

Teignbridge District Council

Town & Parish Council Service Devolution and Asset Transfer Policy

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Teignbridge District Council

Town & Parish Council Service Devolution and Asset Transfer Policy

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Teignbridge District Council

Service Devolution and Asset Transfer Policy

1.0 Introduction

- 1.1 The Council recognises that the devolution of assets and associated services to town and parish councils makes a significant contribution to enabling them to be stronger, more resilient and sustainable local communities
- 1.2 There are potential benefits to be had in empowering the local community to develop facilities based on local needs and preferences, and retain the services most important to those neighbourhoods. Further, this supports the Teignbridge Ten super project 'Strong Communities' and the action to encourage councillors to help develop and deliver local ideas.
- 1.3 This is not a new concept and the Council has already supported local communities by undertaking such transfers in the past.
- 1.4 The Council has a requirement to be able to balance the aspirations of local communities to take on the guardianship of public property assets and delivery of services, with the duty of care it must have in safeguarding the best interests of Teignbridge residents. The introduction of this policy and application procedure set out within this policy is intended to establish a clear approach and governance to service devolution and asset transfer.

2.0 Service Devolution and Asset Transfer

- 2.1 Teignbridge will promote and facilitate the transfer of assets (by way of freehold or leasehold) and devolve services to town and parish councils where it is deemed more appropriate for those assets and services to be delivered by third tier local government.
- 2.2 Delivery of services and property assets are intrinsically linked: Teignbridge has responsibility for land and buildings held for the following reasons:-
 - a) For the purpose of direct service delivery (such as parks and gardens)
 - b) To support service delivery (for example administrative offices and depots)
 - c) To support the Council's wider policy objectives. This part of the portfolio is varied: Many assets have been made available for social or sporting purposes or are retained for a range of reasons such as a potential to contribute to future regeneration schemes or provide workspace for local employment provision. In

addition, the portfolio provides a valuable revenue income which in turn helps to support the Council in delivering important services to its residents.

- 2.3 Where practicable, services and/or property types will be considered for transfer in a wholesale fashion rather than on an asset by asset basis. For example, if one area of amenity land is being proposed for transfer, all amenity land within the boundary should be included for consideration.

3.0 Service Devolution

- 3.1 The transfer of both statutory and discretionary services can be facilitated; although where statutory services have been transferred the ultimate responsibility will remain with Teignbridge District Council. Responsibility for delivering the service may be transferred to a town or parish council under clear contractual arrangements. The town or parish council will then become responsible for the delivery of those services in accordance with the terms of a Service Delegation Agreement. In view of the Council's underlying statutory responsibility, the Council must be able to terminate the service delegation agreement at any given time.
- 3.2 Where responsibility for discretionary services is transferred, Teignbridge District Council will cease to be responsible and accountable for the delivery of these services. There is also no guarantee that the Council would consider re-assuming delivery of the service. A clear, written declaration must be made by the Council and accepted by the town or parish council to that effect.
- 3.3 There may be strategic reasons for Teignbridge District Council to retain ownership of the asset but where the responsibility to provide services could be devolved. In some cases, the transfer of the freehold of an asset may not be considered where:-
- a. Where there is a net income or a strategic benefit to the Council which would prevent the asset transfer but for the amenity maintenance services (see Appendix D). Examples might include Council depots, development sites, pay & display car parks.
 - b. The land is maintained for the benefit of the community by the Council and held on trust, but not owned beneficially by the Council
 - c. Where there is only a small area of Council owned land and the costs of transfer is prohibitive (unless the local town or parish council are prepared to fund the transfer).
 - d. Where there is a large number of small non-strategic open space land parcels. These are most efficiently and successfully managed via a service delegation agreement. In these cases, a fixed term tenancy of 7 years (less 5 days) will be granted. (A lease of this length is exempt from s123 "best consideration" tests.)

Should the town or parish council wish to have the freehold of these legally transferred, it will be the responsibility of that town or parish council to undertake all the required due diligence and fund all legal costs.

