

# **Review of Part 5 of the Community Empowerment (Scotland) Act 2015**

## **Community Asset Transfer**

**Community Ownership Support Service**

**September 2022**

## Table of Contents

<b>1. Introduction</b>	<b>2</b>
• <i>Community Empowerment Act, Asset Transfer</i>	2
• <i>National Events</i>	2
• <i>Methodology</i>	3
<b>2. Findings</b>	<b>4</b>
• <i>Respondent Demographic</i>	4
• <i>Awareness of Rights</i>	4
• <i>Current Status</i>	4
• <i>Pre-CAT Information</i>	5
• <i>Information Following Initial Contact</i>	5
• <i>Type of CAT</i>	6
• <i>Validation</i>	6
• <i>Support for AT - Process</i>	
• <i>Support for AT - Infrastructure</i>	
• <i>Reviews and Appeals</i>	
<b>3. Conclusions and Recommendations</b>	<b>10</b>
• <i>Appendix A: SurveyMonkey Questionnaire</i>	12
• <i>Appendix B: Follow Up Consultations with Selected Community Bodies</i>	18

## 1. [Introduction](#)

“Ownership or control of land and buildings is a powerful tool for communities to drive change and achieve their own goals. In the first place it provides a base for activities and services that might not otherwise be accessible to members of a particular community, and can provide jobs, training and bring income to the local area. More widely, it can provide stability and sustainability for the community organisation, allowing them to develop new initiatives and support other developing groups, and it can create a stronger sense of community identity, cohesion and involvement”.

*Community Empowerment (Scotland) Act 2015: Community Transfer Bodies’ Guidance*

### ***Community Empowerment Act, Asset Transfer***

Part Five of the Community Empowerment (Scotland) Act 2015 (CEA), Asset Transfer, introduced important new rights for communities including provision for community bodies to request the purchase, lease, management or use of land and buildings belonging to local authorities, Scottish public bodies or Scottish Ministers. Some of the rights, often collectively referred to as Community Asset Transfer (CAT), include the right to:

- Request information on any public asset that interests them.
- Request the transfer of a public asset (which need not be considered surplus).
- Acquire that asset if the public body cannot offer a good reason not to (i.e. there is a presumption in favour of transfer).
- To decide on the price it wishes to offer, based on the economic, social, health or environmental benefits the proposal will add.
- To appeal any adverse decision, first with a public body and then with the Scottish Government.

### ***National Events***

In September 2021 the Scottish Government facilitated an ‘Asset Transfer National Event’, with the purpose of reflecting on four years of the policy being in place and to consider the challenges and opportunities arising out of the community rights contained in the legislation. The event was attended by lead officers from the 95 Relevant Authorities concerned with asset transfers; members of the National Asset Transfer Action Group; partner organisations and stakeholders; and Scottish Government policy leads.

This was followed in October 2021 by an event titled ‘Asset Transfer National Event for Community Organisations’, also facilitated by the Scottish Government. This was an online national event for community groups with an interest in community asset transfer. Over 100 people participated.

The events highlighted the variable experience of community bodies in applying these rights. The Community Ownership Support Service (COSS) is funded by the Scottish Government to support community-based groups in Scotland to take a stake in or ownership of publicly, and in some instances, privately owned land or buildings. Following the two Scottish Government facilitated events, and given the increased experience within communities of the application of Part Five of the CEA, COSS decided to carry out a survey of community bodies to capture the experience of those involved in CAT processes across the country.

### *Methodology*

A two-stage process was decided upon. A SurveyMonkey questionnaire was sent out to all the contacts on the COSS client database known to have used the Part Five legislation and the link was also shared with Third Sector Interfaces to try to capture the experience of groups navigating the process without COSS support. The survey was promoted during November and December 2021. A copy of the questionnaire is contained in Appendix 'A'.

This was followed up by a more qualitative phase involving interviews with six community bodies representative of the issues arising out of the SurveyMonkey analysis. These interviews were carried out by COSS staff, in January through to May 2022, although not by those Advisors who had worked directly with the respondents on their CAT application. The experiences of these groups, chosen because they reflected the findings of the survey, are included in Appendix 'B'.

### *Report Structure*

The key findings from the survey and follow up interviews are contained in the second section of this report. Section three highlights the conclusions and recommendations. There are two Appendices:

- Appendix A contains the SurveyMonkey questionnaire
- Appendix B provides a list of the experiences of groups, indicative of the survey findings, provided by participants during the follow up interviews.

