

# **FLINTSHIRE COUNTY COUNCIL**

## **COMMUNITY ASSET TRANSFER GUIDANCE NOTES**

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# 1. PURPOSE OF GUIDE

This guide is for individuals or groups who want to lease buildings or land from the County Council for community benefit. This is known as Community Asset Transfer (CAT) and is defined more fully as follows:

“the leasehold transfer of a Flintshire County Council asset to an organisation with a social purpose and who plan to use the asset for the benefit to the local community”.

The guide explains the Councils policy on Community Asset Transfer, how interested individuals or groups can apply, how applications will be processed and how support can be accessed.

Much of this guide is intended to encourage communities to come forward with ideas and then develop these ideas into more detailed plans. Please note the first stage in this process is a very simple expression of interest. This is intended to encourage anyone with a good idea to come forward. Based on this expression of interest, support and information will be provided to help develop this idea. Without your ideas it is impossible for organisations who may be in a position to offer support packages and provide the relevant information that may assist the further growth and development of your idea.

The County Council recognises that in transferring the ownership or stewardship of an asset to local communities they can play a valuable role in supporting and sustaining those communities in Flintshire. The Council has buildings and land that are used for a variety of community and public purposes. Through the transfer of assets to community management, Flintshire County Council aims to:

- a) Increase the range and number of publicly owned assets managed by the community, providing an increasing asset base for local communities to shape services and which meet their needs, and;
- b) Generate new sources of income to sustain local community services and maintain local assets.

The Council is committed to working with community groups and local people to ensure that asset transfer to the local communities of Flintshire is successful and sustainable in the long-term.

Further details are available from Flintshire Local Voluntary Council (FLVC). You can contact FLVC by telephone on 01352 744000 or by email at [info@flvc.org.uk](mailto:info@flvc.org.uk).

The information is also available on the Council's website at:-

[http://www.flintshire.gov.uk/en/Resident/Community-Asset-Transfer-\(CAT\)/Community-Asset-Transfer-\(CAT\).aspx](http://www.flintshire.gov.uk/en/Resident/Community-Asset-Transfer-(CAT)/Community-Asset-Transfer-(CAT).aspx)

## 2. KEY STAGES OF COMMUNITY ASSET TRANSFER (CAT) PROCESS

There are three key stages to Community Asset Transfer:

Stage 1 – Expression of Interest: This can be made by an individual or community group.

Stage 2 – Business Model Application: This can only be made by a community group and is the formal application stage of this process.

Stage 3 – Completion and Transfer of Asset: The final stage in the process which will be between the Council and an appropriate organisation.

### **Stage 1 – Expression of Interest**

A list of all assets that can be considered in line with the Councils Community Asset Transfer policy has been provided to the Clerks of all Town and Community Councils.

Alternatively, interested parties may wish to contact Sian Speed on 01352 704511 or by email at [sian.speed@flintshire.gov.uk](mailto:sian.speed@flintshire.gov.uk)

Expressions of Interest will be invited from 3<sup>rd</sup> November 2014.

If you are an individual or group with an idea on how an asset on this list could be used, the first stage is to complete an Expression of Interest Form. This form is included at Appendix 1.

The Expression of Interest Form has been developed to help gain an understanding of ideas from within local communities on how our assets could be used by those communities and how their use will benefit the wider community. This may include ideas on different approaches to how the assets are used to those currently in place.

Expressions of Interest must be made by submitting an Expression of Interest form (Appendix 1 of this guide) to FLVC. The Expressions of Interest form is also available to download from the Council's website or available by email from FLVC (contact [info@flvc.org.uk](mailto:info@flvc.org.uk) including the reference CAT EOI in your email subject).

Applications will be acknowledged in writing and all expressions of interest will be published on the Councils website to ensure that this is an open and transparent process.

Expressions of Interest Forms will be reviewed by a CAT Panel once a month. This Panel will include representation from Flintshire County Council and Flintshire Local Voluntary Council.

The Forms will be reviewed with consideration for how the following has been demonstrated:

- Potential Community Benefit;
- Capacity relating to sustainability of the project, i.e.,
  - How will the project be funded initially and over future years?
  - How do you propose to pay the outgoings / management costs of the property / asset?

- Do you propose to use the asset in a different way to how it is currently being used?
- Engagement with the local community, i.e., who have you spoken to about your idea? for example, local councillor; other community groups, current users of the asset, etc.

Where appropriate, organisations or individuals will then be invited to progress to stage two.

### **Stage 2 – Business Modelling**

At Stage 2, the Council will ask you for all the information that they will need to make a decision on whether an asset can be transferred. It should be noted that the range of information required will vary depending on the circumstances of the transfer.

