

AMP 2021: Community Asset Transfer Guidance document

Community demand, need and lead



Supporting BCBC aims and priorities



Positive community asset transfer



Transparency



Sustainability

Cyngor Bwrdeistref Sirol



BCBC Community Asset Transfer Guidance

This draft guidance is intended to replace the original Community Asset Transfer (CAT) Guidance endorsed by Cabinet in 2010. It reflects the changing financial climate faced by the Council and the increasing empowerment of local communities. The Guidance forms an integral part of the Councils Asset Management Plan process.

Who should read these Guidelines

These guidelines are primarily to inform Bridgend County Borough Council (BCBC) practice but will also be useful for Community and Town Councils and Third Sector Organisations (TSOs). For ease of reading, the Council means BCBC and reference made to TSOs will include Town and Community Councils. These Guidelines are designed to help TSOs understand the Council's approvals processes and decision making criteria. Templates for applications and key stage procedures are also set out.

Application of the Guidelines

Due to the diverse nature of Council property assets and variety of CAT requests, there cannot be a "one size fits all". A consistent and principled but fluid framework is therefore required. The Guidance is centred on 4 key principles:

- ▶ **Community led to meet community demand and need**
- ▶ **Any asset transfer must support Council aims and priorities**
- ▶ **Transparency including governance and financial implications**
- ▶ **Project sustainability**

Proportionality and common sense is required in application of the Guidelines. A short lease or licence for example, may require less detailed assessment criteria than a 99 year lease for example. A transfer of a small area of land will not need the depth of business planning that a significant building would. Risk cannot be totally eliminated but must be identified and managed appropriately.

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Document Consultation

	Corporate Property Group
	Strong Communities Connected Services
	Cabinet

Document Author

Property services Bridgend County Borough Council

1. Purpose of this policy

The purpose of this policy is to encourage property asset transfers to the third sector. It supports the Council's Asset Management Plan (AMP) 2021 and AMP 2021 Disposals Strategy.

The objective is:

To positively enable, where appropriate, asset transfer from BCBC to the third sector.

An appropriate transfer is one which:

- **is community led to meet community demand**
- **supports Council's aims and priorities**
- **is sustainable in the long term**
- **has positive financial implications for the Council**

2. Definition of Community Asset Transfer (CAT)

CAT may take a variety of forms but in essence involves a temporary or permanent transfer of stewardship and/or ownership to the third sector. The method of transfer may include:

- management agreement
- short term licence to occupy
- short or long lease
- freehold transfer (exceptional circumstances)

3. National policy context

A number of national reports, reviews and guidance encourage local authorities to engage with the third sector with a view to a transfer of community assets. Welsh Government's 'Community Asset Transfers in Wales - A Best Practice Guide' March 2015 provides essential guidance for both local authorities and TSOs.

4. Local policy context & links to other strategies

BCBC's property strategy seeks to rationalise its property portfolio and obtain the best outcome to help deliver Council objectives. This requires balancing best price considerations and reduction in revenue liabilities against the benefits of alternative use including asset transfer. This is supported by a disposals strategy that works to achieve the best disposal outcome for BCBC.

CATs clearly support BCBC's new priority themes. These include:

- **Helping people to be more self-reliant** – “Taking early steps to reduce or prevent people from becoming vulnerable or dependent on the Council and its services”.
- **Smarter use of resources** – “Ensuring that all our resources (financial, physical, human and technological) are used as effectively and as efficiently as possible, and supporting the development of resources throughout the community that can help deliver our aims.”

5. The Council’s commitment to Community Asset Transfer

The Council is committed to using CATs where appropriate. However with limited staff resources, it is necessary to **prioritise** applications which most benefit:

- a) the Councils financial position and
- b) impact in the community in terms of:
 - Economic and social enterprise leveraging in additional investment
 - Community empowerment
 - Retain and/or enhance local services that may be lost due to budget restraints and service cuts
 - Building capacity and encouraging a more sustainable third sector
 - Supporting delivery of the Council’s corporate objectives including community led regeneration

This policy sets out a framework to support decision-making and an agreed method of assessing all requests for transfer of assets. The Council will however, support Third Sector Organizations (TSOs) through the CAT process in a number of ways which include:

- Guidance from a dedicated CAT officer
- Supplying relevant information including:
 - running cost data
 - copies of surveys
 - building plans
 - any other relevant information
- A listing of assets potentially suitable for transfer in a ‘Community Asset Schedule’ will be made available and regularly updated.

6. The 4 Principles of BCBC Asset Transfer

In order to grant a CAT, 4 principles will need to be in evidence.

