

Cydweithio i gael y gorau o'r ystad gyhoeddus  
Working together to make the best use of the public estate

## Community Asset Transfer

A Community Asset Transfer (CAT) happens when a Public Sector Body transfers the management and/or ownership of a property asset to a community council or Third Sector/Community Group. This will sometimes include the delivery of any associated services.



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# 1. What is a Community Asset Transfer (CAT)?

Asset Transfers mean that the community can own and manage facilities that might otherwise be closed down if the Local Authority or other Public Authorities are unable to fund them any longer. Sometimes, the transfer will be less than market value if there is a local social, economic or environmental benefit.

CATs for community ownership and asset development have been successful in Wales, but there are also cases where a lack of experience or insufficient research and preparation have turned an asset into a liability.

CAT supports community empowerment by ensuring that land, buildings or services are retained or transformed and then used for public benefit through community asset ownership and management.

This best practice guide is designed to provide advice to help manage the process and minimise the risks associated with Community Asset Transfers. The guide will:

- Set out the background to land and building Community Asset Transfers (CATs);
- List some of the more common risks and suggest ways that these can be minimised and managed;
- Direct people to resources and organisations that can be used by Local Authorities and Community-based Organisations;
- Highlight some practical examples where transfers have successfully delivered local benefits; and
- Identify key factors for success.

This guide is issued under the provisions of section 60 of the Government of Wales Act 2006, which enables Welsh Ministers to “do anything which they consider appropriate” to achieve the promotion or improvement of the social and economic well-being of Wales.

This guide is designed for:

- Decision makers within Transferring Bodies, primarily Public Bodies such as local government, who are planning to transfer assets in their area;
- Town and Community Councils (TCCs) and Community-led Third Sector Organisations (such as Community Associations, Voluntary Organisations, Charities, Social Enterprises, Community businesses, Development Trusts, Co-operatives and Mutual Organisations), who are looking to apply for a CAT; and
- The wider public who want to benefit from an Asset Transfer and the services it provides to the community.

There is no ‘one size fits all’ to CATs, and this guide sets out a framework which can be applied to the broad range of transfers and emphasises a number of key themes.

- CATs should be community led and meet community need and demand;
- All details of the transfer, including governance and financial implications, must be transparent; and
- The project/transfer should be sustainable.

Successfully managing a building or service carries risks, which can be particularly challenging to Town and Community Councils, Third Sector and Community-led Organisations with limited experience and funding. However, this should not be seen as a barrier as long as all parties are open about the risks and are willing to work together to find ways to manage and mitigate them. This guidance is intended to help organisations to take on these roles and encourage Public Authorities to engage openly and innovatively with their communities about the future of the assets.

**The key message from this guide is that both parties to any potential transfer enter into the process, in a transparent way, with a mutual understanding of the long term implications and opportunities, as well as the fullest picture of the impact of these implications on the potential future success or failure of the venture.**

There are a number of supporting documents to accompany this guide, which you might find useful; they are:

- An Example of the Community Asset Transfer Process;
- Case Studies;
- Due Diligence;
- Example Forms and Templates; and
- Further Information and Useful Links.

## 1.1 Why are CATs important?

### The National Vision

The Welsh Government has a mission to deliver prosperity for all and a long-term plan to create a Wales that is prosperous and secure; healthy and active; ambitious and learning; and united and connected.

Wales continues to face an unprecedented and difficult financial climate for its Public Services and the Third Sector with on-going cuts to the overall budget from the UK Government. This has left some communities struggling to prosper and feeling isolated and the Welsh Government has a key role in stimulating economic growth in areas of greatest need.

When they are made available, public assets can help communities and leaders to improve local areas. The expertise within the Public and Third Sectors can secure the long-term use of property assets and services and develop thriving communities across Wales. Community and Social Enterprise Organisations are often directly engaged with the people served by our Public Sector assets and can provide a perspective that a Public Authority might not be able to develop by itself.

There are many examples of services and enterprises across Wales that have transferred assets and as a result are run successfully by communities. As new models for public service delivery emerge, there is a need to ensure that the transfer of assets and services is done in a sustainable way.

The Welsh Government's strategy for Wales, *Prosperity for All* (2017), integrates the work of the whole Public Sector to deliver prosperity for all, something that cannot be achieved by economic growth alone. It is about every person in Wales enjoying a good quality of life, living in a strong, safe community and sharing the prosperity of Wales.

The Welsh Government recognises the importance of community assets and has a specific commitment *“to work with communities to **help maintain local facilities that bring people together**, including pubs, libraries, museums, green spaces, arts centres and leisure centres, helping communities take ownership of assets in their local area when this is the best option.”*

### **Transferring Assets**

Public Authorities in Wales are not obliged to undertake community Asset Transfers and Local Authorities have to initiate the process themselves.

### **Drivers for Transferring a Community Asset**

- As public spending is under pressure, many Public Authorities want to find different ways to deliver local services which concentrate on efficiencies and cost savings.
- For many TCCs, community-based organisations, social enterprises and voluntary organisations, this will create opportunities to take some control/management/ownership of facilities, which will create strong foundations for future growth by bringing in local skills and understanding.
- Public Bodies may consider Asset Transfers when there are financial pressures or changes in strategy.

As with any proposed changes, there are possible risks, but there are also a significant number of opportunities. CATs could enable a public building to thrive or turn a marginal service into a viable community resource and enterprise, although they are **not** appropriate for all communities, as much will depend on local circumstances and the viability of the asset that is being transferred.