- e. Adjoining/surrounding land is not to be transferred
 - f. There are historic and/or complex land issues which would make a freehold transfer resource prohibitive to both Teignbridge District Council and town or parish council. In these cases, a fixed term tenancy of 7 years (less 5 days) will be granted.
- 3.4 Following the date of transfer, Teignbridge District Council will not be responsible for delivery of any of the amenity maintenance services listed in Appendix D within the defined boundary. The town or parish council will perform the services within the boundary indefinitely on and from the transfer date to the minimum standards required by any relevant legislation. Any decision thereafter to provide enhanced service provision beyond legal requirements will be at the discretion of the relevant town or parish council. The town or parish council would take responsibility for all consequences: financial, contractual, safety or otherwise for the services delivered and the management of associated property assets.
- 3.5 The delegation of services will not affect any rights Teignbridge District Council may have to dispose of, transfer, assign, lease or otherwise deal with its land in its capacity as freehold owner.

4.0 Asset Transfer

- 4.1 Asset transfer relates to disposal by way of a freehold or leasehold arrangement at less than best consideration; that is at a price or rent below the market value. Any freehold transfer on this basis will be subject to the Council having a first call on the property should the asset become surplus to the transferee's requirement i.e. a future decision is made by the transferee to sell the premises. This will be based on the Council paying no more than the original transfer amount.
- 4.2 Should the Council wish to waive its right to buy back the asset, a clawback overage provision will protect the Council's original interest should the site be sold on the open market and permission granted for a higher value use. Such provision will be made for a 25 year period and a 50% share in the increase in the value of the land from the transfer price to the value with the benefit of planning permission. The trigger dates will be the date of the sale of the land with the benefit of planning permission or implementation of the planning permission.
- 4.3 A leasehold interest may be granted for a period of up to 125 years. A leasehold transfer can be a preferred method of disposal where the Council wish to exert continued control over the asset.
- 4.4 Property assets will be considered for transfer where one or more of the following benefits will be provided:-

- a) The transfer of the asset will provide social, economic or environmental well-being benefits to the local community. (For example through the ability to manage and regulate an open space at a local level)
- b) The transfer would be a 'tidying up' exercise, passing incidental pieces of land and landscaping, or parts of these, to a local level
- c) The asset has the potential to provide for a community facility which the parish or town council has demonstrated they have the skills, drive and access to resources to deliver (For example, a village hall)
- d) The transfer of the asset will enable the continuation of a service to the local community that TDC is no longer able to provide. (For example, public conveniences)
- e) A community partnership can be entered into based on public access to and use of an asset
- f) It is believed that the town or parish council would be able to secure grant funding and or have access to funding streams not available to the District Council.

4.5 Property assets unlikely to be considered for devolution include the following:-

- Assets that generate an immediate income to the Council and or are held to fulfil strategic priorities of the Council (e.g. Pay & display car parks and employment space)
- Assets held for future capital realisations
- Land held for future development of a Council or partner scheme
- Vacant land or buildings that can generate a capital receipt in excess of £10,000. This is the de-minimus level for capital accounting purposes

5.0 Disposing of a property asset for less than best consideration

5.1 The Council may dispose of surplus land and property having regard to the provisions in section 123 of the Local Government Act 1972 (Appendix A) and the General Disposal Consent 2003 (Appendix B). This legislation ensures that property is disposed of at the best price obtainable subject to certain exceptions. Section 127 of the Local Government Act 1972 in respect of parish or community councils, or the parish trustees of a parish.

5.2 The exception is where the authority considers that the purpose of the disposal at less than best price will achieve the promotion or improvement of the economic, social or environmental well-being for the area and/or local residents. Valuation advice should be reported to set out the unrestricted (best price obtainable) and restricted values, together with the value of conditions. This will ensure that the monetary value to the authority can be taken account.

6.0 Mitigating the risk of an unsuccessful transfer

6.1 It is proposed that town and parish councils will be able to apply for the delegation of service provision and/or transfer of property by submitting an Application Form (Appendix C). The application form includes a section titled 'General Considerations and Practicalities'. This section requests that applicants are clear about the following:-

- a) The aims and objectives for the land or building;
- b) the need and demand for the services proposed; and
- c) that the decision to take responsibility for a service and/or property asset should benefit the local community by allowing more effective service provision.

