



COMMUNITY ASSET TRANSFER SCHEME (CATS): BEST VALUE GUIDANCE

Introduction

Communities must state the price they are prepared to pay in their Asset Transfer Request. In some cases, this will be the market valuation but may be a lower price, if the community can provide evidence of the benefits that their proposal will deliver.

The CATS evaluation process will assess the Request and determine the price Forestry and Land Scotland (FLS) is able to accept, taking into account:

- **Best Value assessment**
- **Competition and subsidy control**

In practice, the Best Value assessment and competition and subsidy rules are likely to benefit smaller community projects focussed on delivering benefits to their members. Significant discounts on larger land sales will need to be supported by strong evidence of significant benefits and the community body's capacity to deliver them. Asset transfers where a discount will give the community body a competitive advantage in a commercial sector and/or there is limited community benefit are likely to be at or close to market valuation.

CATS Evaluation

The CATS Guidance sets out a 2 stage assessment process:

- **Stage 1:** Assessment of the projects benefits and impacts by the independent and impartial CATS Evaluation Panel, who make a recommendation to FLS on the decision in principle to approve or refuse the request.
- **Stage 2:** Best value assessment by FLS to determine the asset transfer price, to be approved by FLS' Chief Executive as the accountable officer to the Scottish Parliament.

The assessment template incorporates the best value themes into the four key aspects of community proposals: Benefits, Viability, Community Support and Management of the Scotland's National Forests and Land.

Negative impacts will be considered by the CATS Evaluation Panel in making their recommendation to FLS on the decision to approve or refuse the request. The Panel may conclude that the negative impacts are such that they provide reasonable grounds to refuse a Request. The Panel may also identify potential mitigation measures, which FLS may be able to take into account in its decision on the Request (see Table 1 below).

FLS will take into account the CATS Evaluation Panel's scoring of the benefits in determining the asset transfer price that it can accept (see Table 2).

It is important to note that benefits are considered against the absolute value of any request below the market valuation, and not as a proportional reduction. For example, if the benefits justify a discount of £10,000, this discount could be 90% of a small sale or 5% of a large sale and would not change relation to the proportion of the value of the asset.

Competition and subsidy control

The EU State aid regime was effectively revoked from UK law from 1 January 2021. This has been replaced by a Trade and Cooperation Agreement (TCA) agreed by the UK and European Union, which came into force on 1 January 2021. This agreement contains provisions related to subsidy control.

The Scottish Government will provide more guidance in due course, as further rules and guidance are developed and issued by DBEIS [Complying with the UK's international obligations on subsidy control: guidance for public authorities - GOV.UK \(www.gov.uk\)](#).

However, subsidy control and avoiding distortion of commercial markets remains a key consideration in agreeing any discount on land values for commercial activities. The Scottish Government State Aid principles and guidance continue to provide a guide to ensure compliance with legal obligations. The guidance is available here for reference: [State aid: guidance - gov.scot \(www.gov.scot\)](#).

In addition, at a local level, communities planning to set up a commercial enterprise should also consider the impact this may have on other local businesses. In many cases, the community proposals may address a significant gap, contribute to a Community Action Plan and make a positive contribution to the local economy. However, if the community has not carried out appropriate market research and addressed any potential negative impacts on existing businesses, this may be reasonable grounds to refuse a request.

The best value assessment will also consider whether a discount would conflict with other public funding. For example, funding for land acquisition for affordable and social housing is a matter for Scottish Government Homes. FLS therefore would not be able to consider a discount on asset transfer requests for affordable homes, as that is outwith FLS remit.

The [CWA](#) and [Community Land Scotland](#) are useful sources of advice and COSS have updated their guidance on [State Aid for communities](#). FLS will continue to seek advice from Scottish Government's Subsidy Control Team on specific cases, as required.

