

# Community Ownership and Management of Council Owned Assets Policy

## Policy statement

North Lanarkshire Council recognises the value and contribution that the community and voluntary sector makes in supporting the ambitions of The Plan for North Lanarkshire. The council is committed to working in partnership with the sector to continue to provide key services to local communities and to continue to create thriving places where everyone can play a full and active part in promoting healthy lifestyles and building strong communities.

Buildings, spaces, and assets are important in providing a solid base from which the sector can deliver their activities. There is commitment to providing opportunities to support responsible community ownership and management approaches in a way that meets the needs of different types of community organisations while minimising and managing any risk to both individual organisations and the council.

Understanding the role of key stakeholders will be instrumental in ensuring the successful implementation of this policy.

**Community and Voluntary Sector organisations** with a desire to take on ownership or management of a council owned asset should familiarise themselves with the policy and process and work with council officers to understand what they need to do to be in a position to take forward their aspirations. When submitting a request, the organisation has a responsibility to ensure that their proposal meets the criteria to be considered and includes all relevant information as well as evidence of community engagement.

**Elected Members** should understand and promote adherence to this policy and associated processes, signpost community organisations to available/advice online and from appropriate officers. Elected members also have a role in the decision-making process through the committee structure and may be called upon to be involved in political reviews reflecting the requirements of the Community Empowerment (Scotland) Act 2015.

**Council Officers** from key services have a role in working together to ensure the effective implementation of this policy. They should consistently apply this policy and associated approaches to work positively with local community organisations and other council services to achieve the best possible outcome in any given situation for both the council and the community organisation. Officers have a role in providing guidance, advice and signposting related to the policy and process relevant to their area of business. Officers will be involved in assessment of requests, presenting to senior leadership outcome of assessments and making recommendations to committee as well as supporting the appeals process linked to the Community Empowerment (Scotland) Act 2015.

**Chief Officers** have a role in considering the outcome of any assessment of applications, agreeing the route to decision, and making recommendations to committee as required. Chief Officers have a role in working with officers to consider more challenging or complex requests, identifying leadership action required with a view to finding a mutually beneficial solution.

## 1. Policy objectives

- Ensure maximum community benefit is derived from council-owned assets
- Strengthen participation and engagement in community and recreational activities and help communities to understand the options available to them for use, ownership and management of council owned assets
- Safeguard council owned assets where it can be demonstrated that the business case and community benefit associated with retention is greater than the proposed alternative
- Ensure requests for ownership, lease or management of council-owned assets, including any discounted rates or prices, are managed consistently and fairly through a transparent assessment process.

## 2. Guiding Principles

The following set of principles will govern the council's response when considering requests for community ownership or management of council owned assets:

- The belief that community organisations can play a key role in supporting and sustaining local communities.
- The council is bound by legislation to obtain best consideration for its assets, but can dispose of them at less than market value when certain considerations apply, e.g. demonstrable community benefit. Such consideration will form part of the assessment process.
- Recognising property assets as a resource to be used in the delivery of services and to support the delivery of the Plan for North Lanarkshire, including where a transfer would assist the council in the effective management of its revenue budget.
- Commitment to positive, supportive engagement and a collaborative relationship with community groups in the management of assets.
- Valuing the community benefit derived from the activities undertaken by community organisations and taking this fully into account in setting fair management, lease or transfer terms.
- Encouraging groups to work together and share efforts and resources for effective use of an asset for the benefits of the wider community.
- Ensuring consistent application of the processes associated with the terms and conditions of any lease agreements and property transactions with community and voluntary sector organisations.
- Ensuring the adoption of a flexible approach when responding to changing community circumstances, the diversity of the community and voluntary sector and ensuring a focus on the aspiration and outcomes of a specific community and /or organisations.
- Ensuring no additional cost to community organisations for the administration of community ownership and management processes, for example in the preparation of leases and rent reviews.

