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<b>Date</b>	4 <sup>th</sup> February 2014

<b>Subject</b>	<b>Adoption of Community Asset Transfer Policy</b>
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**RECOMMENDATIONS**

<b>Ward (s) affected</b>	All	<b>Key Decision</b>	Yes
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The Executive is asked to approve the following:

1. The adoption of the attached policy, procedure and flowchart for the transfer of community assets.
2. The Council contacts voluntary, community and faith groups that are tenants of the Council making them aware of the policy.

**EXECUTIVE SUMMARY**

This report sets out the recommended approach for the Council in the transfer of community assets

It sets out a consistent policy for the transfer of assets to the community currently in the ownership of Mole Valley District Council.

The policy balances the specific requirements or needs of local communities with the expectations of the wider Mole Valley populous that the Council uses its assets effectively to support voluntary, community and faith groups (VCFGs) as well as the Council's finances as part of its Mid Term Financial Strategy.

**CORPORATE PRIORITIES**
**Access to Services – Helping residents to access the services they need**

1. **Improve the way we engage with our Customers and listen to our communities**
  - The policy brings a consistent approach to the transfer of assets with community value so that requests can be seen in that context rather than individual approaches being considered on an ad hoc basis. It seeks to safeguard the use of the premises for community use and support properly constituted groups that seek to operate them for community benefit.

- 2. Working with our partners** will be furthered by adopting this policy as it promotes a partnership approach to the use of community assets with the Council continuing to offer advice and support. It recognises that assets have intrinsic value in their current use and that the Council will seek to support this continued use.

#### **Environment - Maintaining the character and environment of Mole Valley**

- 1. Enable growth in the District** through supporting a community sector that has suitable premises for a sustainable approach to development.
- Maintaining existing community assets and developing new premises through working with communities and tenants so that the facilities offered meet community expectations in terms of services offered that meet the Council's corporate priorities and are operated from well maintained properties.

#### **Value for Money - Delivering value for money services**

- There is a need for consistency in the approach to the transfer of assets so that this is for genuine community support and ensures that the Council is not agreeing transfers that undermine the **Medium Term Financial Strategy through to 2020**. Certain assets have key roles in the wider asset ownership context – such as through their adjoining location or as part of the ability to facilitate re-locations for wider community benefit even though a transfer could benefit certain groups. Transferring ownership in some instances will ensure the facilities are better maintained and through adequate safeguards their continued community use is better facilitated through ownership by a VCFG.
- 2. Continue to provide quality services to our residents**, by creating agreements that are appropriate to the use of **property assets** in the context of a policy that transparent and conforms to equality considerations in its application.
- This policy supports reviews of **the way in which we provide our services** as it considers the most appropriate ways to deliver services that meet the Council's corporate objectives. It is transparent in the value of the asset that is transferred and the expectations the Council has of the VCFG in deciding whether an asset should be transferred.

## **1.0 BACKGROUND**

### **1.01 The Localism Act 2011**

1.02 This considered how assets that are used or are aspired to be used by VCFGs should be held to deliver services as part of “Sustainable Communities”. Early consideration of the topic emphasised that assets should be transferred on a freehold basis at nominal consideration to groups to do with as they wished and this was the focus of the Asset Transfer Unit at the Department for Communities and Local Government.

1.03 Local Authorities and representative groups highlighted a number of factors that could influence this decision. Consideration was given in documents such as Asset Transfer: from Policy to Practice August 2013 (this considered the same issues from a Scottish perspective) and included:

- Does the constitution of the VCFG protect against individuals benefiting from uplifts in value following the termination of the community use of an asset?
- Could more community benefits be achieved by the local authority acting as landlord?
- If a VCFG makes a profit from its activities (e.g. from running a bar) should it be assumed that the group should retain all this profit rather than paying a rent that could be recycled for other community benefit?
- Would local authorities be dissuaded from developing community assets in good faith if assets are transferred without suitable protection?

### **1.04 Working with VCFGs to improve community assets:**

There are several options for working with VCFGs occupying council properties and these need not mean an asset transfer

### **1.05 New Leases**

MVDC has completed 2 new agreements with community organisations to facilitate the repair and improvement of local facilities. This has included the use of loans or grants where there is a clear business case, for example where the liabilities running costs of the Council are reduced.

### **1.06 Assistance to VCFGs**

The Council has continued to support organisations as tenants and agree low start agreements where significant expenditure has been committed to by VCFGs as part of a new agreement.

### **1.07 Making best use of the Council's assets**

The experience of the Council is that even though a VCFG may start out with the best of intentions and a very able group of volunteers who take a responsible

attitude towards repairing responsibilities over time this can change. Although it can be a challenge to work with groups who have been through substantial change as communities evolve and needs change the examples above illustrate that with a collaborative approach positive outcomes can be achieved.

One of the main reasons that VCFGs may see as a need to own the freehold of assets is that this enables them to leverage borrowings or grants. If there is an issue with having an asset as security the body loaning will normally require the ability to sell the asset in the instance of default which is against the ethos of keeping the property as a community asset. In this case it may be more appropriate for the Council to consider a loan and/or grant. In order to access grants a medium to long lease is normally sufficient to achieve this.

### **1.08 Financial Implications**

Until individual applications are assessed it is difficult to predict the financial implications.

In general the transfer of assets under this policy will mean a loss of rent but as typically the rents received are relatively low this effect is not expected to be significant.

There could be a saving in staff time for Council employees as the cost of time spent administering the property, particularly dealing with items of disrepair, is, in many cases, greater than the income received.

