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asset transfer

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Third Sector Leaders
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Local Government Association

The Finance Hub is delivering to the government's ChangeUp programme to create voluntary and community organisations that are effective and independent because they are financially sustainable.

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This briefing provides some background to the issues surrounding the transfer of land and property assets from local government to the third sector. It is aimed at practitioners in both the third and statutory sectors.

Local government has immense potential as a source of asset transfer, with a land and property portfolio worth approximately £130 billion (Urban Land Institute, 2006), and it is stated government policy that local authorities should dispose of a substantial element of this asset base. In July 2004 the Chancellor announced a government objective to dispose of £30 billion of public assets by 2010, £24 billion of which was to come from the local government sector (HM Treasury, 2004).

What is asset transfer?

Asset transfer refers to local communities' ability to acquire land and buildings, either at market value or at a discount, in order to deliver services that meet local needs. It is seen as one way in which local authorities (in particular) can support the development of social economy organisations, and thereby meet their wider strategies for renewal and improved delivery of local services (Pulse, 2004).

Asset transfer and local authorities

Transferring assets to community organisations can help a local authority achieve its strategic policy aims through the way it manages its land and property assets. As well as transferring control, the local authority will also perform an important strategic role in 'mapping' the assets it owns, whether or not it manages them, and evaluating their viability and current level of maintenance.

One important factor when making the decision to transfer assets will be the local authority's need to meet its fiduciary duty to manage its assets in a way that makes best use of resources. Local authorities face particular pressure to realise market value for their assets as a means of reducing pressure on council tax levels. However, this needs to be balanced against the high value for money often achieved through third sector organisations delivering services to client groups the authority finds difficult to access.

Policy context for asset management and transfer

Asset management

In 1998 the Audit Commission published a report on local authority property management, which recommended that councils give greater attention to the strategic and policy implications of property ownership and use. In 2000 the Commission published *Hot property – Getting the best from local authority assets*, which recommended that councils review the need to retain property assets, especially those that '… do not contribute to service objectives'. This report includes several examples of best practice in local authority asset management.

In 2004 the Office of the Deputy Prime Minister (ODPM) commissioned the Royal Institute of Chartered Surveyors (RICS) to produce guidance for local authorities on producing asset management plans. The guidance (RICS, 2005), available on the RICS website, seeks to make stronger links between property management and effective service delivery. In 2004 ODPM launched a beacon scheme for local authority asset management; five authorities were awarded beacon status (Ashford, Cambridgeshire, Hertfordshire, Leeds and Rotherham). See www.idea-knowledge.gov.uk/idk/core/page.do?pageId=1704905.

Asset transfer

In 2003 the Department of Trade and Industry (DTI) published the government's Social Enterprise Strategy (DTI, 2003). This asserted: 'Physical assets, such as community centres, parks and redundant buildings, are of critical importance to the development of active communities and viable community-based enterprises'. The strategy committed the government to exploring how best to tackle the barriers that prevented the transfer of assets to social enterprises.

The 2005 Labour Party Manifesto stated: '… we will offer neighbourhoods a range of powers which they can choose, including new opportunities for communities to assume greater responsibility or even ownership of community assets like village halls, community centres, libraries or recreational facilities'. In *Why neighbourhoods matter* (ODPM/Home Office, 2005) the ODPM and Home Office subsequently identified community ownership and/or management of assets as one route for improving public services and engaging citizens more directly in the improvement process.

The OPDM project board set up to look at how *Why neighbourhoods matter* could be taken forward established a cross-sector working group to look specifically at advancing the community ownership and management of assets. This working group, chaired by the Home Office, has produced a report (ODPM/Home Office, 2006), which was published for consultation in March 2006. One of its recommendations was the need to promote more widely the benefits of, and opportunities for, community ownership and management of land and property assets.

Benefits and risks of community ownership

The working group identified potential benefits of community ownership of assets under three headings: benefits to the community, external stakeholders, and the organisation. The benefit of contributing to sustainable community plan objectives, which will be of particular interest to local authorities, can be added to this list. The group also commissioned further research into the benefits of asset transfer, which is shortly to be published (DCLG, 2006).