### **3. Scope of the policy**

Community Ownership and Management of Assets refers to the processes, policies and associated procedures the council may use to consider the transfer of an asset to a community body through ownership, lease, full or partial management. This may reflect, for example, opportunities arising from:

- Community Asset Transfer Requests (CAT) guidance and associated procedures linked to part 5 of the Community Empowerment (Scotland) Act 2015
- Participation Request guidance associated with the Community Empowerment (Scotland) Act 2015
- Asset Management in support of the Plan for North Lanarkshire and associated Programme of Work, or other council policies and plans
- Dialogue with communities to progress community led priorities identified through local engagement activity, community boards, and their Local Outcome Improvement Plans.

#### **In scope:**

Requests from community-based organisations who meet the necessary conditions where their aims are charitable, not for profit and for the benefit of the wider community including:

- New management agreements for an existing council facility or land
- Leases (including maintenance of the property/land in accordance with lease terms and conditions)
- Full transfer of ownership
- Participation requests that may impact on property related decision or business.
- Requests for community organisations to use and/or take on maintenance of a council asset or part of it.

#### **Not in scope for application of this policy are:**

- NLP mortgaged properties
- Requests from community groups or organisations who cannot demonstrate capacity, resource or community support proportionate to their proposal
- Common good assets
- Sites that the council has a legally committed or committee approved business decision to demolish or otherwise dispose of
- Certain types of businesses or Community Interest Companies (CIC)
- Any other agreements for the purposes of commercial gain
- Unincorporated organisations where their structure does not allow them to enter into contracts or legal agreements.

### **4. Application of the policy**

This policy applies to all council services and officers receiving requests or expressions of interest from communities related to community ownership or management of council owned assets. The policy can also be used to guide proactive approaches to engaging with communities around opportunities for community ownership and management where the council plans to disinvest, or has disinvested, in certain assets.

This policy applies to voluntary groups, registered charities, clubs, uniformed community groups and other community-based organisations where their structure and governance allows. For certain community organisations the Community Asset Transfer legislation does not apply. In these cases the council can make an assessment regarding a reduced lease cost, but this should be for a limited period (1-3 years) and at a reducing rate with the expectation that social enterprises aim to become self-financing.

This policy does not apply to commercial leases including professional sports clubs (i.e. those clubs who pay athletes to play as their primary occupation). Where there are exceptional circumstances which require a variation from the policy, consent will be required to be obtained from the Community Asset Ownership and Management Leadership Group.

The policy meets the requirements of the Community Empowerment (Scotland) Act 2015 relating to Community Assets Transfers and Participation Requests and aims to use these processes to achieve outcomes agreed with community groups and organisations based on their aspirations and the council's ambitions. The policy covers one clear approach to:

- Community Asset Transfer
- Community and voluntary sector leases
- Other outcomes for community use, management or ownership of council assets agreed through the Participation Request process.

The council has the discretion to engage with groups to reach a mutually agreeable solution and each case will be considered on its own merits using a standard set of criteria. This means that a consistent and fair approach will be applied to all requests and the outcome must balance and reflect the needs of the wider community, the aspirations of the applicant organisation and the interests of the council.

## **5. Approach to Community Ownership and Management of Assets – overview**

The council fully supports the underpinning principles of community empowerment and community ownership and will support communities to meet their aspirations through application of a clear [policy and process](#).

The council has created a single application and assessment process for all requests from community and voluntary sector organisations.

There may be times when, to protect the interests of the wider community, assets may need to remain in council ownership to support the delivery of essential services or support economic activity in the area. Where this is the case efforts will be made to identify alternative solutions and outcomes. Each case will be fully considered on its merits reflecting the guidance associated with parts 3 and 5 of the Community Empowerment (Scotland) Act 2015 and outlined at **appendix 1**.

The flowchart at **Appendix 2** summarises the council approach and an overview is provided as follows.

