

Guidance on Trust Models

Introduction

At the current time, the culture and recreation sector faces major challenges in continuing to ensure that services are efficient, offer good value for money, are relevant and appropriate to the community and tie in with other strategic local priorities.

Historically, councils have provided a wide range of culture and sport services delivered in a range of different ways including contracting to private companies, through trusts and in partnership with community and voluntary sector partners. However, the majority of services have remained in-house. Nevertheless, the process of externalising services is becoming increasingly more common as councils look for cheaper and more efficient ways of providing services. To date the process of externalising services within the culture and sport sector has largely been to reduce costs whilst at the same time protecting existing services.

This guide provides an introduction to leisure and culture trusts along with a number of important considerations for local authorities. It also highlights a number of case studies and sources of further information.

A brief history of Leisure Trusts

The first leisure trust was established in Harlow in 1960. A small number of others followed but most local authorities preferred to keep direct control of the services.

More recently, as a response to Compulsory Competitive Tendering (CCT) and difficult financial times in the 1990s, more trusts were developed. There was perceived to be a straight choice between the private sector and an organisation with more of a social welfare orientation. Trusts often covered one local authority area or a single building. SPORTA, the Sport and Recreation Trust Association, was established in 1997 and represents many trusts.

Types of Trust

A Trust is a non-profit distributing organisation (NPDO) which may or may not have charitable status. The establishment of a trust often involves the Council participating in the formation of an Arms Length company, independent of the Council, to manage facilities and services. The Council will often lease premises typically over 10 to 25 years to the Trust.

There are several different types of trust:

- Industrial and Provident Society
- Company limited by shares
- Company limited by guarantee
- Community Interest Company

Characteristics of a Trust

The key characteristics of trust management are:

- Responsibility for the management of the leisure facilities is transferred to a trust, usually with a contract and specification for services
- The trust would typically be a registered charity with a board of voluntary trustees and is independent of the council
- The Council would lease any facilities to the trust and would typically provide an annual grant to the trust, reflecting the likely operational subsidy of the facilities
- In many cases, any staff employed to manage and supervise the facilities would be employed directly by the trust under TUPE regulations
- The trust undertakes the management of the facilities, gathering all income generated by the facilities and being responsible for the majority of costs incurred by the facilities
- Typically, the Council retains some responsibilities (usually in respect of structural repairs and maintenance) and incurs costs in respect of these responsibilities
- The operating risk of the service would transfer to the Trust

Why choose a Trust?

Trusts have become very popular for the public sector because they can achieve VAT and NNDR (rates) savings. A Charitable Trust would be able to access 80% *mandatory* NNDR relief. The remaining 20% is *discretionary* relief that the Council have the option to grant. Of the discretionary relief, the council pays 75 per cent with 25 per cent met by government. The maximum possible NNDR savings for the council are therefore 85 per cent.

The ability for Trusts to generate significant *capital* funding, without a track record, is not yet established and therefore capital funding from local authorities is likely to continue where such investment is required. However many Trusts have obtained *revenue* funding for projects from sources not usually available to a Council.

Evidence from the growing number of councils that have adopted different models of delivering culture and sport services highlights other positive impacts, most notably:

- Improvements in service delivery
- Increased productivity
- Increased user benefit and social outcomes
- Increased partnership working

Recent research published by The National Association of Local Government Arts Officers (see later section on sources of information and guidance) on the benefits and issues involved in contracting out council arts services found that externalising the service had changed it for the better in the majority of cases.

Specific financial benefits in contracting out leisure and cultural services in this way, other than those above, include:

- **Service efficiencies**
- **Potential VAT savings**
- **A growth in income over time, becoming less reliant on Council subsidy**
- **Greater flexibility in employing and/or contracting staff**

The development of a trust also provides opportunities to compete for contracts from other councils or agencies in order to generate revenue streams. It is important to recognize that trust status does not guarantee security from restructuring or service cuts. Evidence of existing independent leisure and culture trusts highlights the importance of maintaining a strong working relationship with councils at both a member and officer level.