Flintshire County Council is committed to the successful transfer of assets to community based groups but does recognise that running a building can be an onerous commitment. It is anticipated that local groups may be deterred from engaging in Community Asset Transfer due to being apprehensive as to the possible risks, financial and otherwise. To assist the Council will endeavour to share any information it holds regarding the assets condition and operating costs.

Applicants will be asked to provide a business model and supporting documents. This will include:

- Evidence of a proven local need for the asset;
- Details of planned outcomes and benefits anticipated as a result of the asset transfer;
- A plan for how much space is required and its potential usage;
- 5-year plans for revenue and capital funding, plus cost projections for managing and operating the asset;
- Any financial resources that the asset transfer will release or attract;
- Financial sustainability and forward planning;
- How the CAT applicant will invest in and maintain the property asset, including a specific plan for meeting Health and Safety and energy efficiency responsibilities;
- Evidence of a community governance / management structure with the capability to sustain the property asset;
- Evidence of a track record for delivering services and / or managing property.

Business Models will be evaluated by the Full CAT Panel every three months. Once organisations have passed through the Expression of Interest stage more details will be provided about the requirements of the business model and how this will be evaluated.

### **Stage 3 – Completion and Transfer of Asset**

On receipt of delegated approval, the Council's legal adviser will be instructed to prepare the transfer documentation as set out at appendix 4, subject to any specific terms as may be agreed.

Any agreement, if it is considered appropriate, will include a provision for the return of the land or building should a venture be unsuccessful and cease. In accepting a return,

however, the Council will not normally assume any responsibilities or liabilities of the community based group including financial commitments and responsibility for any repair previously identified in the schedule of condition which will be attached to the lease agreement at the commencement of the lease.

### 3. FLINTSHIRE COUNTY COUNCIL COMMUNITY ASSET TRANSFER (CAT) - POLICY OVERVIEW

Flintshire County Council's (FCC) Community Asset Transfer (CAT) policy was approved in September 2012.

Under the Local Government Act 1972 General Disposal Consent, Local Authorities have discretion to dispose of surplus property at less than best consideration subject to Member approval (provided that the difference between the prices is less than £2million). This allows for the consideration of bids from Community and Voluntary Groups for FCC owned property.

The public assets owned by Flintshire County Council are one of its major strengths. However, the council must balance the requirement to dispose of surplus or under utilised assets to provide funding for its' capital programme with the need to regenerate local communities and encourage social enterprise through the alternative use of its buildings and land assets.

**Asset categories** that are appropriate for Community Asset Transfer include:

- Community centres
- Youth centres
- Children's play areas
- Visitors / tourist attractions
- Public toilets
- Street lighting
- Former civic buildings
- Former schools

Flintshire County Council recognises however that community ownership can play a part in enhancing the local environment and providing opportunities for all sectors of the community. The Council has land and buildings that are used for a variety of community and public purposes. **Benefits** can include:

- Buildings used more frequently and effectively
- Extra funding opportunities
- Local decision making

Community Asset Transfers can also help to **promote public value** through:

- Community empowerment
- Encouraging a sustainable voluntary and community sector
- Encouraging social enterprise
- Delivery of corporate priorities
- Value for money

More detail about how the Council will complete the transfer of an asset is provided in the proposed Heads of Terms document at the back of this guide. This information will be discussed with applicants at stages 2 and 3 of the process.

Final business models are welcomed from community, voluntary and social sector based groups which meet the following minimum **criteria**:

- Are community led with strong links to the local community with members able to influence its operation and decision making;
- Are a voluntary community or social sector organisation;
- Are properly constituted, e.g., a registered charity;
- Have a constitution which allows the ownership/management of buildings and / or the provision of services;
- Able to demonstrate good governance;
- Has sufficient skills and experience to manage a property and deliver services in line with the authority's core purpose and corporate outcomes;
- Are able to demonstrate a policy of diversity - the proposed use will ensure extensive reach into the community and be inclusive;
- Be able to show a commitment to community benefit in line with the authority's core principles;
- Are able to show an evidenced need and demand for the activities being proposed within the local community;
- Are looking to maximise opportunities to ensure sustainability, e.g., through income generation, social enterprise, etc;
- Are able to demonstrate management experience and show how the premises will be managed on a day-to-day basis;
- Have a clear business model for managing the asset.



## 4. BEFORE YOU START

### Stage 1: Expressions of Interest – Ideas

All you need at the first stage is a good idea that has the potential to be turned into a business model. Both the Council and FLVC will be happy to talk to you about your initial ideas at this stage.