## 2. Findings

### *Respondent Demographic*

Forty responses were received from 38 groups. Two of the NHS and Dumfries and Galloway Council responses related to the same asset. The Relevant Authorities (RAs), and number of responses relating to each, is identified below (with 'others' included the Scottish Ambulance Association and a social housing landlord):

South Lanarkshire - 5	Glasgow - 2	Midlothian - 1
NHS - 4	Comhairle nan Eilean Siar - 2	Renfrewshire - 1
Dumfries & Galloway - 4	Clackmannanshire - 2	Stirling - 1
North Ayrshire - 3	North Lanarkshire - 1	Highland - 1
South Ayrshire - 3	Angus - 1	Aberdeenshire - 1
Others - 2	East Dunbartonshire - 1	West Lothian - 1
South Lanarkshire - 2	Borders - 1	Inverclyde - 1

### *Awareness of Rights*

Thirty-two of the of the 40 respondents described themselves as 'very' aware of the rights for communities to seek the management, lease or ownership of publicly owned land or buildings contained in Part 5 of the Community Empowerment (Scotland) Act 2015 and eight 'a little aware'. All but two respondents had sought to apply the rights contained in the legislation, contacting the RA in question (with the two in question pursuing transfer through different routes).

### *Current Status*

In terms of current status, the largest proportion of respondents (12) described their application as having been assessed with a successful outcome. Seven have decided not to submit a request, five have submitted and are awaiting an outcome while four are working on their application.

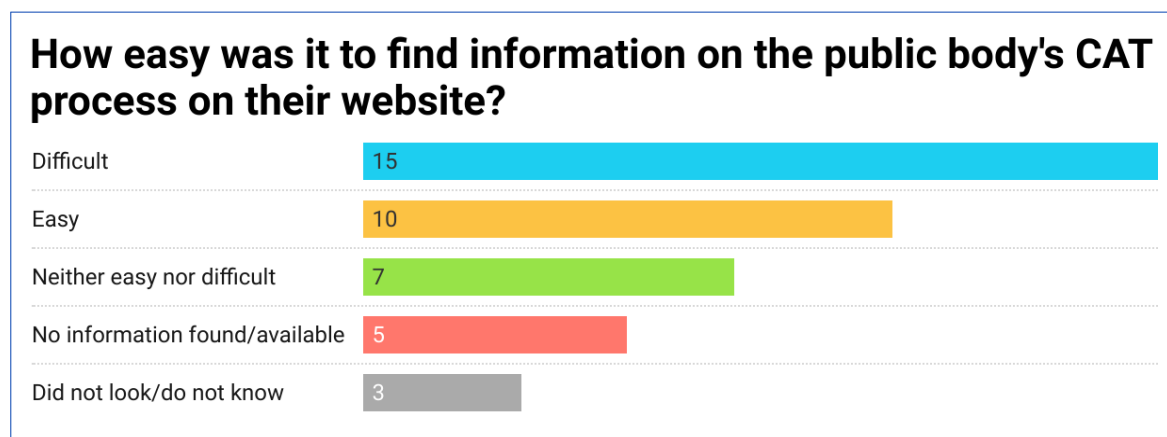
Six, meanwhile, are considering or had sought, a Review/Appeal. One respondent reported an unsuccessful application with no intention of pursuing it further.

Status	No.
Our CAT request has been assessed and the outcome is favourable to us or we are in negotiating terms	12
Have decided not to submit a full CAT request	7
Our CAT request has been assessed and the outcome is unfavourable to we are considering/pursuing a Review or Appeal	6
Have submitted a CAT request and it is being processed	5
Our CAT is complete	5
Are still working on a CAT request	4
Our CAT request has been assessed and the outcome is unfavourable but we do not intend to pursue it further	1

### Pre-CAT Information

The survey suggests that availability of information on asset transfer for groups is problematic, in spite of legislative requirements. When asked about accessing information about asset transfer through RA websites, ten respondents had described this as 'very' or 'quite' easy while 15 found it 'difficult or 'quite' difficult and five had found 'no information' (see below). This is consistent with the findings of the Glasgow Caledonian National Evaluation of the Community Empowerment (Scotland) Act 2015 which found that information provision was "constrained by financial and time pressures".

This influences the decision of community groups as to whether to seek to apply their rights. As one respondent noted "It was taking too long and seemed too difficult - time ran out and we don't have capacity to pursue".