1. Community need

There must be strong links with the local community. Evidence of equality of access will be needed to be demonstrated. Members of the community should be able to influence proposed operations and decision-making. There must be a clear demand for the project.

2. Support Council Aims and Objectives

The proposed transfer must support the delivery of the Council's community strategy and corporate priorities.

3. Transparency

The decision making process is designed to show accountability and is clearly laid out in the section of Framework for considering CATs below. The process needs to be flexible in line with the complexity of applications and available Council staff resources. Decisions will be transparent and communicated clearly.

Monitoring

The CAT officer will undertake an annual review for Members detailing progress of the CAT programme.

4. Sustainability

The applicant is required to demonstrate its ability to manage the asset effectively via a robust business case. This should include an assessment of the financial and organisational capacity of the organisation and includes:

- Income generation proposals for example through hiring of space and facilities.
- The need for the activities being proposed and consideration of whether or not this is being provided by other organisations.
- Efficient use of the facilities in terms of space and time periods.
- Clear management structure showing how premises will be managed on a day to day basis including meeting any statutory requirements.

7. Identifying suitable assets for CAT

To promote the use of CATs, the Council invites interest in the following types of property/sites:

Priority 1	Public Toilets Parks Pavilions Bus shelters Community Centres
Priority 2	Playgrounds Playing fields (excluding School playing fields) and bowling greens
Priority 3	Miscellaneous Assets

A '**Community Asset Schedule**' will list potentially suitable assets from the above categories and be publicly available. **Not included** in this list are those assets which the Council wishes to retain for operational, financial or other purposes. These would include for example income generating commercial/industrial sites, assets reserved for development or those capable of generating a capital receipt if sold.

General applications

Community bodies with a proposal and searching for a suitable property will be given the Community Asset Schedule to enable them identify a potential property. If suitable asset/s are identified, the applicant should then submit an **Expression of Interest (EOI)** shown in Appendix 1 which will be considered against the CAT process **Stage 1 criteria** detailed in Appendix 2.

Priority of applications

Preference will be given to:

- TSOs already in occupation of a building
- Collaborative applications for co-locating TSOs. In such cases, 'umbrella' organisations or partnerships should be considered by applicants.

Where several expressions of interests are received, all will be considered rather than dealing on a "first come first served basis".

8. Framework for considering requests for CATs

Applicants are advised to seek support from organisations such as Bridgend Association of Voluntary Organisations (BAVO), Wales Co-operative Centre or, for Town and Community Councils, One Voice Wales. A useful list of resources and links is attached at Appendix 7.

Requests will be considered where the criteria contained in the **Application Criteria** (Appendix 3) are met. The process for considering applications is detailed in Appendix 2. The degree to which the criteria are met, the condition

of the asset and the requirements of potential funders will be used to determine the most appropriate type of transfer agreement.

A short term lease or Licence may be more appropriate initially as part of a phased or temporary transfer whilst additional capacity and confidence is built.

Central to this process is a requirement for an outline and detailed **Financial Plan and Business Plan**. Illustrations, with guidelines, are provided at Appendix 4 and 5.

9. Decision processes

The process should be flexible and easy to understand for TSOs. The extent and detail of the business case required may vary with the type of assets/services being transferred. Regard will need to be given by the Council to any staff matters such as TUPE, redundancy and management of change issues.

The Councils due diligence process should be proportionate to the scale and complexity of the proposal.

- For large or complex CATs, approval is required from **Strong Communities Connected Services Group (SCCS)**. The Council chairs this group which consists of the key public sector organizations in Bridgend. **Cabinet** approval will also be obtained if appropriate.
- For more straight forward CATs, approval shall be given by **Corporate Property Group (CPG)**.
- Note that for property transactions, Council approval is also usually required via the **delegated powers** scheme from Group Manager Property Services.

The CAT officer shall submit the reports with assistance and advice from Property Services and Legal Services and HR if required.

CPG will be responsible for assessing both **Stage 1** and **Stage 2** applications. CPG will be chaired by Group Manager Property Services and members will include senior officers from the key service directorates. Consultations will be made with Council Members and TSOs as required.

The decision will reflect assessment of the detailed criteria (Appendix 3) including:

- BCBC asset requirements - whether the asset required for future service delivery
- Financial benefits to the Council
- Wider benefits to Council and community

Where appropriate any final decision resting with the Corporate Director Resources and Corporate Director Communities

10. Property and legal considerations

CATs will need to deliver the best disposal option for the Council and only leases, licenses or management agreements will be granted. Freehold transfer will be only be considered in exceptional circumstances and require Cabinet approval.

