

CA 36

Ymgynghoriad ar asedau cymunedol

Consultation on community assets

Ymateb gan: Cymdeithas Llywodraeth Leol Cymru

Response from: Welsh Local Government Association

## Evidence to Senedd Local Government and Housing Committee: Community Assets

Jon Rae, Director, Director of Resources

### **Welsh Local Government Association - The Voice of Welsh Councils**

The Welsh Local Government Association (WLGA) is a politically led cross party organisation that seeks to give local government a strong voice at a national level.

We represent the interests of local government and promote local democracy in Wales.

The 22 councils in Wales are our members and the 3 fire and rescue authorities and 3 national park authorities are associate members.

### **We believe that the ideas that change people's lives, happen locally.**

Communities are at their best when they feel connected to their council through local democracy. By championing, facilitating, and achieving these connections, we can build a vibrant local democracy that allows communities to thrive.

**Our ultimate goal** is to promote, protect, support and develop democratic local government and the interests of councils in Wales.

### **We'll achieve our vision by**

- Promoting the role and prominence of councillors and council leaders
- Ensuring maximum local discretion in legislation or statutory guidance
- Championing and securing long-term and sustainable funding for councils
- Promoting sector-led improvement
- Encouraging a vibrant local democracy, promoting greater diversity
- Supporting councils to effectively manage their workforce

### **Introduction**

1. Over the last two years of the pandemic, there is a shift in culture, practice and relationships between communities and public services, with the strength of community action becoming increasingly visible, valued and respected. For those involved across the various sectors, there is a collective desire to ensure that the momentum and progress made is embedded within recovery planning. In some cases this work was entirely new and in other cases building on work and



relationships developed before the pandemic. In all cases it offered lessons and ways of working that many people wish to continue and build upon.

2. Local collaborations between community & town councils, third sector organisations including County Voluntary Councils (CVCs) and councils have been instrumental in utilising Welsh Government funding to improve volunteering, loneliness and isolation, community support hubs projects etc. to protect and support citizens and communities.
3. Furthermore, as we grow out of the pandemic, existing policies and resource pressures, reinforced by the cost-of-living crisis will drive the need to make services more community focused and will require greater collaboration between the partners.
4. CAT aligns with Welsh councils' localism agenda and building resilient and empowered local communities. Councils will continue to work in partnership, delivering citizen and community centred models of sustainable local services including CATs to enable communities to enhance or maintain community facilities and services.
5. Attached as **Appendix A**, is the Welsh Branch of the Association of Chief Estates Surveyors observations to the inquiry, which have informed the WLGA's response.
  - **Whether the current statutory and policy framework empowers communities in Wales to develop community assets;**
6. Currently councils undertake CAT through the General Disposal Consent, which allows public bodies to transfer the ownership and management of land and buildings to local communities at "less than best consideration" and in keeping with the Land Transaction Procedure Rules.
7. New and existing relationships with partners and stakeholders have strengthened to meet the challenges of austerity and recovery from the pandemic. Any additional requirement should support and strengthen the existing voluntary collaborative approach, building on existing relationships and sharing and learning from good practice from each sector, utilising existing national and local multi-agency partnerships to facilitate effective CATs.
8. Any consideration of further statutory requirement should be a permissive power rather than an obligatory and binding power, which will allow communities to initiate asset transfer discussions with a public body where there are proposals to close or downscale a community asset or where there was broad community



consensus that the community wished to manage a particular community asset in future.

9. Any proposed power should therefore be framed as a 'community expression of interest' to make it clear that it is not a power that could override public bodies' asset management plans or go ahead without appropriate approval from the elected members. Appropriate safeguards would also need to be put in place, to ensure 'due diligence' of constituted community organisations, clear evidence of wider community support, benefiting economic and citizen & community wellbeing, and the development of a viable business case for long term financial sustainability.
10. Evidence to date indicates that successful CATs require significant pre and post community support.
11. There will be significant resources implications for councils in the management of any proposed register of public and private assets and supporting communities to undertake the management of CATs. A national commitment to resourcing for councils and other agencies, to ensure that CATs contribute effectively to community empowerment and building community resilience, will be required.

**The extent the Community Asset Transfer scheme promotes and supports effective development of community assets;**

12. Over the last decade, Community Asset Transfers (CATs) has been an evolving process and guidance has been developed to support CATs including: CATs toolkit developed by the National Asset Working Group (NAWG) now called Ystadau Cymru, relaunched an updated version at its first conference on 3<sup>rd</sup> October 2019, more specific guidelines relating to CATs of leisure and sports facilities, commissioned by Ken Skates AM, the then Deputy Minister for Culture, Sport & Tourism; and the pilot programme commissioned by Lesley Griffiths AM, Minister for Communities & Tackling Poverty to support community organisations in the Gwent area aiming to take over and manage local assets and building on existing work in Blaenau Gwent County Borough Council.
13. The WLGA and One Voice Wales (OVW) set up a member- led task and finish group in 2019 to consider the outcomes of a Welsh Government [Independent Review of community and town councils](#) and how relevant recommendations could be progressed collectively by the WLGA and OVW. The topics included strengthening local partnerships, asset and service delegation, place based planning, local democracy and widening participation.