### **Stage 1: Expressions of interest**

The council has identified contact officers for community ownership and management enquiries to provide guidance to community groups, and to help them to assess their eligibility and capacity to take on an asset in a way that is suited to their needs. In the first instance community groups are asked to:

- Familiarise themselves with the council's community ownership and management process and eligibility criteria through the council's information page [here](#)
- Make initial contact by emailing expressions of interest on enquiries to community [ownership@northlan.gov.uk](mailto:ownership@northlan.gov.uk)

Following initial engagement, organisations will be supported to understand the process and what is required of them. This discussion will involve checking with the organisation that they meet the criteria to apply to take on ownership or management of an asset and are able to enter into an agreement with the council under the council's process.

Prior to submitting an official request, eligible organisations will be encouraged to identify that they can evidence that the purposes for which they intend to use the asset they are requesting is for community benefit.

Where it is evident that the group does not meet eligibility criteria, council officers will work with the group to identify capacity issues and support with capacity building and, where appropriate, signpost the group to additional support or information to assist them to meet their aspirations in the future.

## **Stage 2 - Submitting a request**

In the interest of fairness and clarity, for all applications relating to community ownership and management of assets the council will apply assessment criteria and timescales (where possible) that reflect the requirements of the Community Empowerment Act.

For organisations that do not meet the Scottish Government criteria as an eligible body under the Community Empowerment Act but can still demonstrate community benefit (for example Community Interest Companies (CICS), Community Trusts, Foundations or social enterprises in certain circumstances) the council can accept an application. However, in this case the outcome of assessment and decision of the council is final and unless designated by Scottish Ministers the council is under no obligation to review or honour any requests to appeal the decision.

All community ownership or management requests must be submitted using the council's application form attached at **appendix 3**.

## **6. Types of community groups and eligibility criteria**

In order to be considered for any type of community ownership, management or lease of an asset the operation, governance and practice of the applicant must show:

- That the group is controlled and managed by community members and ensure that membership is open to any adult who wishes to join

- That they have an asset clause stating that any profits can only be used to benefit that community and in accordance with the aims and objectives of the organisation (as set out in their constitution or incorporation documents)
- If the request is for transfer of title (i.e. ownership) the CCB needs to be a not for profit organisation
- a clear dissolution clause that states that the assets of the company can only be transferred to another properly constituted community group or charity.

## 7. Types of request

### Full Ownership Requests

Where a group is applying to take full ownership of a building or asset more detailed supplementary information should be submitted including but not exclusive to:

- A robust business plan
- Any feasibility or condition studies that have been undertaken by the group
- Any valuation information instructed by the group, which must be from a suitably qualified and experienced member of the Royal Institution of Chartered Surveyors who is also a Registered Valuer. Any valuation will be subject to agreement with the council in line with Scottish Government guidance on Community Asset Transfer.
- A project plan and financial projections for any capital and projects management works required to ensure the building can be made operational (if not already). This would typically include a costed building survey.

### Leases

The council can agree to lease assets (normally land or buildings) at a reduced lease value to voluntary groups, clubs and other community-based organisations. This approach reflects the principles of The Plan for North Lanarkshire and the Community Empowerment (Scotland) Act 2015 but also enables the council to agree arrangements with groups who do not fully meet the legislative criteria for community asset transfer or where it is mutually beneficial to the council and the wider community to conclude a lease at pace. The merits of an application for a discounted lease will be assessed using the same criteria as for requests for full ownership. The following points apply to community and discounted leases:

1. The cost of the lease will be assessed via the information submitted as part of the application process. Discounts will be considered at the discretion of the council as reflected in the discount matrix at **appendix 5**. The lease would reflect the market value with any percentage subsidy or the standard value applied based on assessment process and reflected in a back letter.
2. Leases will be developed on the basis of the tenant assuming full repairing and insuring leases (FRI).
3. At either the point of rent review or lease renewal there will be a re-assessment to determine the appropriate lease subsidy.

