CA 25
Ymgynghoriad ar asedau cymunedol
Consultation on community assets
Ymateb gan: Cronfa Gymunedol y Loteri Genedlaethol
Response from: National Lottery Community Fund

Senedd Local Government and Housing Committee's Inquiry into Community Assets

Submission from the National Lottery Community Fund

24th June 2022

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1. About the National Lottery Community Fund and our response

1.1 The National Lottery Community Fund welcomes the opportunity to respond to the Local Government and Housing Committee's Inquiry into community assets, with its specific focus on barriers and opportunities for communities to acquire built assets for community use. We recognise the priority attached to community assets and asset transfer by the Welsh Government, other public bodies, and the third sector. We share their desire to help communities take ownership of the assets that will help to unlock their potential and enhance their local area.

1.2 We are one of the 12 UK distributors of money raised through the National Lottery for good causes. We support people and communities through grant funding and every time someone purchases a National Lottery ticket, they are helping communities to thrive across the UK.

1.3 Our work is divided into five portfolios that provide funding across England, Northern Ireland, Wales, and Scotland, as well as the UK. We have teams all over the UK who are the main point of contact for communities, and they work with people to develop ideas and create opportunities for groups to come together. In Wales we distribute approximately £35 million to good causes every year and have three regional teams covering South Wales & Central, North Wales, and Mid & West Wales.

1.4 We are governed by a UK Board, which is responsible for setting our long-term strategy and key policies. In the devolved nations, strategy relating to individual portfolios is delegated to country committees, like our own Wales Committee.

1.5 Through our People and Places and National Lottery Awards for All programmes, we regularly provide grants to projects that support a wide range of community facilities across Wales. We have also previously delivered two grant programmes that specifically supported the transfer of assets to community groups in Wales, as well as delivering other asset transfer initiatives across England, Northern Ireland & Scotland. The wide-ranging experience that we have acquired delivering these programmes informs our response, as does recent research that we commissioned to explore the challenges faced by community assets. More detailed information can be found at the following links:

- Evaluation of the Community Asset Transfer Programme
- Community Facilities Research

1.6 We have focussed our response to the inquiry specifically on the Committee's exploration of the barriers and challenges faced by communities in taking ownership of public or privately owned assets, including finance and support services.

1.7 If you wish to discuss the contents of our submission, or would like further information, please contact Rob Roffe, our Head of Knowledge & Learning, at robert.roffe@tnlcommunityfund.org.uk

2. The conditions for asset transfer

2.1 We believe that organisations considering taking on a community asset should take their decision based on the potential to create a sustainable, revenue generating asset that provides services that are of benefit to, and have the support of, the communities that they serve. Generated revenue should be a blend of self-generated revenue including trading, fundraising, contracted service delivery and grant funding.

2.2 It is on this premise that the Fund previously delivered two Community Asset Transfer Programmes (one in partnership with the Welsh Government) in the hope that the organisations to which the assets are transferred could build their capacity and generate income. While some organisations existed solely to run the asset being transferred, others used it as an opportunity to expand or enhance their other activities.

2.3 Irrespective of the type or organisation, for an asset transfer to succeed it needs to have a strong proactive focus on creating new opportunities for communities, underpinned with a robust business model and emphasis on enterprise. If it does not, then the asset runs the risk of becoming a significant liability for the organisation concerned. This is especially risky for those organisations for whom the asset is only part of their portfolio of activities and services.

2.4 Yet much of the existing asset transfer activity in Wales is focussed around small, reactive transfers with a limited capacity to generate income, and such transfers can be driven by emotional or historical attachment to the buildings concerned. In some instances, the ‘asset’ being transferred may be a liability and in need of significant repair. These are much riskier propositions, but there are still many organisations or volunteer-led groups who are willing to ‘give it a go’, provided that the risk is mitigated and that there is ongoing support from the organisation transferring the asset. We explore this in more detail below.

2.5 Where income generation is likely to be challenging, such assets can remain viable where there is a strong volunteering base committed to making the asset a success, although it will still need to finance its running costs and overheads.

