6 Commonly identified risks and examples of ways to manage them

6.1 The Quirk Review identified a number of common risks and set out some ways that these could be managed. The table below includes these risks and some others and also includes a number of practice examples gleaned from the regional seminars or other research.

Table 5 – Commonly identified risks and examples of ways to manage them

<table>
<thead>
<tr>
<th>What is the risk?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Community empowerment objectives proposed by community organisation are vague, weak or not aligned to those of the local authority</td>
</tr>
</tbody>
</table>

Why does it need to be considered?

The Quirk report, “Making Assets Work” makes clear in its opening paragraph that “…optimising the use of public assets is not the primary objective: the over-riding goal is community empowerment”

The organisation may not have buy-in from the local community for the proposed uses

What can be done about it?

- The organisation can be urged to consider further its objectives for the use of the asset
- The organisation could undertake a community needs survey to assess the needs and interests of the community served
- The organisation could be urged to work in partnership with other organisations having clearer empowerment objectives

Practice examples

1. ACRE and Community Matters publish model community needs and interests surveys that can be used by local organisations. See www.acre.org.uk and www.communitymatters.org.uk

2. Local federations of community organisations and other Local Infrastructure Organisations may have considerable evidence of community need for given neighbourhoods. Information on local infrastructure organisations is available from the National Association for Voluntary and Community Action – see www.navca.org.uk
### Table 5 – Commonly identified risks and examples of ways to manage them (continued)

**What is the risk?**

2. The receiving organisation does not have the capacity/skills to manage the asset

**Why does it need to be considered?**

Lack of skills and capacity within the community organisation to manage a building is a commonly voiced concern which can greatly affect whether an asset transfer is successful or not. Some of the results may be that:

- Expectations are raised in vain
- Time, effort and money spent by the organisation are wasted
- The transferred building and organisation do not operate to their full potential
- Little use is made of the asset

**What can be done about it?**

- There is a need for the organisation taking on the building to demonstrate the skills and capacity to manage it. This could be through skills audit or other means
- An agreed organisational development plan should be developed, funded and implemented, to include skills training in building management
- There is a need to ensure that the organisation taking on the building has access to on-going expertise and advice
- Both parties need to agree a detailed ‘hand over or expectations document’ setting out the responsibilities clearly
- Clarity of expectation in any formal agreement about the minimum level of usage expected
- The transferring body should insist on a viable long-term business plan at the outset, although there should also be a recognition of the scope for innovative development as a project progresses
- It may be possible to transfer the building on a phased basis
- It may be possible to transfer on a leasehold/freehold basis with responsibilities for repairs retained by the transferring organisation, at least for a specified period. This would need to be specified in a legal document accompanying the transfer
The local authority could offer to provide technical help and expertise on e.g. asbestos, health and safety, Disability Discrimination Act compliance, fire risk, legionella, etc. to the receiving organisation.

Ensure that any lease on the building includes a clause which states that “In the event that the community organisation ceases to trade, appropriate arrangements are in place to protect assets for community use” (this would include transfer to another appropriate community organisation or possible reversion to the local authority).

Practice examples

1. Kirklees Community Buildings Forum which is attended by all third sector organisations that manage the Council’s community centres, and which meets every six weeks, allows sharing of experiences and capacity development. Contact Gary Gordon: gary.gordon@kirklees.gov.uk or community.work@kirklees.gov.uk

2. ACRE’s National Village Hall Information Service provides a source of local expertise for volunteer-run community buildings through its network of dedicated advisers located in its local member organisations. The service is transferable to supporting urban community buildings and includes help with development of business plans and practical hall management. For more information, go to: www.acre.org.uk/communityassets_villagehalls_informationservice.html

3. Community Matters Information Sheets aim to provide a range of practical information in an easy to use format and cover topics including managing community organisations, financial matters, employment matters, health and safety and community buildings. www.communitymatters.org.uk/resources/information_sheets/index.php
Table 5 – Commonly identified risks and examples of ways to manage them (continued)

3. Local authority lacks the capacity to support the asset transfer adequately

Why does this need to be considered?

