**NORTH LANARKSHIRE COUNCIL**

**COMMUNITY ASSET TRANSFER POLICY**

**(Under Part 5 of the Community Empowerment Act)**

1. Vision

NorthLanarkshire Council (NLC) has a long history of supporting and working with local communities and recognises the important contribution that this makes to improving outcomes for local residents particularly those experiencing the highest levels of inequality.

NLC welcomes the focus placed on empowering and supporting local people to play a more active role in improving their communities as outlined in the Community Empowerment (Scotland) Act 2015. Community Asset Transfer (CAT) can have a significant impact on realising opportunities for community empowerment, enterprise and community led regeneration in North Lanarkshire. NLC is committed to working with communities to support CAT requests as a potential mechanism for encouraging community ownership and involvement in local service delivery.

NLC is fully committed to maximising its assets, building on existing partnership working with communities against an agreed set of criteria in order to support and deliver the ambitious vision set out in The Plan for North Lanarkshire (TPFNL). The Council will work with community planning partners where appropriate to implement joint approaches to support communities to actively participate in the development and delivery of shared priorities. This policy will support CAT as a mechanism by which NLC will demonstrate its continued commitment to engagement and partnership working with the community and voluntary sector to deliver effective local services.

NLC fully supports the underpinning principles of CAT and endeavours to positively support communities throughout the CAT process. However, there may be times that in order 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. Each case will be fully considered on its merits in line with the CAT guidance associated with part 5 of the Community Empowerment (Scotland) Act 2015 and the Councils CAT policy and process.

### 2. Community Empowerment (Scotland) Act 2015

This policy responds to the framework for CAT requests set out in the Community Empowerment (Scotland) Act 2015 and provides the basis upon which the Council will manage requests for the transfer of assets (buildings or land owned by the Council) made under the Part 5 of the Act. The aim of the policy is to set out a consistent approach and clear guidance for consideration of transfer of assets (including land and buildings) by the

Council to relevant community groups and organisations (herein referred to as the Community Controlled Body or CCB) in the spirit of community empowerment and ownership

CAT involves the right for a CCB to request to manage, lease or own an asset that is currently owned (or in some circumstances leased) by North Lanarkshire Council. The Council has developed a transparent process for CAT that takes into consideration community benefit, potential impact on council services and long term sustainability at all stages from pre request discussion to decision and where relevant, appeal.

The policy will be implemented in-line with the Council’s statutory obligations for CAT outlined in part 5 of the Community Empowerment (Scotland) Act 2015

### 3. Scope of North Lanarkshire Council Community Asset Transfer Policy

This policy applies to all Council staff receiving CAT requests and/or managing an opportunity for CAT. The policy also provides guidance to communities wishing to submit an Asset Transfer Request (ATR).

Community Asset Transfer refers to the policies and associated procedures that relevant authorities (including local authorities) may use to transfer the ownership, lease or management of an asset to a community controlled body under part 5 of the Community Empowerment (Scotland) Act 2015. Community Asset Transfer can occur in a range of ways including:-

* new management agreements for an existing facility or land;
* leases (including maintenance of the property/land in accordance with lease terms and conditions); and transfer of ownership.

### 4. Community Benefit and Eligibility

The Council has identified a ‘First Point of Contact’ officer for CAT enquiries in order to provide guidance to community group’s to assess their eligibility to become a Community Controlled Body, to signpost for additional support as required and to ensure that the agreed process is understood and adhered to. This will involve checking with the organisation that they meet the criteria to become a Community Controlled Body (CCB) and are able to enter into a lease or contract with the Council under the terms of the Act. For example in order to be considered as a CCB the operation, governance and practice of the group must reflect:-

* That the group is controlled and managed by community members and ensure that membership is open to any adult who wishes to join;
* 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 (ie ownership) the CCB needs to be a not for profit organisations; and
* a clear Dissolution clause that states that the assets of the company can only go to another CTB or charity.

Certain bodies are not automatically eligible for CAT unless designated by Scottish

Ministers for example Community Interest Companies (CICS), Community Trusts, Foundations or enterprising Voluntary and Community organisations. Where relevant the rules of these types of organisations would need to be examined to make sure they were eligible.

Companies or other organisations established for profit, for the benefit of private shareholders or to generate equity through ‘for profit’ objectives, are not eligible to apply for asset transfer under Part 5 of the Community Empowerment Act whether in part or as a whole but may engage with the Council as part of a wider asset management process to negotiate a mutually agreeable outcome.

