



C H A M P I O N I N S P I R E E M P O W E R

In pursuit of Localism: Community use of assets

August 2013

The new rights contained within the Localism Act 2011 came into effect in 2012. The Government's statutory Guidance on The Right to Challenge¹ contained in the Act provides a useful summary of the Government's overall intentions:

"It will help to create the conditions for communities to play a bigger part in shaping the world around them - whether that's shaping and running local services through the community right to challenge, taking over local assets of community value through the community right to bid, community-led development using the community right to build, or adopting a neighbourhood plan under neighbourhood planning."

There are two rights that are relevant to the future of youth centres as community buildings and service centres.

Community Right to Challenge: The Right to Challenge gives local groups the opportunity to express their interest in taking over a local service where they think they can do it differently and better than current providers. In this instance there is formal advice to local authorities on how this right should be exercised -: "Community Right to Challenge, DCLG, June 2012"(see footnote)

Key elements are:

- The "relevant body" that is allowed to submit an expression of interest in taking over a service includes charities ,social enterprises and **"two or more local authority employees"**(In other words an internally generated start-up),
- For an expression of interest to be valid it must be submitted by a relevant body and include certain information, including:
 - financial resources
 - capability of providing or assisting in providing the relevant service
 - the outcomes to be achieved, in particular

¹ See : <https://www.gov.uk/government/policies/giving-people-more-power-over-what-happens-in-their-neighbourhood/supporting-pages/community-right-to-challenge>

- how the provision or assistance will promote or improve the social, economic or environmental well-being of the local authority's area
- how it will meet the needs of the users of the relevant service.
- Grounds for rejecting an expression of Interest include:
 - the expression of interest not complying with any of the requirements specified in the Localism Act 2011 or in Regulations,
 - the local authority considering, based on the information in the expression of interest, that the relevant body is not suitable to provide or assist in providing the relevant service
 - the service being discontinued

Community Right to Bid: The Right to Bid gives communities the opportunity to buy and run valued local amenities, whether publicly or privately owned, if they come onto the open market.

Local authorities are required to keep a list of all of these '**assets of community value**'. If an owner of a listed asset wants to sell it they have to notify the local authority. The local authority then has to notify any interested parties. If local groups are interested in buying the asset they have 6 months to prepare a bid to buy it before the asset can be sold.

The Community Right to Bid came into effect on 21 September 2012.

Key elements² are:

- Community groups being encouraged to nominate a building (in public or private ownership) such as a youth centre, as an "**Asset of community value**" and requiring its listing in a Register of Community Assets
- The Community Right to Bid does **not** give a right of first refusal to community organisations to buy an asset that they successfully nominate for inclusion on the local authority's list. But it does give time for them to put together the funding necessary to bid to try to buy the asset on the open market.
- There is a moratorium period, which is six months, during which a community organisation – having declared they wish to bid – can develop a proposal and raise the money required to bid to buy the asset.

Community Asset Transfer

This is a further option that can be undertaken by a local authority. Community³ asset transfer is an established mechanism used to enable the community ownership and management of publicly owned land and buildings. The General Disposal Consent allows ownership and management of land and buildings they own to local communities at less than best consideration– at less than full market value. Communities can enter into discussions with public bodies about community asset transfer where it is their intention to promote higher levels of social, economic and environmental well-

² See guidance to local authorities at: <https://www.gov.uk/government/publications/community-right-to-bid-non-statutory-advice-note-for-local-authorities>

³ See guidance at: http://mycommunityrights.org.uk/wp-content/uploads/2012/04/LOCALITY-ASSET-TRANSFER_UNDERSTANDING.pdf

being, and social value⁴. The ultimate aim of community asset transfer is to ensure community that land and buildings are retained for public benefit through community ownership and management.

Grants and advice

The DCLG has established a specialist, but arms length advice service/website called Community Rights <http://mycommunityrights.org.uk/my-community-rights/> to take this part of the Localism agenda forward.

Grants are available to the charity sector for feasibility studies into the right to bid, and capital grants to support gearing up for the transfer of assets. There are many funders currently offering major financial deals to enable asset transfer (at a price). For example the Social Investment Business Group administers the grants on behalf of DCLG and can make other funding available. The Social Investment Business Group is made up of the charity, Adventure Capital Fund, and its social enterprise, The Social Investment Business. CAF Venturesome provide loans of up to £350,000 for organisations wishing to make a quantum leap in their business. There are many others.

Surrey CC Initiatives - Property investment Company?

A report to the July Cabinet meeting of SCC states that:

*“Surrey CC is considering setting up a **Property Investment Company** to operate property investment on a commercial basis. The Council would need to establish a property investment company. Section 1 of the Localism Act 2011 (‘the power of general competence’) enables local authorities to do anything that a private individual is empowered to do, subject to certain statutory limitations.*

The power includes the ability to do such things for a commercial purpose but any such commercial activity must be undertaken through a company within the meaning of section 1 of the Companies Act 2006. Local authorities also have powers to trade under section 95 of the Local Government Act 2003. It is likely that aspects of the investment scheme will overlap the S95 power to trade and so the Council would be bound by the conditions set out in the Local Government (Best Value Authorities) (Power to Trade) Order 2009 which requires that before exercising such powers the authority should prepare and approve a business case.”

Further details can be found at item 7 (Investment strategy) in:

<http://mycouncil.surreycc.gov.uk/documents/g3234/Public%20reports%20pack%20Tuesday%2023-Jul-2013%2014.00%20Cabinet.pdf?T=10>

Strategic Implications

It is understood from various high level briefings, and indeed the July Cabinet papers, that Surrey CC faces still further financial challenges in 2014/15, and beyond.

⁴ See Social Value Act and wider link to the Act and social enterprise at:

<https://www.gov.uk/government/news/significant-boost-to-social-enterprises-as-the-social-value-act-comes-into-force>

The Council is considering innovative approaches to these matters, such as the Property Investment Company. Doubtless there is much more work to be done on this before this is a fully formed reality.

The long held argument of the charity sector is that its cost base is significantly lower than the local government sector, because it is not encumbered with the costs of democracy, internal corporate recharges, and higher operating costs especially relating to salaries and pensions. The voluntary youth sector is well placed to continue to operate in partnership with local authorities which are likely to revert increasingly to forms of outsourcing of services.

The Localism Act encourages community organisations to bid to run services at lower costs, and to secure the listing of any building assets that community organisations might subsequently wish to bid to take over.

The Board of Surrey Youth Focus will have to consider whether it wishes to secure the registration of youth centres as community assets so that its member organisations have the opportunity to submit bids against the possibility that their disposal is ever contemplated.

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