4. Standard values will be reviewed in line with inflation at policy review points.
5. The maximum duration for the granting of a lease is 25 years.
6. Discount will not be awarded at 100% (rent is an essential component of a lease and rental of £1 would be required as a minimum).
7. In the case of a long lease, for example 20 years or longer, where a community group is required to register their lease, there will be outlays to both parties. Where there is an actual external cost to the council, e.g. a district valuation fee, property enquiry certificate, Legal and Plans Reports, this will be met 50% by the council and 50% by the tenant.
8. Existing tenants under the policy applying for an assignation to another community body (or require assigning due to restructuring, for example to a SCIO) or for a licence for works will only be charged for any actual external costs incurred by the council.

### **Participation Requests for alternative outcomes**

Participation requests are much broader than taking on an asset and can cover a number of ways that community groups want to become more involved in decision making and delivery of council services. Participation requests can be a useful tool in helping groups to identify their aspirations and the outcome they want to achieve. Participation requests can assist the council to work with groups who do not clearly fit the criteria for ownership or who do not want to officially take on an asset at this time but may want to become more involved in supporting the councils ambitions through, for example:

- Maintenance of an asset or greenspace
- Using a piece of council-owned land to deliver community activities (events, celebrations, fitness and environmental activities)
- Exclusive let of some or all of an asset at certain times
- Sharing use of an asset with the council.

A group can contact the council through the wider community ownership and management process to start to discuss if a participation request is a suitable option. More information on the process can be accessed [here](#).

## **8. Assessment and decision-making**

The assessment of a request and any subsequent decision to proceed will consider the condition, usage, value of the asset, the availability of other suitable premises from which the proposed activity could take place and value for money offered by the proposal. The assessment will be made based on the process outlined at **appendix 4** using following criteria:

- Details of the asset and type of request
- Organisational capacity
- Links to The Plan for North Lanarkshire

- Community benefit and impact
- Community support
- Financial sustainability
- Risk and social impact.

The community organisation can indicate the price that they are willing to pay for the asset and the council must consider the feasibility of agreeing a cost that reflects community benefit and council operational requirements. Market value will be taken into consideration alongside community benefit. This will inform the assessment and decision-making process, including securing the best price as can reasonably be obtained to support council priorities.

The council will provide to the applicant information it holds on the asset. The council will consider requests for information on the asset submitted in writing, where this information is readily available and deemed to be useful to the progression of the group's application for ownership, management or lease of the asset. Community organisations are encouraged to seek (and fund) any required independent legal and technical advice relating to property condition and value.

### **Community asset fund**

The council will establish a capital fund. Organisations can bid into this fund if they meet all the criteria described in this policy for an asset transfer, a discounted lease or a participation request to carry out capital works to assets.

An organisation must set out in their stage 2 request what their bid is for, how much they intend to bid for and whether or not their CAT request is contingent on the bid.

Bids and the detail of the proposed expenditure will be subject to approval by the council and other terms and conditions will require to be adhered to.

### **Governance arrangements**

The Corporate Community Ownership and Management of Assets Working Group is responsible for overseeing the development of the policy and implementing the process for any requests received. This group is made up of senior officers from across the council with practical experience and an understanding of working with communities, management and transfer of community assets.

On receipt of an application for ownership or management of a council asset an assessment sub-group will be appointed to assess the application against the criteria set out in this policy. The sub-group will consider policy, legal and financial risk to the council. They will assess the request and present findings based on the assessment criteria to the Community Asset Ownership and Management Leadership Group. The Leadership Group is made up of:

- Chief Officer, Asset and Procurement
- Chief Officer, Strategic Communication and Engagement
- Relevant Chief Officer for the controlling service the asset being assessed
- Chief Officer for key corporate functions as and when advice and expertise is required (Audit and Scrutiny, Finance, Legal and Democratic).



For leases of 10 years or less or alternative agreements outwith ownership or lease the leadership group has delegated authority to decide to approve or reject based on feedback from the assessment panel.