Additionally, any potential CCB will be encouraged prior to submitting an official request to consider how they will evidence that the purposes for which they intend to use the asset they are requesting is for community benefit through:-

* contribution to a developing a sustainable community;
* empowering local communities;
* ensuring equality of access and benefit;
* improved quality and efficiency of service;
* demonstrating and enhancing social value;
* partnership working with other community and voluntary sector organisations; and
* assisting local communities to achieve their aspirations.

### 5. Underpinning Principles of Community Asset Transfer

The following principles govern the Council’s approach to Community Asset Transfer:-

* the Council welcomes community interest and requests to improve use and potential for building and land assets;
* applications to transfer assets for community benefit/interest will be considered by the Council in line with the CAT process
* Requests relating to a Council asset will be considered on an individual basis and may therefore result in terms of agreement reflecting the circumstances of the individual case and asset;
* the consideration of expressions of interest and fully developed requests for transfer of an asset should be managed in a manner that promotes positive partnership working throughout the CAT process and beyond any potential handover;
* CAT requests should demonstrate that they meet the eligibility and criteria and provide all information outlined in section 6 of this document.

### 6. Implementation of CAT process

Any Community CCB considering CAT as an option should, in the first instance, speak to the Council’s First Point of Contact who will provide information regarding the process and basic requirements and direct the group to self-assess their eligibility and readiness through the CAT page on the Councils website. At this point, where it is evident that the group does not meet basic eligibility criteria, and as appropriate the group may be signposted for additional support or information to assist them to meet their aspirations in the future. The Council will accept a CAT request which can demonstrate clear benefits to communities and the capacity of the group to deliver/manage services/assets should the application be successful. The application will be considered where eligibility seems apparent and the group will be advised of the CAT process including timescales.

### CAT Process

The community transfer body will be supported to submit their formal request in writing stating that the application is being made under Part 5 of the Community Empowerment (Scotland) Act 2015. The request must detail:-

* the land or building being requested;
* if purchase or rental is being requested and the cost that the community transfer body is prepared to pay along with any other relevant terms and conditions;
* the intended use of the land or building;
* how the CCB will fund and manage its plan for the CAT;
* how the CAT will help the community and that there is support for the proposal from the wider community;
* the community transfer body’s rules, or a note that the group has been designated by the Scottish Ministers; and
* details of project beneficiaries and how the proposed activity will address current gaps or complement / add value to existing service provision.

On receipt of the completed request the validation date is set and the Council must acknowledge the request and communicate a decision within 6 months of this date unless an alternative timescale has been formally agreed between the two parties. The Council will inform those who may own, rent or use the land or building about the request, as well as publicising the request online for a 4 week consultation period. The Council will publish online information relating to live CAT requests ensuring that GDPR guidance is adhered to.

The Council will not dispose of, or sell land, to anyone except for the CCB submitting the request until the request has been concluded. Where the asset has already been advertised for sale or lease before the request was made the Council is unable to accept or progress with the CAT. Acknowledgement of the request will clearly state the Council’s position in relation to whether a ban on sale or lease to other people applies or if any other asset transfer requests had been received for this asset.

The CCB will be advised in writing of the outcome of the application and where the application is refused provided with information and signposting to assist them to develop or if appropriate to meet their aspirations in relation to CAT. Depending upon the reasons for refusal the group may be referred for direct support or assistance. The group has a right to an internal review (setting out their reasons why) by the Council initially and can further appeal to Scottish Ministers if they are not satisfied with the outcome of internal review. A CCB cannot make another CAT request for the same asset within 12 months with the same terms.

### 7. Decision Making

#### 7.1 Assessment Decision

A CAT Steering Group made up of key officers from across Council services including the holding service for the relevant asset and representatives of key areas of business such as property, legal, finance and communities will assess the CAT request and present evidence based on the assessment criteria (appendix 1) to the CAT Leadership Group. The CAT Leadership Group is made up of:-

* Executive Director of Enterprise and Communities;
* Head of Communities; and
* Head of Asset and Procurement Solutions

The CAT Leadership Group will make recommendations regarding the request to the committee relating to the holding service for the asset for endorsement. The CCB is then informed of the decision within timescales agreed earlier in the process. An annual report relating to all CAT requests and their outcome will be reported to Policy and Strategy Committee annually.