The greatest potential for financial implications is in connection with the future sale of an asset by a community group either when the use of an asset for community purposes has ceased or a VCFG wishes to use monies from the sale of an asset for other purposes. The policy seeks to safeguard the position and minimise the chances of financial and political embarrassment to the Council. Notwithstanding the policy the Council could decide to forgo its share due as part of the policy. The financial implications would need to be spelt out in each case and appropriate safeguards considered on how to secure community use of assets or other purchases with the funds.

### **1.09 Legal Implications**

Although the Executive is being asked to approve a policy and not a legally binding approach the policy will inform the legal documentation and without specific instruction from the Executive VCFGs will expect the legal documentation to follow the policy. It will be essential in each case of a disposal at an undervalue to ensure that the requirement relating to disposals of land at an undervalue are complied with (see s.123 Local Government Act 1972 "section 123"). Section 123 requires that local authorities dispose of land for the best consideration reasonably obtainable (excluding disposals by way of leases for 7 years or less). If a sale at less than best consideration is proposed, i.e. an undervalue then the consent of the Secretary of State is required. There is a general consent in place (Circular 06/03 Local Government Act 1972 general disposal consent England (2003)) which authorises sales at an undervalue provided its terms are complied with. In summary these terms require that firstly

the purpose for which the land is to be disposed of is likely to contribute to the achievement of one or more of; the promotion or improvement of economic, social or environmental well-being, for the whole or part of its area or all or any persons resident or present in its area and secondly the amount of the undervalue does not exceed £2 million.

If these are not complied with then a specific application would need to be made to the Secretary of State.

## **2.0 Options**

- i) The Executive approves the policy as drafted; or
- ii) Asks officers to review the policy and bring back to the Executive following this.

## **3.0 CORPORATE IMPLICATIONS**

### **Monitoring Officer commentary –**

All relevant legal implications have been taken into account.

### **S151 Officer Commentary –**

The s151 Officer confirms that all relevant financial implications have been taken into account

### **Risk Implications -**

1. There could be a risk to the reputation of the Council if it does not make best use of its property assets in relation to supporting VCFGs.
2. If appropriate safeguards are not included within transfers then changes in use or constitutions of VCFGs could mean the asset is sold and the purpose for which the asset was transferred does not benefit.
3. VDFGs may seek the transfer of long leases or freeholds of property that could have significant corporate benefits that have not been examined, quantified or known at the time of the request.
4. Not having a policy that is consistent, recognises equalities issues and is transparent risks the Council being challenged by VCFGs.

### **Equalities Implications**

The policy addresses perceived inequalities created by an individual approach to requests by providing a clear process that applies to all VCFGs. An Equalities Impact Assessment is attached as Appendix 4.

### **Employment**

There are no anticipated employment issues save the resources that will be required to assess suitability and compliance with the policy.

Through the effective use of community buildings it is expected that there will be increased opportunities for employment through use of these facilities either by the VCFG itself or through the use of space by other groups.

### **Sustainability Issues**

The policy promotes and supports sustainable communities from an economic and social perspective. The policy does not include a prescriptive approach to environmental sustainability as this could inhibit the viable use of community assets, especially older buildings. The Council will work with VCFGs to access sources of funding that could assist the installation of sustainable features.

### **Consultation**

Internal consultation has been undertaken through the Sustainable Economy Board. External consultation has not been undertaken.

### **Communications**

The Council will communicate any adopted policy to its tenants that occupy assets for community purposes.

### **APPENDICES**

- Appendix 1 Community Asset Transfer Policy**
- Appendix 2 Procedure for Considering Community Asset Transfers**
- Appendix 3 Process Map for Potential Community Asset Transfers**
- Appendix 4 Equalities Impact Assessment**

### **BACKGROUND PAPERS**

None

# Mole Valley District Council

## Community Asset Transfer Policy

### 1. Definition

- 1.1 *The voluntary and community sector (VCS) is the collective name for all voluntary and community organisations, including charities, community associations and social enterprises. Voluntary organisations are non-profit driven, non-statutory, autonomous and run by people who do not get paid for running the organisation (although voluntary management committees/trustees may employ paid staff). Such organisations are sometimes also referred to as the Voluntary Community and Faith Sector (VCFS) or Third Sector.*

### 2. Background

- 2.1 Mole Valley District Council (MVDC) already has a history of working with local community groups to provide facilities that provide great social and community benefit. This includes youth facilities, sports clubs and social clubs. Many of these have an excellent record of delivering in their existing format. Nevertheless there can be cases where investment is required in the community infrastructure or service provision where this can be better provided by local community groups rather than MVDC.
- 2.2 Although the big push from the coalition government has been for the promotion of the Big Society and the empowerment of the VCFCG the policy environment for asset transfer had been underpinned by the last Government's vision for 'Sustainable Communities', including the establishment of the Asset Transfer Unit at CLG. Its aim is to assist in taking over under-used land and buildings from the public sector and transform them into thriving community spaces.
- 2.3 Prior to this the Quirk Report highlighted the need for community management and ownership of public assets'. In addition the championing of "localism", through the Coalition Programme for Government and Localism Act 2011, highlights that access to assets is an important component in delivering local aspirations.
- 2.5 Community Asset Transfer is not a requirement on the Council but a voluntary process. The Council is able to transfer assets at less than market value on the basis that it promotes social economic and environmental well-being. Assets that have a market value of less than £2m can be transferred without specific Secretary of State approval provided the terms of the General Consent (Circular 06/03 Local Government Act 1972 general disposal consent England (2003)) are satisfied.

- 2.6 In practical terms there are a number of issues to address not least support for a number of small community groups that might not be experienced in the management of assets and the need to divert regular funds for property maintenance.
- 2.7 The Community Right to Bid is a different initiative that shares similar aims in engaging communities in the operation of local facilities. Its central theme is to allow properly constituted groups the ability to seek the registration of a facility as a Community Asset (in either public or private ownership) and allows the group a six month window the finance to raise the money to purchase the asset. The Community Right to Bid is the subject of a separate council policy.

