

Gloucester  
City Council  
*Transforming Your City*

GLOUCESTER CITY  
COUNCIL

COMMUNITY  
ASSET TRANSFER

GLOUCESTER

## 1. Statement of Commitment:

1.1 Gloucester City Council is committed to Community Asset Transfer ('CAT') where that will bring benefits to our communities and contributes towards the Council's aims and objectives. This draws through from our recent Social Value Policy (2020 - 2023).

1.2 We recognise that CAT can be a valuable part of supporting and sustaining the Third Sector in Gloucester and we wish to ensure Council assets are managed by the people who regularly use them.

1.3 We are fully committed to using Council assets to form long-term partnerships with Voluntary and Community Sector Enterprises (VCSE) that meet the Council's criteria, in order to create stronger, more cohesive and more sustainable communities.

1.4 We will proactively consider potential opportunities for CAT to local communities and social enterprises.

1.5 We will follow a transparent process for CAT and will adopt an agreed method of assessing all requests for CAT.

1.6 We will review this policy at least once every three years.



## 2. What is Community Asset Transfer?

2.1 Definition: "The transfer of land or buildings from the Council's freehold ownership into the stewardship and/or ownership of Third Sector Organisations."

2.2 CAT can take place in different forms:

- Management agreement
- Licence to occupy
- Short lease
- Long lease

2.3 CAT can also apply to giving a TSO 'first refusal' on a commercial disposal, e.g. by protecting the asset from the open market for an agreed period, which may be particularly appropriate for social enterprises and development trusts.

2.4 CAT usually involves a transfer at less than market value, either at a reduced cost, or free of charge. The level of subsidy will be determined by the social, economic or environmental benefits generated by the transfer. A transfer can be by lease.

2.5 CAT can apply to community buildings (see definition at Appendix A) and also to other Third Sector uses, such as social enterprises or arts venues. Examples of CAT type

agreements that have already been granted in Gloucester in the past include community/ social centres, advice centres, youth clubs, city farms, nurseries, social clubs, arts premises, museums, tourist attractions, etc.



### 3. Why does the council transfer assets to third sector organisations?

3.1 We believe that TSOs are often best placed to manage facilities in their local communities. They make extensive use of volunteers and their local knowledge, and their hands-on management of the asset is likely to result in lower overheads and deliver value-for-money, as well as a more intensive use of the asset.

3.2 Community management and ownership of assets directly supports the Council's new, devolved decision making process. It empowers local communities, puts local organisations in control, encourages pride of place and generates wealth in Gloucester's communities.

3.3 An asset can also provide a TSO with greater financial viability and reduce its dependency on the Council and enable them easier access to grants. The asset will enable it to apply for external funding that may not be available to the Council, or even to secure loan finance on the value of the legal arrangement in place (such as the lease).

3.4 Better use of its assets can help the Council achieve improved outcomes and efficiencies. We will strive to ensure as part of the negotiation process that the TSO has the required skills and knowledge to undertake the ongoing operational running of the asset as well as their activities to ensure statutory compliance throughout the term and reducing the risk of a financial risk as the term comes to a close. We will include triggers in the occupational agreements to allow for partnership working in this regard.



#### 4. Which organisations can be considered for CAT?

##### 4.1 TSOs or organisations that are not for private profit:

- Unincorporated charitable organisation
- Company limited by guarantee with charitable status
- Community Interest Company (CIC) limited by guarantee
- Community benefit Industrial & Provident Society with an asset lock
- CIC limited by shares

##### 4.2 CAT recipients can be of any size but need to:

- Generate social, economic, or environmental benefits
- Directly benefit the people of Gloucester
- Benefit as wide and diverse a range of local people as possible



4.3 Privately owned or commercial organisations can only be considered if their main aim is to deliver social, economic, or environmental benefits and they have significant ‘not for profit’ elements. Private companies or organisations that use the asset, (either physically or as a registered address) that do not fall into the above categories will be treated as private commercial enterprises.