6.2 Where a property asset is to be transferred, the Practicalities section also requests consideration of premises costs and responsibilities and, the submission of a Premises Management Plan - detailing who will be responsible for decisions relating to the property, along with responsibilities for the day-to-day management of the premises and legislative compliance. Issues expected to be addressed will include cleaning, fire safety, health & safety, repairs, management of costs and income and, general administration.

6.3 By requiring the Premises Management Plan, it is anticipated that the implications of taking on the property and/or service management arrangements will have been given careful consideration by the applicant. This early planning will help to mitigate the risk of an unsuccessful transfer.

7.0 The Approval Process

7.1 On receipt of an application, Economy & Assets consult with:

- i. Finance
- ii. Legal
- iii. The relevant Portfolio Holder/s
- iv. Housing
- v. Environment & Leisure
- vi. Ward Members
- vii. HR (where application is in relation to an in-house run service that might result in TUPE or redundancies)

If there is a valid reason given that the service and or premises should not be transferred e.g. for operational reasons, the request will be refused.

7.2 If there are no objections raised against a proposed transfer of a property asset by the consultees, the property will be deemed surplus for disposal.

7.3 Ward Members consultation.

7.4 If it is proposed that the property be transferred at less than best consideration, a valuation will be undertaken to establish the under-value (the difference between the market value and restricted value). This 'under value' will be reported to the Executive Committee. In addition, the Executive Committee will satisfy itself that the 'well being' requirements have been met. This is to enable the Council to ensure compliance with the requirements of the Local Government Act 1972. Any costs incurred by the Council in seeking the relevant valuation advice will be met by the applicant.

7.5 When considering the disposal of public open space, the legal requirements of the Council to advertise proposed disposals and consider objections, must be complied with. Open Space is defined as "any land, laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground".

- 7.6 The Council is obliged to give notice of the intention to dispose by placing a public notice in the local newspaper for two consecutive weeks. Any objections must then be considered by the appropriate decision maker. Applicants will be required to meet the costs of advertising the proposed disposal.
- 7.7 Heads of Terms will be negotiated and agreed between the Estates Team and relevant town or parish council in relation to any property asset transfer. Service delegation agreements negotiated and agreed between the applicable service Business Lead and relevant town or parish council.
- 7.8 The relevant authority will be sought for approval of the transfer in line with the Council's Financial Instructions for disposal of land and buildings where a market value is being paid for the premises. Service delegation agreements will also be considered for approval.
- 7.9 The Legal Team will be instructed by the Estates Team to prepare and complete the relevant legal document/s for the transfer of any property (whether by leasehold or freehold). Relevant Business Leads will instruct the Legal Team in respect of Service delegation agreements.

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Appendix A

s.123 Local Government Act 1972 (as amended)¹

- (1) Subject to the following provisions of this section, a principal council may dispose of land held by them in any manner they wish.
- (2) Except with the consent of the Secretary of State, a council shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained.
 - (2A) A principal council may not dispose under subsection (1) above of any land consisting or forming part of an open space unless before disposing of the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed disposal which may be made to them.
 - (2B) Where by virtue of subsection (2A) above a council dispose of land which is held—
 - (a) for the purpose of section 164 of the Public Health Act 1875 (pleasure grounds); or
 - (b) in accordance with section 10 of the Open Spaces Act 1906 (duty of local authority to maintain open spaces and burial grounds),
the land shall by virtue of the disposal be freed from any trust arising solely by virtue of its being land held in trust for enjoyment by the public in accordance with the said section 164 or, as the case may be, the said section 10.
- (3)—(6) (Repealed)
- (7) For the purposes of this section a disposal of land is a disposal by way of a short tenancy if it consists—
 - (a) of the grant of a term not exceeding seven years, or
 - (b) of the assignment of a term which at the date of the assignment has not more than seven years to run, and in this section “public trust land” has the meaning assigned to it by section 122(6) above.