STAGE 1: CATS EVALUATION PANEL ASSESSMENT

Assessment of the Request

1. Identify positive and negative impacts

- Positive impacts: Score level of positive impact from very low to very strong (1-5). Where FLS has requested evidence but this has not been provided by the community, the proposals will score 0.
- Negative impacts: Identify impacts as:
 - “critical” which may result in a recommendation to refuse or
 - “potential to mitigate” which may be relatively minor, or result in conditions being placed on the decision to mitigate the impact

2. Calculate weighted score based on level of positive impacts:

Criteria	Weighting
Benefits:	Weighted score out of 10 (50%)
Viability:	Weighted score out of 6 (30%)
Community Support and Wider Public Benefit:	Weighted score out of 2 (10%)
<u>Management of the National Forests and Land:</u>	<u>Weighted score out of 2 (10%)</u>
TOTAL	Weighted score out of 20

3. Asset transfer requests can vary considerably in scale and value of the asset. To factor the relative benefits of the community project in relation to the scale of the asset, compared to alternative uses which have the potential to deliver greater benefits, the score is multiplied by a “utilisation” factor:

- High – proposals maximise the use of the asset, delivering significant additional financial and non-financial benefits in relation to scale and alternative uses
= maximum score 60 out of 60
- Medium – proposals make reasonable use of the asset in relation to scale and alternative uses
= maximum score 40 out of 60
- Low – proposals only use a small part of the asset, or deliver limited benefits in relation to the overall scale, compared to the potential benefits for alternative use.
= maximum score 20 out of 60

Making a Recommendation

The CATS Evaluation Panel recommendation on whether to approve or refuse the request in principle is based on positive and negative impacts against the criteria set out above. If there are no critical negative impacts that would constitute reasonable grounds to refuse the request, the presumption is that the request will be approved.

The scoring provides a benchmark for the overall benefits of the project, and is taken into account in FLS’ best value assessment of any discount requested. Where the CATS Evaluation Panel has identified negative impacts that could be mitigated, the scoring also provides a benchmark to evaluate whether the benefits outweigh the costs of mitigating those impacts.

Table 1 sets out the framework for the CATS Evaluation Panel recommendation to recommend approval or refusal of Asset Transfer Request, or propose options where negative impacts are identified, but the project scored highly. This could include specific conditions under the decision can be approved (e.g. specific steps to address the negative impacts, or conditions to be included in the contract).

Table 1: CATS Evaluation Panel recommendations

IMPACTS	OVERALL PROJECT SCORE		
	LOW	MEDIUM	HIGH
Positive impacts against all criteria	Recommendation to approve		
Negative impacts - potential to mitigate	Recommend provisional approval subject to agreement of mitigation measures		
Critical negative impacts against one or more criteria	Recommendation to refuse		

STAGE 2: FORESTRY AND LAND SCOTLAND BEST VALUE ASSESSMENT

What is the discount?

The discount requested will be:

Price the community is prepared to pay	£A
Market Valuation (a valuation report carried out according to RICS “Red Book” standards, jointly instructed on a shared cost basis by FLS and the community)	£B
Discount	£B-A

Does the discount comply with competition and cross-subsidy rules?

- If no, and the decision is to approve the request, the asset transfer will be at the full market valuation.
- If yes, the discount will be the difference between the market value and price offered, based on the benefits that the community proposals will deliver, taking into account the overall project score, as set out in Table 2.

How is the best value assessment carried out?

FLS carries out a best value assessment of the outcomes that the community will deliver, as set out below. The principles apply to all asset transfer requests, but the best value assessment will be proportionate to the scale of the asset – where a project is straightforward and the discount requested is relatively low, the evidence required and assessment should be equally straightforward. For more complex and high value assets, strong and detailed evidence may be required to allow FLS to carry out a robust best value assessment.