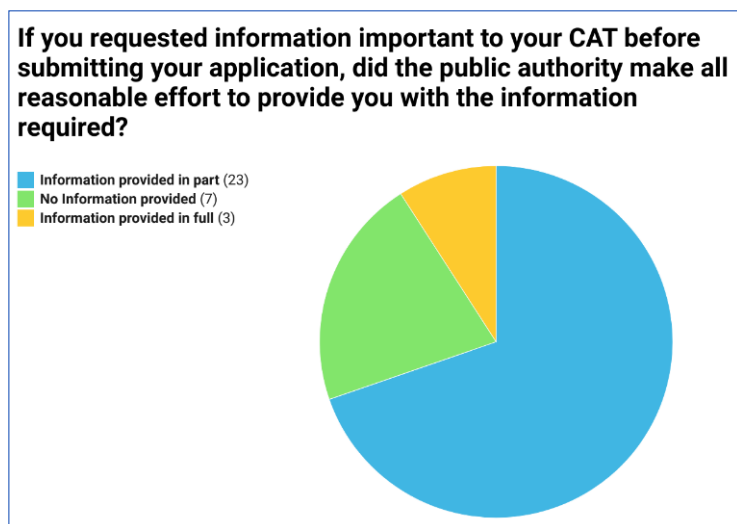


### Information Following Initial Contact

The perceptions of community groups improve somewhat once contact with the RA is established and information is actively requested, although the experience remains mixed. While 23 felt their needs had been met 'in part', only three described their information requirements as having been met 'in full'.

It should be noted that seven respondents stated that 'no information was provided'. Seven of the respondents also decided not to submit a CAT.

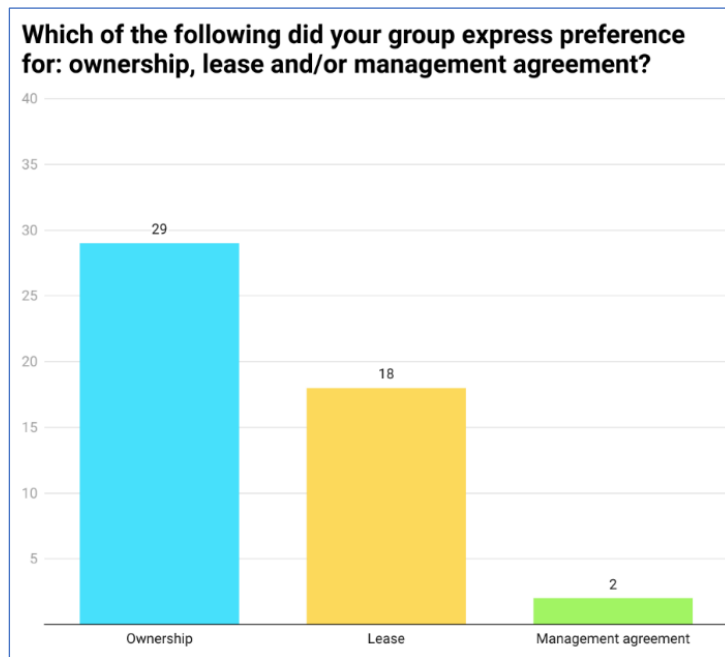
The experience of those groups that elect not to submit, although small in number, may be illustrative of the absence of clear information at the initial stages of the process. Three of the seven could be said to have dropped out because of a lack of information. As one respondent expressed "little communication received to allow us to proceed, everything was kept very much".



### Type of CAT

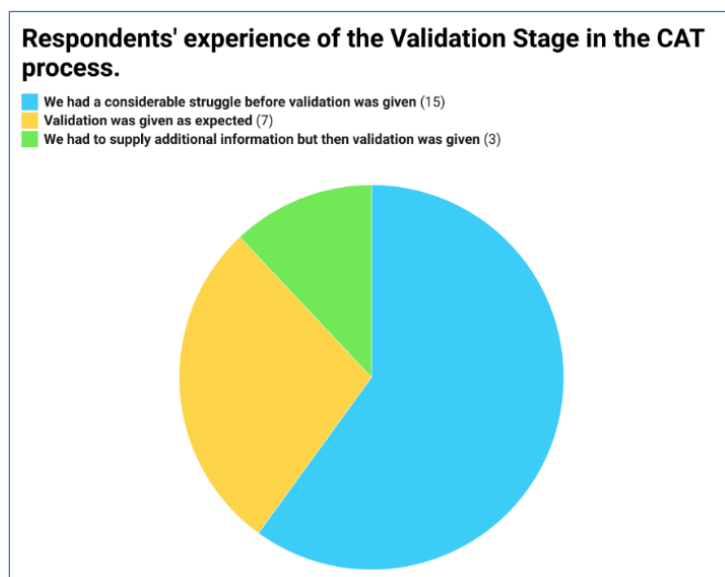
Part Five of the Community Empowerment provides eligible community groups with the right to seek ownership, lease or management agreement. The largest number of respondents (29) were interested in ownership but a considerable minority (20) were interested in leasing or management agreements.

There remains scope and flexibility within the public sector to offer leases (even ownership) outside of the legislation. It could be anticipated that many leases could be progressed outside of the legislated approach and that this can offer a less onerous approach.