¹ <http://www.legislation.gov.uk/ukpga/1972/70/section/123>

Appendix B

The Local government Act 1972: General Disposal Consent (England) 2003²

1. The First Secretary of State ("the Secretary of State"), in exercise of the powers conferred by sections 123(2), 127(2) and 128(1) of the Local Government Act 1972, hereby gives consent to a disposal of land 2 otherwise than by way of a short tenancy 3 by a local authority in England in the circumstances specified in paragraph 2 below.
2. The specified circumstances are:
 - a) the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;
 - i) the promotion or improvement of economic well-being;
 - ii) the promotion or improvement of social well-being;
 - iii) the promotion or improvement of environmental well-being; and
 - b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).

Interpretation and savings

3. (1) In this instrument -
"local authority" means:
 - i) London borough council;
 - ii) a county council;
 - iii) a district council;
 - iv) a parish council and parish trustees acting with the consent of a parish meeting;
 - v) a National Park authority;
 - vi) a Metropolitan Borough Council
 - vii) a joint authority established under Part IV of the Local Government Act 1985;
 - viii) a police authority established under section 3 of the Police Act 1996;
 - ix) the Metropolitan Policy Authority;

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7690/462483.pdf

x) the London Fire and Emergency Planning Authority;

xi) the Broads Authority;

xii) the Council of the Isles of Scilly;

and any other person to whom, by virtue of statute, section 123(2) or section 127(2) of the Local Government Act 1972 applies;

"unrestricted value" means the best price reasonably obtainable for the property on terms that are intended to maximise the consideration, assessed in accordance with the procedures set out in the Technical Appendix.

(2) Nothing in this instrument shall be construed as giving consent to a disposal for any purpose for which the consent of the Secretary of State is required by virtue of section 25(1) of the Local Government Act 1988, section 133(1) of the Housing Act 1988, section 32(2) or section 43(1) of the Housing Act 1985, or otherwise as having effect as a consent for any purposes other than those of Part 7 of the Local Government Act 1972.

Citation and revocation

4. (1) This instrument may be cited as the Local Government Act 1972 General Disposal Consent (England) 2003 and shall come into effect on 4 August 2003.

(2) The Local Government Act 1972 General Disposal Consents 1998 are hereby revoked insofar as they apply to England.

Signed by authority of the First Secretary of State

Lisette Simcock

30 July 2003 Divisional Manager

Plans, International, Compensation and Assessment Division

Technical Appendix

Valuations For The Purpose Of Determining Whether Proposed Land Disposals Under The Terms Of The Local Government Act 1972 Fall Within The Provisions Of The General Disposal Consent 2003

The Valuation Report

1. An application to the Secretary of State for a specific consent to dispose of land under the terms of Part 7 of the Local Government Act 1972 for less than the best consideration reasonably obtainable must be supported by a report prepared and signed by a qualified valuer (a member of the RICS), providing the following information.

Valuations

2. The report should set out the unrestricted and restricted values together with the value of conditions. Where any of these is nil this should be expressly stated. The valuer should also describe the assumptions made. These might include, for example, existing or alternative uses that might be permitted by the local planning authority, the level of demand and the terms of the transaction. The effect on value of the existence of a purchaser with a special interest (a special purchaser) should be described.

3. The Consent removes the requirement for authorities to seek specific consent from the Secretary of State where the difference between the unrestricted value of the land to be disposed of and the consideration accepted is £2,000,000 or less. The purpose of requiring the restricted value and the value of conditions to be reported as well as the unrestricted value is to ensure that the monetary value to the authority of any voluntary conditions can be taken into account when applications for specific consent are considered by the Secretary of State.

4. The valuer should take into account the requirements of the RICS Appraisal and Valuation Standards (Fifth Edition), ("the Red Book"), including UK Guidance Note 54. All values should be assessed in capital, not rental, terms; and where a lease is to be granted, or is assumed by the valuer to be granted, the valuer should express the value of the consideration as a capital sum.