- Insufficient support given to the third sector organisation leading to a failure of the organisation
- Community use of the building fails depriving local people of important services and/or facilities
- Local authority loses face among the local community

What can be done about it?

- By agreeing asset transfer as a corporate priority the local authority can help ensure that the need to support community organisations is shared across service directorates
- Revenue funding needs to be allocated within local authority internal budgets to support officers in working with community organisations to help them take on and manage assets
- Support for the receiving organisation should be part of a broader partnership involving third sector infrastructure organisations and other public sector partners e.g. Regional Improvement and Efficiency Partnerships, Regional Development Agencies, etc

Practice examples

Birmingham City Council Asset Transfer Protocol – The City Council have produced a protocol on asset transfer which is ‘owned’ corporately across all service departments. The protocol sets out the process that will be followed and is aimed at ensuring that there is corporate buy in for asset transfer. Contact Tony Smith: tony.smith@birmingham.gov.uk

Knowsley MBC – Community Support Task Force – Knowsley MBC has established an officer group to manage the Council’s programme of providing support to third sector organisations wanting to manage community owned buildings in a viable way. Each directorate within the Council will have a representative on the group which is intended to be capable of providing the support that third sector organisations feel they need. Contact Andrew Cripps: andrew.cripps@knowsley.gov.uk
| 4. Community organisation does not have the funds to purchase and/or refurbish the asset |

**Why does it need to be considered?**
- Failure of project or organisation may result
- Time, effort and money wasted
- Wider community is let down
- Building/asset does not achieve Disability Discrimination Act (DDA) compliance

**What can be done about it?**
- The transferring organisation could commission/fund a conditions survey at outset. This should include an assessment of the asset's fitness for purpose and Disability Discrimination Act considerations.
- There is a need to fully consider long-term income/expenditure at outset and the community organisation should be provided with a clear financial picture before and after transfer for each potential transfer option e.g. freehold and differing lengths of leasehold.
- Consideration could be given to phasing any improvement programme.
- It may be possible for the transferring body to retain certain maintenance liabilities.
- It may be possible to transfer the building with endowment payments to cover on-going maintenance for a set period.
- The transferring body could review the disposal price of the building in the context of the proposed future use and any liabilities.
- The asset could be transferred on a leasehold basis with a low or nominal rent.
- The group could take on the full management of the asset but with the tenure being retained by the public authority.
- Transfer on a long lease or freehold sale will give the receiving organisations more opportunities to raise grants and investment funding to support improvements.

**Practice examples**

1. The **Adventure Capital Fund**’s Business Development Fund is for community enterprises in the early stages of development. A grant of up to £15,000 comes with five days’ support and can be used to develop an organisation’s skills and capacity so improving its ability to run its own enterprise and trading activities. [http://www.adventurecapitalfund.org.uk/](http://www.adventurecapitalfund.org.uk/)

2. The **Architectural Heritage Fund** can offer assistance with feasibility work and surveys of listed buildings or those in a conservation area of architectural merit. Both Option Appraisal Grants and refundable Project Appraisal Grants are available [http://www.ahfund.org.uk/finance_grants.html](http://www.ahfund.org.uk/finance_grants.html)
### Table 5 – Commonly identified risks and examples of ways to manage them (continued)

#### 5. Community organisation cannot afford to maintain the asset on an on-going basis

**Why does it need to be considered?**
- Risk that the organisation collapses
- Organisation may incur financial liabilities that it can’t meet
- Long-term health and value of the asset declines

**What can be done about it?**
- The receiving organisation should develop a robust, long-term business plan at the outset – the cost of doing this will be a valuable investment
- Develop, fund and implement an agreed organisational development plan
- Ensure organisation has access to on-going financial expertise and advice
- Transfer on a leasehold/freehold basis with shared repair options
- Ensure the community organisation remains eligible for full (100%) rates relief
- Hand over building with an endowment to cover repairs/maintenance for an initial period
- Use local procurement and anchor tenancies to underpin quality revenue streams