2.6 Fundamentally, an organisation must be able to satisfy itself that:

- support is in place from the transferring organisation, with exit routes should it not be successful
- the asset is commercially viable, or it has a strong volunteer base in place to run it

- that it has access to the necessary skills for both the asset transfer and to run it as a going concern once transfer has taken place. It may require the organisation to change and adapt its board and team at different stages of the process to meet this need.

2.7 Should these conditions not exist, then the organisation should not contemplate the transfer.

3. Having access to the capacity, skills, and support to succeed

3.1 Having access to a sufficient volume of volunteers or paid staff with the appropriate skill sets is vital to the success of any asset transfer. During the early stage project management, construction expertise and quantity surveying were evident amongst some of the more successful asset transfer projects that we have funded. Our learning has shown that a good project manager is particularly important, ideally one who is employed full time to take the pressure off volunteers and trustees.

3.2 Projects without such skills experience greater difficulties. Volunteers with these skills, and often paid staff, can be difficult to acquire. Some of these skills can be brought in on a contractual basis from qualified professionals, and while this offers a greater level of protection should something go wrong, there are cost implications.

3.3 As the asset transfer process progresses, different skills are required at different points in the transfer process, and many of the projects we have funded refreshed their board, management, and volunteer base to reflect the point they had reached in the process. This inherent need to refresh is a significant risk to assets going forward; while many projects can source the skills they need to transfer the asset into their ownership and make it fit for purpose, the ability to secure the business expertise and facilities management expertise needed to generate sustainable income streams in the longer term is particularly challenging.

3.4 For those organisations set up specifically to run the transferred asset, the experience can be more challenging. Most are run on a voluntary basis and there is usually a considerable ask of the organisations' board members to take on project-related activities. Typically, one or two board members took on the lion's share of the work, without whom the project would probably have faltered. This is a considerable responsibility to shoulder and, as we have discovered, it is vital that these organisations have access to third party support should they need it.

3.5 Additionally, our experience shows that it's easier to access the necessary volunteer base and skill set where there is a vibrant and active civil society. Our experience from across the UK highlights that this is usually in more affluent areas rather than in those displaying significant social deprivation, yet it is those communities that often have the most to gain from a successful asset transfer. Our recent research on community cohesion, capacity and safe spaces has also shown that community buildings are in themselves an important focus for generating the community activity and capacity that those very assets need to sustain themselves in the longer term.

3.6 So, how can these organisational support needs be addressed? While organisations themselves are ultimately required to acquire the volunteers and skills they need, there is a potential supporting role for public sector bodies who may be transferring the asset. Most of the asset transfers we have funded have originated from local authorities, and a genuine partnership between the local authority and the organisation acquiring the asset has often been part of the hallmark of success. Rather than it simply being a business transaction, some local authorities also offered support in several key areas:

- Advice and guidance on the procurement of contractors and professional advisers
- Advice on managing TUPE situations and dealing with pre-existing tenants
- Council legal departments expediting the transfer of paperwork to assist the process
- Support in managing disputes with contractors and advisers
- Ongoing (often reduced) financial support.

3.7 An ongoing relationship with the transferring local authority provides the organisation taking on the asset with the reassurance that there is a body of expertise and guidance that they can call on should they need to do so and reduces the risk of project failure.

3.8 Having ran an initial programme supporting asset transfer in partnership with the Welsh Government, we learned our own lessons about the support that organisations needed and put in place a support package for grant holders when we developed our second asset transfer programme. Delivered by Development Trusts Association (DTA) Wales, they worked with applicants to ensure they had robust governance and business planning structures in place, that they developed viable and sustainable assets, enterprises and income streams and we made sure that the learning and knowledge from our first asset transfer programme shared with subsequent grant holders and other asset transfer developments through peer-to-peer mentoring.