The length of lease offered will be determined on case by case basis having regard to the particular circumstances of the project, strength of the applicant and sustainability of the business case. As a guide, grant funding for improvements will require a minimum of 20 year lease.

Rent/market values

Community uses do not usually attract commercial revenues. TSOs are often dependent on grant funding and are generally unable to pay market rents/prices for property. By being aligned to Council priorities, the Council's 'return' is therefore based on the social, economic or environmental benefits. The Council however needs to justify and record any decision to transfer a property at an undervalue with reference to:

- A valuation of the property to identify any value being forgone.
- the 'General Consent 2003' which enables local authorities to proceed with transfers at an undervalue
- State Aid provisions to ensure either none is given or to ensure that it is permitted and the Council protected.

A **peppercorn** or discounted rent or any other disposal at below market value may well be justifiable but should not be assumed. A decision to grant concessionary terms needs to be justifiable and recorded by Property Services. Cabinet approval may be required depending on the circumstances. In determining the rent, consideration will be given to:

- Value of the property
- The management and running costs of the property
- TSO financial position
- Extent of benefit to the Council in terms of revenue savings and/or service delivery.

The onus falls on the TSO to demonstrate that concessionary terms are needed. This will best be provided by reference to their business plan or other financial projections.

Other lease terms/conditions

A lease/licence seeks to move responsibilities to empower the tenant in terms of self-management. A list of the main terms to be included in a lease/ licence is shown at Appendix 6.

APPENDIX 1 – EXPRESSION OF INTEREST (EOI) TEMPLATE

Community Asset Transfer – Stage 1 Expression of Interest

Before submitting an application applicants are encouraged to discuss their options, suitability and the scope of community asset transfer with the CAT Officer (01656). These informal discussions will help to prepare for the process of making a formal application for transfer.

The Council recognises that developing the business case and preparing an application for community asset transfer can be both time consuming and resource intensive for applicants. **Stage 1** of the application process has therefore been designed to assess whether any potential application will meet the Council’s suitability criteria. The Council will not be able to process the application unless all the information relevant to the asset transfer is received. It is simple to complete and should avoid spending time and valuable resources on an application that is unlikely to be approved. Applicants that meet the Council’s suitability criteria will be invited to complete a more detailed **Stage 2 application**.

1. Please provide details of the organisation making the application

Name of Organisation:	
Address of Organisation	
Applicant Name:	
Position:	
Telephone Number:	
Email Address	
Date:	

2. Type of organisation

What type of organisation are you e.g. registered charity?	
Do you have a formal constitution, governance document or set of rules?	

3. What is the structure and purpose of your voluntary or community organisation?

How many people are involved in your organisation?	Management Committee	
	Full Time Employees	
	Part Time Employees	
	Volunteers	
When was the organisation established?		
What is the purpose and main activities of your organisation?		
Does your organisation have experience of managing an asset? If yes please provide details		

4. Please tell us about the asset (land or buildings) you are interested in?

Name and address of asset	
If this is a speculative application please provide details of the type of asset and location required	
Type of transfer you are interested in including level of discount and proposed length of lease	

5. Please tell us about the proposed use of the asset (please continue on a separate sheet if required but no more than one side of A4)

What do you want the asset for?	
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What benefits will this bring to the organisation, the local community and the Council?	

7. Please tell us about any partners, collaborators and stakeholders

If you are proposing any arrangements with public sector or other third sector partners please provide details	
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Please return the completed form to:

**Community Asset Transfer Officer
Communities Directorate
Bridgend County Borough Council
Civic Offices
Angel Street
Bridgend CF
Telephone:
Email:**