Unrestricted value

5. The unrestricted value is the best price reasonably obtainable for the property and should be expressed in capital terms. It is the market value of the land as currently defined by the RICS Red Book (Practice Statement 3.2)5, except that it should take into account any additional amount which is or might reasonably be expected to be available from a purchaser with a special interest (a "special purchaser"). When assessing unrestricted value, the valuer must ignore the reduction in value caused by any voluntary condition imposed by the authority. In other words, unrestricted value is the amount that would be paid for the property if the voluntary condition were not imposed (or it is the value of the property subject to a lease without the restriction).

6. In general terms, unrestricted value is intended to be the amount which would be received for the disposal of the property where the principal aim was to maximise the value of the receipt. Apart from the inclusion of bids from a purchaser with a special interest it is defined in the same way as market value. For example, the valuer should take account of whatever uses might be permitted by the local planning authority insofar as these would be reflected by the market rather than having regard only to the use or uses intended by the parties to the proposed disposal.

7. The valuer should assume that the freehold disposal is made, or the lease is granted, on terms that are intended to maximise the consideration. For example, where unrestricted value is based on the hypothetical grant of a lease at a rack rent, or a ground rent with or without a premium, the valuer should assume that the lease would contain those covenants that a prudent landlord would normally include. The valuer should also assume that the lease would not include any unusual or onerous covenants that would reduce the consideration, unless these had to be included as a matter of law.

8. In the case of a proposed disposal of a leasehold interest, or where the valuer has assumed that a lease would be granted, the unrestricted value should be assessed by valuing the authority's interest after the lease has been granted plus any premium payable for its grant. This will usually be the value of the authority's interest subject to the proposed or assumed lease. In other words, it will be the value of the right to receive the rent and other payments under the lease plus the value of the reversion when the lease expires.

9. Where an authority has invited tenders and is comparing bids, the unrestricted value is normally the highest bid. But where, on the advice of the authority's professionally qualified valuer, the authority considers that the highest submitted tender is unrealistically high, or is too low, the unrestricted value may be assessed by the valuer.

Restricted value

10. The restricted value is the market value of the property having regard to the terms of the proposed transaction. It is defined in the same way as unrestricted value except that it should take into account the effect on value of any voluntary condition(s).

11. Where the authority has invited tenders and is comparing bids, the restricted value is normally the amount offered by the authority's preferred transferee. In other cases it is normally the proposed purchase price.

12. In cases where the proposed consideration is more or less than the restricted value both figures need to be given.

Voluntary conditions

13. A voluntary condition is any term or condition of the proposed transaction which the authority chooses to impose. It does not include any term or condition which the authority is obliged to impose, (for example, as a matter of statute), or which runs with the land. Nor does it include any term or condition relating to a matter which is a discretionary rather than a statutory duty of the authority.

14. The value of voluntary conditions is the total of the capital values of voluntary conditions imposed by the authority as terms of the disposal or under agreements linked to the disposal that produce a direct or indirect benefit to the authority which can be assessed in monetary terms. It is not the reduction in value (if any) caused by the imposition of voluntary conditions and any adverse effect these may have on value should not be included in this figure.

15. The proposed disposal, or an agreement linked with it, may give rise to non-property benefits to the authority. For example, these might include operational savings or income generated as a result of the transaction where the authority has an associated statutory duty. The monetary value of these benefits to the authority should be included in the value of voluntary conditions.

16. Where the status in law of a voluntary condition is unclear, the authority may need to seek legal advice as to whether the condition is such that its value to the authority can form part, or all, of the consideration. Conversely, there may be cases where, in law, the condition can form part, or all, of the consideration but it has no quantifiable value to the authority.

17. Where the valuer is not qualified to assess the value of any benefits (for example, of share options) the report should make clear the extent to which the valuer accepts liability for the figures. Where the valuer does not accept full responsibility the report should make it clear by whom the remainder of the figures have been assessed, and copies of any valuations or advice received from accountants or other professional advisers should be annexed.