### **3. Purpose of the Policy**

- 3.1 This policy describes Mole Valley District Council's approach to the VCFS in respect of Asset Transfer and is in accordance with the requirements of the Executive Member for Finance and Assets.
- 3.2 In order that MVDC can respond to the expectation of local organisations, in the context of Central Government policy and guidance from the Department for Communities and Local Government (CLG), this policy examines the issues and sets out MVDC's response to these issues.

### **4. Benefits to the Local Community**

- 4.1 It is a tangible response to Government initiatives and devolving power to neighbourhoods in an effort to enable citizen involvement and community action.
- 4.2 It can contribute towards the regeneration of communities and can act as a catalyst for social, environmental and economic regeneration (including the development of community enterprise).
- 4.3 Changing interests in property or management offers opportunities to extend the use of a building or the piece of land, increase its value in relation to the number of people benefiting and the range of opportunities it offers.
- 4.4 It can stimulate the involvement of local people in shaping and regenerating their communities, and can be a catalyst for local volunteering and increasing community cohesion.
- 4.5 The process of community and voluntary sector asset transfer can build confidence and capacity amongst the individuals involved, can support the

creation of community leaders and inspire others to improve their community.

## **5. Benefits to MVDC and other Public Service Providers**

- 5.1 The activities that are stimulated or safeguarded by community asset transfer are expected to contribute towards the Council's objectives.
- 5.2 Working in partnership with VCFGs can help MVDC to achieve its outcomes set out in key place shaping strategies, including: the Corporate Plan, Local Development Framework, Local Area Committee terms of reference, etc.
- 5.3 It can contribute towards efficiency savings (e.g. achieving revenue savings by releasing surplus property that has ongoing cost commitments and limited sale value), and drive the diversification of public services in an era of austerity spending settlements for local government.
- 5.4 It can contribute to MVDC's objective of rationalising its estate and facilitate more effective and efficient use of its asset base, where the focus is on better services and community outcomes as a result of strategic asset management.
- 5.5 It can be a stimulus for partnership working between a VCFG, MVDC and other partners and can improve the provision and accountability of services within communities.
- 5.6 Devolving the control of community assets to the most local level is likely to increase the participation levels of local communities as communities are given a focus and a tangible asset to provide a long term sustainable facility.

## **6. Benefits to the Voluntary & Community Sector**

- 6.1 It has potential to create stronger, more sustainable VCFG which can create a wide range of benefits for the communities they serve. An asset can provide a VCFG with financial security, recognition, and management capacity.
- 6.2 It can result in the creation of a new organisations (and potentially Council/VCFG joint ventures) with the ability to lever in additional resources, which would be unavailable to the Council acting independently.
- 6.3 The transfer of assets to support the work of MVDC in the community is a useful tool to provide community support and create or maintain cohesive community groups that compliment the work of MVDC.

- 6.4 The aim of the policy is to create a transparent, consistent and fair approach to the transfer of assets and set out an approach that is clear to follow

## **7. Links to MVDC Plans and Strategies**

- 7.1 The operation of this policy will need to have regard to the desired outcomes in existing plans and strategies. In addition, all proposals for transfer must make a clear contribution to MVDC's priorities and objectives as expressed in the following:

- Corporate Plan
- Local Development Framework
- Corporate Asset Management Plan
- The priorities of the Local Area Committees

## **8. Context of the Asset Transfer Policy**

- 8.1 The Community Asset Transfer Policy will be underpinned by the following principles:

## **9. Commitment to a Thriving Civil Society**

- 9.1 In implementing its asset transfer strategy, the Council recognises that, with appropriate support, community led solutions can achieve better outcomes than central initiatives.
- 9.2 MVDC recognises that asset transfer can play a central role in realising opportunities associated with Localism Act 2011.
- 9.3 MVDC will use asset transfer as a catalyst to greater community empowerment, to build the capacity of local citizens, and inspire others to create locally responsive solutions to community needs.
- 9.4 MVDC will use asset transfer as a means of enabling VCFGs to become sustainable on a long-term basis.
- 9.5 To be successful, community asset transfer requires a long term partnership commitment on the part of the Council and the VCFG and the Council recognises that this is the best way of minimising the risk of failure.
- 9.6 MVDC recognises the advantage of the transfer of control (with appropriate and proportionate safeguards) will enable the VCFG to adapt and change over time, in response to community needs, and to achieve long term sustainability.
- 9.7 MVDC will examine the sustainability of transfers and, where appropriate, and support transfers with funding and advice.

## **10. Strategic Asset Management Intent**

- 10.1 Community asset transfer will become integrated within the MVDC Asset Management Plan.
- 10.2 Community asset transfer and the creation of Council/Community Joint Ventures will be considered as a mechanism to encourage community ownership.
- 10.4 Usually the transfer process will be triggered by dialogue with an existing organisation though MVDC will also seek to form partnerships with local communities where there is a local need and empty property or land is available.

## **11. Support and Communication**

- 11.1 A single point of contact will be provided for VCFGs with asset transfer enquiries and will act as a conduit and a source of information and support.
- 11.2 MVDC will raise awareness through outreach, support and appropriate publicity, with partners, to clearly set out MVDC's approach to asset transfer.
- 11.3 VCFGs will not be encouraged to undertake substantial and expensive feasibility or business planning work until an 'in principle' decision has been taken by the Council on whether the asset could be made available for transfer.
- 11.4 In the event that VCFG is not happy with the process of the Council considering an Community Asset Transfer request and appeal can be made to the Council's Corporate Head of Service for Democratic Services within one calendar month of the decision requesting a review of how the decision was made.