Each case is different but it is important that RAs continue to offer the flexibility that can come with non-legislated leasing and management agreement processes where these better meet the needs of community groups.

### Validation



Validation is an important stage of the CAT process. It's when community rights are triggered in full. When the 13 respondents unaware of this stage/ not ready are excluded from the results, communities experience of validation is largely negative.

Fifteen respondents describe achieving validation as a 'considerable struggle' while three others reported having to 'supply additional data' before receiving validation. Seven respondents stated that validation was awarded as expected.

Comments were generally negative. One respondent noted "Validation took nearly a year, without any justification", another "Difficult. Lack of communication, tardiness in replying to emails and

phone calls, change of personnel while ongoing”. In a couple of instances respondents discussed having considered legal redress.

This final example quoted is illustrative of the experience of several groups. *“Initially they seemed very unreceptive and obstructive then we had a meeting facilitated by COSS and they warmed temporarily but then validation took almost a year and after submitting a business plan within the specified period we found the decision was delayed by a year. The whole process seems to have reverted to adversarial despite the fact that our aims should be shared and we are trying to help”*.

Pen-portraits **A4 – D1 – D2** in **Appendix B** illustrate many of the points above in greater detail.

### Support for AT – Processes

Community Asset Transfer is a complex and multi-faceted process. Identifying and coordinating support is important in achieving outcomes. The responses suggest that support is most often lacking (blue shaded below) in terms of ‘technical design work/condition surveys’, ‘asset development funding’, the ‘valuation of assets’ and post transfer ‘revenue funding’. The absence of support for technical design and valuation are important barriers to progression for community groups, particularly for those groups, including communities of interest, unable to access Scottish Land Fund support. As one respondent noted *“We were advised to obtain a separate survey and valuation and then were asked to fund the same ourselves as a means of demonstrating community support”*.

Area of support	Support needed but not sought	Support needed but not available	Support needed and available
Technical design work or building/land condition survey	2	8	14
Asset development funding	6	7	9
Valuation of land or buildings	5	6	17
Revenue funding (after transfer)	4	6	10
Funding of acquisition	4	5	14
Business planning prior to transfer	4	5	18
Legal issues (e.g. negotiating leases)	4	5	13
Community engagement	1	3	11
Advice on governance issues	5	3	15
Options appraisal or feasibility study	4	2	15

Created with Datawrapper

Asset development and revenue funding, meanwhile, present significant post-acquisition challenges, particularly prominent since the National Lottery withdrew from this funding space. The limited support for groups to develop an asset or run it professionally present challenges for the community asset transfer process, with RAs seeking varying levels of evidence for support for these prior to reaching a positive decision on a CAT.

‘Governance’, ‘community engagement’ and ‘options appraisal’ are identified as being the areas where support is least needed. This may be where many community groups feel

they possess strengths e.g. in terms of links to local communities or where local support exists e.g. through Third Sector Interfaces. There is a possible risk, however, in that while groups might view some of these areas as natural areas of competence, they might underestimate the level of skill or resource required.

Pen-portraits **A3 – A5 – B3 and B4** in **Appendix B** illustrate many of the points above in greater detail



## Support for AT – Infrastructure

The support infrastructure is complex, including services for which asset transfer is not a core focus or only one aspect of what they do. Respondents were asked to comment on support received from different agencies and services.

Feedback is mixed. There is a degree of dissatisfaction with the experience of working with RAs. Experiences improve with support offered by other services. Some of the examples cited, other than those identified in the table, included:

- Community Enterprise
- Pro bono work from the private sector
- Scottish Land Fund
- Scottish Rural Housing Fund
- South of Scotland Enterprise Partnership.

Services/Agencies	Not at all useful	Somewhat useful	Very useful	Extremely useful
The public sector owner/landlord	15	13	3	1
Community Ownership Support Service (COSS)	0	2	6	24
Third Sector Interface	8	6	3	4
Other local groups (e.g. community development trust)	3	9	5	2
Alternative intermediary body (e.g. sports or heritage body)	4	6	2	1
A funder	2	7	8	3

Created with Datawrapper

Respondents provided a variety of responses. Some organisations are singled out for positive comment “We were fortunate enough to get support from the Clackmannanshire Third Sector interface” and “We engaged SOSCH to help us, they were essential to our successful buyout of 3 empty homes”.

The value of upskilling within the sector is highlighted. One respondent notes “In May 2021 we did not have much knowledge about the process or who to ask. In October and

November, we undertook 6 modules with COSS on CAT process and now feel fully aware and supported”.

Although comments about RAs tend to be negative this was not always the case “Dumfries and Galloway Council have a positive attitude to asset transfer. The Council officers that worked with us were very supportive and helpful. We moved gradually through the process of management agreement and lease before the transfer was completed. Our Council offered flexible leases that could be shortened or lengthened as necessary”.