Community benefits

These include ability to plan, create wealth, accumulate income and generate a surplus for the community, as well as restore – often iconic – buildings and deliver social, economic and environmental benefits. Redevelopment of one building can provide a catalyst for other inward investment and other local multipliers derived through local purchasing and employment.

External stakeholders

Transfer of an under-utilised or dormant asset can provide the opportunity to lever more resources into a neighbourhood, so creating enhanced value and strengthening a local community. It can also provide a channel for user and community communication and a more accessible and responsive base from which to deliver services. Asset transfer can also provide a source of capital receipts, lower ongoing costs and a substantial advance to neighbourhood regeneration plans.

Organisational benefits

Such benefits range from building the organisation's confidence by achieving greater financial sustainability to achieving security for the organisation through having a tangible physical asset that cannot easily be taken away. Greater financial sustainability can help a community organisation to escape the short-term nature of grant dependency and become a more creative partner in joining up service delivery at a local level. Many organisations improve their own capacity and effectiveness through the process of taking on and developing physical assets.

Wider sustainable community plan objectives

An asset transfer is an agreement entered into voluntarily by both parties. For a local authority to choose to forgo the financial benefits of market disposal, it is necessary to show that disposal of land and property assets to the third sector, often at below market value, will result in demonstrable added value and benefits by contributing to sustainable community plan objectives.

While still comparatively new, approaches such as 'social return on investment' (SRoI)[1] have been developed to try to quantify such benefit. Clearly, more work will be needed to develop these approaches further and apply them to actual cases. However, it is also clear that community enterprises will need to become more adept at demonstrating additional benefits resulting from asset transfer to the third sector in a way that encourages local authority officers to pursue this option as an alternative to open market disposal. As the Pulse report on asset transfer produced for Bristol City Council states: 'To remove the view in the future that transfers are seen as concessions, value will need to be assigned and the transfer viewed as the council achieving its priorities in relation to the Local Government Act 2000 duty of well being; if this were the case asset transfer would then be placed on a commercial footing and would fall under mainstream procurement' (Pulse, 2004).

Risks and capacity building

Asset transfer to the third sector will not represent the optimum solution in all cases. Not every building or piece of land will be an asset for community enterprise, as some will represent liabilities, creating a drain on resources and generating too little income. In any case a proposal to take over and manage an asset should be accompanied by a robust business plan assessed as achievable by people with experience of such projects. Such business plans will need to take into account financial, organisational and administrative considerations.

Asset transfer does not necessarily need to be outright. It might start as a local management arrangement, progress to a leasehold arrangement and eventually lead to freehold sale or transfer. Such a process may help to manage risk, although the opportunity to own assets often provides a spur and focus for community organisational development.

Another area of concern to the local authority will be how to ensure that access to a transferred public asset is not curtailed and that its value is retained by the community. This can be dealt with by insisting that the asset is only transferred to an organisation with an 'asset lock', which ensures that the value of the asset (whether or not it is sold on) cannot be privately appropriated, and by ensuring that the terms of the transfer explicitly specify minimum access levels.

The ODPM cross-sector working group argued strongly the importance of giving sufficient attention to building capacity in the organisation that will manage the asset. For example, the Adventure Capital Fund[2] has shown that a programme of pre- and post-investment support has been crucial in ensuring that organisations are equipped to make full use of the investment finance being offered.

1. See, for example, New Economics Foundation's work, at www.neweconomics.org/gen/newways_socialreturn.aspx

2. For more information on the Adventure Capital Fund see www.adventurecapitalfund.org.uk

Legal background

The legal context for asset transfer is provided by Section 2 of the Local Government Act 2000, whereby every local authority is granted the power to undertake actions it considers are likely to achieve the economic, social or environmental well being of its area.

In terms of specific provisions, the Local Government Act 1972 requires local authorities to seek the Secretary of State's agreement when disposing of an asset for less than best consideration. The General Disposal of Consent (England) 2003 addenda to the Act removed this requirement where the difference between the unrestricted value of the interest to be disposed of and the consideration accepted is £2 million or less.