## **12. Policy Statements on Asset Transfer and the particular circumstances when Transfer is Undertaken:**

- 12.1 In assessing proposals for asset transfer, the Council will consider the relative benefits and risks of the following options in order to justify its decision:
  - a) Doing nothing.
  - b) Expenditure on other services made possible as a result of a 'commercial' disposal.
  - c) The transfer of the asset to a VCFG and local communities.

d) A partnership approach with existing partners either in the public or the private sector

12.2 The criteria against which prospective transfers are identified, supported, assessed and taken forward are as follows:

- a) Any proposed asset transfer must support the aims, policies and financial position of MVDC and aim to create the widest public value.
- b) Assets include both land and buildings.
- c) Assets will be declared surplus to requirements (unless the transfer is part of a strategic decision to retain assets as a method of achieving wider corporate or regeneration objectives or through a decision by the Council to transfer to deliver new services centres or hubs through community ownership).
- d) VCFGs will need to be incorporated, constituted for social benefit, and wherever possible, within their legal structure, ensure that the asset is retained for community benefit. This would mean the asset reverting to MVDC in the event there is no such body, the asset can not capable of being used safely for the purpose for which it was transferred (e.g. due to disrepair) or the asset is no longer used for the purpose for which it was transferred.
- e) The Council considers that long leasehold transfers (25 years+) generally, provide sufficient flexibility and security for capital raising for VCFGs.
- f) Should a freehold disposal be agreed, and in the event that the VCFG subsequently decides to sell the asset, MVDC will be due a reducing percentage of an "arms length" sale price (or unrestricted freehold value) based upon a 100 year cycle. That is; the sum due to MVDC will reduce by 1% per annum from a starting figure of 100%.
- g) The balance of any sum from a freehold sale (after any sums due to the Council have been paid) will be held in escrow by the Council for up to 5 years and paid to the same or substitute organisation once the Council is satisfied there is a bona fide need for the funds and such funds will provide general community benefit. After this date the sum will be retained by the Council.
- h) VCFGs will need to demonstrate community support for their proposals, a robust business plan in support of the transfer and a high level of organisational capacity (relevant to the scale and scope of the asset and enterprise).

- i) MVDC will only consider asset transfer where the VCFG has demonstrated the capacity to manage the building appropriately (MVDC recognises that organisations may be able to develop this capacity and will be given the opportunity to do so if commitment and potential can be demonstrated).
- j) MVDC will consider investment by the VCFG (or predecessor) in an asset prior to transfer to ensure that the building is fit for purpose (although preference will be given to VCFGs that can access additional external investment).
- k) MVDC will provide ongoing organisational support to the VCFG post transfer (subject to resources) and recognises that the partnership extends beyond the point of transfer.
- l) When there are a number of interested parties in an asset that has been made available for transfer MVDC will aim to encourage collaboration. However, when this is not possible a competitive process in accordance with this policy and associated documents will be used to decide the outcome and the successful organisation will become the Councils preferred partner in the transfer process.
- m) Asset transfers to VCFGs will aim to create the widest public value and will be judged on the following criteria and those contained within Appendix 2:
  - i) What community benefits will be realised by the transfer;
  - ii) How the interests of local people will be best served, including community involvement and capacity building of community members;
  - iii) Building the capacity of VCFGs and encouraging greater organisational sustainability;
  - iv) The business plan and financial viability of the VCFGs plans for the premises;
  - v) Regeneration – social, environmental, economic (including the development of community enterprise activity);
  - vi) Improvements to, safeguarding or creating new local services/activities;
  - vii) Supporting Council efficiency gains and co-location of service providers.

### **13. Other considerations**

- 13.1 The decision to transfer an asset will not be considered as setting a precedent. Each asset transfer will be judged on its own merits and the detail of the transfer arrangements will be arrived at through individual negotiation.

- 13.2 The process for any asset transfer will be considered by the Portfolio Holder for Finance and Assets, and if appropriate by the Executive and full Council.
- 13.3 The existing condition of the asset and whether the existing management arrangements have proved successful.
- 13.4 The financial case for a transfer.
- 13.5 Significant local benefit from a transfer.
- 13.6 The strategic importance of the asset to the Council as part of its portfolio.

#### **14. How the transfer value is to be calculated?**

- 14.1.1 This will be the capital value of the interest for the type of asset transferred.
- 14.2 The transfer value will be based on the existing use of the asset. As such if any future change in use occurs that increases the value of the asset this would give rise to a potential payment to the Council if the agreement is either for a freehold sale or for lease for a period greater than 60 years.
- 14.3 Levels of discount from the transfer value will be set on a case by case basis based on the nature of the property, a robust assessment of the VCFGs business plan, financial viability and the extent of community benefit to be derived.

#### **15. Procedures for Assessing Asset Transfer Proposals**

##### 15.1 Elements of a Business Case:-

The business case made to MVDC by the VCFG is the single most important document to inform the decision about whether to proceed with the transfer. Any business plan presented to the Council at a minimum must contain the following (although VCFGs should feel free to structure the business plan in any way that they see fit):