**Practice examples**

1. **Kirklees MBC** splits maintenance responsibilities for its community centres, which are all managed by charities, between it and the managing organisation. It also gives grants to the charities to cover a proportion of the management costs and groups are also able to apply for capital funding for repairs and a fund exists for maintenance repairs. The Council has also introduced Service Level Agreements and management agreements to protect both parties. Contact Gary Gordon, Community Buildings and Development Worker: gary.gordon@kirklees.gov.uk or community.work@kirklees.gov.uk

2. **Sheffield CC ‘Premises Pack’** includes practical advice on meeting the maintenance costs of running a building aimed at third sector organisations seeking to take on an asset. It also signposts organisations to sources of help within the Council and wider third sector support infrastructure in Sheffield. Contact: compact@sheffield.gov.uk
<table>
<thead>
<tr>
<th>6. Lack of knowledge of the asset (especially when considering an historic building)</th>
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</thead>
<tbody>
<tr>
<td><strong>Why does it need to be considered?</strong></td>
</tr>
<tr>
<td>• Costs are under-estimated, leading to lack of funds</td>
</tr>
<tr>
<td>• Building may be structurally unsound</td>
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<tr>
<td>• Projects can be jeopardised</td>
</tr>
<tr>
<td><strong>What can be done about it?</strong></td>
</tr>
<tr>
<td>The receiving organisation could consider:</td>
</tr>
<tr>
<td>• Carrying out initial research on the physical condition of the building</td>
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<tr>
<td>• Commissioning and retaining a surveyor</td>
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<tr>
<td>• Employing and retaining a conservation architect</td>
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<tr>
<td>• Employing and retaining a full time project manager</td>
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<tr>
<td><strong>Practice example</strong></td>
</tr>
<tr>
<td><strong>The Priory Centre, Great Yarmouth</strong>: Great Yarmouth Community Trust purchased the Priory, a Grade I listed ex-Benedictine Monastery, in 2002 and embarked on a lengthy restoration project. Formally a school, the Priory had been empty for several years and had become derelict. Accurate information on the condition of the building and renovation costs involved was not available at the outset. The Trust employed a conservation architect and project manager to oversee the restoration project and manage the requirements of both community use and listed building requirements. The Trust is in the process of producing a ten year improvement project and restoration plan. For further information contact: <a href="mailto:enquiries@gyctrust.co.uk">enquiries@gyctrust.co.uk</a></td>
</tr>
</tbody>
</table>
Table 5 – Commonly identified risks and examples of ways to manage them (continued)

7. State aid rules prevent public financial support for a project

Why does it need to be considered?
- Organisation not able to access all funds available
- Organisation may have to pay back funds
- Time required to argue case

What can be done about it?
- There is a financial ceiling below which State Aid restrictions do not apply (known as ‘de minimis’ provision) which is currently set at Euro 200,000 in any rolling three-year period. It may be possible that the project taking on the building fits within these limits
- Normal contracts awarded under EU procurement rules are not considered as ‘state aid’ and nor are services of general economic interest as long as the service is clearly defined
- There are areas of ‘permitted support’ under EU State Aid rules: –
  - Culture, employment, environmental protection, research and development, regional development, undertakings in deprived areas, and aid to SMEs and training;
  - Provision of social housing, improvements to physical environment and brownfield sites
- Perhaps the key defence in making discounted asset transfers is where it can be demonstrated that the use to be carried out in the building is truly local and will not meet one of the five tests for State Aid i.e. it would not adversely affect trade between member states

It may be helpful to seek advice from the Department for Business and Regulatory Reform State Aid Unit. Contact Nicholas Wright:
nicholas.wright@dti.gsi.gov.uk or berr.enquiries@berr.gsi.gov.uk