14. The resolutions from the group in relation to CATs have since been superseded by national approaches, such as [Ystadau Cymru](#) and Welsh Government intentions to implement the recommendations of the [Community Asset Transfer study \(March 2021\)](#) and the proposed Community Policy will all influence approaches.
15. The promotion of good practice across the sectors has proved to be a valuable in encouraging effective CAT. The WLGA have been engaged in WG and Ystadau Cymru conferences.
16. There are notable examples of good practice is CATs, such as:
  - Rhondda Cynon Taf County Borough Council who have declared a number of assets as surplus to their needs (referred to as 'Assets of Community Value'). The Council's website includes guidance, online templates, a detailed building description and a single point of contact for information, all aimed at helping to ensure the smooth transfer of assets.
  - Powys County Council advertises land and building assets that have the potential to be transferred. Online expressions of interest forms and a business case template is available that encourages a detailed and shared understanding of project risks.
  - Vale of Glamorgan Council has a comprehensive toolkit with guidance and templates and signposts applicants to further information and including potential financing
17. The national experiences, indicate that successful and sustainable CATs which best meet the needs of local communities are best delivered through effective engagement with potential providers i.e. community and town councils, third sector organisations and community groups through supporting and building community capacity in areas such as robust business planning, due diligence and long term financial sustainability.

**To explore barriers and challenges faced by communities in taking ownership of public or privately owned assets, including finance and support services;**

18. The Welsh Government's undertook a [study](#) to understand the experiences of CATs within the Third Sector and Community & Town Councils sectors in May 2019. The headline findings, from the fifteen LAs that responded included the following:
  - Eleven responded that they had a formal policy on CATs.



- Five councils reported that their CAT policy was formalised and couched within the overarching Assets/Estates policy or corporate plan of their organisation.
- Councils reported that the need for CATs has increased in recent years due to austerity.
- The downsides to CATs included the lack of funding and resources required to undertake timely transfers when the process is often complex and in some cases a dedicated officer was required.
- Identified the need to improve capacity for recipients in receiving and managing assets in specialist areas, including premises management and maintenance, health and safety and other regulated areas.

19. In addition, the Audit Wales report: *Provision of Local Government Services to Rural Communities: Community Asset Transfer (November 2018)*<sup>1</sup> made the following recommendations:

“To help sustain rural communities, public services need to act differently in the future...councils do more to develop community resilience and self-help by working with relevant bodies such as the Wales Co-operative Centre [now [Cwmpas Cymru](#)] to support social enterprise and more collaborative business models...enabling local action by supporting community asset transfer identifying which assets are suitable to transfer...”.

20. It is critical that communities are given full support to enable them to make an informed decision as to whether to proceed with an asset transfer. If community groups are interested in taking on an asset they are often overly optimistic on running costs, usage etc. their abilities/time etc. Therefore, it is in the Council’s interest to be upfront in terms of running costs, Health & Safety requirements, public liability etc. (if council asset) and to work with them or identify another organisation that can work with them to prepare a realistic business plan.
21. Budgetary engagement between councils and potential applicants, is therefore a key element for such decisions. Early engagement around budget forecasting and planning is good practice; although there are often late changes to the local government settlement, indicative or provisional local budget assumptions.
22. Furthermore, councils should explore with partners possible service implications of such budgetary assumptions, to provide them with as much time as possible to

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<sup>1</sup> [http://senedd.assembly.wales/documents/s81164/PAC5-31-18%20PTN2%20-%20AGW%20Report%20-%20Community%20Asset%20Transfer\\_e.pdf](http://senedd.assembly.wales/documents/s81164/PAC5-31-18%20PTN2%20-%20AGW%20Report%20-%20Community%20Asset%20Transfer_e.pdf)



consider their potential role in supplementing or delivering any services and in planning their own budgets.

23. Such discussions may include whether there is scope for transition funding relating to any service delegations or transfer of assets and this should be a key consideration before any alternative arrangements are agreed. In the past decade of austerity, councils have had to protect statutory services such as education and social services and discretionary services and budgets have been hardest hit; it is these budgetary pressures and overall real term reductions in the Revenue Support Grant that have led to many community-based services being cut or transferred to other providers such as community and town councils or the third sector.

**To discover what lessons can be learnt from beyond the Welsh border.**

24. In England, the UK Government through the Localism Act 2011, has moved to introduce a new 'Community Right-to-bid' to empower communities to respond to these challenges by taking even greater control of land and buildings where they live. The Local Government Association (LGA) working with [Locality](#) to develop a number of resources for communities and elected members to support effective CAT approaches.
25. The Community Empowerment (Scotland) Act has defined a legal process for asset transfer, which gives new rights to communities and places duties on public bodies. The [Development Trust Association Scotland](#) have developed a number of resources to support communities to take on community assets.
26. [New Local](#) have also identified a number of resources and case studies about how local facilities can thrive under community ownership.