3.9 Irrespective of the support that may be in place, acquiring and running a community asset requires significant human – and financial – resource. An organisation should be able to satisfy itself on either having or being able to acquire the skills and capacity it needs to make the asset a success. Some organisations have found it useful to undertake a skills audit of their board, trustees, and staff to identify skills gaps so that they can respond to them accordingly through training and development.

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4. Finance & revenue

4.1 Whatever the facility, the success of an asset transfer depends on an appropriate funding package being in place to support it to happen. This is usually to facilitate the asset acquisition and transfer, the design and development phase, and to provide some medium term revenue funding to establish the asset as a going concern. For an established organisation, this may mean using organisational reserves to provide that medium-term start-up funding. It may mean applying for a grant from a funder like us or, as is often the case, applying to multiple funders. In some instances, low risk loan finance may be an option, such as the Community Asset Loan Fund administered by the Wales Council for Voluntary Action on behalf of Welsh Government. As not all grant applications are successful and getting the 'start up' funding is not without its challenges. In rare instances the public body transferring the asset may be prepared to provide some 'start up' funding as part of the transfer arrangement. Without this 'seed corn' funding, an asset transfer is unlikely to succeed in the longer term.

4.2 In some cases, the costs of refurbishment and repairs to make the building fit for purpose may exceed the value of the asset. This may be an issue for some potential funders, and it would certainly make it very difficult to secure commercial loan finance against where the asset is used as security.

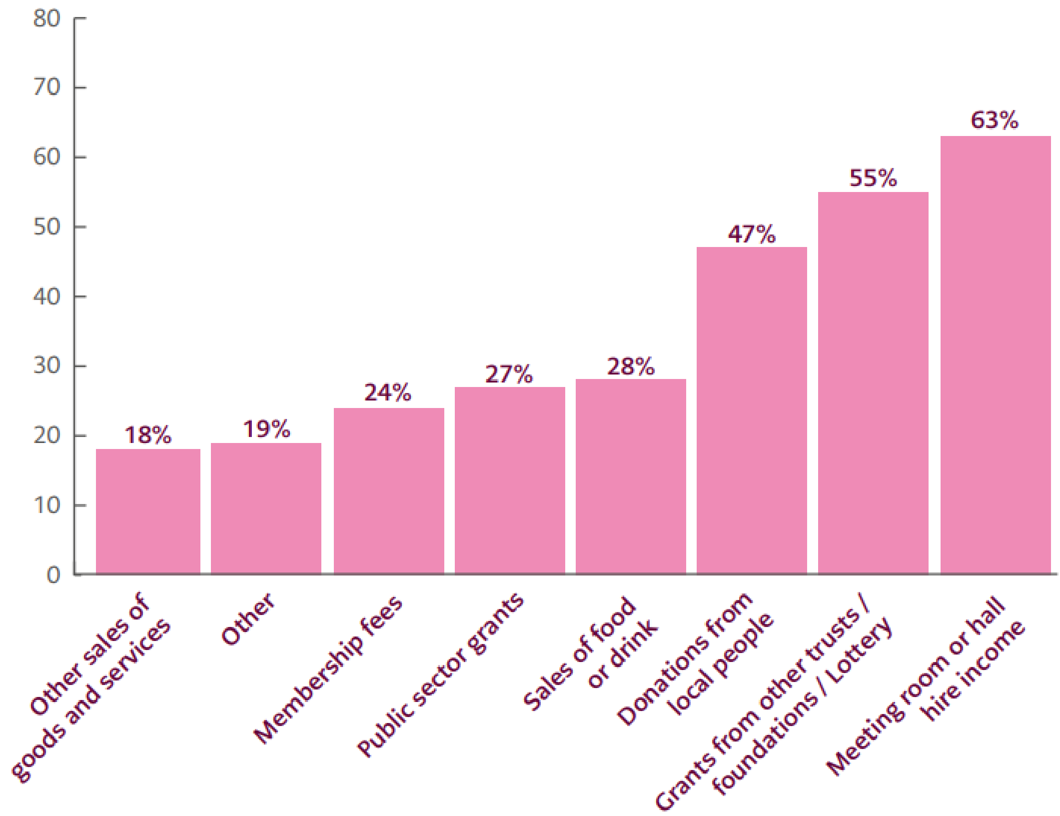
4.3 While the process of transferring the asset is likely to take a considerable amount of time and energy, it's vitally important that organisations develop realistic plans to generate income to sustain the asset in the longer term at the outset. While funders may be supporting them to get the project 'up and running', they will be particularly interested in the longer term sustainability of the asset. Projects should plan for more than one scenario, and not assume that either funders will continue to support them in the future, or that the groups potentially interested in using the facility will necessarily have the money to do so. A strong commercial and marketing approach should be an essential part of project proposals, but they should also consider different types of finance like loans, investments, and community shares. Essentially, a diverse range of finance is preferable. As the Covid-19 Pandemic has shown, those organisations that relied solely on trading or commercial income were the ones that suffered the most. Paradoxically, those more reliant on grant funding fared better as their funders were often prepared to find additional funding to keep them afloat during a time of unprecedented crisis.