### Stage 2: Business Model

When you have a good idea with potential you will need to consider some of the practicalities listed below to turn this into a business model. FLVC will provide support and signpost you to other support agencies at this stage.

It is important that you have a **Plan** outlining your aims and objectives, and demonstrating that your organisation is prepared to take on the responsibilities of leasing the property. A plan should include:

- Members and list of activities;
- How the asset will be operated and for what purpose;
- Who will be responsible for managing the service;
- Who will be responsible for maintenance and upkeep of the building or land;
- Latest account details;
- Financial information indicating expenditure and future income projections;

**Financial Issues** - Your Business Plan should include a financial plan, outlining the funding for your organisation and how you will fund the premises. In addition to costs such as rent, managing a building will also incur a number of other costs including:

- **Rates**
- **Utilities** - electricity, telephone bills, water, and so on.
- **Insurance** - This will be applicable whether you intend to buy or rent the building and you will need to check whether this is to be your sole responsibility, or for the landlord to arrange. You will also need to obtain your own public liability insurance.
- **Repairs and Maintenance** - potentially both major and minor. This will be applicable whether you intend to rent or lease a building
- **Staff** - e.g. cleaning and care taking
- **Security**
- **Administration**
- **Potential alterations**
- **Income**

Further financial considerations include sustainability and forward planning, i.e., whether you have the funding to enable you to sustain the project and building in the future. For example, if you are relying on a source of funding that comes to an end in the next six months, what are your plans / provision for securing funding after this period.

You may also need to consider start-up costs for taking up the management of the building including any necessary repairs or alterations.

**Management Structure** - Leasing buildings or land is a major commitment for your organisation, which involves considerable responsibilities and should not be underestimated.

One key consideration will be whether occupying a building will enhance your ability to achieve the aims and objectives of your group / organisation or in reality mean that you have less time to focus on your core activities.

You need to ensure that you have a clear management structure and have thought out how the building will be managed on a day to day basis, in addition to how the building will be financed, usage, and so on. This will include key questions such as:

- Do you have a clear constitution and established Management Committee / Board / Team?
- Have you got a clear process for making decisions in relation to the building e.g., deciding on repairs / maintenance works?
- Have you considered whether you have enough members to be able to manage the building effectively, e.g., who will be responsible for room bookings, site problems, compliance with legal issues such as Health and Safety, and so on?
- Have you considered who will be responsible for caretaking, and cleaning responsibilities?
- Who will take responsibility for managing payments for utilities bills, rates, and so on?

**Costs** - Before you apply with your business model it is important to consider whether you are able to meet some of the costs that may be associated with the transfer. It is difficult to specify what these may be as each transfer will be negotiated on an individual basis, however it may include:

- Feasibility study fees
- Architects fees
- Legal fees
- Consultancy fees
- Planning fees

## **5. FREQUENTLY ASKED QUESTIONS**

### **What is a Community Asset Transfer?**

A Community Asset Transfer is the leasehold transfer of a Flintshire County Council asset to an organisation with a social purpose and plans to use the asset for the benefit of the local community.

It is the transfer of the management and ownership of public assets (buildings or land) through the granting of a lease to a community based organisation who in return commit to providing community benefits via its use.

### **What is an asset?**

For the purpose of Community Asset Transfer (CAT) an asset is a building or other property or a piece of land owned by Flintshire Council (FCC). Your local Town and Community Council have been advised on assets within your area which FCC are inviting Expression of Interests.

### **How do I register my interest / make an application?**

Complete the Expression of Interest form within this pack and return it to FLVC. A copy can be found at Appendix 2.

### **What information do I need to provide for in an Expression of Interest:**

At this stage all that is required are the initial details regarding your idea for the use of the building.

### **What happens after I have submitted an Expression of Interest:**

Your proposal will be recorded, assessed by FLVC and then reported to the CAT Panel (EOI) for approval to progress to Stage 2, the business modelling stage. The Panel will also assess the subsequent support to be made available for the business modelling stage.

### **What happens if after the CAT Panel (EOI) have met?**

You will be contacted shortly after the CAT Panel have met with the outcome. If the Panel consider that your idea is of interest you will be offered the support of FLVC to prepare your business model.

### **What information will be required for a Business Model?**

Your Plan should include a financial plan, outlining the funding for your organisation and how you will cover the costs of managing and maintaining the premises. FLVC will be able to advise you further on this.

### **Is there any other information needed to have at the Business Model stage?**

You will need to show that you or your organisation is in a position to take a lease and that there are good management practices in place. Plans for fund-raising and community involvement should be included.