The Council may call upon specialist advisors to provide advice and inform the decision making process. Once the validation notice is issued a decision will be taken and communicated within 6 months. Should an extension be required this can be proposed in writing to the CCB and mutually agreed.

#### 7.2 Successful Outcome

In line with statutory guidance, the outcome of any CAT request will be communicated to the CCB within 6 months of the validation notice date. Where a decision is in favour of the community group, discussion will take place as to the terms of the CAT and the relationship between the Council and CCB in meeting these terms including financial agreements for sale or rental of the property or land. The CCB must then make the Council an offer and the expectation outlined in the statutory guidance is that a contract would be agreed within 6 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 agreement may reached with the Council or imposed by Scottish ministers to allow for more time to conclude the process

#### 7.3 Unsuccessful Outcome – Review and Appeal Process

Where a CAT request is unsuccessful the CCB may request that the Council review their decision and this review must be undertaken by Elected Members. The Community Asset Transfer (CAT) Review Panel is made up of a group of 8 cross party Elected Members. Decision making relating to reviews is the responsibility of CAT Review Panel. The internal review process must be politically led and Council officers can act only in an advisory capacity to the review panel. Where a CCB disagrees with a proposed decision they can appeal to Scottish Ministers for final determination.

It should be noted that members from the local area where the appeal has been received from will not be able to participate in the review process. If the CCB is not satisfied after the review, they can appeal to the Scottish Ministers. A CCB can ask for a review or appeal if the Council:-

* does not agree to their asset transfer request;
* does not make a decision by the time it should have; and
* the CCB does not agree with the terms and conditions in the decision notice.

Following review or appeal the Council will send a new decision notice to the CCB stating the new decision and reasons for this. The following points apply to CAT reviews and appeals:

* a community transfer body 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 publically available online; and
* 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.

### 8. The Asset

The guidance on CAT within the Community Empowerment (Scotland) Act 2015 will ensure that where CAT is being considered, the Council will always take into consideration community benefit. The CCB 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 also 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 operations and priorities.

The Council’s assessment of a CAT request and any subsequent decision to proceed will take into account 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 price agreed will be informed by the social, economic and environmental benefits generated by the CAT including for example

* Economic development or regeneration
* Health
* Social Wellbeing

North Lanarkshire Council will provide information which it holds on the asset to the applicant CCB. 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 CAT process. CCB’s should seek (and fund) any required independent legal and technical advice relating to property condition and value

### 9. Reporting

The council is required to report annually on:-

* the number of requests received;
* the outcome of requests; and
* any support put in place to support requests.

The CAT steering group, on behalf of the Corporate Community Empowerment working 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

### 10. Approaches to Managing Risk

North Lanarkshire Council recognises that there are inherent risks in Community Asset Transfer both for the CCB 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 will help to manage and minimise risk and support the CAT process.

The Council will as appropriate sign-post the CCB to the relevant local and national agencies for advice/ resources in managing the risks involved and to support and facilitate successful asset transfer.

**11. Remit of CAT Panel and CAT Review Panel**

### CAT Panel

The CAT Panel is responsible for overseeing the development and strategic direction of the CAT policy and implementing the operational process for CAT requests. This group will be made up of officers from across the Council with practical experience and understanding of working with communities, management and transfer of community assets. There is the option to co-opt partners who have particular knowledge and expertise and include representation from the voluntary sector.

The CAT Panel will assess applications against the criteria set out in the community asset transfer process. The Panel will consider policy, legal and financial risk to the Council and provide information to The CAT Leadership Group to inform recommendations to the relevant service committee for decision.

#### 11.2 Community Asset Transfer (CAT) Review Panel

The Community Asset Transfer (CAT) Review Panel is made up of a group of 8 cross party Elected Members. Decision making relating to reviews is the responsibility of CAT Review Panel. The internal review process must be politically led and Council officers can act only in an advisory capacity to the review panel.

It should be noted that members from the local area where the appeal has been received from will not be able to participate in the review process. Where a CCB disagrees with a proposed decision they can appeal to Scottish Ministers for final determination.

### 12. Policy Review

NLC will continue to review the North Lanarkshire Council Community Asset Transfer Policy following an initial twelve month period and in line with any amended guidance from the Scottish Government on Community Asset Transfer.

### 13. Scottish Government – Asset Transfer Under the Community Empowerment (Scotland) Act 2015 – Guidance for Relevant Authorities

NLC will implement this Policy in accordance with the above guidance. All CAT requests will be considered in line with this.