<b>Business Plan Element</b>	<b>Detail</b>
Summary	Who you are, what you want to do, how you intend to do it, (usually written last)
About your organisation	Track record, current plans, partnerships and people, governance, legal structure
Summary of the project	Project Objectives Proposed programme for delivery Proposed impact/benefits of the project Proposals for management and operation of the asset (staff, volunteers) and the capital construction phase when relevant
Market	Need – what local needs will the project be responding to (who will be the beneficiaries)? How many will benefit within a year (e.g. community groups, local people)? Supply – who else is delivering similar activities in the same area? Is this potential for collaboration or competition and how will you respond to this? Demand – who will purchase the services/products that you provide? Pricing – what is the rationale for pricing (for services, renting space etc)?
Promotion	What is your marketing strategy? What methods will you choose (online, direct to customer etc) and who will you target? Who will do it (in house or external)?
Resources	Financial projections Should include cash flow for first year Should include budget (3-5 years) Should include examination of profit and loss and capital expenditure (if capital is required to redevelop the building sources secured or identified should be stated)  Explanatory notes – explaining rationale for projections and assumptions made. This should include assumptions about timings and level of commitment for both income and expenditure
Risk assessment/management/mitigation	Identification of the different risks associated with the project and a description of the implications of those risks occurring. Risks should be evaluated in two ways – the likelihood that the risk item will occur and the level of impact if the risk item does occur. A description of what the organisations strategy will be to prevent the risk items from occurring, or coping with them if they do, should also be provided

15.2 The organisation will also be expected to submit copies of governing documents, any evidence of external advice provided, expressions of support from partners/customers, copies of accounts (where available).



## APPENDIX 2

### Procedure for Considering Potential Community Asset Transfers

This procedure should be read in conjunction with the Community Asset Transfer Policy and the process flow chart in Appendix 3.

The initial consideration of an asset for transfer is likely to come from either an initiative from the District Council or and approach by a voluntary, community or/and faith group (VCFG).

Each case will be judged on its merits within the framework of the Policy.

The procedure is a two stage process with the first stage being a high level suitability review with a more detailed review at the second stage. The relevant local member will be consulted and notified of the District Council's decision upon completion of each stage. It is also expected that clarifications will be required from the VCFG through a dialogue, where possible. Summaries of the key criteria to be used as a basis for consideration, in conjunction with the Policy, in the reviews at both stages are as follows:

#### Stage 1 - Suitability Review: Criteria

- How does the proposed transfer meet the Council's key aims and objectives?
- Are there maintenance issues with the asset?
- Are there repair and maintenance obligations that could more effectively be undertaken by the VCFG?
- Are there clear indications that external funding can only be obtained in the instance of a transfer?
- Does the Council Manager responsible for the asset support a transfer?
- What aims does the VCFG want the asset to achieve?
- Is there an existing occupation agreement with a VCFG?
- If so what will be potential loss in income/saving in maintenance to the Council?
- Would a long term lease agreement fulfil the aims equally as well?
- What community benefits might arise from the proposed transfer?
- Why will the VCFG be more effective if it has ownership of the asset?
- Are there any risks of the proposed asset transfer that need to be explored further?
- In addition to a proposed transfer would the VCFG require funding from the District Council or other grant funding organisation?
- Are there any other assets that are or could be required as part of the transfer?
- Do the deeds or existing agreement contain any restrictions or rights that need to be considered?

- Would the VCFG be in a position to submit a business plan in the required format for the Stage 2 Review?

## **Stage 2 - Detailed Review: Criteria**

The next stage covers 5 main areas:

### **Current use**

- Details of use, sub-lettings, informal arrangements, car park use etc.
- By who is the asset currently occupied?
- What is the condition of the asset and how much will repairs or necessary works cost?
- What are the annual running costs of the asset (including utilities and rates)?
- Is the asset suitable and/or sufficient for its current use?
- Are there any other individuals or VCFGs affected by the occupation or ownership of the asset?
- Are there any other issues pertinent to a potential transfer?

### **Potential future use**

- Has the District Council any plans for the asset or is there a foreseeable need by other public sector organisations for the asset?
- Does the asset occupy a strategic location in relation to other potential community assets or uses?
- Might the asset have development potential in the short, medium or long term?
- Have any other VCFGs expressed an interest in the asset?
- Does the VCFG have a business case supporting their bid / how well developed are the proposals?
- Does the VCFG have the capacity to undertake ownership? If not, what support would they need to develop that capacity?
- Are there any other VCFGs that may be a suitable candidate for transfer?

### **Status of the VCFG**

- Does the VCFG have a constitution?
- Is the VCFG a registered charity?
- Are details of any trustees or tenant up to date?
- Is the VCFG a registered company?
- How long has the VCFG been established?
- How is the VCFG managed?
- Does the VCFG have an equal opportunities policy?
- Does the VCFG have adequate levels of insurance?
- Does the VCFG have an annual report?

- Does the VCFG have audited annual accounts?
- Is there a supporting statement available from 2 referees who have worked with the VCFG?
- Does the VCFG have a record of successfully working with the District Council?
- Are the trustees or officers of the VCFG representatives of other VCFGs?
- What skills does the VCFG have to optimise community use of the asset?