Pen-portraits **A1 and B1 in Appendix B** illustrate many of the points above in greater detail

## ***Reviews and Appeals***

The legal right of groups to seek a Review or Appeal of CAT outcomes is an important element of the legislative process. Eleven of the respondents have gone down this path. Six of the respondents have experience of seeking a Review (from Local Authorities), and five Appeals to Scottish Ministers.

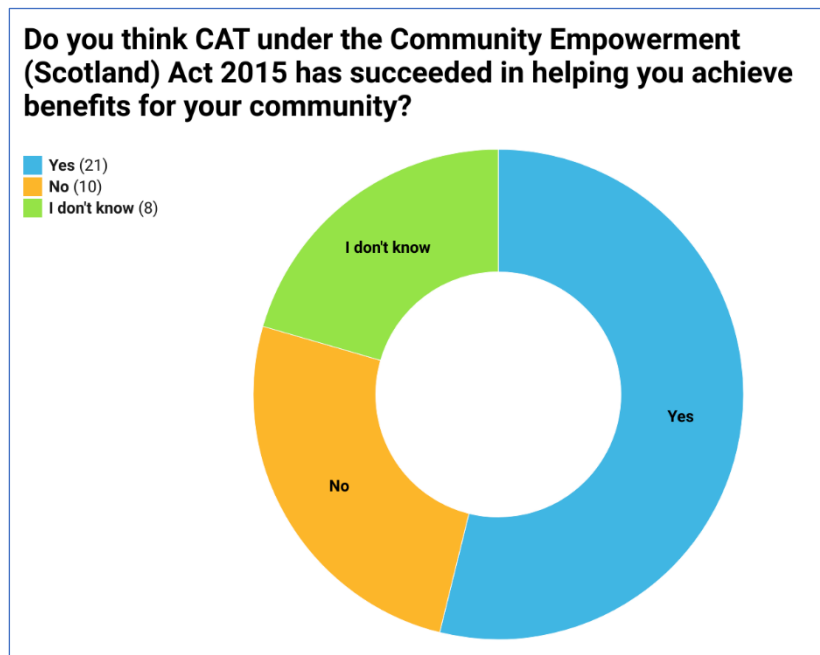
This reflects the fact that many of the groups targeted by COSS have been through the CAT process or at an advanced stage. Some groups were reluctant to respond while in the midst of the process because they were concerned about repercussions. The fact, however, that many groups are choosing to exercise their rights in a process they would formerly have had little recourse to challenge can be interpreted as a positive finding.

More detailed experiences of the Review and Appeal processes are provided in Appendix 'B' including the experiences of the groups illustrate in pen-portraits **C1 – C2 – C3 – C4 and D3**.

### 3. Conclusions and Recommendations

#### **Overview**

The survey respondents were asked whether, in light of their experience, they felt that Part 5 of the Community Empowerment Act, Asset Transfer, had helped them achieve benefits for their community. While 21 responded positively, ten felt it had not while eight were uncertain. This suggests that the legislation has had a positive impact but that this is limited by many groups experience of the process and its application.



Respondents were also asked to comment on their experience of CAT and suggestions for improvement. Thirty groups chose to respond of which it could be said:

- 21 had negative experiences
- 6 had what might be called a 'neutral' experience'
- 3 had a positive experience of the process.

One respondent noted of their experience *"The single biggest improvement needed*

*is our LA's understanding and full engagement of the process"*. Another, *"Needs to be more transparent, better supported, with risks or lack of risks better understood"*. And finally, *"Very difficult, energy sapping, challenging for a volunteering group whose skills were not in that remit. It is not user friendly at all. Very stressful for small grassroot project"*.

#### **Conclusions**

The survey suggests that Part 5 of the Community Empowerment Act, Asset Transfer, has succeeded in providing community groups with a more prominent, rights supported, route to the use of land and buildings for community benefit. The full benefit of the rights, however, have been undermined by the negative experience too many groups continue to have. Areas highlighted requiring improvement include:

- the inconsistent availability of information on CAT and the processes underpinning it
- the availability and information made available by RAs on assets and the internal processes required to enable community groups to navigate that route
- the lack of clarity over and poor experience many groups have of the validation stage
- the lack of support for key elements of the process including valuation, technical design survey and legal costs.

# APPENDICES

## Appendix A

### Community Ownership Support Service Review of Part 5 of the Community Empowerment Act Community Asset Transfer

The Community Empowerment Act 2015 introduced rights for community groups to make asset transfer to communities a more attainable option. Community Asset Transfer (CAT) is a process that allows a community organisation to take over publicly-owned land or buildings in a way that recognises the public benefits that transfer will bring. The Community Empowerment (Scotland) Act, implemented in 2017, has defined a legal process for asset transfer, which gave new rights to communities and placed duties on public bodies.