CAT is a methodology that must centre on mutual benefit with a joined up vision to achieve a shared goal. When a property resource is transferred, the Community Group and the Public Body need to work together in order to progress. With this approach, the ambition is that all Public Bodies will deliver better services in conjunction with their communities through greater levels of engagement. This should open up opportunities for communities – TCCs or community led Third Sector Organisations or a combination of both – to own and manage local services where this is appropriate, following in the Welsh tradition of cooperatives and mutual organisations.

The successful transfer of community assets can only be achieved by working across sectors. The Welsh Government has a vision for stronger, more empowered Local Authorities which can provide bold, determined and focused local leadership. Councils need space to flourish, to be innovative and to work effectively together, with partners at national, regional, local and 'ultra local' levels and clear lines of accountability to citizens.

This allows TCCs, community bodies or organisations to demonstrate the viability of their proposals and their capacity and capability to appropriately manage and develop the asset.

Support to build strong, self-reliant and resilient communities comes in many forms and Community Asset Transfers have a large part to play in this. Enabling communities to take control of the things that are important to them is an essential and welcome step forward in delivering efficient services across Wales. The transfer of assets into community ownership and management is recognised as a means of investing in regeneration and delivering positive social economic and environmental change.

### The Well-being of Future Generations

The Well-being of Future Generations (Wales) Act 2015 is one of the key levers to help Public Bodies come together, to work collaboratively and to deliver improvements for the well-being of people and communities across Wales.

The Act came into force on 1 April 2016 and aims to improve the social, economic, environmental and cultural well-being of Wales. Public bodies listed in the Act, including ones that want to transfer assets, need to think more about the long-term by involving people and communities and collaborating with partners from all sectors to take a more integrated and sustainable approach.

An integrated approach could help secure innovative solutions that safeguard against problems both now and for future generations. The Act only applies to specific Public Bodies and not Third Sector Organisations directly, but many TCCs and community organisations have embraced the vision and principle within the Act to improve their local well-being.

### The Seven Well-being Goals are:

- A prosperous, low carbon Wales
- A Wales which maintains and enhances a biodiverse natural environment
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A culturally vibrant Wales with its own language
- A globally responsible Wales



A Community Asset Transfer can have a positive impact and Public Bodies can demonstrate their involvement and collaboration with people and organisations.

Asset recipients will need guidance and support to understand how they can use the five ways of working to ensure their contribution to the goals of the Act, even though they are not subject to the duty to do so.

## The five sustainable ways of working are:



### Long Term

The importance of balancing short-term needs with the need to safeguard the ability to also meet long-term needs.



### Prevention

How acting to prevent problems occurring or getting worse may help Public Bodies meet their objectives.



### Integration

Considering how the Public Body's well-being objectives may impact upon each of the well-being goals, on their other objectives, or on the objectives of other Public Bodies.



### Collaboration

Acting in collaboration with any other person (or different parts of the body itself) that could help the body to meet its well-being objectives.



### Involvement

The importance of involving people with an interest in achieving the well-being goals, and ensuring that those people reflect the diversity of the area which the body serves.

## 1.2 Regulatory Framework

Local Authorities have the power to dispose of land in various ways. However, official guidance from the UK and Welsh Governments state that any Public Authority disposal should be appropriately handled and accounted for.

The disposal of public assets is usually carried out on a commercial basis due to the general legal requirement that a Public Authority must achieve best value for the property, which is sometimes known as a 'best consideration' value.

However, there will be circumstances where a Local Authority may dispose of an asset at below full market value, usually when a disposal will benefit the community through the "promotion or improvement" of the economic, social or environmental well-being of the area or when the value of the asset disposed is less than £2 million. This is permitted by the 'General Disposal Consent' (Wales) December 2003<sup>1</sup> provisions issued under the Local Government Act 1972.

Local Authorities should also be aware of the specific requirements regarding playing fields contained within "The Playing Fields (Community Involvement in Disposal Decisions) (Wales) Regulations 2015". For further information about these regulations, visit: <https://gov.wales/topics/localgovernment/publications/playing-fields-regulations-2015/?lang=en>

Ystadau Cymru (previously known as the National Assets Working Group) has an influencing role across the Welsh Public Sector and encourages best practice collaborative asset management. It recommends that Public Bodies should highlight asset availability within the wider Public Sector before offering the asset to the open market and it does not preclude Community Groups proactively approaching councils if they have an interest which might lead to a business proposition. Ways to promote collaboration include highlighting an interest in a specific asset or the likelihood of disposal and publishing information on Local Authority websites, through local advertisements, or from listings in 'Available Public Property in Wales' on Space Cymru; for more information, visit: <https://e-pims.cabinetoffice.gov.uk/SpaceCymru/Home.aspx>

It is necessary to consider the legalities surrounding State Aid, a European Commission term which refers to assistance from a publicly funded body, given selectively to organisations engaged in economic activity. However, providing that all parties are aware of the regulatory framework, there will often be a solution on how best to proceed. The Welsh Government website provides more information and advice: <http://gov.wales/funding/state-aid/?lang=en>

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<sup>1</sup> The General Disposal Consent (Wales) 2003 ("the General Disposal Consent") apply to the following authorities in Wales: county and county borough councils, community councils, fire authorities constituted by a combination scheme, police authorities and national park authorities. Authorities have powers, under sections 123 and 127 of the Local Government Act 1972 ("the 1972 Act"), to dispose of land in any manner they wish provided that the disposal is not at an undervalue. A disposal will be at an undervalue where the proposed consideration is less than the best that can reasonably be obtained.