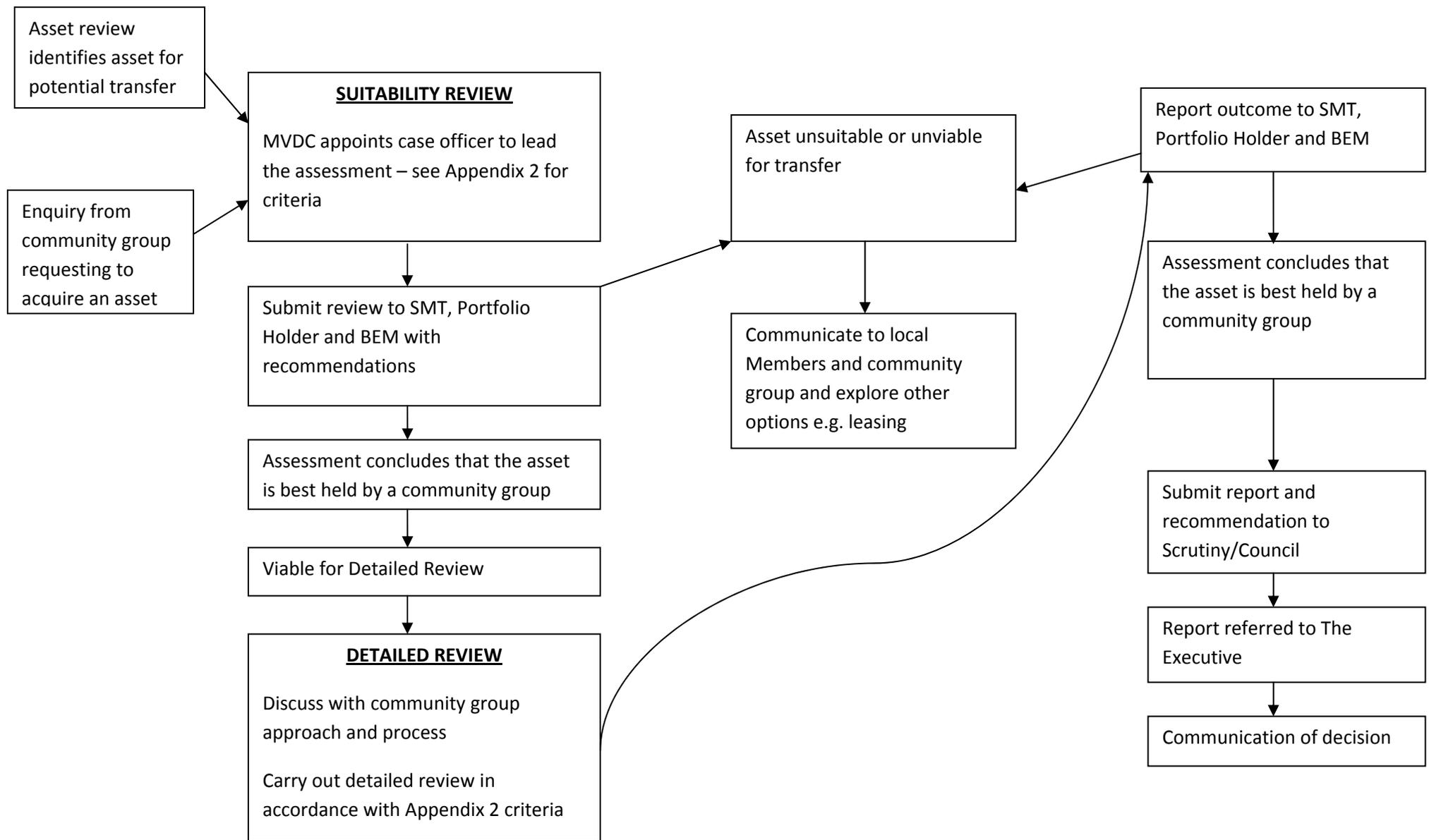
### **Assessment of potential benefits**

- Does the use of volunteers using the asset fulfil the District Council's corporate objectives?
- Will a transfer contribute towards greater community empowerment and increase the capacity of VCFGs?
- Does the proposal promote a sustainable third sector and the asset provides a vital source of income to continue community use?
- Does the asset transfer perform a key role in economic development or social enterprise?
- In what ways would the transfer of the asset improve access to public services?
- Does a transfer offer value for money (including analysis of the ongoing costs to MVDC of continuing to hold the asset compared with any capital or revenue foregone by disposal of the asset)?
- Analysis of any efficiency savings arising from the transfer (for example synergies arising from alternative service provision).
- Will a transfer of the asset mean access to it by more parties than under a lease?
- Is there evidence that the transfer of the asset will mean improved governance of the VCFG and/or management of the asset?

### **Assessment of risks**

- Is there the potential to disadvantage particular individuals or impact negatively on the local community? – The VCFG should carry out an equalities assessment regarding the transfer.
- Is it clear that the VCFG is not an “economic undertaking” so as to come within the scope of EU State Aid Rules?
- Does the VCFG have the skills and capacity to manage the asset?
- How has the VCFG mitigated the risk of the asset becoming a financial liability and ensured that the VCFG is a sustainable entity to own and maintain the asset?
- Are the promises of improvement and benefits realistic, measurable and achievable in the timescales suggested?
- What details have been provided regarding an options appraisal and cost benefit analysis carried out by the VCFG?

- What are the risks that the VCFG will not fulfil its obligations and mean that costs will revert to the District Council?
- Will there be an ongoing requirement for involvement from MVDC officers?
- Do the proposals satisfy the requirements of General Disposal Consent (England) 2003 (Disposals of Land for less than the Best Consideration that can reasonably be obtained)? so as to allow disposal at an undervalue of no more than £2million without specific consent
- Will the transfer price provide good value for money (having also considered the service that the VCFG) provides to the District Council's electorate as a whole?
- What is the Unrestricted Market capital value of the property, on the basis of the best consideration that may reasonably be obtainable i.e. with no unusual terms or restrictions? This is necessary to calculate the notional transfer value for the purposes of calculating grants or subsidies in addition to the transfer value.
- If the asset ceases to operate as a community asset what provisions are proposed so that District Council can regain possession and control of the asset?