18. All the values given should be in capital, not rental, terms; and the values of individual conditions as well as the total should be provided. Where there are no conditions, or their value is nil, this should be stated.

Valuation of Options

19. A discount may occur in connection with the consideration for either the grant of an option or the exercise of an option, or both. Where the consideration is less than the best price that can reasonably be obtained, (or where the valuer considers that if the option were to be exercised its terms would require the authority to accept less than the best consideration that can reasonably be obtained), the valuations described in paragraphs 20 and 21 below must be provided in support of an application for disposal consent.

Payment for the grant of an option

20. In explaining the basis for calculating the consideration for the grant of an option, the valuer's report needs to include the following information, based on the most likely date for the exercise of the option:

- a)** the unrestricted value of the option to be granted;
- b)** the proposed cash consideration for the option to be granted (which may be nominal or nil); and

- c) the value to the authority of any terms or conditions which, in the valuer's opinion, form part of the consideration for the option to be granted.

The grant of an option will then be at an undervalue where the unrestricted value at (a) exceeds the proposed cash consideration at (b) plus the value of any conditions at (c) (ie: where $a > (b+c)$).

Consideration for the exercise of an option

21. In explaining the basis for calculating the consideration for the interest to be disposed of under an option, the valuer's report should include the following information, based on the most likely date for the exercise of the option:

- a) the unrestricted value of the interest to be disposed of under the option, disregarding the effect of the option;
- b) the proposed cash consideration for the interest to be disposed of under the option (which may have been specified in the terms and conditions for the granting of the option); and
- c) the value to the authority of any terms or conditions which, in the valuer's opinion, form part of the consideration for the interest to be disposed of under the option.

The disposal of an interest pursuant to an option will then be at an undervalue where the unrestricted value of the interest at (a) exceeds the proposed cash consideration at (b) plus the value of any conditions at (c) (ie: where $a > (b+c)$).

Development Land

22. In cases where there is no detailed scheme, the valuer should make reasonable assumptions about the form of the development.

Negative Development Value

23. Where the value of the completed scheme is less than the development cost, (for example, where there is low demand or high costs associated with land reclamation or decontamination), the valuer should assess the unrestricted value by making reasonable assumptions about such matters as alternative uses that might be permitted by the local planning authority and the level of demand. Where the proposed scheme is the most profitable but still produces a negative development value the unrestricted value will be nil and therefore a disposal at nil consideration will not be at an undervalue. But where land with a negative development value has a positive value for some other use the disposal would be at an undervalue.

General Effect Of Grants On Values

24. The valuer should consider whether the value of the site is in any way affected by the prospect of grant and take this into account in the valuation. If the valuation is based on

assumptions that disregard the effect of grant then this should be stated in the valuation report. When assessing a value for a use other than that for which a grant has been approved, the valuer should consider the likelihood of any such use achieving planning consent.

1 For the purposes of the 1972 and 1990 Acts 'open space' is defined in section 336(1) of the latter Act.

2 By section 270, land includes any interest in land, and any easement or right in, to or over land.

3 By sections 123(7) and 127(5), a short tenancy is a tenancy, which is granted for seven years or less, or the assignment of a term, which has not more than seven years to run. Disposals by way of a short tenancy do not need consent, see sections 123(2) and 127(2) of the 1972 Act.

4 RICS Appraisal and Valuation Standards (Fifth Edition), UK Guidance Note 5: 'Local authority disposals at an undervalue' published 1 May 2003

5 [see above]

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**Service Devolution & Transfer of
Premises to
Town and Parish Councils**

Guidance & Application Form

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General Considerations

Before making an application to run a service or for the transfer of an asset from Teignbridge District Council (TDC), it is important to consider your options carefully. Below are some general aspects which should be considered before making an application.

The aims and objectives for the land or building. By having clear objectives it is possible to assess whether premises are needed, the amount of space and type of facilities required.

The need and demand for the services which are proposed.

The decision to take responsibility for a service and/or property asset should benefit the local community by allowing you to provide services more effectively. It is important to consider the monetary costs and time needed to maintain a building, as these additional responsibilities could reduce the efficiency of primary services.