The Community Ownership Support Service (COSS) is a Scottish Government funded programme set up to help community groups take on assets for their community, giving greater control of land and buildings and to support local authorities and other public bodies to transfer assets in a way that recognises the benefits of working with communities.

As part of our role, COSS would like to hear the views and experiences of those groups which have considered or embarked on community asset transfer. The results will help COSS inform national working groups evaluating the Community Empowerment Act and how it is implemented.

You may choose to give your views in confidence if you prefer. Please indicate whether you'd be willing to be contacted to take part in a telephone or group interview to discuss your answers further.

1. Please provide the name of the group and public authority involved in the CAT

Community group

Public authority

2. How aware are you or the community you represent of the rights for communities to seek the management, lease or ownership of publicly owned land or buildings contained in Part 5 of the Community Empowerment (Scotland) Act 2015?

- Very aware
- A little aware
- Not at all aware

3. Have you or the group you represent sought to apply these rights by contacting the public authority in question?

- Yes
- No

If not, please explain the reason below (e.g. pursuing CAT through alternative means, no longer pursuing CAT etc. and why).

4. How easy was it to find information on the public body's CAT process on their website?

- Very easy
- Quite easy
- Neither easy nor difficult
- Quite difficult
- Very difficult
- No information found/available
- Did not look/do not know

5. Part 5 of the Community Empowerment (Scotland) Act 2015 provides you with the right to seek information important to your CAT prior to submitting an application (e.g. running costs, condition survey etc.).

Do you feel that the public authority made all reasonable effort to provide you with the information you needed?

- Information provided in full
- Information provided in part
- No information provided
- We did not seek information

6. Which of the following best represents your group's current position?

(*'CAT request' same as 'Asset Transfer Request'*)

- Have decided not to submit a full CAT request
- Are still working on our CAT request
- Have submitted our CAT request and it is being processed
- Our CAT has been assessed and the outcome is favourable to us or we are negotiating terms
- Our CAT has been assessed and the outcome is unfavourable so we are considering or pursuing a Review or Appeal
- Our CAT has been assessed and the outcome is unfavourable but we do not intend to pursue it further

If you decided not to submit a full CAT request or received an unfavourable outcome that you do/do not plan to review or appeal, please tell us the reason for this.

7. Which of the following did or has your group expressed preference for? (Tick all that apply)

- Management agreement
- Lease
- Ownership

8. Your full rights under Part 5 of the Community Empowerment (Scotland) Act 2015 do not come into effect until you receive a Validation Notice which sets out the time frame for decision on your CAT and explains the prohibition on disposal and right of Review/Appeal etc.

Which of the following best describes your experience of the validation stage?

- Validation was given as expected
- We had to supply additional information but Validation then given
- We had a considerable struggle before Validation was given
- We are unaware or have not reached the Validation stage
- Our Validation was refused

If your Validation was refused, please tell us the reasons given

9. How would you describe working with the public sector landlord/owner following the submission of your CAT in your own words? *(You may wish to consider ease, transparency, balance of effort etc.)*

10. Submitting a CAT is a complex process, please indicate whether support was needed and available for each of the following?

	Support not needed	Support needed but not sought	Support needed but not available	Support needed and available
Community engagement	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Funding of acquisition	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Asset development funding (after transfer)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Options appraisal or feasibility study	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Technical design work or building/land condition survey	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Business planning (prior to transfer)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Valuation of land or buildings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Advice on governance issues	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Legal issues (e.g. negotiating leases)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Revenue funding (after transfer)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If you needed CAT support for anything other please specify below.



11. If you accessed support from any of the following services/agencies, how useful was it in helping you to progress your CAT request? (If not accessed, tick not applicable)

	Not at all	Somewhat useful	Very useful	Extremely useful	Not applicable
The public sector landlord/owner	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Community Ownership Support Service (COSS)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Third Sector Interface/Council for Voluntary Service	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other local groups (e.g. community development trust)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Alternative intermediary body (e.g. sports or heritage body)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A funder	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If you received CAT support from another provider or would like to expand on support received in your own words, please note below.

12. Part 5 of the Community Empowerment Act gives groups rights to seek a review of a decision made by a Local Authority or Appeal to Scottish Ministers. Have you used any of the following rights? (If not, please skip)

- Sought a Review from the Local Authority to which you made your CAT
- Appealed to the Scottish Ministers following an unsuccessful CAT

13. Do you think CAT under the Community Empowerment (Scotland) Act 2015 has succeeded in helping you achieve benefits for your community?