APPENDIX 2 - CAT PROCESS

APPLICATION STAGE	REQUIREMENTS	DECISION MAKER	TARGET TIMESCALES
STAGE 0 Informal pre-application discussion	Before submitting an Expression of Interest, applicants should discuss their proposals with the CAT officer	N/A	N/A
STAGE 1 Submit formal Expression of Interest (EOI) (Appendix 1) to CAT Officer	<p>Outline business case prepared by TSO</p> <ul style="list-style-type: none"> • Details of the organisation • Governance arrangements • Proposed use of asset and benefits • Benefits to community, TSO and Council • Support from community/partners <p>If the application is supported, the TSO will be invited to proceed to Stage 2. If the application is not supported a full explanation will be provided.</p>	<p>Corporate Property Group / Strong Communities Connecting Services Board</p> <ul style="list-style-type: none"> • relevant Ward Members and Town/Community Council • relevant partners 	12 weeks from receipt of Expression of Interest
STAGE 2 Business Plan The Council will provide any relevant asset information available Support may be available from BAVO, and Wales Co-operative Society	<p>Detailed Finance and Business Plans prepared by TSO – (see illustration at Appendix 4 and 5)</p> <ul style="list-style-type: none"> • Needs analysis and projected utilisation • Type of transfer sought and why • Planned outcomes and benefits and how they will be measured/monitored • Details of any proposed partnership/collaborative working • Track record for delivering service/managing property • Capacity to manage the asset • 3 year plans for revenue and capital funding – projected income and expenditure including costs of managing and operating the asset • Financial sustainability and forward planning 		Full business plan to be submitted within a 12 weeks of Stage 1 approval if possible
STAGE 3: Full assessment of Business Plan	<p>Report by CAT Officer to Corporate Property Group or Strong Communities Connecting Services Board (complex/larger cases) with a detailed assessment of:</p> <ul style="list-style-type: none"> • Benefits for community, the TSO and how they relate to delivering Council priorities • Risks in relation to financial and 	<p>Corporate Property Group</p> <p>Strong Communities Connecting Services Board</p>	12 weeks from receipt of full Business Plan

	<p>organisational ability to manage the asset</p> <ul style="list-style-type: none"> • Potential loss of capital receipt and existing income or other opportunity cost to the Council arising from the transfer • Establish level of discount (if applicable) • Terms of transfer and any legal issues • Monitoring arrangements e.g. Service Level Agreement 		
<p>STAGE 4:</p> <p>Property transaction approval and completion of agreement</p>	<p>Approval via Councils Delegated Powers or by Cabinet.</p> <p>Instruct Solicitors</p> <p>Legal completion</p>	<p>Group Manager Property Services</p> <p>Cabinet</p> <p>Legal Services Manager</p>	<p>As required</p>

Appendix 3 - Application Criteria

a) The Applicant must be:

A Community/Town Council (CC) or a Third Sector organisation (TSO), which satisfies 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 company, society, CIO (Charitable incorporated Organisation) or CIC (Community Interest Company). It must enable the management/ownership of buildings and 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 within or available 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.
- Strong links with the local community and directly benefit the people of the county borough.
- Benefit as wide and diverse a range of local people as possible and demonstrate an inclusive approach to all members of the community.
- Decision making process influenced by local community.

b) The Asset

- A legal interest owned by the Council from which the organisation can demonstrate community benefit.
- The asset is in the freehold/leasehold ownership of the Council.
- Applications for multi-uses and co-location of services should be encouraged.

c) Proposed Use

- There is both a need and demand for the proposed activities and consideration is given as to whether or not this is being satisfactorily addressed by another organisation.
- The proposed use will support the delivery of the Council's corporate priorities.
- The proposed use will maximise opportunities for income generation to ensure sustainability.

- The TSO has established how much space it requires to deliver its proposals, and how they will make optimum use of the asset.
- 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 and service provision and 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.

Appendix 4 Finance plan illustration

Note:	Income	Phase 1	Phase 2		Phase 3		
		Current	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
1	Local authority 'start-up' grant						
2	Other grant aid						
3	Rent & room hire						
	Large Hall						
	Small Hall						
	MUGA						
4	Other income						
	Vending machines						
	Café & shop sales						
	Other						
5	Volunteer time in kind						
6	Own fundraising						
	Total	£121,708	£86,800	£95,800	£107,680	£95,500	£112,500
	Expenditure	Current	Yr 1	Yr 2	Yr 3	Yr 3	Yr 3
7	Staff salaries & on-costs						
	Centre Manager						
	Caretaker						
	Cleaner(s)						
	Volunteer time in kind						
8	Staff & volunteer training & devt						
9	Caretaking / cleaning costs						
	Cleaning materials						
	Refuse collection						
	Security						
10	Utilities						
	Water						
	Electricity						
	Gas						
11	Rates						
12	Repairs and maintenance						
13	Transport & travel						
14	Centre supplies						
	Tools & materials						
	Equipment hire						
	Office furniture & IT						
	Medical, clothing & PPE						
	Telephones						
	Internet						
15	Centre promotion						
	Printing & publicity material						
	Advertising						
16	Vending machine rental & supplies						
17	Insurances and professional fees						
	Property insurance						
	Public liability insurance						
	Performing rights soc. Fees						
	Accountancy fees						
	Legal fees						
	Architects fees						
	Consultancy fees						
18	Other - sundries & miscellaneous						
	Total	£121,708	£79,300	£84,225	£92,175	£92,175	£92,175
	Surplus (defecit)		£7,500	£11,575	£15,505	£3,325	£20,325
							Accumulated reserves £58,230