The process of exploring which model of delivery to adopt (normally referred to as Option Appraisal), should be informed by a robust service review and/or associated feasibility study (the costs and complexity of which would be commensurate with the scale of the service or model selected). However, it is important to note that to date there are very few examples of different models of delivery where local authority funding is more proportionate to independent earned income. Consequently the timescale for realizing cost savings need to be factored into the decision making process, in particular given the initial investment and time required to explore and implement any new model of service delivery. Extensive guidance is available to councils who wish to carry out a rigorous assessment of their options. <http://www.idea.gov.uk/idk/core/page.do?pagelId=19049492>

Potential drawbacks to a Trust

Councils have less control over operations of a trust than other management options, but can exercise significant influence over the objectives and operations through the subsidy it provides and through council membership of the management board. Most of the current leisure trusts are companies limited by guarantee or industrial and provident societies.

In the event of a trust folding following its receipt of an asset, Councils should ensure that the asset is either transferred to another organisation with similar objectives, or returned to the council.

There are three ways to deliver services through a trust:

- By creating a new stand alone trust
- By becoming part of an already established trust
- By creating a hybrid trust

Woodhorn Trust, Northumberland

Woodhorn is located near Ashington in southeast Northumberland. Originally, only one of a number of deep mines across this part of England, the land around the site was reclaimed in the 1970's and became a Country Park. The mine itself was closed and filled in but became a museum in the late 1980's and was operated by Wansbeck District Council.

In 2000, Wansbeck joined forces with Northumberland County Council to plan a major refurbishment of the museum as well as creating a new facility to house the County archive, modern records service and additional space for permanent and temporary exhibitions. Strategically, the £17 million project was developed also to help extend the strong tourism offer in Northumberland into this less visited and more deprived part of the County. The two councils set out a five-year revenue business plan for the site that included the creation of a Woodhorn Trust after a year, primarily to make financial savings on NNDR and to access additional financial support. The refurbished site reopened in late 2006 with the Trustees recruited in 2008, but the Trust started managing the site in April 2009. The Woodhorn Director was recruited to manage the Trust rather than from within the Council.

Woodhorn Charitable Trust is a registered charity with a Limited Company trading arm. Although the local authority has the right to nominate up to two trustees it is not a controlled body. The initial Trustees were recruited by targeted approach, using a matrix of skills and interests and include the local M.P., depositors and knowledgeable individuals. The museum and archive services are managed as a single, integrated organisation.

The former archives and museum sites combined had around 50,000 annual visits. Since reopening, visits have exceeded 100,000 every year with 130,000 visits in the first year. Admission is free (except for some touring exhibitions), though car parking has a modest charge. Woodhorn is also home to the Ashington Group collection of paintings and has a regular programme of arts activities as well as a programme of temporary exhibitions.

The Trust has initiated a number of projects engaging the local community, including young people and the unemployed. These projects would probably not have been developed by the Council, as the funding was often not open to them. Along with a growth in income from exhibitions, functions and other trading activity, these projects mean that the Trust has reduced the Council subsidy from 91% to 65% of income in only three years. Woodhorn's important role in growing tourism in this part of Northumberland has had a direct impact on the decision of the National Trust to open Seaton Delaval Hall in 2010 and in the development of a Maritime Museum opening in 2011 at Newbiggin by the Sea.

Following Local Government Reorganisation in 2009, Northumberland is now a unitary council. The Trust has taken on responsibility for all the former district run museums since 2010. These include Berwick Museum and Art Gallery, Berwick upon Tweed Record Office, the Chantry Bagpipe Museum and Hexham Old Gaol and Moot Hall. It is perceived by the Council as an important partner in the future development of the County. Woodhorn is also used as a sub regional venue for heritage training and is perceived as an important heritage partner nationally.

New Trusts

Setting up a new Trust to operate facilities has been a popular option. The reasons for this are several – there is perceived to be more local influence, there may be no neighbouring trusts to work with, or there is a very localised interest in running a smaller facility or service. For example, arts trusts have tended to be localised in focus, running a single building.

One of the disadvantages of setting up a new Trust is the time it takes to create (12 – 15 months minimum) and the significant set-up costs that are incurred (The Audit Commission report an estimated £100K to £150K). In addition, whilst the operating risks of the services would theoretically transfer to the new Trust, sometimes, in reality, the new Trust may not have the financial resources to absorb unforeseen operational losses and may have to request additional funding from the Council to survive.

Partnership with Existing Trusts

The Council could work with an existing trust that has a track record of managing similar leisure contracts. This option provides similar benefits to the New Trust option but without all the set up costs (more likely to be £50K), and also provides the benefit of sharing risks across other leisure contracts that the trust hold and their economies of scale.