4.4 National organisations whose remit is regional or nationwide are not normally considered for CAT.

## 5. What are the criteria that TSOs need to meet to be eligible for CAT?

5.1 They will:

- need to have a well-prepared business case
- need to demonstrate a clear community/social demand for the proposed CAT
- need to have the capacity to manage the asset and have directors or management committee members who have the necessary experience and skills. This will need to be documented as a contractual obligation either in the lease or management agreement to ensure compliance throughout the term.
- need to have good governance, robust financial systems, and all necessary policies expected of a community organisation; this can be evidenced by having a recognised quality mark, or by meeting all the basic requirements for a good community organisation as listed in Appendix B
- need to contribute towards the Council’s corporate and strategic objectives and Gloucester’s City Plan
- must not duplicate activities, services or facilities already provided in the local community, or it must help support those activities and provide additionality.

## 6. For how long will leases be granted?

6.1 We will carefully consider the specific needs of the TSO on a case by case basis, the condition of the asset and the requirements of potential funders or lenders. We will base the length of the lease term on the needs that are clearly supported by the TSOs business plan, and on the TSOs capacity to manage the asset. In certain case we may offer a phased transfer, depending on the TSOs resources.

6.2 Proposals from community anchor organisations (“independent, community-run and led organisations, rooted in a sense of place, and with a mission to improve things for the whole community”) and those which include the co-location of several services (a ‘community hub’) will be encouraged in this context.

6.3 The following is a guide to the length of term that may apply to new CATs, based on the anticipated requirements of most charitable funders:

- A management agreement or licence will normally be granted for up to 12 months
- A lease of up to 10 years
- A lease of up to 35 years
- In exceptional cases, a lease longer than 35 years may be appropriate if supported by a business case that demonstrates special circumstances or requirements from funders or lenders.

6.4 We will be as flexible as possible when designing lease clauses, so that maximum benefit is achieved for both the TSO and the Council. This will enable the asset to be used imaginatively, e.g. through the ability to sub-let and through flexible user clauses.

6.5 Once granted, leases can usually be extended or restructured at a future stage, to meet changes to the activities or circumstances of the TSO, or to meet the requirements of potential funders or lenders (if supported by an appropriate business case). We can enter into negotiations before lease end dates to ensure that funding applications can take into account what is being discussed for occupation beyond agreement end dates.

6.6 Leases will take steps to ensure the protection of the asset for use for the community for future generations and help support the longer term benefits of the CAT. Therefore, the Heads of Terms will set out the agreed minimum standards such as, opening hours and activities, user clauses, restrictions on use, subletting, and assignment and potentially even break clauses, and refer to service level agreements if deemed appropriate. Occupiers will be required to agree a schedule of condition before taking an agreement and any changes to the asset will need to be agreed with Council in advance and a licence to alter entered into. A full schedule on ongoing repairs and maintenance will also need to be agreed as part of the agreement. It will also ensure that the TSO meets all necessary requirements to achieve optimum community benefit and use of the asset. The TSO must show that it understands Social Value, and how it might adapt these principles, although predominantly used for procurement, it is a significantly important set of principles that can be applied to considering CAT applications. [gcc-social-value-toolkit.pdf \(gloucester.gov.uk\)](#).

6.7 Leases longer than 7 years will normally only be granted to organisations that have an 'asset lock' and will contain clauses that prevent the asset being assigned or sold on for unintended financial gain and the loss of the agreed benefits. Leases of longer than 7 years are classed as a disposal under Section 123 of the Local Government Act 1972 therefore the Council will need to carry out a cost benefit assessment on each application to consider its powers to dispose under the General Disposal Consent (England) 2003. This applies where the Council considers the disposal will help to promote or improve the 'social, economic or environmental well-being' of the Council's area or residents.