- Yes
- No
- I don't know

14. In your own words, please describe your experience of the CAT process and leave any comments/suggestions for how it could be improved (You may wish to consider areas where support was not available/useful etc.).

15. If you would be willing to take part in a short interview or focus group on your CAT experience, please leave your contact details below (*Otherwise please skip*).

**Name**

**Email**

**Phone number**

## Appendix B: Follow Up Consultations with Selected Community Bodies

Support for AT Processes (A): Experience	
A1	The group have identified the lack of support for legal costs as a weakness underlying the Part 5 process. To negotiate a lease or transfer of title groups need legal advice and face a choice between accepting unfavourable terms or raising funds for conveyancing advice. For certain types of group, such as the Shed movement, this poses a not insignificant barrier. There is a temptation for groups to accept terms proposed by public authorities without the capacity to argue for terms that will produce freedom of action and greater community benefit.
A2	The group began this CAT process in 2016 which is in the early days of the legislation. There was no information on the RA website on how to do a CAT application, and no support from anyone within the Council. (Community rep) went to Aberdeenshire Council's website for the info and took their application template. The information available has improved since then but is still felt to be inadequate, with no obvious support mechanism or willingness to enter into the process. CATs have been agreed outwith the Act but not many using the Act. The group felt it was because it was too difficult because the system is inadequate.
A3	The group felt that there is a lack of information available from the council about the CAT process itself. They also felt that the internal processes undertaken by the council following receipt of and Asset Transfer Request are not transparent enough and communities need a better understanding of what's happening in those six months (or longer) before an ATR decision is made. Community groups also need to understand the basis on which their asset transfer will be determined to improve accountability and to help groups submit successful ATRs. Although the group have the internal skills to manage the CAT, GCVS are providing support on the policies requested as part of the PMCG process.
A4	The lack of comprehensive information available from the relevant authority was highlighted as a significant issue, particularly in the early stages as the group was preparing their ATR. A great deal of confusion could have been caused by the labelling of the Expression of interest Form as an asset transfer form – leaving many groups to feel they had submitted a full ATR rather than just an EOI. The group also felt that there was insufficient information available on the relevant authority's website detailing how to make a request and what the process would be after the request. The guidance provided by the Scottish Government could be improved to make it more accessible. The group highlighted that they would often be unclear after reading the guidance what was required of them.
A5	The group felt strongly that the lack of good engagement from the council was one of the most significant barriers to progress. The preferred approach taken by the council is to exchange a series of messages rather than constructively sit down to agree a way forward. The group felt this slowed the process down, was ineffective at solving problems and didn't build up the relationships required to work together effectively. They felt that to improve the situation there need to be more proactive engagement, commitment to work constructively with the community group and greater clarity on what's happening

	internally. All of these points are made in the context of working within COVID-19 restrictions on face-to-face meetings.
--	---

## Support for AT – Infrastructure

The Support Infrastructure (B): Experience	
B1	The group received considerable help and support from Midlothian Voluntary Action on their journey. “We wouldn’t have got through this without them”. This included advice at key stages and support with preparing the funding programme for the refurbishment and development of the building.
B2	Following the outcome of their Appeal to Scottish Ministers over their initial community asset transfer the group agreed a lease with the Relevant Authority on an alternative building. Their experience, however, has been hampered by a lack of adequate information provision at key stages. After negotiating the terms of a lease, when moving into the building, they were made aware that the last water quality test had taken place in 2020. But when they asked who had carried this out or how it could be refreshed the response was that it was not the council’s responsibility. Similarly, when it comes to utilities and contact with electrical suppliers the absence of handover information has resulted in disruption. The group feels like it constantly has to seek information when a more proactive and collaborative relationship would deliver greater benefits for all. They feel that a dedicated contact within the Relevant Authority in a cross-departmental position and with some degree of authority, would have facilitated the asset transfer approach.
B3	People Make Glasgow Communities (PMGC) is being presented to communities as a fast-track alternative to CAT under Part 5 but this hasn’t been the experience of the group. They feel the paperwork and information required by the council has been disproportionate and onerous. There has been a requirement to submit 23 policy documents as part of the request to take on a building. The group felt that this is a demanding piece of work which does not fully reflect the requirements for building management and safe operations, which is time consuming for the organisation, which is well staffed with good skills and experience to draw on, so must be very difficult for other smaller organisations to progress.
B4	The group felt strongly that the lack of any transparent scoring matrix in their case was detrimental to their chances of success and made review and appeal more difficult. The lack of requirement for relevant authorities to complete a transparent and accountable scoring process for ATRs is unfair and makes reviews and appeals more difficult. They suggested that a standardised process for assessing asset transfer requests should be brought in and used for all requests by Relevant Authorities. This would ensure clarity and accountability for groups as well as those reviewing ATRs.