Practice examples
1. State Aid Briefing – A background briefing on State Aid and asset transfer to the third sector produced by the DTA on behalf of the Finance Hub with case studies is available on the Development Trust Association website: [http://www.dta.org.uk/activities/services/negotiating](http://www.dta.org.uk/activities/services/negotiating)
Further information on State Aid is also provided in table below

2. Dorsten Swimming Pool Case – The European Commission found that aid for a leisure pool in Dorsten, Germany, had no effect on trade between Member States (therefore not meeting one of the five tests that must be met for aid to be a “state aid”) as pool users would not travel more than 50km to use the facilities. The Commission also approved aid towards the restoration of Brighton West Pier, backing up this previous decision. In the Brighton case, the Commission states that the aid pursues a genuine cultural objective and would not in any event affect trade between Member States as no-one would come to the UK purely to visit a pier. Unfortunately the pier has since fallen into the sea (Source: State Aid News, spring 2003).
Commonly identified risks and examples of ways to manage them (continued)

8. **Asset not used in the public interest, taken over by an unrepresentative/unaccountable minority, access to asset not inclusive**

**Why does it need to be considered?**
- Risk of funds being misappropriated
- Under-utilisation of asset
- Local resentment and risk to community cohesion
- Restricted access to asset – causing other groups to want their own asset
- Competition for control of the asset amongst community groups

**What can be done about it?**
- The transferring and community organisations could develop an ‘expectations document’ which forms the basis of on-going partnership
- The transferring organisation can insist on the community organisation’s management board being inclusive of different interests and communities in the area
- It may be possible to include a local authority presence on the management board
- It may be possible to include covenants in any transfer documents (providing these are not too onerous as this could restrict the ability of the community organisation to fully utilise the asset)
- Ensuring that where possible, the organisation acquiring the asset is genuinely multi-purpose and is committed to making it widely available

**Practice examples**

1. **LB Lewisham’s ‘Community Assets Framework’** produced as part of the Advancing Assets for Communities programme promotes area-wide benefits from asset transfer and seeks to achieve both benefits for the community locally and to ‘communities of interest’. Contact Martin O’Brien: martin.obrien@lewisham.gov.uk

2. Some local authorities (e.g. Basildon Borough Council) use model leases for community buildings which can include an ‘equal opportunities clause’ requiring the organisation to make the building available to all residents in the Borough. Basildon BC also employs a ‘traffic light’ monitoring approach which relates to six criteria (membership level, occupancy, range of activities, level of use, sustainability and associations with bars) in order to focus on those organisations that may need greater attention. Contact: Jim.Ross@basildon.gov.uk or jenifer.crawley@basildon.gov.uk

3. **Community Matters ‘Becoming Visible’ standards** include several indicators to test the organisation’s reach into all sections of the local community (see table 3 p22).
<table>
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<th>9. Fragmented ownership of assets precludes a strategic approach</th>
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**Why does it need to be considered?**

- Local authority strategy for capital and revenue investment in community facilities across its area of benefit needs to take account of dispersed ownership/management
- Where the local authority strategy for public service delivery relies on use of local community facilities, negotiation with multiple owners is required
- Local authority has less direct responsibility to local people for their access to, and use of, public space

**What can be done about it?**

- A local authority commitment at the highest level to taking a strategic approach to the use of all local assets regardless of ownership/control
- Partnership working at Local Strategic Partnership (LSP level) and ‘joined up area reviews’ of assets could ensure a more ‘seamless’ delivery of services across public and third sectors
- Include community-owned facilities and services as well as Council-owned facilities within assessments carried out to establish levels of community need and existing provision and which feed into the development of statutory plans
- There is a need to involve third sector organisations more fully in the development of the sustainable community strategy and Local Area Agreement (LAA)
- Include covenants in transfer to a multi-purpose community organisation to allow arrangements with third party service delivery agencies to be developed
Table 5 – Commonly identified risks and examples of ways to manage them *(continued)*