### **How much will the Council charge to transfer the asset to our organisation / group?**

Leases granted as a CAT will generally be at a low or peppercorn rental to reflect the commitment of the organisation/group to the continued use of the asset for community benefit.

**How long will a lease be for?**

A lease for a CAT will generally be 27 years.

**What responsibilities will the organisation/group have for the asset?**

The organisation/group will take full responsibility for all the out-goings of the asset transferred, for example rates and utility costs as well as maintenance, repair, statutory testing and insurance.

**Will the Council undertake a condition survey on an asset for a transfer?**

The Council will share the most recent information it may have regarding the condition of the building. It may however be recommended that interested parties appoint their own qualified surveyor to undertake this piece of work.

**How much does it cost to run a building?**

Buildings are generally expensive to run and future expenditure must be carefully planned in order for a CAT to be successful and viable in the long term.

FCC will at Business Model stage where possible provide details on historic running costs and the condition of any buildings involved. However, an organisation/group should consider taking their own advice in terms of financial planning and building surveys.

**If things do not go to plan can my organisation/group return the asset to Flintshire County Council?**

FCC will endeavour to support all groups prior to a CAT to ensure that a transfer will only take place when there is good prospect of it being successful.

The lease granted will include a break clause which will enable the organisation/group to hand back the lease at a future date if the project is in difficulty. However, the organisation / group will be responsible for all outgoings and repairs, etc, to the date the lease is taken back.

**How long will this process take?**

Each expression of interest in respect of a CAT will be considered individually and timescales will be dependent to some extent on the resources and support available to the organisation / group.

It is intended that Stage 1, Expressions of Interest will be considered on a monthly basis and Stage 2, Business Model details will be considered quarterly.

## 6. CONTACT DETAILS

Organisation	Description	Contact Details
<b>Flintshire Local Voluntary Council</b>	Support for voluntary and community groups in Flintshire. First point of contact for Expressions of Interest and support regarding funding, governance and volunteering.	<a href="mailto:info@flvc.org.uk">info@flvc.org.uk</a> 01352 744000
<b>Flintshire County Council</b>	The provider of details about the assets and the organisation with whom legal contacts and transfers will be made in the first instance.	<a href="mailto:sian.speed@flintshire.gov.uk">sian.speed@flintshire.gov.uk</a> 01352 704511
<b>Wales Co-operative Centre</b>	Free help and business advice to social enterprises and co-operatives in Wales.	<a href="http://www.walescooperative.org/business-support-wales">http://www.walescooperative.org/business-support-wales</a> 0300 111 5050
<b>Social Firms Wales</b>	National Support Agency for Social Firm Development. It works alongside Social Firms UK. It is committed to the creation of employment opportunities for disadvantaged people through the development and support of Social Firms in Wales.	07899 890490 <a href="mailto:members@socialfirmswales.co.uk">members@socialfirmswales.co.uk</a>
<b>Charities Evaluation Service/PQASSO</b>	Support for organisations to measure the results of their work and use evidence to learn and improve performance .PQASSO is the leading quality standard developed for the third sector, by the sector.	020 7713 5722
<b>Community Matters</b>	Information, advice and support for <b>community</b> and voluntary groups throughout the UK.	0845 847 4253

## APPENDIX 1

### COMMUNITY ASSET TRANSFER - EXPRESSION OF INTEREST FORM

Council Ref:	Date Received:
	Date Acknowledged:
Outcome of Review:	Date Decision Communicated:

**Asset/Property/Land:**

(Name / description of asset this Expression of Interest relates to)

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**Your name or the name of the organisation/group \*that you are authorised to represent) or individual. In order for us to talk to you about your ideas please advise how you may be contacted during normal office hours (i.e. 9am to 5pm Monday to Friday)**

Contact Details:
Name:
Position Held:
Contact Address:
Email:
Telephone:

**If you are representing an organisation please advise of the type of organisation and the date established.**

For example, a public limited company; a registered charity; a company limited by guarantee; other.

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**Briefly describe your idea.**

Please include the reasons why you require the property / asset / land, its intended use and how this purpose and use will benefit the wider community.

What is your idea and the potential community benefit? Do you propose to use the asset in a different way to how it is currently being used?

How might the project be funded initially and over future years? How do you propose to pay the outgoings / management costs of the property / asset / land?

Who have you spoken to about your idea? e.g., local councillor; other community groups, etc.

I / we confirm that all the information and statements contained within this expression of interest are true and accurate. I understand that the Council may ask for additional information at any stage of the application process and that you may check this with other sources.