For full transfer of an asset or leases of 10 years or more, the leadership group will make recommendations regarding the request to the committee relating to the holding service for the asset for endorsement. The applicant organisation is then informed of the decision within the timescales agreed earlier in the process.

An annual report will be submitted to the Communities Committee and used to inform the required return to Scottish Government relating to Community Asset Transfer Requests and Participation Requests under the legislation.

The council may call upon specialist advisors to provide advice and inform the decision-making process.

In line with the requirements of the Community Empowerment (Scotland) Act 2015 the council will aim to ensure decision are taken and communicated within a maximum of six months from submission of application. Should an extension be required (for example to reflect committee cycles or operational delays) this can be agreed in writing between the council and applicant.

## 9. Successful outcome

The outcome of any competent request will be communicated within six months of receipt. Where a decision is in favour of the community group, discussion will commence to negotiate the terms of agreement. The group must then make the council an offer and the expectation outlined in the statutory guidance is that a contract would be agreed within six months of the offer being received. It is acknowledged that this timescale may not always be achievable due to matters outwith the control of both parties and therefore alternative arrangements may be put in place by mutual agreement. Equally, where it is mutually beneficial to do so, matters can be concluded within a shorter timeframe. Where the legislation around CAT is relevant Scottish Ministers can instruct that more time can be taken to conclude the process.

## 10. Unsuccessful outcome

### Review and appeal process

*Where a community group **has not** applied or **does not** meet the eligibility criteria under the Community Empowerment Act the decision of the council is final and there is no route to review or appeal.*

Where a group meets the CAT eligibility criteria and has submitted a request to be considered under part 3 of the Community Empowerment Act the organisation may request that the council review their decision. This review must be undertaken by Elected Members. The Community Asset Transfer (CAT) Review Panel is made up of a group of eight cross-party members. The internal review process must be politically led and council officers can act only in an advisory capacity to the review panel.

Elected members from the local area where the appeal has been received from and those who were involved in any earlier committee decisions will not be able to participate in the review process.

If an organisation is not satisfied after the internal review, they can appeal to the Scottish Ministers. A review or appeal can be requested if the council:

- Does not agree to their CAT request
- Does not make a decision by the time it should have
- The applicant organisation does not agree with the terms and conditions in the decision notice.
- Following review or appeal the council will send a new decision notice stating the new decision and reasons for this. The following points apply to CAT reviews and appeals:
- A community group has 20 working days after the decision notice to ask for a review or appeal
- Other people who commented on the asset transfer request must be asked what they think about the review or appeal
- All the papers about the review or appeal must be publicly available online
- The council or the Scottish Ministers can ask anyone for more information to help them make a decision. They can ask for the information in writing or hold a meeting so people can tell them their views. They can also do other things, such as visiting the land or building the request is about.

## **11. Reporting**

The council is required to report annually on:

- The number of CAT and participation requests received
- The outcome of requests
- Any support put in place to support requests.

The Corporate Community Ownership and Management of Assets Group will provide reports to the Corporate Management Team and relevant committees regarding any requests received and produce and make available annual reports to Scottish Government, committee and the public

## **12. Approaches to Managing Risk**

The council recognises that there are inherent risks in Community Asset Transfer, community ownership and management of assets both for the applicant organisation and for the council and has in place mechanisms to ensure a consistent approach to managing these. Each request will be considered on a case-by-case basis against robust criteria. The assessment and

decision-making criteria and process, and this policy, will help to manage and minimise risk and support positive outcomes with and for local communities.

The council will provide support or signpost the organisation to the relevant local and national agencies for advice/ resources in managing the risks involved and to support and facilitate successful asset transfer, management or lease of an asset.

### **13. Policy Review**

The council will continue to review this policy through annual reporting and in line with any business needs, and/or changes in guidance associated with the Community Empowerment (Scotland) Act 2015.