Appendix 5 Business plan illustration

Executive summary	p.5
1. Our project	p.7
<ul style="list-style-type: none"> ○ About ANOther Community Organisation ○ Our values and the mission of our organisation ○ The aims and objectives of our community project 	
2. The market	p.9
<ul style="list-style-type: none"> ○ About our community ○ Existing & target markets ○ Results of community consultations ○ Knowledge of other existing community services & facilities ○ Opportunities to build partnerships 	
3. Business growth and development	p.11
<ul style="list-style-type: none"> ○ A review of our organisation (SWOT Analysis) ○ Our business development strategy <ul style="list-style-type: none"> ▪ Phase 1 – Project design (Year 0) ▪ Phase 2 – Centre development (Years 1 - 3) ▪ Phase 3 – Centre expansion (Years 4 & 5) 	
4. Centre management	p.13
<ul style="list-style-type: none"> ○ Our management committee ○ Staffing and the role of community volunteers ○ Development of community activities ○ Service delivery & programming ○ Policies & procedures ○ Day-to-day operations 	
5. Centre development	p.14
<ul style="list-style-type: none"> ○ Current facilities ○ Potential opportunities for refurbishment & expansion 	
6. Marketing plan	p.14
<ul style="list-style-type: none"> ○ Building our profile ○ Promoting our services 	
7. Financial plan	p.15
<ul style="list-style-type: none"> ○ Five year income & expenditure (cashflow projection) 	

- Income generation (sales forecasts)
- Fundraising strategy

8. Risk analysis

p.17

- Risk log
- Plan for minimising risks

Appendices:

Appendix1: Community Consultation and Engagement Plan

Appendix 2: Desk top survey of other community facilities

Appendix 3: SWOT Analysis of ANOther Community Organisation

Appendix 6 - Lease/ licence conditions

Term – the length of the lease or licence will be dependent on the circumstances. 20-30 years will be suitable for a TSO obtaining capital funding. Transitional arrangements may be required until a TSO is able to proceed on a longer basis. Short term Licence or lease up to 2-3 years may suffice.

Rent – a concessionary or peppercorn rent depending on the property and applicant's financial circumstances see Guidance above.

Repairs – the tenant will usually be responsible for all repairs and health and safety. Variations to this will be considered on their merits.

Running costs - the TSO will be responsible for all running costs of the asset.

Assignment – will not be permitted in view of any concessionary terms granted. The right to hire space will be given provided no exclusive rights are given to users.

Insurance – for long term leases, the tenant is to insure the building. For short term arrangements, the Council will insure and recharge the premium to the tenant. All tenants should insure for contents and public liability.

Use – use of the premises will be restricted in line with the community aims of the TSO.

Application of income – all income must be reinvested in the running of the facility. The Council reserves the right to review the rent if income is not applied in this way.

Insolvency – if the event that the tenant becomes insolvent, the council will have the right to determine the lease or buy back the lease at £1.

Professional costs – each party to bear their own costs incurred in the lease process.

Other – as required by the Council's solicitor.

APPENDIX 7 LIST OF RESOURCES AND CONTACTS

The links below provide useful information, advice, resources and case studies on owning, managing and developing community assets.

CAT Resources

Community Asset Transfers in Wales – A Best Practice Guide - Welsh Government
<http://gov.wales/topics/people-and-communities/communities/community-asset-transfer/best-practice-guide/>

Development Trust Association Wales – Asset Development Portal
<http://assetsportal.dtawales.org.uk/resources/>

Community Matters
<http://www.communitymatters.org.uk/>

Locality
<http://locality.org.uk/>

Ethical Property Company
www.ethicalproperty.org.uk

Planning Aid Wales
<http://www.planningaidwales.org.uk/>

My Community Space
<http://www.mycommunityspace.org.uk/>

Support Organisations

Bridgend Association of Voluntary Organisations (BAVO)
<http://www.bavo.org.uk/>
Tel: 01656 810400
Email: bavo@bavo.org.uk

Wales Council for Voluntary Action
<http://www.wcva.org.uk/home>

The Wales Co-operative Centre
www.walescooperative.org
Contact: Glenn Bowen
02920 807103
glenn.bowen@walescooperative.org

Communities First Bridgend
<http://www.commfirstbridgend.com/About-Communities-First>
Tel: 01656 643514
Email: communitiesfirst@bridgend.gov.uk