Signed

Date

Name

Position

## Data Protection Statement

Any information you provide on the form will be held by Flintshire County Council in accordance with the Data Protection Act 1998



## APPENDIX 2

### CHECKLIST OF TASKS TO CONSIDER IN DEVELOPING A BUSINESS MODEL

1. Does your committee/board/management team understand the terms of the group's occupation of the building? For example: lease, licence, and so on.
2. Are they aware of any obligations they might have for the building? For example:
  - Cleaning
  - Insurance
  - Security provision
  - Repairs/maintenance
  - Decoration
  - Waste disposal
3. Have any planning permissions and buildings regulations relating to the premises been checked?
4. Is a change of planning use needed?
5. Are the premises adequately insured? (Buildings, contents, public liability)
6. Are there any restrictions contained in the lease or other deeds on what can be done in or to the building? (For example, prohibitions on sub-letting / sharing, making alterations, storing certain substances, consuming alcohol, playing games or music, holding lotteries, admitting animals, serving hot food). If so, can you negotiate better terms?
7. Are the security and alarm systems adequate?
8. Does the asset need a fire certificate? If so, when does it have to be renewed?
9. Has the group obtained any business rates relief it is entitled to from Rates Department?
10. Have all necessary licences been obtained from the Council's Licensing Department?
  - public entertainment (also covers theatre, film and video productions)
  - alcohol / music, singing and dancing
  - gaming / lottery
11. Has a risk assessment for health and safety been carried out?
12. Have disability access issues been addressed? Are any grants available for alterations?

## APPENDIX 3

### GLOSSARY

<b>Term</b>	<b>Explanation</b>
Assets	Land or building.
Asset transfer	Procedures used to transfer the ownership of assets to a community based organisation.
Business Model	A business model summaries the activities, systems, skills and resources needed to achieve your short, medium and long term aims essentially, it explains in detail what your organisation will do to turn its vision into reality.
Capacity Building	Activities that strengthen the skills, abilities and confidence of people and community groups to take effective action and leading roles in the development of their communities.
Constitution	Regulations that govern the conduct of an organisation.
Feasible	Refers to whether a project can be developed to meet the objectives of the project given its context and the resources available.
Governance	Refers to who makes decisions in an organisation (partly defined by the way an organisation is set up legally and what it has been set up to achieve) and how they make them (who is included in decision making and who gets to know about what decisions have been made).
Lease	A lease is a legal contract between you (the leaseholder), and the council (the landlord). It sets out the rules that you and the landlord must keep to.
Leasehold	If you have a leasehold asset, you own it for a fixed period of time. You'll have a legal agreement with the Council called a 'lease'. This will tell you how many years you can 'enjoy' the asset. When the lease comes to an end, ownership of the asset returns to the Council.
Public liability	Insurance taken out by organisations to protect them against claims from the public for compensation after an accident, for instance, or anything else where the organisation may be held responsible. If the public have access to these organisations, then the organisation must have this insurance.

## APPENDIX 4

### PROPOSED DRAFT HEADS OF TERMS - COMMUNITY ASSET TRANSFER

These Heads of Terms are not intended to create any legally binding obligations and are subject to the approval of Flintshire County Council.

This document is confidential to the intended parties and their professional advisers.

Any subsequent documentation is subject to the approval of the legal advisers for Flintshire County Council.

**Parties:** Lessor:  
Flintshire County Council  
Lessee:

**Proposal:** The granting of a lease on the basis of a Community Asset Transfer.

**Property:** All land and premises shown edged red on the attached plan.

**Term:** 27 year leasehold interest

**Rent:** Peppercorn/£1 pa exclusive of all other

**Repairs:** The Lessee will be responsible for all repairs, maintenance, Health and Safety and other improvement works for the term of the lease.

**Break Clause:** The lease to include a break clause in favour of the Lessee to be operable at 5 yearly intervals throughout the lease.

**Use:** The Lessee is to use the premises for the community use only.

**Insurance:** The Lessee will be responsible for the insurance of the premises, including all contents.

**Public Liability Insurance:** The Lessee will have public liability cover to £5m.

**Named representatives:** The Lessee is to confirm five named individuals to be jointly and severally liable on the lease.

**Costs:** Each side to bear their own costs with regard to the transaction.

**Other Terms:** The lease is to be completed within 1 year of the date of the agreement of the Heads of Terms.

**Landlords Solicitors:** Chief Officer (Governance), County Hall, Raikes Lane, Mold, CH7 6NA DX No: 7085590 –MOLD 4

**Conditions:** Subject to contract and Executive Approval and does not purport to constitute a contract.