# Equality Impact Assessment

Community Asset Transfer Policy



<b>What is being assessed?</b>	<b>Community Asset Transfer Policy</b>
<b>Department</b>	<b>Estates</b>
<b>Name of assessor/s</b>	<b>Paul Brooks</b>
<b>Strategic Management Lead</b>	<b>Richard Burrows</b>
<b>Date</b>	<b>18/12/2013</b>
<b>Is this a new or existing function or policy?</b>	<b>Yes</b>

*Please note that guidance (revised in November 2013) for completing this template is available on the intranet. This template was also revised in November 2013.*

### **Section 1: Introduction and background** (see p.10 of the guidance)

**Please describe your service or function. This should include:**

- **The aims and scope**
- **The main beneficiaries or users**
- **The main equality, accessibility, social exclusion issues and barriers, and the ‘protected characteristics’<sup>1</sup> they relate to (not all assessments will encounter issues relating to every protected characteristic)**

**If this EIA is part of a project it is important to focus on the service or policy the project aims to review or improve.**

There has been a big push from the coalition government to promote the Big Society and the empowerment of the VCFG. This has been underpinned by the last governments vision for ‘sustainable Communities’, including the establishment of the Asset Transfer Unit at the Department for Communities and Local Government (CLG). Its aim is to assist in taking over under-used land and buildings from the public sector and transform them into thriving community spaces.

The Quirk report highlighted the need for community management and ownership of public assets’. In addition the championing of “localism”, through the Coalition Programme for Government and Localism Act 2011, highlights that access to assets is an important component in delivering local aspirations.

The reasons behind Mole Valley District Council writing this policy is in response to the content of Central Government policy and guidance from the Department for Communities and Local Government (CLG), this policy examines the issues and sets out Mole Valley District Councils response to them.

<sup>1</sup> More information and definition of protected characteristics can be found [here](#)

The aim of the policy is to create a transparent, consistent and fair approach to the transfer of assets into the community which are currently in the ownership of the Council. The scope sets out how the operation of the policy will be reviewed and how the decision making process has regard to the Councils desired outcomes of existing plans and strategies.

The main users of the policy will be the voluntary and community sector, this will include charities and other community associations and social enterprises. In the policy these groups are referred to as VCFGs. Other users internally will be the case officer involved in processing the request and Council Committee Members when reviewing the approach and deciding upon the sale or change in interest of the asset to the community.

The main beneficiaries of this policy will be the local communities and citizens of Mole Valley District Council. If a transfer satisfies the policy criteria approved by Executive this may have a benefit in the reassignment of resources in other services provided by the Council. If sales are approved the transfer of community assets can promote community action and citizen involvement through building stronger neighbourhoods.

The transfer of assets to support the work of MVDC in the community is a useful tool to provide community support and create or maintain cohesive community groups that compliment the work of MVDC.

**Now describe how this fits into the Council's Corporate Priorities, Sustainable Community Strategy or other local, regional or national plans and priorities.**

This policy enables the Council to take a clear, transparent and consistent approach to requests from VCFGs; clearly analysing the benefits and suitability of the transfer in meeting the Council s corporate priorities, community's needs and support of VCFGs in the district.

It therefore takes into account the benefits of the policy and what corporate priorities should be met if adoption of the policy is approved by Executive.

**Access to Services – Helping residents to access the services they need**

- **Improve the way we engage with our Customers and listen to our communities.**

The policy would bring a consistent approach to the transfer of assets with community value, enabling requests to be assessed using a standardised format but with individual merit, rather than approaches being independently considered on an ad hoc basis. This approach seeks to safeguard the use of the premises for community use and support properly constituted groups that

seek to operate them for community benefit.

- **Working with our partners** to provide the right services to our local residents.

Partnerships in the community will be strengthened through the use of community assets as the Council recognises the need for long term partnership and commitment and acknowledges the need to offer advice and continuing support after transfer.

### **Environment – Maintaining the character and environment of Mole Valley**

- **Enable growth in the District** to support businesses and the local economy and facilitate appropriate housing development.

The policy sets out how a community asset transfer can contribute towards the regeneration of communities and act as a catalyst for social, environmental and economic regeneration (including the development of community enterprise). It can build confidence and capacity amongst the individuals involved in the process and can support the creation of community leaders and inspire others to improve their community.

Other advantages of the transfer of control (with appropriate and proportionate safeguards) will enable the VCFG to adapt and change over time in response to the needs of communities and to achieve long term sustainability the support from the Council.

### **Value for Money – Delivering value for money services**

- **Develop and agree a Medium Term Financial Strategy through to 2020.** This would set a framework for the Council's finances into the medium term to ensure we have a sound financial basis to enable us to continue to deliver services.
- **Continue to provide quality services to our residents,** by creating additional income through making better use of **property assets.**
- Where appropriate, **review the way in which we provide our services** to ensure that they are focused on what matters and delivering against our priorities. In doing this we will seek to develop a culture of innovation across the council.

The policy considers the most appropriate ways to deliver services that meet the Council's corporate objectives. It is transparent in the value of the asset that is transferred and the expectations that Council has of the VCFG in deciding whether an asset should be transferred.

The use of community assets in line with the policy can result in the creation of a new organisation (and potentially Council / VCFG joint ventures) with the ability to lever in additional resources, which would otherwise be unavailable

to the council if acting independently.

In enabling consistent assessment into the changing of interest in property or management the policy offers opportunities to extend the use of a building or piece of land and in turn can increase the value of the asset in the community in relation to the number of people benefiting and the range of opportunities it offers for a sustainable long term future with Council support.

The policy also seeks to safeguard the position of the Council and minimise the chances of financial and political issues if, after transfer of the asset, there is an expectation by the VCFG of a financial gain when the use of an asset for community purposes has ceased or a VCFG wishes to use monies from sale of the asset for other purposes.