4.4 Developing an understanding of the local market by engaging with the community is vital, and while this must be done on a continual basis, it is an essential first step in determining whether a transferred asset would be viable prior to the transfer taking place. If there is no market for their proposed services, then the asset will be likely to fail.

4.5 Our recent Community Facilities Research recommended that local directories of community assets and the services they provide should be produced as part of an ongoing asset mapping exercise that also identifies assets that have been transferred, or that are available for transfer. This would help both local authorities and groups interested in asset transfer to gauge the viability of their proposal against the other 'competition' in their area. Our research also recommends that funders should require a competitor analysis as part of project applications, and that they should provide guidance to applicants on the key steps that are required. We would suggest that local authorities should also consider this as part of their own asset transfer policies and procedures.

4.6 Given that much asset transfer activity is being driven by the reduced financial capacity of the public sector, it's imperative for assets to escape an over reliance on public sector funding at the earliest opportunity. In the absence of public sector funding, our Community Facilities Research suggested that many facilities have instead become heavily reliant on grants from trusts, foundations, and National Lottery Distributors. This is not sustainable in the longer term, and a more diverse revenue generation platform is needed based around a range of activities and services that may be charged for. This is much easier for those assets that are multi-purpose or not constricted by their former use, but more challenging for facilities like libraries, sporting venues and other single-function assets.

4.7 The table below is taken form our Community Facilities Research and gives a sense of the main sources of income for the 80 grant holders who took part in the research.



4.8 Amongst the more successful projects we have funded are those who can utilise the space within the asset and offer office or workshop space for rent to tenants. For the tenancy approach to succeed such assets need to proactively manage occupancy rates and promote renting opportunities in a professional manner, perhaps pointing to another set of skills that such assets need to succeed.

4.9 Several projects have factored a community café into their business model, but this approach is very dependent on having a sufficient customer base to make it viable. For such cafés to succeed, they must make enough profit to support other aspects of the asset and there are also other overheads associated with food hygiene, training and, in many cases, staff to factor in.

4.10 The revenue-generating opportunities offered by single-function assets, like a sports facility, are more limited and often restricted to paying to use the facility in question.

5. Common asset transfer challenges

5.1 Here we outline the more common challenges experienced by the asset transfer projects that we supported. As well as highlighting some of the potential hurdles that an organisation will face when taking on a community asset, they serve to underline the importance of a source of ongoing support and guidance for those organisations like that described above.

5.2 <u>Disputes with architects and/or contractors regarding work on the asset</u>
Often focussed on design issues, or disagreements over the quality of work or the materials used, such disputes have, in a small number of cases, led to organisations considering legal action. For some projects they felt unable to take it further as the cost of doing so was not foreseen in their budget, or they didn’t have access to the professional advice or expertise that would enable them to make an informed judgement. For others who could draw upon that expertise from their own boards or from professional advisors, they were able to negotiate a position with contractors and avoid the need for legal challenge.