## 2. Who Can Apply for a Community Asset Transfer (CAT)?

### 2.1 Potential Applicants

- (i) Town and Community Councils (TCCs) are the grassroots level of local governance in Wales and work to improve the quality of life and environment for people in their area. There are currently 735 TCCs throughout Wales and they are accountable to local people and have a duty to represent the interests of the different parts of the community equally. There are about 8,000 Town and Community Councillors in Wales. Provision of support and advice on CATs for Community Councils is available via One Voice Wales, the national representative body for the TCC sector, which runs bespoke training courses on service devolution. Over 80 per cent of the TCCs are members of One Voice Wales, although training provision is available to all TCCs in Wales.
- (ii) The Third Sector comprises independent, non-government organisations that are driven by value rather than profit, and motivated by social, cultural or environmental objectives. Any surpluses are reinvested to further their social aims for the benefit of the people and communities they serve. These organisations include charities, voluntary/community organisations, social enterprises and mutual associations.
- (iii) Community based groups, whether well-established or recently formed, can apply for community assets.

When Transferring Bodies develop their guidance on CAT, they usually define the type of organisations that can apply and they will set out clear minimum requirements in terms of:

- Governance structures;
- Skills and capacity;
- Mandatory documents required e.g. constitution, annual reports and accounts; and
- CAT policies should be sufficiently flexible and should not exclude organisations providing that they meet any required governance, legal and sustainability criteria. In cases where the legal structure is new, with no history or track record, there can be challenges with respect to risk, procurement and due diligence considerations. However, this should not exclude new organisations from getting involved in the CAT process and Transferring Authorities/Bodies should ensure that their procedures are flexible enough to incorporate these requirements.

Third Sector Organisations, whether well-established or formed specifically for the purpose of taking over a specific asset, can access support and guidance for CAT from their County Voluntary Council and/or from the Wales Council for Voluntary action (WCVA); the Development Trust Association Wales; Wales Cooperative Centre and other social enterprise support bodies.

### 3. Guidance for the Transferring Authority/Body

As a matter of good practice, a CAT policy should form part of the asset management planning process. Links to existing CAT policies are detailed in the 'Further Information and Useful Links' document. As part of any strategy around potential transfers or disposal, an authority should alert its Local Town or Community Council, Third Sector Organisations and Community Groups, at an early stage if it might dispose of an asset of potential community value. This gives interested parties the time to consider whether or not the asset, and potentially the services which are delivered through it, is something they might wish to apply to take over; and to organise accordingly.

Consideration should be given to how the CAT policy will link to the Authority's existing policy framework and planning process. This will include corporate documents such as their Corporate Plan (which may contain their well-being objectives under the Well-being of Future Generations Act), Local Well-being Plans, and property strategies including Corporate Asset Management Plans, Acquisitions, and Disposals policies.

When considering an Asset Transfer to a TCC, Community Group or Third Sector Organisation, the Transferring Body/Authority should ensure that it has a robust but flexible policy and that use proportionality and common sense as Asset Transfers will vary in type and scale. As an example, a small community centre with little need for capital works would have different requirements to an older larger asset that requires significant work and investment by the recipient.

Although the principle of a Community Group taking over a service or building is attractive, the Authority has a responsibility to ensure

that the proposal adheres to the Authority's strategy and that any Town or Community Council, Community Group or Third Sector Organisation expressing an interest is fully aware of the liabilities and responsibilities it will face.

#### **How to Identify Assets that are Suitable for Transfer**

Town and Community Councils and Third Sector Organisations have identified that it can be difficult to identify which assets are available for Asset Transfer. If specific assets are to be excluded from the CAT policy these should be clearly identified; for example, some Local Authorities/Public Bodies specifically exclude properties held for economic development purposes. The policy should manage expectations in respect of assets that have the potential to generate significant capital receipts if sold on the open market. For example, reference could be made to the Transferring Body's need to generate capital receipts to help fund capital projects. Suitable assets can be identified in various ways and the policy should be flexible enough to deal with all circumstances.

#### **Asset Management Planning Processes**

Public Bodies/Local Authorities should have a robust asset management planning process that includes regular reviews of their property holdings. The disposals process should include those assets identified as surplus to requirements that have the potential to be transferred to the community.

Where appropriate, assets identified as suitable for community transfer should be flagged through a "Window of Opportunity" process to ensure fairness and transparency. The Ystadau Cymru and the Welsh Government's 'Estates Co-ordination and Land Transfer Protocol' recommend

highlighting availability on e-PIMS<sup>2</sup>.

Interested organisations should be offered the opportunity to submit an Expression of Interest (see below) within a defined time period, which will be dependent on the asset and nature of the transfer. This could be on a restricted basis to specific organisations, particularly if an element of service delivery is also being transferred. However, there will also be circumstances where the Transferring Body/Authority may wish to engage with a specific organisation and the policy should make provision for such cases.

### **Strategic Context**

It is important to ensure that any Asset Transfer proposal supports the Transferring Body's aims and priorities, and that it accords with the financial priorities against which it will be judged.

### **Due Diligence**

Due diligence will help protect the Transferring Body as well as the Community Group/ Third Sector Organisation, its clients and the community.

