



Hampshire ALC Key Topic Note – Taking on devolved Assets from principal authorities

This key topic note is a guide for Councils considering taking on assets and those specifically devolved down from principal authorities.

As principal authorities look to devolve assets to parish and town councils, or for those councils considering autonomously requesting asset transfers, there are various things to consider on both the process and ongoing liability. Assets can be land and/or property and services.

Whatever the circumstances of the approach, parish and town councils need to give due consideration with reference to all aspects of taking on additional assets.

Benefits

- Decision-making is devolved and locally controlled.
- Management, quality and improvements to assets are more responsive to local interests.
- Residents then contribute directly to the costs for their area via the parish or town council precept.
- In the event of local government reorganisation, transfer of assets would ensure that control is retained at parish and town council level and not centralised to a remote unitary council or combined authority.

Actions

When considering taking on additional assets, prepare a list and map all the assets within the parish, which may include some or all within the list as below:

- Countryside sites
- Allotments
- Cemeteries
- Play areas
- Recreation Grounds/Playing fields
- Community Centres
- Bus shelters
- Public toilets

Consult with the community to identify the assets that are well used, and/or needed by the community and identify those they would not want to lose.

Carry out due diligence for taking on the asset and consider all financial and management responsibilities:

- Financial costs associated with the transfer (including legal fees, if applicable)
- Initial and ongoing maintenance
- Staffing costs; both hiring new or taking on staff through transfer (TUPE).
- Replacement or additional equipment costs

Considerations

Ensure that the Council understands the law and its legislative duties and powers and obligations as landowners.

Be aware of any covenants on the land. Check contracts for any covenants attached to the land. Covenants are contractual obligations, and advice should be sought if there is any risk of breach.

Duties and Liabilities as Landowners

Council landowners have the same duties by law as private landowners, including a duty of care.

- **Occupiers Liability**
Councils must ensure that any occupied land is in a condition that would not cause injury or damage to anyone who could be expected to enter on land which they own or occupy
- **Negligence**
Councils must ensure that no activities are allowed to take place that may cause injury or damage to anyone who could reasonably be expected to be at risk.
- **Nuisance (Public and Statutory)**
Public Nuisance
A public nuisance is an action that creates a risk of serious harm to the public or obstructs the public from exercising their rights. It's not just about affecting an individual; it must impact the public or a significant proportion of it. Examples include actions that endanger public health, safety, or property, or that interfere with the public's enjoyment of common spaces or rights.

Statutory Nuisance
A statutory nuisance is a legally defined interference with the use and enjoyment of property, or that is prejudicial to health, that is prohibited by statute or law. It's more than just an annoyance; it's a substantial and unreasonable disturbance, often involving issues like noise, smells, dust, or smoke. Statutory nuisances are typically addressed by local authorities, who may issue notices and take enforcement action.
- **Squatters**
Councils must not allow others to occupy their land and acquire a possessory title against the council.

Additional considerations on ownership of Assets

- Councils have a fiduciary duty to make the best use of their assets in the interests of the residents.

- Unused and underused land should be reviewed on a regular basis to ensure that all land and assets within their ownership are in effective use for public purpose. If not, disposal should be considered, so that the proceeds can be used more effectively for the public benefit. See [Local Government Act 2003, Section 11](#) for use of capital receipts.
- Local councils, parish meetings in a parish without a separate parish council and community meetings without a separate community council are also required to keep a register of assets in their ownership, which includes land.

Essential Resources

[Practitioners Guide March 2025](#)

[Open Access Land: Management, rights and responsibilities](#) (Gov.Uk website)

Other useful information relating to this subject can be found in the Hampshire ALC Member Area:

Hampshire ALC Key Topic: Allotments

Hampshire ALC Key Topic: Insurance and Risk Management

Hampshire ALC Key Topic: Risk Management – Contractors

Hampshire ALC Key Topic: Control of Dogs

Hampshire ALC Key Topic: Local Council Powers

Hampshire ALC Key Topic: Unauthorised encampments

This document reflects our advice based on our understanding of the current legislation and guidance and our knowledge of the sector. It is not however intended to be formal legal advice.

For more complex issues we are able to obtain initial specialist advice on legal, employment, financial and planning matters as part of your membership fee. Please contact us to access this service.