Benefit	Example	Assessment																
Part A: Financial 1. Jobs & Income 2. Social 3. Environmental 4. Public Sector Cost Savings	Reduction in public sector costs or enhancement of provision due to the proposal.	Where possible, financial costs e.g. new income generation for the community, GVA of new jobs, costs associated with volunteers’ time in providing services are quantified. Any public costs, e.g. loss of income, increase staff time, are also quantified.																
Part B: Outcomes - quantitative	Contribution towards local or national priorities e.g. improved standards of healthcare; contribution towards alleviating homelessness; supporting local employment etc.	A simple evaluation is used to assess the impact of the request on FLS key performance indicators, Scottish Government National Outcomes and Equalities evidence. <table border="0"> <tr> <td>Impact</td> <td>Low</td> <td>Medium</td> <td>Strong</td> </tr> <tr> <td>Increase</td> <td>🟢</td> <td>🟢🟢</td> <td>🟢🟢🟢</td> </tr> <tr> <td>No change</td> <td></td> <td>↔</td> <td></td> </tr> <tr> <td>Reduction</td> <td>🔴</td> <td>🔴🔴</td> <td>🔴🔴🔴</td> </tr> </table>	Impact	Low	Medium	Strong	Increase	🟢	🟢🟢	🟢🟢🟢	No change		↔		Reduction	🔴	🔴🔴	🔴🔴🔴
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Benefit	Example	Assessment
Part C: Outcomes - qualitative	Improved community cohesion; enhanced local services etc.	A description of any additional qualitative outcomes.

Key Factors
<p>This assessment summarises the benefits identified in the asset transfer requests and CATS Evaluation Panel's report, taking into account:</p> <ul style="list-style-type: none"> • extent of community served • community need / demand for services • likelihood that benefits will be delivered over a <u>5-year period</u> • impact of project failure <p>To account towards a discount, benefits should be <u>additional</u>. Therefore the outcomes are compared to the baseline scenario, and the existing benefits.</p>

Each asset transfer request is unique, and it is impossible to provide definitive guidance what level of discount is appropriate. This depends on many factors including the type of asset, its location, the type project, and the type of community and wider context. As a guide, the key factors that FLS will take into account are:

- **the extent of the community served and demand for the proposals:** if the outcomes benefit only small part of the community and there is no clear evidence of demand, this will limit any discount. However, if the request will deliver benefits to the whole community and meet a clear demand for services, or if they are innovative proposals that will act as an exemplar for wider benefits, this may justify a higher level of discount.
- **likelihood that the benefits will be delivered within 5 years:** the community should have a clear plan for delivery of the outcomes, which will be covered by a 5-year discount agreement to ensure that the reasons for the discount are protected.
- **additionality:** the outcomes should be additional, so the best value assessment can only take into account:
 - benefits that will be delivered as a result of the Request, and not outcomes already achieved e.g. through past volunteer activity
 - outcomes that would only be delivered by acquisition of the site, e.g. new infrastructure, providing a new space for community activity, and not activities that could be delivered without public funding such as increasing informal activity such as guided woodland walks, or simply meeting legal land management obligation such as maintaining core paths
 - changes that will result from the asset transfer request such as increasing access, particularly for disadvantaged and hard to reach groups, and not where there is little change from the baseline scenario for management of the national forests and land.

Table 2: FLS Best Value Assessment

Discount Requested	Overall project score		
	Low	Medium	High
£0	Limited public benefit identified unlikely to justify any or only limited discount	Benefits may be sufficient to justify all or part of discount requested	Benefits likely to justify discount
	May not justify discount requested – review options and set out terms and conditions in decision		Significant benefits, but major impact on other programmes

What terms and conditions may be included in the decision?

- FLS requires a 5-year discount agreement to allow FLS to reclaim any discount approved if the outcomes used to justify the discount are not delivered, unless the discount is based solely on cost savings to FLS resulting from the sale, e.g. through avoiding building demolition costs.
- FLS will typically include a 15 year clawback on any uplift in value as a result of developments to the site if the community sells the land. The clawback is irrespective of the discount, as the inclusion of clawback should be taken into account in the valuation and will only apply if the community sells the land – where the value of any development remains with the community, the clawback does not apply. FLS may also consider specific exemptions, e.g. for affordable housing.

Important points to note:

- The level of discount requested would not usually affect the decision to approve or refuse the request in principle. The presumption is a request will be approved unless there are reasonable grounds to refuse. If the recommendation is to approve the request, and following the best value assessment, FLS does not agree that the discount is justified, we will state the price FLS is prepared to accept.
- If a community body disagrees with the terms and conditions set out in FLS’ decision notice, including the asset transfer price, the body has the right to appeal to Scottish Ministers.