Key elements of the due diligence process include:

- Is the asset one which can be CAT transferred? If not, state this at the outset;
- Has the Transferring Body/Authority considered the effect of a CAT on the opportunities for people to use the Welsh language; or how the Welsh language will be treated no less favourably than the English language? Has consideration been given to how the decision could be made so that it has positive or increased positive effects; or so that it does not have adverse effects or a decreased adverse effect on the opportunities for people to use the

Welsh language? How can it be assured that the Welsh language is treated no less favourably than the English language post transfer? This also relates to service provision currently provided through the medium of Welsh and how these services will continue;

- Has a risk assessment been undertaken to assess whether a CAT is the right process for managing the asset; and what would happen to the asset if a recipient of the transferred asset were to cease to exist in the future?;
- What measures could be put in place ahead of the transfer to safeguard this, such as contract terms, covenants and an assessment of ability of the recipient organisation to provide services in Welsh? How will this be monitored post transfer?;
- How would a transfer impact on any future opportunities for use of adjoining retained assets?; and
- Ensure that the TCC/Community Group/ Third Sector Organisation is relevant, coherent and sustainable in order to provide some reassurance of its ability to manage the asset and deliver the desired benefits.

There will be a need to check factors like governance, financial resilience, relevant knowledge and skills on the Town or Community Council and/or Community Group and experience of delivering in the community.

The actual running costs could vary as particular groups may have the ability to reduce some outgoings such as using volunteers for cleaning/caretaking or being entitled to a reduction in rates. To accurately forecast any future costs, recipients should also be provided with condition surveys,

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<sup>2</sup> The Electronic Property Information Mapping Service (e-PIMS) is a UK Government IT platform designed to capture information about Public Sector property. It is available to Public Sector Organisations in Wales to assist them with strategic property management planning by recording and sharing information on who holds what and where.

historical maintenance and running costs, and relevant legal contractual information regarding service providers to the property and the energy rating and consumption data for the asset. Any repairing responsibilities, planning conditions, restricted covenants, access requirements etc., particularly the legal liabilities, must be clear and fully understood by the group.

It is important to note that there is no standard CAT and the information for each asset will be different. Some CATs are just the property asset which in some cases could have been vacant for a number of years, while others come with the existing service being delivered out of the asset and transferred, for example, Equality Impact Assessments will be very pertinent. Local Authorities or other Transferring Bodies should endeavour to provide whatever information is available and relevant in each case. This should be done without compelling the Transferring Body to provide a list of documents or data that might not exist or have any relevance to a particular circumstance.

The 'Due Diligence' document provides more detail.

### **Links to Service Delivery**

In these challenging times of financial pressure, Community Groups, Town or Community Councils may need to take on a service from a Public Body to sustain local services and there are many examples of successful community led service delivery. The Transferring Organisation and Bodies and the Community Groups/Organisations considering taking over an asset and any associated services should be able to answer the following questions:

- Who will be the target audience/beneficiary of the service?;
- How will modernisation and improvements to the service be achieved?;
- Is the service statutory or non-statutory?;
- How will the Community Group/ Organisation ensure that it provides services and opportunities to members of the community through the medium of Welsh and treats the Welsh language no less favourably than the English language?;
- Are there any legal standards for delivery of the service, such as those imposed under the Welsh Language (Wales) Measure 2011?;
- What level of accommodation is required?;
- What budget is available and how are building running costs likely to be met?;
- Are there any other buildings (public or privately owned) that might facilitate the service delivery more appropriately?;
- How are premises costs going to be met? (Provide the existing provision and costs as a guide for the Community Group or Town/Community Council);
- What budget savings or efficiencies, if any, will the service achieve from the proposal?;
- What property cost savings, if any, will the council achieve from the CAT?;
- Has a disposal case been completed by the Transferring Body and made available for consideration by the potential recipient body?;
- Has an Environmental Impact Assessment been completed by the Transferring Body and made available for consideration by the potential recipient body?;
- Has an Equalities Impact Assessment been completed by the Transferring Body and made available for consideration by the potential recipient body?; and

- Will there be any ongoing financial, legal or management support from the Transferring Authority? This is particularly important if there are any ongoing liabilities linked to the transfer, such as annual maintenance, depreciation costs, statutory liabilities (listed buildings) or TUPE liabilities including future redundancy and pension liabilities.

Services are delivered by people as well as for people. If existing Council employees work in the building that is being considered for transfer, they will, in some circumstances, automatically transfer to the receiving organisation under the 'Transfer of Undertakings (Protection of Employment) Regulations 2006 and 2014 (TUPE)'. Their employment rights, including their contractual terms and conditions, will be protected by this type of transfer.

Transferring Authorities should resolve TUPE matters prior to the transfer of an asset. It is important that all parties involved seek legal advice to fully understand all existing and possible future legal obligations, costs and risks. ACAS provides independent legal advice on TUPE which can be accessed for free by recipient bodies.

Pensions can be a particular issue when staff transfer and HM Treasury has issued the Fair Deal for Staff Pension's Policy (October 2013), which applies to various bodies. It states that transferring workers should be "provided with continued access to the relevant public service pension scheme rather than be offered a broadly comparable private pension scheme".