## Appendix A

Geoff Bacon  
Head of Property Services Swansea Council  
Chair of Welsh Branch of the Association of Chief Estates Surveyors

### Community Asset Transfers

Community Asset Transfer is an established mechanism used to enable the community ownership and management of publicly owned land and buildings.

The General Disposal Consent allows a range of public bodies to transfer the ownership and management of land and buildings they own to local communities at 'less than best consideration' – at less than full market value.

Communities can enter into discussions with public bodies about Community Asset Transfer where it is their intention to promote social, economic or environmental well-being.

Swansea Council have an adopted Community Asset Transfer that is embedded within the Constitution as part of the Land Transaction Procedure Rules. It sets out that any proposal for a Community Asset Transfer must be supported by a Head of Service and the relevant Cabinet Member. If the proposal does not have internal support then it cannot proceed.

If supported then under the Council's Land Transaction Procedure Rules (LTPR), the Head of Property Services must be consulted. The latter will assess the status of the property, its tenure, open market value and potential for realisation of a capital receipt and liaise with the supporting department. Property Services and Finance must be consulted prior to reporting to consider the financial implications of the CAT and to ensure it does not breach subsidy controls. Legal, financial and any possible Equality and Engagement Implications will also need to be considered and discussed at this stage.

The supporting department must then be willing to present a report to Cabinet detailing how the proposal benefits both the Council and the community by promoting social, economic or environmental well-being in the relevant area.

The ultimate aim of Community Asset Transfer is community empowerment – that is, to ensure that land and buildings are retained or transformed for public benefit through community asset ownership and management.





The Swansea Council's procedures on Community Asset Transfer are underpinned by the following principles: -

- Generally the transfer will only be approved of property required for continuation of a service;
- The transfer must create a mutual benefit to both the Council and the Community by promoting social, economic or environmental wellbeing and supporting the aims and priorities of the Authority;
- More often than not there should be an initial element of financial benefit to the Authority.
- The Authority will encourage collaboration between community based groups and the sharing of assets to optimise social value and value for money;
- The proposed use of the asset must be for the benefit of the community, and would offer real opportunities for successful and independent, community or third sector organisations to become more sustainable in the long term;
- The Authority is not obliged to undertake Community Asset Transfers.
- The basic terms of any transfer will generally be non-negotiable and will be on the basis that the organisation that the asset is being transferred by way of a long lease at a peppercorn with the lessee taking full responsibility for repair and all outgoing of that land or asset.

The policy works on the basis that we will react to a request from a local group, town or community council. Swansea Council does not proactively market but it must be confident that all community groups are engaged and it encourages collaboration between community based groups and the sharing of assets to optimise social value and value for money.

Any interested party has to first set out an expression of interest.

The above sets out a clear process and this is a similar story for all Welsh Local authorities and whilst there a lot of positive examples out there, common issues do present themselves.

- Any interested organisation needs to be properly “constituted” and robust enough to take on the challenge
- Quite often the requirement to fill out an expression of interest form is enough to stop any interest being taken any further!
- The wider community needs to be engaged however not everyone will be supportive



- An advocate service within the Council needs to take responsibility to champion the cause
- The support any organisation requires to take on responsibility is considerable and needs properly resourcing

In that regards Carmarthenshire County Council recently undertook a consultation exercise with all Town and Community Councils regarding their experiences to date in dealing with Community Asset Transfers. The majority of the assets transferred over the years have been parks and playgrounds.

The main points highlighted by the Town and Community Councils were:

Response 1: 'It is not so much that the asset transfer was unsuccessful, it is just the financial strain these assets have put on the Community Council. In 2020 the Council had to spend £14,230 so far on the Ash Die back problem in the park with more felling done in 2021 at a cost of £1,100 and there are still Ash trees remaining within the park which have signs of the disease and are being monitored.'

Response 2: 'The Community Council took over the playground in June 2019 after many residents said they didn't want to lose the playground. The equipment in the playground is deteriorating and needs replacing. The Community Council does not have the money to do this. A maintenance grant from Carmarthen County Council would be of great help, and if we could have this it would help enormously.'

Response 3: 'The assets should have been transferred as a freehold as opposed to leasehold basis. There was insufficient information available on the properties being transferred. It would be useful to have a more open dialogue with the County Council and a joint initiative to ensure the future success of a facility as opposed to the transfer of a liability.'

Response 4: 'Comprehensive information pack in relation to the asset would be useful such as reports, searches etc...'

Response 5: 'Insufficient experience of Community Councils including ongoing planned maintenance of the assets. Training would be useful.'

The above reinforces the point that the support an organisation requires to manage not just the physical asset but the service to be delivered is considerable and in many cases local authorities have lost the resources required to support communities.