However, using an already existing Trust may only offer a partial solution to adding extra services, as the Trust's articles of association may limit its sphere of activity e.g. a Sports Trust may not be able to manage wider cultural activities, necessitating the creation of a new Trust.

Increasingly in recent years, existing trusts have been used to operate facilities and services. A good example would be Greenwich Leisure Limited www.gll.org which operates over 70 leisure facilities in and around the M25.

Hybrid Trusts

A Hybrid Trust is one set up by the council with not for profit objectives, with the trust company being granted a lease for the facilities and contracts with the council for their management. In turn, the trust enters into a performance based management contract with a private sector operator with National Non-Domestic Rates (NNDR), savings being passed back to the council and the private sector company managing the service as an agent of the trust company. This potentially enables the financial benefits accruing to a trust to be realised as well as securing capital investment and a more commercial approach to the operation of facilities. However, the private contractor, in the same way if services were externalised, would be under an obligation to maximise profits for its board members/shareholders.

In recent years, most of the established private management contractors now also offer a hybrid trust management model. This model is a legal vehicle that provides charitable objectives but is not a charitable company or provident society and not recognised by the Charity Commission. This option may cost around £100k to set up.

The hybrid organisation may benefit from additional grant and sponsorship opportunities as external organisations are probably more likely to grant-aid and/or sponsor a charitable Trust than the Council itself. Currently, the hybrid structure would not benefit from the potential savings generated by the different treatment of VAT within a Trust management structure because the Hybrid Trust is not VAT exempt, as it is not viewed as a registered charity.

Critical success factors

When looking to rationalise their asset portfolios, councils should take a strategic approach in order to ensure long-term viability and social benefit (rather than liability). Central to this is a thorough analysis and understanding of future maintenance costs, consideration of the impact of different lease lengths and an exploration of the potential for existing assets to generate new income streams or realise commercial opportunities. Councils are encouraged to establish a comprehensive overview of their assets and develop an individual options appraisal for each in relation to local priority outcomes.

Successful asset transfers are underpinned by a genuine commitment to partnership between the community sector and the council. And, once the Trust is established, it can then contribute significantly, both financially and socially, to its charitable and/or local community.

Trusts in the 21st Century

Looking to the future, it seems inevitable that the financial climate will encourage the development of more leisure and culture facilities managed by trusts. Trusts are growing in number and trusts are emerging with a wider service remit, such as the Doncaster Culture and Leisure Trust. The number of Trusts operating over multiple sites, like Woodhorn and North Country Leisure, also seems likely to grow. This is partly because they can be quicker and cheaper to set up, but also many Trusts have been successful in providing a high quality service, accessing additional funding streams, contributing to their community, meeting their charitable objectives and becoming recognised as an important partner organisation.

As an element of The Big Society, Trusts have shown they can deliver the outcomes that direct council service delivery may not be able to continue to deliver in the future, and as such are a key option for councils now and in the future.

North Country Leisure Trust

North Country Leisure is a not for profit organisation with charitable status managing facilities across the North of England and working in cross boundary partnership with another Trust. Established in 1998, the organisation started trading as Leisure Tynedale on 1 May 1999 operating three Tynedale District Council facilities as well as outreach sports development and health and fitness activities.

In April 2003, the organisation started to manage two facilities and sports development functions at a second District in North Northumberland, Alnwick. To ensure that local voices were held in the managing of the service, a second Management Board was established for governance under the umbrella of North Country Leisure (NCL).

From April 2006, NCL has managed the four leisure sites at Copeland Council in Cumbria, where a local Board was formed which (like the North Northumberland Board) is an integral and equal part of the overall charity.

NCL is also responsible for managing “out of hours” sports use on three school sites. Agreements range from 10 year contracts to 60 year leases.

NCL has 42 people from local communities involved in its governance, of whom 14 are Trustees of the Charity. Most Board members are appointed in an open process; some are directly nominated by organisations to give education, health, disability, local authority and local sport perspectives. There is a wholly owned Trading subsidiary which runs catering and training and “gift-aids” profits to the Charity; it has some independent Directors who help give a commercial view.

The Charity’s turnover is £7.5 million, 25% of income is met by contract payments and grants which has reduced from 50% since 1999. There are 1.4 million visits to the Charity’s sites each year, 560 staff are employed. £4.9 million has been re-invested into services in building developments and equipment since 1999, through commercial loan, Council prudential borrowing and leases.