<table>
<thead>
<tr>
<th>Practice examples</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. An example of a ‘joined up’ area review is the ‘local asset management plan’ approach pursued by <strong>Birmingham City Council</strong> at constituency or ward level. Birmingham are engaged in a ‘cross portfolio review’ looking primarily at service delivery from the Council’s own offices across all services using a ‘hub’ and ‘spoke’ principle. The ‘hubs’ are envisaged as bespoke offices with additional facilities whereas the ‘spokes’ are primarily service facilities with a small amount of add-on office accommodation or public facing receptions. In both instances there is potential to draw on facilities provided by the third sector such as a creche, nursery, or community meeting rooms as part of the mix of uses provided. Given the size of the city this approach is initially being taken on a ‘demonstration zone’ basis. Contact Mark Bieganski: <strong><a href="mailto:Mark.Bieganski@birmingham.gov.uk">Mark.Bieganski@birmingham.gov.uk</a></strong> or <strong><a href="mailto:edd_piu@birmingham.gov.uk">edd_piu@birmingham.gov.uk</a></strong></td>
</tr>
<tr>
<td>2. The <strong>ACRE</strong> network’s facilitation of parish and community-led plans aims to ensure that the needs and opportunities of community groups owning facilities or delivering services are recognised, aggregated and passported into the development of the Sustainable Community Strategy and LAA development. For more information see the ‘bridging’ section of the neighbourhood and parish planning guide at <a href="http://www.acre.org.uk/DOCUMENTS/Projects/Parish%20Plans/guide_section1B.pdf">http://www.acre.org.uk/DOCUMENTS/Projects/Parish%20Plans/guide_section1B.pdf</a></td>
</tr>
</tbody>
</table>
### Table 5 – Commonly identified risks and examples of ways to manage them (continued)

#### 10. Confusion in roles between the local authority and the community organisation

**Why does it need to be considered?**
- Unexpected or unfunded liabilities emerge
- Breakdown in relationships or partnerships
- Local authority expectations regarding membership of the organisation’s board of trustees

**What can be done about it?**
- The use of an ‘expectations document’ which includes legal, financial and other statutory liabilities may be advisable
- Where funding is being provided it may be advantageous to establish a formal Service Level Agreement
- It is advisable to ‘signpost’ community organisations to where they can access specialist information through national networks
- Designate local authority officer to coordinate authority’s relationship with asset-based groups
- Clarity about the obligations of charity trustees and company directors

**Practice examples**

1. The ‘Premises Pack’ produced by Sheffield CC sets out roles and responsibilities of the Council and third sector organisation wishing to take over management and/or ownership of a building. Contact: compact@sheffield.gov.uk

2. Useful advice and information on the role of community organisations in taking on and managing buildings is contained in the DTA document ‘To have and to hold’, the ACRE ‘Village hall good management guide’ and Community Matters’ ‘Reference Manual for community organisations’ (see further reading).
Table 5 – Commonly identified risks and examples of ways to manage them (continued)

11. Limited potential for enterprise development based on the asset/in the area

Why does it need to be considered?
• Asset may not generate enough revenue to be financially sustainable
• Council’s commissioning/procurement policy may be insufficiently aligned to their asset transfer programme
• A policy shift from effective grant-aid programmes to contracts and competitive tendering may threaten the asset’s viability

What can be done about it?
• Provide access to specialist business support advice
• Involve other local asset managers in testing out the viability of the business plan
• It is advisable to carry out a robust viability assessment prior to transfer
• Provide assistance on preparing business plans and carrying out marketing
• It may be possible to transfer the asset in stages over a phased basis to limit the costs early on while a business is developing
• Consider which local services across LSP partners are integral to the viability of the asset (and vice versa) and ensure these are procured accordingly
• Local authorities can retain a grant-aid regime to community organisations for basic services

Practice examples
1. The Community Enterprise and Training Association (CETA)/St James building in Derby was transferred from Derby County Council to the community development CIC with a proportion transferred each year over a 20 year period. This minimised the risk involved and allowed the organisation to develop its business without being over-burdened with liabilities (and costs) from day one. Contact: admin@cetastjames.org.uk