Local authorities have the power to grant leases of premises at less than market rent for up to seven years and, in the case of premises used for 'recreational purposes', for any period.

Local authorities also have a range of compulsory purchase powers at their disposal for acquiring and disposing of land and property for specific purposes. The most commonly used is that under Section 226(1) of the Town and Country Planning Act (T&CPA) 1990. Also, under Section 106 of the T&CPA 1990 (as substituted by the Planning and Compensation Act 1991), local authorities can enter into agreements – planning obligations – with developers and other parties to address issues relating to new developments. This represents a good opportunity to create community assets as a form of 'planning gain' resulting from private development. In some cases this may include the provision of community facilities or open space. Issues surrounding community benefit could usefully form part of the ongoing dialogue between the local planning authority and relevant local community organisations on current planning applications.

This is the situation now. The government is currently consulting on the possible introduction of a 'Planning Gain Supplement'[3] in April 2007, which would in part replace the current system of developer contributions via planning obligations.

Legal structures for community organisations

There is a range of legal structures available for community groups to use as vehicles to manage assets. These include registered charities, companies limited by guarantee, community interest companies (CICs) and industrial and provident societies of the 'community benefit type'. In many cases, the key consideration for local authorities will be the existence of an 'asset lock', whereby the group will be obliged to preserve the asset (or the value it represents) for the benefit of the community (but see the briefing 'Publicly funded assets', included in this pack). A local authority may choose to retain an interest in the land or property, for example to retain the freehold and only grant a lease on a property. While the value of any asset transferred to the community

3. For more information see www.hm-treasury.gov.uk/media/F59/D3/pbr05_planning gain_449.pdf

will be safeguarded by the existence of an asset lock, a local authority could also impose a covenant on a transferred building that was particularly iconic to prevent its demolition.

Finance issues

The ODPM working group concluded that one of the barriers to transferring assets to communities was the lack of appropriate capital and revenue funding, both in terms of scale and type. It is also clear that different types of community organisation will require different types of funding, ranging from traditional grant finance, through 'patient capital' (raising capital or loans on preferential terms), to commercial finance from banks and venture capitalists.

One of the advantages of transferring assets to community ownership is that it can unlock access to charitable and other funds that would otherwise not be available. As well as accessing capital grants, assets also enable community organisations to borrow money. Lenders have underlying security and the community organisation has a base from which to generate income. Not over-borrowing in relation to the capital value of the assets the community organisation owns and borrowing on favourable interest rates can accelerate and enhance local service delivery. Sources of such funding include the Big Lottery Fund, Adventure Capital Fund and Futurebuilders, and banks and community development finance institutions (CDFIs). Details of these organisations' websites are included at the end of this briefing.

Case studies

LB Lambeth and High Trees Community Development Trust

High Trees Community Development Trust (HTCDT) in London was set up as a not for profit limited company in May 1998 and registered as a charity in February 2000. The Trust was set up to encourage and enable individuals and small groups resident on St Martin's Estate and neighbourhood to set up and run projects for the benefit of all sectors of the diverse community. The Trust's main asset is a former public library owned by Lambeth Council which closed in April 1995. It was transferred with housing stock and nursery buildings to St Martin's Community Partnership (SMCP) in October 1999. SMCP handed over management of the library to the Trust in March 2000.

Transfer of the asset has enabled HTCDT to generate significant income through a service delivery agreement with Lambeth Adult and Community Learning. It has also enabled the Trust to hire out facilities to other local groups at reasonable rates.

www.high-trees.org

Plymouth City Council and Wolseley Community Economic Development Trust

Wolseley Community Economic Development Trust (Wolseley CEDT) emerged in 1994-96 from the large-scale redevelopment of a derelict area of inner city Plymouth. The Trust currently manages two business parks, renting out business space to help generate economic development, local jobs and small business growth in both the private and social economy sectors. Part of the Trust's philosophy is to use trading surpluses to support community infrastructure; in 2005/06 this raised £120,000 in financial support and more than £50,000 in in-kind support. In 2000 Plymouth City Council transferred derelict land and buildings to the Trust on 25-year leases to develop and manage two business parks, a healthy living centre and a community resource building.

www.wolseley-trust.demon.co.uk

Nottingham City Council and the Renewal Trust

The Renewal Trust was formed in inner city Nottingham as part of the City Challenge exit strategy. The Trust aims to improve the quality of life of the communities of St Ann's and Sneinton by supporting and promoting activities to renew the area socially, economically, environmentally and 'in spirit'.