## Reviews and Appeals

Reviews and Appeals ( C ) : Experience	
C1	The group experienced both a Review process with the Relevant Authority and an Appeal to the Scottish Ministers with their initial asset transfer application. The group’s

	<p>experience of both processes is that the evidence of proof is weighted in favour of the Relevant Authority. While their own proposals and evidence of community benefit are examined and tested the assumptions underpinning the relevant Authority's alternative use for the asset are not tested to the same degree. The claim that the group's proposal would negatively affect the business case for housing development on the site were not, it is felt, tested with any degree of robustness during the Review or Appeal. A proposed visit by the Scottish Government Reporter might have provided the group with an opportunity to challenge assumptions but the effects of Covid restrictions meant this could not take place. Underlying all this the group feels that its application suffered because there was no collaborative approach from the RA from the outset.</p>
C2	<p>The group's experience of the Community Empowerment Act, Part 5 Appeal Process to Scottish Ministers demonstrates the exacting nature of the appeals process for volunteer-based organisations. The group invested considerable energy in preparing their submission. One of the areas of difference between themselves and the Relevant Authority was over how to value the community benefits delivered by the group through their plans. The group had prepared an extensive, researched and evidenced justification for their valuation of community benefits, drawing on information from the Information Statistics Division, Blue Book Tariff, data from the local health practice and peer reviewed medical sources. This was further updated to meet the requirements of the Reporter to include primary care. The group feels that if the Reporter had granted a hearing then he could have explored this with them in discussions; then the correct weight would have been given to this aspect of their submission.</p> <p>Other frustrations over the Appeals Process were identified. Questions over the robustness of the group's funding plans were raised. But some funders, such as the Robertson Trust for example, will not accept applications for funding without either ownership of the property or a long-term lease. Even the Scottish Land Fund would not process the Stage 2 application without a positive CAT decision. The relevant authority wanted confirmed funding for renovation and maintenance. The group is in a Catch 22. The absence of guaranteed funding is a staple component of the third sector which community organisations plan 18 for but the group feels this was not recognised within the Appeal Process. The group feel that their Appeal was handled politely and respectfully by the Reporter. There is a frustration, however, in that the recommendations included suggestions for remedies but no mechanism for seeing these actioned.</p>
C3	<p>The group was prepared that they would have to ask for a Review right from the start of the process as they were sure their CAT would be rejected. The Review process seemed to follow no timescale (which luckily suited the group as they just got on with the job they were doing) but could cause issues to other groups. The group was allowed to make a presentation which went well - they gave particular praise to Felix as COSS adviser for his help with their preparation. The group felt that the panel set up to review was ill-prepared on the process or project, although the group did feel they were "lucky" with those on the panel as they were supportive when they heard the "story". The Review result was successful but has only been communicated by phone. Four weeks on they still have no official confirmation even though they had been told it would be five days.</p>
C4	<p>The group felt that if a group requests a hearing as part of their review or appeal it should be granted. This would allow them to present their case and clear up any questions which may arise. The group feel that the current review process where councillors lead the</p>

	<p>review can lead to it becoming heavily politicised and therefore not judged on its merits. The group felt that the appeal process to the Scottish Government should not be determined by one individual but a panel should be appointed. They felt that the appeal should focus more on the merits of the transfer request, rather than whether the relevant authority followed the correct legal process. As it stands, they felt the legal focus of the appeal is difficult for community volunteers to engage with effectively and leaves them disadvantaged as most will not have legal experience.</p>
--	--

## Timescales

Community Asset Transfer Process Timescales (D) : Experience	
D1	<p>The group submitted their CAT just prior to the pandemic which understandably led to significant delays to the 6-month timescale. However, the group feel that two years later they have been left in limbo and their good faith agreements to extend the deadline due to the COVID-19 pandemic has left them with no fixed date by which the decision will be made.</p>
D2	<p>The group felt that timescales are one of the main areas where the legislation could be improved and that they had a negative impact on their experience with the process. The main suggestion for improvement was to ensure that community groups requests are validated within a short space of time after they are received and that there should be a firm date, shortly after an ATR is received, by which this validation must take place. Currently groups can be left in limbo and have no ability to plan for the future.</p>
D3	<p>The group felt the timescales for communities to prepare and submit an application for review and appeal were too short. For the review the group suggested this be increased to 40 working days and for appeals to at least 60 working days, but ideally 120 working days. The group felt the appeal process in particular requires such a high level of work, that additional time is essential. In this case the level of work required led to significant detrimental effects on the health and wellbeing of the individuals involved.</p>