The Department for Communities and Local Government (DCLG) is responsible for the Local Government Pension Scheme. In 2016, it consulted on changing relevant regulations to reflect the provisions of the new Fair Deal in respect of employees in the scheme. At the time of publication, the legislation requires that pension arrangements for staff of County or County Borough Councils<sup>3</sup> transferred as part of a Community Asset Transfer must have arrangements which "*are the same as or count as being broadly comparable to or better than*" those that the employee had prior to the transfer.

The Welsh Government expects that Local Authorities that take forward a Community Asset Transfer will adopt the principles of the New Fair Deal. They must ensure that any transferred staff retain membership of their existing Public Sector pension by means of admitted body status or other appropriate means

### **Corporate Plans**

It is vital that all services within an Authority are aware of the potential benefits to a community of carrying out Asset Transfers and how individual transfers can support Well-being plans. These should link to the Authority's existing policy framework and planning process and include corporate plans and property strategies including Corporate Asset Management Plans, Acquisitions and Disposals policies.

The relevant links to further information can be found in the 'Further Information and Useful Links' document.

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<sup>3</sup> whose pension provision is secured under the Welsh Authorities Staff Transfers (Pensions) Direction 2012

## 4. Guidance for the Applicant

When a Town or Community Council or Community Organisation/Group applies for a Community Asset Transfer, it becomes familiar with the process agreed by the Transferring Authority. This should be considered a critical part of the up skilling required prior to a potential transfer. See section 4.3 for further guidance on this.

Organisations need to be mindful of the scale of the commitment required to maintain the asset successfully post transfer and sustain the organisation in the long term. This is very different to the effort required to secure the transfer of the asset from an Authority. Focus is placed on the transfer process itself, but Transferring Authorities will need to give careful consideration about measures or processes to support recipient organisations following the transfer. This will provide organisations with a level of sustainability and longevity for the transferred asset.

### 4.1 The Application Criteria

In the first instance the applicant will need to consider the following:

#### **a) The applicant will need to satisfy the following criteria:**

- Legal entity that is incorporated and provides limited liability for the stakeholders involved, this would usually be in the form of a not for profit company limited by guarantee; society; CIO (Charitable Incorporated Organisation) or CIC (Community Interest Company). It must have authority to enable the management and ownership of buildings, for trading and the provision of services;
- Exist for community/social/environmental benefit;

- Non-profit distributing – any surpluses must be reinvested to further its community benefits/social aims;
- Demonstrate good governance through open and accountable processes, with appropriate financial and audit controls;
- Demonstrate engagement with the community;
- Demonstrate it has the skills and capacity to effectively deliver its services and manage the asset;
- Provide services or engage in activities that deliver economic, environmental or social benefits to the community;
- Provide copies of the organisation's annual report and accounts if available;
- Have strong links with the Local Community and directly benefit people living there; and
- Benefit as wide and diverse a range of local people as possible, demonstrate an inclusive approach to all members of the community and use a decision-making process influenced by local people.

#### **b) The asset**

- A legal interest owned by the Transferring Authority from which the organisation can demonstrate community benefit;
- The asset is in the freehold/leasehold ownership of the Transferring Body; and
- Applications for multi-uses and co-location of services should be encouraged. Single interest uses will only be considered where there is a significant business case to do so.

### **c) Proposed Use**

- There should be both a need and demand for the proposed activities and consideration should be given as to whether or not these are being satisfactorily addressed by another organisation;
- The proposed use will support the delivery of the Transferring Body's well-being objectives and/or local Well-being plan;
- The proposed use will maximise opportunities for income generation to ensure sustainability;
- The Town or Community Council or Third Sector Organisation has established how much space it requires to deliver its proposals, and how they will make optimum use of the asset; and
- The proposed use will deliver extensive and inclusive reach into the community and will be open to all.

### **d) Business Plan and Finance**

A robust business plan clearly stating the operation, service provision, financial, and organisational capacity of the organisation to deliver the proposed services/activities and manage the asset is critical to the success of any transfer.

A business plan and financial forecast template, with guidelines, is provided in the 'Forms and Templates' document.

The extent and detail of the business case will vary with the type of assets/services being transferred. The due diligence process needs to be proportionate to the proposed asset/service transfer, the proposed use of the asset, the current governance model, and the capacity and track record of the recipient community organisation.

### **Applications from Existing Tenants**

Many Local Authorities and Organisations already use their buildings as community assets. Community Organisations that own a Local Authority building may wish to vary their terms of occupation, for example by increasing the lease term to meet grant funding requirements or formalising licence arrangements. If the Community Organisation is not in sole occupation of the asset, or the use is narrow and restrictive, Local Authorities can reserve the right to offer it as a restricted or general "Window of Opportunity" to encourage collaboration and co-location. One example of this is single use sports pavilions such as rugby, football and bowls which can provide more intensive use by creating a multi-disciplinary sports associations.

### **Exploratory Applications**

Local Authorities/Public Bodies might receive enquiries from Community Organisations about assets that have not been previously identified as available for transfer. The CAT policy should be flexible enough to deal with such applications and consider using the "Window of Opportunity" process to ensure transparency and fairness. These requests are covered within the pre-application process detailed in section 5.

A suggested template for a pre-application is provided in the 'Forms and Templates' document.

## 4.2 Terms of Transfer

CAT usually involves a transfer at less than full market value, either at a reduced cost or nominal consideration. However, there may be situations where a Local Authority will require a market value. An “asset” can include land or buildings. The type of tenure granted can include:

- Management Agreement;
- Licence to occupy;
- Short lease;
- Long lease; and
- Freehold transfer.