2. The ACRE Rural Community Action Network specialises in facilitating holistic ‘whole community plans’ prepared by the community. These include encouragement to local people exploring how best to mobilise effective use of assets, especially where the market for generating usage, local funding and availability of sufficient volunteers is potentially limited. Information about the neighbourhood and parish planning guide is available on: http://www.acre.org.uk/communityengagement_ParishPlans.html

3. New Forest District Council has published a guide for exploring which local assets are worthy of development and investment by the community to ensure their long term viability. Go to http://www.newforestdc.gov.uk/index.cfm?articleid=6979
Table 5 – Commonly identified risks and examples of ways to manage them (continued)

12. Reliance by the receiving organisation on a small number of volunteers

Why does this need to be considered?

- Individuals may become overburdened and be unable to maintain effort on the project, threatening their health and that of the project.
- A lack of individuals to take over may threaten the project once the current volunteers move on.
- It may not remain possible to keep the building fully open, limiting its use for the local community.

What can be done about it?

- The management committee can be given overall control and required to work through collective responsibility. Planned rotation of committee members can then ensure that the committee is never left too weak to operate and new members can be absorbed and brought ‘up to speed’ gradually.
- Consultancy and advice can be put in place to help organisations undertake succession planning through use of ‘role descriptions’ etc.
- Forming a network of trustees covering a whole local authority can help in the recruitment of new board members.
- A focus on working with long-term ‘community anchor organisations’ can ensure support is available after the wave of initial enthusiasm for asset transfer may have waned.

Practice examples

Use of ‘role descriptions’ for trustees
A sample trustee ‘role description’ is available from the Trustee Recruitment Toolkit published by the National Council for Voluntary Organisations (NCVO) on behalf of the Governance Hub. The Governance Hub website itself contains a large amount of information on ‘board renewal and recruitment’: http://www.governancehub.org.uk/boards_review_renewal.html

Bromley Trustee Network
Voluntary Action Bromley has established a trustee network of 60 organisations which meet regularly to discuss common issues, problems and solutions. They also run trustee induction evenings and a campaign to promote trusteeship locally. The network has resulted in 62 new trustees being recruited. Further information is available at: http://www.governancehub.org.uk/community_links_bromley.html
### Table 5 – Commonly identified risks and examples of ways to manage them (continued)

**13. Use would not fit with wider strategic aims of the local authority**

**Why does it need to be considered?**

- Ability of local authority to implement sustainable community strategy impaired
- Community organisation unable to form stable partnership with the local authority

**What can be done about it?**

- Use of criteria for assessing asset transfer which prioritises links to Sustainable Community Strategy objectives
- Include Expectations Document agreed between local authority and community organisation which sets out responsibilities for each party
- Monitor use of buildings
- Local authority involves community organisation in development and revision of priorities
- Ensuring through use of service level agreements or similar that frequently changing local authority priorities do not adversely affect the planning or delivery of services by the community organisation

**Practice examples**

1. **Bolton MBC’s ‘Future Role Project’** looked at how the Council and third sector could develop a shared vision on future delivery of services. The project involved running a series of workshops with Council officers, representatives of other public sector organisations in the area and the third sector in order to develop a future vision that all could endorse. Contact Jennifer Roe: Jennifer.Roe@bolton.gov.uk

2. **Sheffield City Council Community Buildings Team** which brings together different parts of the Council that have an interest in community organisations and their premises, has developed a methodology for area-based development work focusing on the 110 community buildings within the city. This is intended to allow prioritisation of areas for intensive development work by the team and to create a template methodology for the production of ‘Sustainable Community Building Plans’, which will be rolled out across each neighbourhood in the City in order of priority. The neighbourhood-based approach is intended to allow a more strategic, joined-up approach to be taken by the Council and its partners. The *Methodology for Area-Based Work* is available at: http://www.sheffield.gov.uk/your-city-council/neighbourhood-renewal-and-partnership/community-buildings