6.8 All disposals also need to comply with the Subsidy Control Act 2022. When disposing of land at less than best consideration the Council may be providing a subsidy to the owner/ occupier. Where this occurs, the Council must undertake an evaluation of the proposed transaction to ensure that they comply with the requirements of the Act. Officers should contact One Legal for advice on undertaking this evaluation.

6.9 Leases will contain suitable clauses to ensure the return of the asset to the council if the terms of the service agreement are not met, or in the case of dissolution, insolvency, or corruption.



## 7. What should the business case for CAT contain?

7.1 A business case for a CAT should include:

- Full details of the identified needs that will be met by the CAT
- Clear evidence of the capacity and experience of the TSO to manage and develop the asset
- Detailed evidence that the CAT is financially sustainable over the life of the business plan and will not incur future financial liabilities for the Council, e.g. cash flow forecasts, projected utilisation rates, and details of any financial support secured from or pledged by funders and lenders; the Council will assist by making relevant information and data available
- Details of the anticipated benefits that the CAT will produce and how these will be measured
- Details of the type of CAT and lease terms sought
- Evidence of support from council, other TSOs, other local stakeholders and potential funders
- A robust risk assessment of the CAT and details of alternative arrangements in the event that the CAT proves unrealistic or not sustainable

## 8. What is the assessment process for CAT applications?

8.1 The following table is intended as a guide and the suggested timescales may be subject to variation. Steps Elements Assessors / decision makers Timescales. Clarity on these elements can be obtained from the Asset Management team at Gloucester City Gloucester.

### **Stage 1:**

- TSO Presentation (business case and feasibility assessment)
- Why the asset is needed
- Aims & objectives
- Support from others
- Demonstrate effective management of the asset (for cases where the TSO already occupies the property)
- See appendix C for framework on decision making when one more than one suitable applicant submits a proposal for an asset

The Council will then undertake a desktop assessment - max 1 month

**Stage 2: If successful at Stage 1**, the TSO submits a detailed business plan for the whole organisation providing evidence of:

- Product/service delivery
- Partnership working
- Experience
- Track record
- Capacity
- Needs analysis
- Alignment with the Council's corporate plan, aims and objectives
- Clarification on how the TSO will meet social value objectives.
- Will be required to undertake a Subsidy Control test

The Council will then undertake:

- 1) Desktop assessment by council officers
- 2) Meeting(s) with TSO and supporters
- 3) Site visit
- 4) Outline next steps, which may include
  - Public Open Space consultation requirements
  - Broader stakeholder engagement, or further consultation proposals
  - Introduction to other TSOs undertaking a similar journey to allow TSOs to pull resources and benefit from savings
  - Ask for further information
- 5) Using the information the Council has received from the TSO, if appropriate, it will prepare a written report, outlining options and making recommendation - max 3 months (longer if information is missing)
  - Projected utilisation
  - Cash flow forecasts
  - Projected income & expenditure
  - Risk assessment
  - SWOT analysis
  - Professional advice obtained
  - 'In principle' decision by Head of Finance and Resources or Corporate Director in consultation with the Cabinet Member for Performance and Resources.

**Stage 3: If approved 'in principle' at Stage 2**, a full assessment of the proposed CAT will be undertaken by Gloucester City Council including a detailed evaluation of:

- Value/worth of the CAT's benefits to the community
- Benefits to the Council
- Test against existing facilities (duplication) looking for betterment and additionality
- Test against Council and local policies
- Test against National policies and relevant legislation, including State Aid regulations, Local Government Act, Social Value delivery etc
- Start drafting Heads of Terms:
  - 1) Detailed assessment by council officers
  - 2) Consultation with other stakeholders
  - 3) Consultation with departmental managers (SMT and GMT)



- 4) Obtain legal advice and professional support
- 5) Written report by council officers
- 6) Put the matter on the 'forward plan' (SMT/ Cabinet etc)
- 7) Circulate at SMT and seeking approval of Cabinet if it is a lease longer than 35 years, a key decision or on the request of the Cabinet Member for Performance.
- 8) Written notification of the Council's decision max 4 months