Practicalities

It is important to have a financial plan outlining the funding of the service and/or premises.

Where a property is to be transferred with the service, initial purchase/leasing costs may include surveying and legal costs. Each party will be expected to pay their own costs. It is also important to consider that a premises can generate a number of other ongoing costs. These may include:

- rates
- utilities (electricity, water etc)
- insurance – building, contents and public liability
- repairs – reactive and planned maintenance
- security

- administration
- alterations and/or adaptations
- Staff eg cleaning and caretaking

TDC will be able to provide limited information in this respect owing to accounting practicalities within the authority. In addition, there are efficiencies of scale from which it benefits owing to size of the organisation (eg insurance policies held) and the wide range of different skill sets accessible across the authority (eg lawyers, surveyors and accountants). It is therefore advised that independent advice is sought when considering the implications of acquiring and managing a property asset.

Where a property asset is proposed for transfer, a Premises Management Plan is required detailing who will be responsible for decisions relating to the property, along with responsibilities for the day-to-day management arrangements and compliance legislation. Issues which need to be addressed can include cleaning, fire safety, health and safety, security, repairs, general administration and managing costs. Teignbridge District Council reserves the right to challenge plans submitted.

Your organisation must also have the capacity to take on the delivery of a service and/or the ownership of property, along with the associated statutory considerations that can include but are not limited to:-

- Health and Safety at Work Act 1974 and subsequent regulations
- Regulatory Reform (Fire Safety) Order 2005
- Occupiers' Liability Act 1957
- Landlord and Tenant Act 1954
- Charities Act 2011
- Town and Country Planning Act 1990 and subsequent regulations
- Equality Act 2010
- Building Act 1994
- Defective Premises Act 1972
- Control of Asbestos Regulations 2012

Similar considerations will also need to be given where it is the proposed transfer of service delivery only proposed.

Application Guidance

If you are satisfied that your council has a genuine need to take on the service and/or premises and the ability to do so, please complete the Application Form below.

When completing the application form(s) it is important that you provide as much information as possible so that we can assess your application. Please do not hesitate to write on additional sheets if required.

If you require any additional guidance on the process or help with the completion of the application forms please contact Economy & Assets on **01626 215233**. A copy of the Teignbridge District Council's Service Devolution & Asset Transfer Policy is also available on our website or by request.

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SERVICE DEVOLUTION & ASSET TRANSFER APPLICATION FORM

Council Details

Name of Council	
Address of Council	
Post Code	
Telephone Number	
Fax Number	
Email Address	

Correspondent's Contact Details

Name of Correspondent	
Position Held	
Address (if different from above)	
Post Code	
Telephone Number(s)	
Email Address	

Solicitor's Contact Details (if available)

Name of Solicitor	
Contact	
Address	
Post Code	
Telephone Number(s)	
Fax Number	
Email Address	
DX	

Where assets are transferred for a nil or less than market consideration, the financial cost to TDC will be weighed against the community benefit. Please indicate which of the following community benefits will be provided by the transfer of this asset.

- The transfer of the asset will provide social, economic or environmental well-being benefits to the local community. For example, through the ability to manage and regulate an open space at local level
- The transfer would be a 'tidying up' exercise, passing incidental pieces of land and landscaping, or parts of these, to local level
- The property has the potential to provide for a community facility, for example a village hall, which the parish or town council has demonstrated they have the skills, drive and access to resources to deliver
- The transfer of the asset will enable the continuation of a service to the local community that the TDC are no longer able to provide e.g. public conveniences

- A community partnership can be entered into based on public access to and use of an asset
- It is believed that the applicant would be able to secure grant funding and or have access to funding streams not available to the District Council.

Name and address of Property to be transferred and Land Registry DN reference³

Proposed use of property

Means of transfer (i.e. lease or freehold)

The Council has the discretionary power under the General Disposal Consent (England) 2003 and S.123 of the Local Government Act, to consider disposals of surplus assets at less than best consideration where such disposal is likely to contribute to the promotion or improvement of the economic, social or the environmental well-being of the Teignbridge area or its residents. Please indicate below how this proposed transfer will contribute in any of these ways.