## Section 2: Analysis and assessment (see pp. 10-13 of the guidance)

**Given available information, what is the actual or likely impact on minority, disadvantaged, vulnerable and socially excluded groups?**

**Indicate for each 'protected characteristics' whether there may be a positive impact, negative impact, a mixture of both or no impact.**

Protected characteristics	Positive	Negative	No impact	Reason
Age			X	No impact identified at this stage
Disability			X	No impact identified at this stage
Gender reassignment			X	No impact identified at this stage
Marriage and civil partnership			X	No impact identified at this stage
Pregnancy and maternity			X	No impact identified at this stage
Race			X	No impact identified at this stage
Religion or belief			X	No impact identified at this stage
Sex			X	No impact identified at this stage
Sexual orientation			X	No impact identified at this stage
Other aspects to consider	Positive	Negative	No impact	Reason
Carers			X	No impact identified at this stage
Rural/urban issues	X			Asset transfer can stimulate community

				involvement and help them shape and regenerate their communities to suit their required services and needs; creating stronger communities and VCFGs through cohesive partnerships and support from the Council.
HR issues	X	X		<p>A negative to the adoption of the policy would be the required resources to check and monitor that cases have been resolved in compliance with the policy.</p> <p>If a transfer was to occur then the policy identifies the need for long term partnership to be maintained between the Council and VCFG. This would therefore require some resource to monitor and assist the VCFG to ensure the service to the community is sustainable.</p> <p>A positive to the adoption of the policy is that it sets out a clear and concise approach to the way a request is dealt with. This will enable the case officers to work through the request in a more consistent and time efficient manner.</p>

**What can be done to reduce the effects of any negative impacts? Where negative impact cannot be completely diminished, can this be justified, and is it lawful?**

**Where there are positive impacts, what changes have been or will be made? Who are the beneficiaries? How have they benefited?**

In review of the policy and what impact it would have on minority, disadvantaged, vulnerable and socially excluded groups, it is thought that adoption would minimise and diminish any discrimination. The policy seeks to present a clear assessment method where by all future approaches can be equally assessed creating transparency in the decision making process. The policy will therefore eliminate the need for ad hoc approaches being independently assessed, removing the risk of the Council being challenged by VCFGs. In turn this will promote confidence from VCFGs that a single gateway approach will be taken, which provides a clear point of contact for VCFGs with asset transfer enquires and will act as a conduit and a source of information and support (with a named person, clear stages, indicative timescales for assessment, rights of appeal etc).

While the impact on the minority, disadvantaged, vulnerable and socially excluded groups will be diminished with the adoption of the policy. Circulation and awareness that the policy exists will be key to allow all VCFGs to have the opportunity to make a request. It is also key that no discrimination is made on the size, age of VCFG since it was established, experience in property management and financial standing. Working with the Communication and Partnerships departments will enable all groups to be captured.

The policy also helps reduce these areas by guiding the community groups to existing policies such as Community Right to Bid policy and recognises that smaller community groups might not have the experience in property management and will need long term support. Acknowledging that a Council partnership is key to have a successful transfer, with awareness that provisions for funds and resources may need to be diverted to these groups initially for training and guidance.

This may have an impact on HR internally at the Council on initial transfer but once the VCFG is up and running it is envisaged that fewer resources would be used than if the asset remained in the Councils power. This will benefit the whole district as the Council will be able to reallocate resources into other services.

This policy will also enable the Council to view and assess its portfolio using a more strategic approach. It can contribute to MVDCs objective of rationalising its estate and facilitate more effective and efficient use of its asset base, where the focus is on better services and community outcomes as a result of strategic asset management.

Other positive impacts if the policy was to be adopted would be that it promotes and supports sustainable communities from an economic and social perspective giving benefit to the community groups.

### Section 3: Evidence gathering and fact-finding (see p.14 of the guidance)

**What evidence is available to support your views above? Please include:**

- A summary of the available evidence
- Identification of where there are gaps in the evidence (this may identify a need for more evidence in the action plan)
- What information is currently captured with respect to usage and take up of services.
- What the current situation is in relation to equality and diversity monitoring (where relevant)

The policy is to be put before the Executive for adoption and as part of this will prompt a debate on the subject which is difficult to have before there is a basis for discussion.

As this is a new policy there is not the availability of evidence.

A register of applications, progress and decision making will be required .

**How have stakeholders been involved in this assessment? Who are they, and what is their view?**

The stakeholders are the voluntary and community sector (VCS) which is the collective name of all voluntary and community organisations, including charities, community association and social enterprises. Voluntary organisations are non-profit driven, non-statutory, autonomous and run by people who do not get paid for running the organisation (although voluntary management committees/trustees may employ paid staff). Such organisations are sometimes also referred to as the Voluntary Community and Faith Sector (VCFS) or Third Sector.

The Community is also a main stakeholder as they will need to show support and be endorsed in a way that the VCFS can prove as part of there request that by the great community, a transfer is appropriate and a community led solutions can achieve better outcomes than central initiatives.

Currently there has not been external consultation on the policy except on the principles with groups that have expressed interest though it is expected that through the Council approval process there will be feedback that will be considered by the Executive.

## Recommendations

Please summarise the main recommendations arising from the assessment. NB If it is impossible to diminish negative impacts to an acceptable or even lawful level the recommendation should be that the proposal or the relevant part of it should not proceed.

The main recommendation is that the policy is approved to promote and equal, fair and transparent approach to community asset transfers.

## Section 4: Action Plan (see pp.15-16 of the guidance)

Actions needed to implement the EIA recommendations

Issue	Action	Expected outcome	Who	Deadline for action
Circulation and Awareness of the Policy by all VCFGs	Work with Communications and Partnerships	All VCFGs that are MVDC tenants will be notified of the policy and able to get advise if they believe they are eligible to request a community asset transfer	Paul Brooks, Angela Griffiths, Patrick McCord	1 <sup>st</sup> June 2013

## Summary Sheet

Review date	April 2015
Person responsible for review	Paul Brooks
Strategic Management Lead signed off	Richard Burrows
Date completed	19/12/2013
Date forwarded to Policy Officer for publishing	19/12/2013

- Signed off electronic version to be kept in your team for review
- Electronic copy to be forwarded to the Policy and Performance Team for publishing