

CJC RESPONSE TO THE THIRD SECTOR OFFICE CONSULTATION PAPER ON COMMUNITY ASSETS

Who we are and why we are responding

The **Commissioning Joint Committee** comprises nominees of organisations representing all the disciplines involved in the commissioning of local authority work and services. We publish guides to many aspects of commissioning, particularly those posing problems needing input from a range of disciplines. These include the different arrangements for securing the provision of services by different types of third sector body.

The CJC is sponsored by the Chartered Institute of Public Finance & Accountancy but is an independent body, does not accept funding from any source, and meets all its expenses from the sale of guides. Our website is at <http://www.cipfa.org.uk/pt/cjc/index.cfm>

We have no objection to our response being made public.

The layout of our response

Questions are in italics and our responses then follow (indented, upright).

Consultation questions

- 1 *The average grant size is currently expected to be within a range of £250 000 to £500 000, perhaps with more for some projects, in order to achieve a strategic impact. Is this the right approach ?*
- 2 *To what extent should this fund focus on funding large scale beacon projects ?*
- 3 *Should the fund take the proposed flexible approach to determining whether an asset is eligible ?*

We think that the best contribution which the fund could make would be to encourage a variety of different types of projects in a variety of different areas and circumstances. This would be more informative as to what works best than trying to make a strategic impact or aiming at any particular grant size (as suggested in questions 1 and 2).

For the same reason we think that the requirement of funding principle (h) for 'specialist financial intermediaries to be involved, to draw in further investment and expertise', might be unduly restrictive. Such specialists are likely to be interested only in even larger projects than those apparently visualised.

Special care will be needed if large projects are funded, especially if the organisations so funded might compete thereafter for contracts in any sector, because funding would count as state aid. The greater the funding, the greater the possibility that the various de minimis limits (below which state aid is permissible) might be exceeded.

- 4 *Should the fund focus on areas where relationships are already strong and working partnerships are already formed, rather than bringing new partnerships together ?*

We think this focus would likewise be unduly restrictive. The number and strength of local community organisations varies critically from area to area. There are many rural areas with no tradition of community organisation, or only 'small, frontline organisations run by volunteers' as described by paragraph 16 of the Consultation Paper. These are likely to need strong and continuing local authority involvement and support until they become firmly established.

- 5 *Should we focus on supporting programmes of transfer in a small number of local authority areas, or fund projects distributed across many authorities ?*
- 6 *Is there scope for regional allocation of funding under this programme ?*
- 7 *Should the fund aim to support innovative projects that are piloting a range of different approaches to asset transfer ?*

8 *Should the fund have a preference for a particular type of asset transfer, such as transfer of ownership rather than a long term lease or management arrangement ?*

We believe that many local authorities and third sector bodies are not convinced that there is any special merit in the transfer of assets. Practical objections to it include

- ◆ its preclusion in many instances for authorities by the terms of bequests and foundations; and for some of the most suitable third sector bodies, by their present constitutional form
- ◆ the likelihood that it will be more businesslike and more propitious for authorities to do any refurbishments needed and then lease the assets to suitable organisations, than to give run down or derelict assets to the same organisations. This is because of
 - the lower interest rates paid by local authorities on the cost of the work
 - the burden of the unfamiliar technical and budgeting functions which would be placed on small organisations
- ◆ the threat to continued community use of transferred assets if organisations which are neither trusts nor charities become insolvent

We accept that an impressive case is made by the Quirk Review but this case is primarily for more (and more comprehensive) transfers of management.

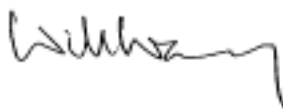
This emphasis is clear from the detailed analysis in the Review of what can go wrong when management or titles are transferred, and from the remedies proposed. A total of 46 are set out very clearly in Appendix A of the Review. Of this 46, 28 are remedies for **defective management**, and are self evidently easier for authorities to apply if they retain title and exercise the rights of lessors. Former owners can apply them against current owners only if they have, before disposal, made the necessary collateral agreements or drafted the necessary covenants; even then, application is a cumbersome and uncertain process.

The other 18 remedies are for problems which arise as a result of **transferring titles**. Of these 18, 11 involve various types of intervention, for which the processes available are, for the reasons just mentioned, less satisfactory. Another 5 are checks which, if made in time, would have deterred authorities from going ahead with transfers in the first place. The last two involve local authority financial support - effectively, reducing the net financial contributions made by third sector bodies.

These add up to good advice about how to make the best use of third sector input, but are unlikely to be seen as making a case for outright sale.

9 *What opportunities are there to co-ordinate with other funding streams and programmes ?*

10 *How can the fund be managed to influence policy and practice ?*



Will Werry, chair

22 June 2007