5.3 <u>Negotiating the terms of an asset transfer</u>
Typically focussed on either the price to be paid or the length of the leasehold period, several projects reported a lengthy and protracted discussion with a transferring body’s legal team to reach an amicable solution. We sought to cut through this as part of our second asset transfer programme by requiring the transfer of the asset at either below market value or on a 99 year lease. We felt that this was essential in ensuring that projects stood the optimum chance of turning the asset into a resilient social enterprise, a key part of what our programme was trying to achieve.

5.4 While our approach worked for some, it posed challenge for others. As already alluded to above, much existing asset transfer activity is focussed around small, reactive transfers with limited entrepreneurial profile focussed on protecting the asset, or the service delivered from them. Where this is the case, there is a question mark over the extent to which these can truly be regarded as assets, as opposed to potential liabilities. Where an asset is inextricably linked to the delivery of a service – like a bowling green or a library, for example –would transferring it to community ownership necessarily halt the decline in those using such facilities?

5.5 Despite such concerns, there are many organisations and community groups who still want to ‘give it a go’ but are understandably concerned about the level of risk that they might be exposing themselves to. For these smaller reactive transfers, a lease arrangement with appropriate break clauses offers the groups the opportunity to withdraw if it proves unviable and the asset returns to the control of the local authority or public body concerned. Leasing can also be a quicker and easier alternative to outright ownership.

5.6 While a short term lease offers greater security and reassurance for organisations seeking to take on the asset, there is a significant disadvantage; larger asset transfers often rely on a mixed funding model to establish themselves, made up of capital and revenue grants, as well as commercial lending. Without owning the asset outright, or having acquired it on a long term lease, most commercial lenders are unlikely to offer support. Some funders also have their own rules relating to matters like freehold and the minimum length of a lease which may also impact on the ability of short-term leaseholders to secure grant funding.

5.7 In summary, there are broadly two types of asset transfer:

- Relatively large scale asset transfer projects that have the potential for a strong social enterprise element
- Projects focusing on safeguarding a public asset and/or public services with a strong role attributed to volunteer-led groups.

5.8 In determining their appetite for taking on a community asset, organisations need to make a judgement as to which category best fits their asset and to negotiate the terms of the transfer on that basis. If the offer from the transferring body exposes the organisation to more risk than it feels able to take, then it may be more appropriate to withdraw from the process.

5.9 Restrictive conditions on assets
Another potential complicating factor in negotiating an asset transfer, and the ongoing running of the asset, is the presence of restrictive conditions. More typically these have included:

- the need to accommodate pre-existing tenants or users of the asset to be transferred
- transferring existing staff to the new project/owners of the asset under TUPE arrangements (including liability for pensions which can be significant)
- significant insurance cost liabilities associated with the asset
- restrictions on the use of the building, such as ‘listed’ status or planning restrictions that limit the scope of what can and cannot be done with the building
- covenants or restrictions on the use of the land (such as limiting it for sport and recreation purposes only) which limits the value of the land.

5.10 Several of the projects we supported had to spend considerable management time and additional unforeseen costs in dealing with the consequences of some of these liabilities and it is vitally important that the organisations taking on the asset are clear about the restrictions prior to agreeing to the transfer of the asset to them.

5.11 Additional costs and barriers relating to the transfer and transformation of assets
There are usually several unforeseen costs and barriers that present themselves either during an asset transfer or shortly afterwards. Typically, these arise from essential capital works that are not identified at the time of the transfer. Amongst the projects we have funded they have ranged from unsafe ground conditions, weather damaged roofs to unsafe walls. In some cases, archaeological discoveries made during project construction phases have had to be accommodated and paid for. To mitigate against these unforeseen issues, we would recommend a thorough and, if appropriate, specialist site survey prior to the transfer taking place, as well as maintaining a proportionate contingency budget.

5.12 Generally, where the building or asset has previously been occupied for broadly similar purposes there seem to be fewer unforeseen barriers or costs. By contrast, assets seeking to do something new or different are more likely to experience them.