Many organisations taking on the asset will be reliant on grant funding to support the development of the asset. Some grant funders will require a certain tenure like a freehold, or a relatively long length of lease, for example, over 25 years. They may also require that the Asset Transfer is at a nil consideration. Most community assets where the recipient body is taking a lease on an asset are transferred on full repairing and insuring terms and this can be included as a presumption within the CAT policy. However, there may be circumstances when responsibility for some repairs, usually external, is retained by the Transferring Body/ Authority in exchange for a reduced rent rather than a nil consideration. It is therefore recommended that the policy is flexible rather than prescriptive in terms of tenure, the value of the transfer and repairing obligations.

This flexibility will also allow the Transferring Body/Authority to suggest alternative terms of occupation if the applicant does not meet all their criteria. This could include a shorter lease term than originally requested, particularly if the organisation is newly established or there are concerns over longer term sustainability and funding.

The Transferring Body needs to consider the length of the lease and whether it is appropriate to transfer the freehold. This decision should be influenced by the amount of capital that the incorporated body would need to develop the building and the business idea. If a large loan is needed the loan provider would expect a higher payment for an asset to protect its investment.

## 4.3 Engagement and Consultation

Applicants are encouraged to engage with national and/or Local Third Sector Representative Organisations to prepare their EOIs and full business plans. These organisations may have specialist staff that can advise on issues such as the development and viability of the asset, governance, sustainability, energy efficiency, the business model, funding and investment finance.

This will help to reduce the number of unsuccessful applications and help Community Organisations to determine whether an asset is viable and fit for purpose. The following organisations can also help to promote opportunities for Asset Transfers within their membership:

- Wales Council for Voluntary Action (WCVA);
- County Voluntary Councils (CVCs);  
Coalfields Regeneration Trust;
- Wales Co-operative Centre;
- Development Trusts Association (DTA) Wales; and
- One Voice Wales (OVW).

Engagement and support from elected members is important as they will have links with local groups and evidence of community need and demand. It is also important that they understand the consequences of community owned assets and sustainability.



It is recommended that Local Authorities involve members when developing their policies, and provide training and information to explain how the process works in practice.

Local Authorities or any other Public Body should also consult with TCCs about their Community Asset Transfer proposals. Ideally this should be done at a strategic level as part of a Local Authority's asset management and review processes. This will enable them to better plan which assets, and possibly services, they may be interested in rather than having to respond to individual opportunities. TCCs should also be consulted about individual EOI applications that are received within their boundaries.

#### 4.4 Funding

This document is not intended to provide detailed advice on funding mechanisms.

Town and Community Councils can seek advice via One Voice Wales on potential sources of funding including Public Service Loans. Town and Community Councils can borrow funds for capital purposes. Visit [https://gov.wales/borrowing-approvals-guidance-community-and-town-councils?\\_ga=2.179749729.490051251.1569501122-1957828168.1561996144](https://gov.wales/borrowing-approvals-guidance-community-and-town-councils?_ga=2.179749729.490051251.1569501122-1957828168.1561996144) for further information.

Third Sector Organisations are advised to contact their local CVC or the WCVA which hosts a funding page: <https://www.wcva.org.uk/funding>.

There are, however, a number of possible sources of funding available, including:

**Charity Bank:** (<http://www.charitybank.org/>) is a savings and loans bank with a mission to use money for the common good. It offers loans of up to £2.5m to community

enterprises and organisations with a social purpose in Wales. Loans are available to help buy property, develop community facilities, fund social projects, and assist day-to-day operations as you wait for grant funding to arrive.

**Robert Owen Community Banking:** (<http://www.rocbf.co.uk>) is a not-for-profit finance company working to build more resilient local economies in Wales. It provides loans and investment finance opportunities to create assets and legacies for local communities and help to unlock sustainable income streams.

**Welsh Government Community Facilities Programme:** (<https://gov.wales/community-facilities-programme-guidance-community-and-voluntary-organisations>) is a capital grant scheme and can be used to improve community facilities which are well used by people in the community. Grants are available at two levels; small grants of under £25,000 and larger grants of up to £250,000.

**Triodos Bank:** (<http://www.triodos.co.uk>) provides financial advice for positive social, environmental and cultural change.

**Grant Finder:** (<http://www.grantfinder.co.uk/>) allows you to subscribe to its services in order to find a grant that may be applicable to you.

**Unity Trust Bank:** (<https://www.unity.co.uk>) is a bank for organisations and businesses that create community, social or environmental benefit in a financially sustainable way, offering specialist banking and finance to organisations that have a positive impact on their communities.

**WCVA – Social Investment Cymru:**

(<https://www.wcva.org.uk/funding/social-investment-cymru>) operates a number of repayable finance and loan schemes to support the purchase or investment in a CAT.

**Building Communities Trust:**

(<http://www.bct.wales/>; <https://www.biglotteryfund.org.uk/building-communities>) is a new Trust that supports people and places in disadvantaged communities in Wales to develop solutions to local issues and create stronger communities through a £15 million Trust Fund.

**Heritage Lottery Fund:**

<http://ahfund.org.uk/wales>

**CADW:** <https://cadw.gov.wales/advice-support?lang=en>

**The Architectural Heritage Fund:**

<http://www.ahfund.org.uk>

**Co-operative and Community Finance:**

(<http://communityshares.wales.coop/>) lends to those that practice the principles of co-operation, social ownership and sustainable development.