(Please note that the GDC will not apply in some limited circumstances such as housing land)

Economic Benefits

How will the transfer benefit the local economy?	
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Social Benefits

³ <https://www.gov.uk/get-information-about-property-and-land/search-the-register>

How will the transfer provide social benefit to the community?	
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Environmental Benefits

How will the transfer benefit the environment?	
------------------------------------------------	--

Any other information to support the transfer	
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Should the Council consider that the transaction at less than best value will meet the requirements of the General Disposal Consent Act, a valuation of the property asset will be undertaken to determine best value. Any costs incurred by the Council in seeking the relevant valuation advice will be met by the applicant.

When considering the disposal of public open space, the legal requirements of the Council to advertise proposed disposals and consider objections must all be complied with. Applicants will be required to meet the costs of advertising the proposed disposal.

Where a service delegation agreement is sought without the transfer of any associated asset please specify below the service for which you are proposing to take on responsibility. Please include details of any reasons for the proposal, boundaries and conditions.

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Declaration

I confirm that I am authorised to sign this application on behalf of (*name of council*)

and that, to the best of my knowledge and belief, all the information provided is true and correct. I confirm that I have considered all the financial implications of the property acquisition and that I am satisfied that the council is able to meet all anticipated costs.

I enclose copies of:-

- Plan outlining the property to be considered for transfer and/or service delegation boundary in red (required)
- Management Structure (required)
- Premises Management Plan (required where property to be transferred)
- Community Consultation (if available)
- Business Plan (if available)
- Any other documents you think may be helpful when we are assessing your application

Name (print)	
Position in council	
Date	

Please return this completed form to:

Teignbridge District Council
Economy & Assets
Forde House
Brunel Road
Newton Abbot
TQ12 4XX

Or email: economyandassets@teignbridge.gov.uk

Appendix D
Amenity Maintenance Services

Task	Condition and comment
Litter Picking	To be carried out on amenity land Examples include: <ul style="list-style-type: none"> • Beverage and drinks containers • Food containers or utensils • Magazines and newspapers • Shopping and other bags • Illegal deposits of bagged commercial and household waste which shall be cleared as fly tipping • Removal of pigeon droppings from pathways and footways • Removal of fallen branches, wood, metal and plastic objects • Dog/ animal faeces • Cigarette waste and packets • Removal of leaf and blossom falls
Emptying of Litter Bins	To be carried out on amenity land
Removal of Fly Tipping (but no enforcement related tasks)	Must be carried out on amenity land
Removal of Fly Posting (but no enforcement related tasks)	Must be carried out on amenity land
Graffiti removal (but no enforcement related tasks)	Must be carried out on amenity land
Balancing ponds, amenity footpaths and water courses	Must be carried out on amenity land Monitor the condition and health and safety concerns on amenity footpaths, ponds, ditches and any amenity asset and effect their reasonable repair and maintenance
Park/ street furniture management	Must be carried out on amenity land Monitor the condition of the furniture and any health and safety concerns and effect their reasonable repair, maintenance and replacement
Grounds Maintenance	Must be carried out on amenity land Maintenance of shrub beds, hedges, trees, herbaceous borders and any soft areas.
Grass maintenance	Must be carried out on amenity land
Sports pitch maintenance	Must be carried out on amenity land
Inspection and maintenance of play equipment	Must be carried out on amenity land

	Will include play areas, multiple use games areas (MUGAs) and skate parks
Allotments management	General up keep and maintenance including:- <ul style="list-style-type: none"> • Boundary fencing • Gate and hedges • Tracks and footpaths • Car parks • Grass area
Open Cemeteries and closed churchyard maintenance & upkeep	Must be carried out on all cemeteries and closed churchyards. Includes memorial inspections
Weed control	Must be carried out on amenity land Responsibility for all weeds on service delegated areas
Bus shelter maintenance	Litter collection and cleaning (graffiti, fly posting, moss etc. removal)

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