that you would need community groups to adopt with the ability to adapt these to lower the administrative burden.</p> <p>Be clearer on the likely valuation methodology for the asset.</p>  | <p>The Council has developed the policy in line with its procurement procedures as well as experience drawn from existing CATs and Community Run Libraries. As review has been built into the policy.</p> <p>The policy will form part of the Corporate Asset Management Plan. The Council has a team of specialists within its Estates Team that undertake valuations of its property estate. A valuation of each asset will be made available to Organisations who have expressed an interest.</p> |
| 12. | Friendly and approachable support.   | Noted.   |

### Q 3 - Any other comments or suggestions

|    | Comment  | Response  |
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| 1. | Great idea in general, give some purchase/control over process to the applicant.   | No comment required.  |
| 2. | <p>Will the Council provide summary feedback on all the comments received on the draft Policy and will this be in the public domain?</p> <p>Thank you for offering FAHLAG the opportunity to comment</p> | All the comments received and the response made will form part of the Cabinet report for the 6 <sup>th</sup> February 2019. |
| 3. | In conclusion, the Town Council welcomes B&NES approach to Community Asset Transfer but would like to see the policy further enhanced as above to reflect the statutory nature of Town/Parish Councils.  | Noted.  |



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| 4. | I have only just discovered this document and am concerned that the consultation period is very short, and also that it covers a period when most of the country is closed for the two longest public holidays in the year. I was wondering Why must it be approved by February?   | The document is as a result of the learning taken from a number of Community Asset Transfers it has undertaken over the recent years. The consultation was open ahead of the Cabinet decision on the 6 <sup>th</sup> February. The Policy will be reviewed in 12 months. |
| 5. | I am writing on behalf of Bristol & Bath Regional Capital <a href="http://www.bab-rc.uk">www.bab-rc.uk</a> . We have done some extensive work on how to value assets using the HACT methodology and are starting to implement this in Bristol. We would be happy to meet with your CAT team to discuss how we might partner with you to tighten the valuation methodology outlined in this policy. | The Council's Estates team will make contact to explore the support you can offer to them.   |