In 2000 Nottingham City Council transferred an old school complex in the St Ann's area to the Trust, with an annual revenue budget, to create the Sycamore Centre complex. Facilities at the complex now comprise a youth and community centre, a refurbished sports hall and a business centre. The business centre, run by a separate trading subsidiary, has 18 units. These are fully let and provide an annual Gift Aid surplus, which is used to support the Trust's wider work in the area.

www.renewaltrust.org.uk

Liverpool City Council and Blackburne House

Blackburne House Group is a training-led organisation that delivers high quality training, education and consultancy services for women. The organisation employs 70 staff and offers 50 courses with 1000 full- and part-time learning opportunities. In 1992 Liverpool City Council transferred a vacant building it held in trust, which was falling into disrepair, to the Blackburne House Group. In 2002 the Group won the Social Enterprise of the Year award.

www.blackburnehouse.co.uk

Bristol City Council and Southmead Development Trust

Southmead Development Trust, based in the deprived Southmead area to the north of Bristol, delivers community-based regeneration from the Greenway Centre, which it leases from Bristol City Council. The Greenway Centre is a substantial former secondary school site of 5.5 acres, containing buildings of approximately 50,000 square foot. Activities include training courses, leisure services, managed workspace and community activities. In the late 1990s Bristol City Council sold off a portion of the Greenway Centre site. It has retained the proceeds of £1.1 million as a capital reserve for use by the Trust for capital projects in Southmead.

www.southmead.org

Conclusion

Asset transfer to third sector organisations will not be the appropriate solution in all cases, but if the circumstances are favourable can offer significant benefits to both parties. For the community, asset transfer offers the opportunity to achieve long-term sustainability and improved confidence and can act as a catalyst for future development. For the local authority, it can be a way of delivering services that are more in touch with community needs, refurbishing an iconic public building, and contributing to a range of sustainable community plan objectives.

The legal and finance framework is already in place. The barriers are often the capacity of third sector organisations to take on assets and lack of will among local politicians or council officers to consider the option. Local authorities are continually being exhorted to view their land and property assets strategically as a way of achieving their community plan objectives.

This briefing demonstrates that transfer to third sector organisations should be seen as one of a range of options that can deliver real and lasting benefits.

Further information

The following list of web addresses gives some of the main sources of information; it is not intended to be exhaustive.

Project partners

Development Trusts Association (www.dta.org.uk)

Association of Chief Executives of Voluntary Organisations (acevo) (www.acevo.org.uk)

Local Government Association (www.lga.gov.uk)

General information

Charities Information Bureau (www.cibfunding.org.uk/)

The government funding website (www.governmentfunding.org.uk)

Potential funding sources

Big Lottery Fund (www.biglotteryfund.org.uk)

Adventure Capital Fund (www.adventurecapitalfund.org.uk)

Futurebuilders (www.futurebuilders-england.org.uk)

Community Development Finance Association (www.cdfa.org.uk/)

Technical advice

Architectural Heritage Fund (www.ahfund.org.uk)

Royal Institute of Chartered Surveyors (www.rics.org.uk)

Royal Town Planning Institute (www.rtpi.org.uk)

References

DCLG (2006) *Community assets: Examining the benefits and costs of community management and ownership*

DTI (2003) *Social enterprise: a strategy for success*

HM Treasury (2004) *Report of the 2004 Spending Review*

ODPM/Home Office (2006) *Communities taking control: Final report of the cross-sector working group on community ownership and management of assets*

ODPM/Home Office (2005) *Citizen engagement and public services: Why neighbourhoods matter*

Pulse (2004) *Bristol City Council-Asset transfer research final report*

RICS (2005) *Asset management in local authorities*

Urban Land Institute (2006) *Ten principles for creating value from local government property*