**Community Shares:** (<http://communityshares.org.uk>)

can also provide a potential source of finance for Third Sector and Community Organisations. The Wales Co-operative Centre and DTA Wales can provide guidance on the application of this and for community shares initiatives involving a CAT.

High street banks can also be a source of funding for projects, particularly when they offer strong commercial potential.

## 5. Community Asset Transfer Process

It is important that each Local Authority/ appropriate Public Body has a Community Asset Transfer policy or guidance that sets out a transparent framework of how they will consider and process Community Asset Transfer applications.

Appropriate due diligence by the Transferring Body/Authority should not be seen as a hindrance but rather as a positive action to guarantee the long term resilience of the asset and a support for stronger, more sustainable and enterprising communities.

### 5.1 Application Process

Any formal Community Asset Transfer policy should set out clearly the application process and provide approximate timescales for each step. A staged formal application process is recommended and standard application forms should be provided to ensure consistency and transparency.

A staged process is beneficial to the applicant and the Local Authority/Transferring Body.

It ensures that valuable resources are not spent on preparing and assessing a full business case that has little chance of succeeding. It also provides an early opportunity to highlight areas of weakness that could be strengthened to improve the chances of the full business case succeeding.

**Pre-application/Stage 1 Expression of Interest** - Pre-application discussions should be encouraged to discuss options, suitability and the potential scope of any transfer.

### **Expression of Interest Stage 2 –**

The submission of a formal initial Expression of Interest (EOI), which should provide the Local Authority/Transferring Body with enough information to decide whether the application should be taken further and not create too much additional work for the applicant organisation. The information requested in the EOI template/form should include as a minimum:

- The name and contact details of the organisation;
- The type of organisation;
- The structure and purpose of the organisation;
- provide details of any experience of managing assets/services;
- The details of the asset and type of transfer;
- The proposed uses of the asset;
- The benefits to the community, organisation (transferee) and Local Authority/Transferring Body;
- Details about partners, collaborators and stakeholder and evidence of engagement with the community; and
- Any initial financial information/forecasts to support the proposal.

**Stage 3 Full application** – The submission of a detailed business plan

- **The project** – Information about the organisation, values and mission, together with the aims and objectives for the project;
- **The market** - Information about the community the project is seeking to serve, existing and target markets, details of community consultations, the potential benefits of the project and opportunities for collaboration and building partnerships;

- **Business Growth and Development**

- A review of the organisation using the SWOT analysis; the business development strategy over a five-year period;

- **Management and Operations -**

- Governance, staffing details, proposals for developing community activities, details of operating the asset and service, details of any relevant policies and procedures, and details of the day-to-day operations;

- **Development/Marketing Plan** – Details of the building and maintaining the profile of the project/organisation; potential opportunities for expansion;

- **Financial Plan** – Planned income for 3-5 years, expenditure profile, income generation, fundraising strategy; and

- **Risk Analysis** - A clear appreciation of project risks and proposed mitigation plans.

#### **Stage 4: Recommendation, Decision and Completion**

- Submission of final application with recommendation to the decision-making body; and
- Decision report and formal transfer.