The Charity works very hard to make sure that all members of local communities can benefit from its services, with attractive pricing policies through the beActive card and programmes to encourage use in rural Cumbria and Northumberland, often linking with partners such as the Health and Education services.

NCL is an accredited training provider under contract to the Skills Funding Agency to deliver apprenticeship programmes to local employers, and playing a leading role in lifeguard, swimming teaching, first aid and food hygiene training.

Since April 2009, Northumberland became a unitary authority, replacing the seven previous councils. NCL has been working in partnership with five different leisure providers, in particular sharing services (such as a Health Manager) and jointly managing some projects with Blyth Valley Arts and Leisure (BVAL).

Sources of information and guidance

Local Government Improvement and Development (formerly IDeA)

LGID and its partners have produced an integrated national offer of support to help councils improve. The support covers a range of tools, advice and support material. Of particular interest are two documents under “Improving efficiency in the culture and sport sector”, “Sharing assets and asset transfer” and “Looking for new ways of delivering culture and sports services”.

www.idea.gov.uk/idk/core/page.do?pagelId=8722757

Communities of Practice

This is a community platform supporting collaborative networks for those involved in local delivery. www.communities.idea.gov.uk

Nalgao

In February 2010, Nalgao published a report that examines the issues and opportunities in contracting out local authority arts services. The report, entitled ‘Outside In’ identifies five different ways that local authority arts services can be externalized and provides practical checklists for local authorities wishing to pursue different models of service delivery. To access the report please use the following link: www.nalgao.org/page.php?93

Museums Libraries and Archives Council (MLA)

In April 2010, MLA published a think piece to stimulate debate around the concept of devolved governance for museums, libraries and archives. It outlines the range of devolution models that MLA considers applicable to museums, libraries and archives and the potential it considers such models offer to the sector.

MLA (2010) - The opportunity of devolved governance for museums, libraries and archives April 2010 www.mla.gov.uk/what/publications

Chief Cultural & Leisure Officers Association (CLOA)

CLOA is the professional association for strategic leaders involved in public sector cultural and leisure services. It works to influence the development of national policies, lobby for positive change and provide a peer-support network. CLOA represents strategic managers in councils or non-profit distributing trusts and those working in associated areas such as health, education and social sectors, who are committed to the development of public sector culture and leisure. CLOA also coordinates the National Culture Forum, the body set up to unite the major professional organisations in the cultural sector on issues of common concern. www.cloa.org.uk/

The Sports and Recreation Trust Association (Sporta)

Sporta is a membership organization that currently has a membership of 109 leisure trusts and social enterprises, ranging from small trusts representing single leisure centres to larger organisations managing more than 65 sites. Together the members have a combined annual turnover in excess of £640 million, have more than 215 million customers visiting their facilities each year and employ over 28,000 full time employees. Collectively they operate more than 870 individual sites. www.sporta.org/index.cfm?fuseaction=c_pages.showPage&pageID=1

Sport England

Sport England has published an online resource entitled 'Community sport: In it for the long run' brings together practical tools which can help local authorities to:

- Make the case for continued investment
- Plan and commission strategically
- Maximise efficiency to ensure best value for money
- Measure the impact of any outcomes
- It also features a growing number of case studies explaining how local authorities have, with the support of Sport England, overcome specific challenges.

The resource includes unique local sport profiles on each local authority area, generated from a range of demographic, health, sports participation and facilities data. It also encourages local authorities to take advantage of the strategic planning expertise on offer via the Strategic Planning Framework, which sets out an approved list of planning and leisure consultants.

The resource also highlights the importance of Sport England's two continuous improvement services, namely **Quest** and the **National Benchmarking Service**.

The resource will continue to evolve as tools are updated, new tools are created, and new evidence and learning become available.

www.sportengland.org/support_advice/local_government/in_it_for_the_long_run.aspx

English Heritage has recently published [guidance on the transfer of heritage assets](#).

The ATU and ASA (the English national governing body for swimming, diving, water polo, open water, and synchronised swimming) have published a [Guide for Community Owned and Managed Swimming Pools](#).

New Leisure Trusts by Richard Simmons published 2003 by Institute of Leisure and Amenity Management and SPORTA

Public sports and recreation services – Making them fit for the future Audit Commission June 2006 www.audit-commission.gov.uk/SiteCollectionDocuments/AuditCommissionReports/NationalStudies/leisure_finalproof.pdf