**Stage 4:** Completion, following an appropriate decision process

- Agree support plan and investment plan
- Issue draft heads of terms for agreement
- Draft lease and service agreement issued and this final stage requires council officers, the TSO and the TSO's solicitors to work closely together, so that unnecessary delays are avoided max 1 month, 3 months and 6 months, respectively
- All necessary statutory consents obtained such as s.123 Local Government Act or Secretary of State's consent applied for (where necessary)
- Completion of all agreements and documentation

## 9. What happens after a CAT has been completed?

### 9.1 Once a CAT is completed:

- An organisational development plan will be agreed with the TSO, based on a skills audit and the support plan
- Ongoing support from the council's Community Wellbeing team and signposting to other sources of advice and support
- Annual review of the service agreement targets: measure benefits
- Where applicable, 5-yearly renewal of the service agreement

## 10. Appendices:

- Appendix A: definition of a community building
- Appendix B: organisational requirements
- Appendix C: Framework for decision making when more than one suitable applicant

### **Appendix A Definition of a community building:**

"A free-standing building that is managed, occupied or used primarily by the voluntary and community sector and where community-led activities for community benefit are the primary use of the building."

### **Appendix B - Community Asset Transfer Policy**

Requirements for organisations wishing to apply for CAT: We will be using the 'pre-VISIBLE' quality standard developed by Community Matters, or an equivalent, nationally recognised standard. The main elements are listed below:

- a) Have an up-to-date governing document
- b) Have clearly defined roles and responsibilities for management committee members as directors and/or charity trustees
- c) Have elected officers, elections, and regular meetings in accordance with its governing document
- d) Comply with all Charity Commission and Companies House requirements
- e) Policies for the management of conflicts of interest
- f) Understand its community and its current needs, monitor the quality and relevance of its services, seek feedback, and ensure that its services are fully accessible and appropriate to its community
- g) Have regular financial updates for the organisation and its Trustees/Directors/Management Committee Members understand their legal obligations
- h) Produce annual accounts, appropriately examined or audited, and containing the Annual Report
- i) Have written policies covering payment of Trustees/Directors/Management Committee Members and volunteers, have a Reserves Policy, have procedures for paying/reclaiming the correct amounts of tax, NI and VAT
- j) Operate a consistent charging and lettings policy that balances the needs of the organisation with the needs of local groups
- k) Have a separate trading company with a clear legal relationship, where applicable
- l) Have a clear recruitment policy and written procedures for the recruitment, induction and support of employees and volunteers
- m) Have contracts of employment and written conditions of service for all staff
- n) Comply with relevant equal opportunities legislation in its work and recruitment/employment of staff
- o) Have the correct licences, permissions and insurance cover, where applicable
- p) Comply with good health and safety practice and legislation
- q) Comply with The Children's Act and The Safeguarding Vulnerable Groups Act 2006 Community Asset Transfer Policy

For more information about the CAT Policy or to make enquiries about whether Community Asset Transfer could be appropriate for your organisation please contact the Asset Management Department at Gloucester City Council.

### **Appendix C – Framework for decision making when more than one applicant per asset**

In circumstances where two or more CO/TSOs submit a Stage 1 application which demonstrate sound reasoning as to why they required the identified asset, their need aligns with the Gloucester City Plan and has support from others the interested CO/TSOs will be invited to submit a draft framework asset management plan (this should normally be

submitted within a month of the date the draft framework asset management plan is requested).

On receipt of the draft framework asset management plans the Asset Management Team will report on the proposal to Cabinet. Cabinet will consider the report of the Asset Management Team and make the final decision as to which proposal is invited to progress to Stage 2.

If the Cabinet selected proposal does not gain approval at Stage 2 or Stage 3. The next best proposal identified by Cabinet will be invited to submit the information and documentation required for Stage 2.

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