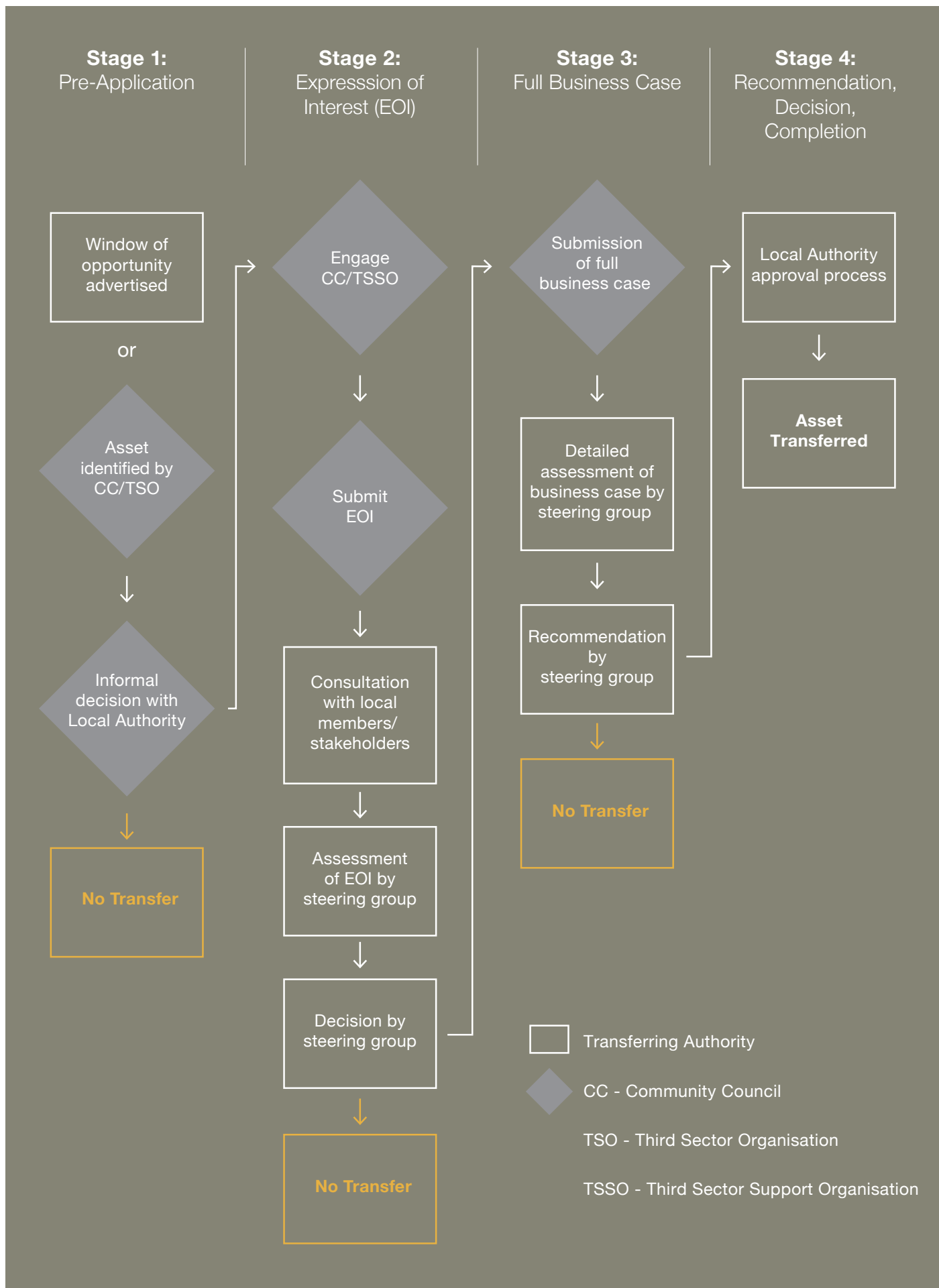
## **5.2 Timescales**

The timescales should be realistic, and provide the applicants with sufficient time to prepare any required documentation. A timescale of six months from submission of the EOI to an executive/cabinet or delegated approval decision to transfer is usually sufficient unreasonable, although more time may be necessary. Flexibility is again important, as the timescales may also link to external dependencies such as decisions on grant funding. All parties should understand that large transfers can take 12-24 months to resolve complex issues and develop complete funding packages.

Factors will include property market conditions, internal resources and the availability of external support for Town and Community Councils, as well as the availability of support provided by CVCs and other Third Sector Support Organisations. The purpose of this section is not to prescribe a set process, but to highlight areas for consideration and suggest good practice in order to try and encourage consistency across Authorities. The guidance also seeks to set recommendations for timescales to minimise the risk of lost opportunities due to protracted and lengthy processes.

The 'Example of Community Asset Transfer Process' document provides further information about the suggested process and indicative timescales.

# Community Asset Transfer Process



### 5.3 Decision-Making

It is important that any decision process around CAT is transparent and that applications are assessed against clear criteria. This is particularly important when dealing with competing applications from different organisations for the same asset. Where considered appropriate, particularly where a Transferring Body may have a number of potential CATs in the pipeline, it may be helpful to establish a dedicated steering group to make any required decisions and recommendations. These will be subject to any existing approvals process within the Acquisitions and Disposals Policy as well as the policy making standards relevant to the appropriate Public Bodies/ Local Authorities. Ideally, the steering group should be chaired by the relevant official from the Transferring Body who has overall management responsibility for the Community Asset Transfer process. This is often the Chief Estates Officer or equivalent.

Representation should also include relevant council officers who can advise on legal, financial, HR (TUPE), planning and any service related issues. It is also recommended that the steering group includes representation from at least one of the Third Sector Support Organisations and that One Voice Wales/ WCVA, as sector representatives, are updated with developments so that support is made available when necessary. The appointment of a member “champion” for Community Asset Transfer to the steering group should also be considered.

When assessing whether a Stage 2 Expression of Interest application should proceed to a Stage 3 full business case, relevant criteria should include:

- Benefits for the community, the Third Sector Organisation and how they relate to delivering council priorities;
- The ability to provide services through the medium of Welsh;
- The governance, structure and history of the organisation;
- The potential benefits in terms of added value, social, economic, environmental and cultural benefits;
- The proposed level of discount and terms of transfer; and
- Any legal issues arising such as title restrictions.

It is important that any decisions are communicated to the applicant in a timely manner, and that clear reasons are provided if the application cannot proceed to stage 3.

The stage 3 business plan should also be evaluated by the steering group with a recommendation on whether it should proceed to transfer. In addition to a more detailed assessment of the criteria considered in the EOI, this should include:

- Risks in relation to financial and organisational capacity, governance and the ability to manage the asset;
- A track record of delivering similar community services projects and enterprises;
- How far the proposed use will ensure extensive reach into the community engagement;
- How opportunities to ensure sustainability will be maximised e.g. income generation;
- Financial management arrangements;

- On larger and other transfers, which would include income generating schemes, additional support from people/bodies with a business background should be available to help assess the viability of the proposal;
- Compliance with State Aid, Transfer of Undertakings (Protection of Employment) Regulations (TUPE) and EU Procurement Rules if applicable;
- Any legal restrictions e.g. restrictive covenants and claw back provisions; and
- Monitoring and evaluation arrangements e.g. Service Level Agreement.

There are a number of supporting documents to accompany this guide, which you might find useful; they are:

- An Example of the Community Asset Transfer Process;
- Case Studies;
- Due Diligence;
- Example Forms and Templates; and
- Further Information and Useful Links.