

Acquiring Property

Introduction

Many organisations reach the point where they decide that occasional venue hire or hire of sports facilities is no longer sufficient, and they need to have their own premises, or some land for their activities. This factsheet is designed to give basic information to voluntary and community organisations that are planning to take on property such as office premises, a building, or a piece of land.

There are some key points that your organisation will need to think carefully about, and possibly take professional advice on before you commit to your new property.

Legal Structure Of Your Organisation

Organisations are *always* either **incorporated** (such as a Company or Industrial and Provident Society) or they are **unincorporated**.

The difference between the two is that an **incorporated** organisation is like a person. It can hold property itself, and be a party to contracts.

An **unincorporated** organisation is a group of people who associate together. It cannot hold property itself, or be party to contracts. So it needs to have a real person to do so on behalf of the group. They can appoint Holding Trustees or Custodian Trustees to hold the property, or nominate individual members to take on the lease for the organisation. Or the organisation could become incorporated (which involves creating a new incorporated organisation and dissolving the unincorporated one after transferring everything to the new one.)

Powers In Relation To Property

In order to be able to take on property, your organisation must have authority to do so. This might be explicitly stated in your governing document (constitution, or Articles of Association). It could even be explicitly stated in your governing document that your organisation may not take on property.

If it is not clear from your governing document, you may need to take legal advice about whether your organisation can take on property, and you might need to hold a general meeting to ask your members to give you this power, by amending your governing document, before you can do so.

Similarly, you need to check whether your governing document gives you – or restricts – other powers that might be required, such as the power to borrow money if you will be relying on loans to buy or renovate property; and the power to trade if you plan to use your property to earn income for the organisation.

Tenure

Tenure refers to the way that property is held and/or occupied. Different forms of tenure all bring different implications for your organisation. The basic forms of tenure include:

- Ownership (freehold)
- Leasehold or tenancy (there are various forms of lease, but generally they give exclusive right of occupation to the tenant); and
- Licence (only gives *permission* rather than any *rights* to use the property, which gives you less security and control).

Your organisation needs to consider which form of tenure suits its purposes, and which it has the capacity to enter into. For example, ownership gives most security and control, but involves more outlay, and more responsibility. On the other hand a licence would be easier to get out of if you need to (for example, you only have a short term grant, or only need to use the property for a fixed period) but it would give you less control over the property if you needed to adapt it.

Funders may specify that you must have a freehold or a minimum length to run on a lease before they will give you funding for your property.

Planning And Building Regulations

You will need to speak to your local authority to see whether you will have to seek planning permission for your proposed use of any property.

You will also need to ensure that any refurbishment of a building complies with Building Regulations and the Disability Discrimination Act. There would be no point committing to a property only to find out later that you are not able to do what you planned with it, or that it will require substantially more money than you realised to develop it as you need to.

And you need to find out whether there are any other restrictions on the property, such as covenants that might prevent your organisation from doing what you intend to do in the future.

You should seek the professional advice of a surveyor and/or a solicitor on these matters.

Money For Buildings And Land

Fundraising Plus can signpost your organisation to information to help you identify sources of funding and finance to take on or manage property. Contact us at HANA (see below) or go to www.hanaonline.org.uk.

Where Can You Find Out More?

Community Matters

Community Matters is the umbrella charity supporting community organisations, and provides extensive guidance including a range of free to download publications, on asset transfer and on running community buildings. Community Matters publish a range of books and papers about managing buildings, and asset transfer. Some are available to download free from their website. Contact Community Matters phone 020 7837 7887, or go to www.communitymatters.org.uk. Ann Hindley, Regional Coordinator, Community Matters, Ann.hindley@communitymatters.org.uk.

Hull CVS

Hull CVS runs the Community Centre Support Service in the city of Hull. Contact Hull CVS, The Strand, 75 Beverley Road, Hull HU3 1XL, phone 01482 324474, or go to www.hullcvs.org.uk

Humber and the Wolds Rural Community Council

HWRCC provides information and guidance to help organisation run village halls and other rural community buildings. Contact HWRCC, 14 Market Place, Howden, East Yorkshire, DN14 7BJ, phone 01430 430904, email: info@hwrcc.org.uk, or go to www.hwrcc.org.uk.

Federation of City Farms and Community Gardens

Supports community-managed farms and gardens across the United Kingdom. Contact Federation of City Farms and Community Gardens, The GreenHouse, Hereford St, Bristol, BS3 4NA, phone: 0117 923 1800, email: admin@farmgarden.org.uk, or go to www.farmgarden.org.uk.

Humber Playing Fields Association

Advises and assists in the provision of playing fields and playgrounds in the former Humberside. Contact Humber Playing fields Association, Haven House, Waterside Road, Barton Upon Humber, North Lincolnshire, DN18 5BD, phone: 01652 662024, email: martin.bell@hwrcc.org.uk.

The Charity Commission

All charities and charitable organisations can find guidance on property matters on the website of the Charity Commission at www.charity-commission.gov.uk.

- CC27: Providing Alcohol on Charity Premises
www.charitycommission.gov.uk/Publications/cc27.aspx
- CC28: Sales, leases, transfers or mortgages: What trustees need to know about disposing of charity land www.charitycommission.gov.uk/Publications/cc28.aspx
- CC33: Acquiring Land www.charitycommission.gov.uk/Publications/cc33.aspx
- CC42: Appointing Nominees and Custodians: guidance under s.19(4) of the Trustee Act 2000
www.charitycommission.gov.uk/Publications/cc42.aspx
- RS9: Village Halls and Community Centres
www.charitycommission.gov.uk/Publications/rs9.aspx

Asset Transfer Unit

The Asset Transfer Unit provides expert advice, guidance and support concerning the transfer of under-used land and buildings from the public sector to community ownership and management. Asset Transfer Unit, Locality, 33 Corsham Street, London N1 6DR, 0845 345 4564 or email info@atu.org.uk.

Sport England

Guidance from Sport England on planning sports facilities from their website at www.sportengland.org/facilities_planning.aspx.

Pro Bono Help

A number of organisations exist to help voluntary and community organisations and charities access free professional help.

Charity Property Help

A pro-bono scheme and website run by the Royal Institute of Chartered Surveyors. Charities can have one hour's free consultancy. Contact Charity Property Help, www.charitypropertyhelp.com, phone 0870 333 1600.

REACH

REACH helps voluntary organisations fulfil their potential by finding volunteers with the right management, professional, technical or business expertise. Phone 020 7582 6543 or go to www.volwork.org.uk.

Useful Publications

The Russell Cooke Voluntary Sector Legal Handbook

The essential guide to the law as it applies to charities, community groups and other voluntary organisations.

- Chapter 60: Land Ownership and Tenure
- Chapter 61: Acquiring and Disposing of Property
- Chapter 62: Business Leases
- Chapter 63: Property Management and the Environment

It costs £60 to voluntary and community organisations (otherwise £90). Order it from Directory of Social Change 24 Stephenson Way, London NW1 2DP phone: 08450 77 77 07, or go to www.dsc.org.uk

Managing Community Buildings

An information sheet published by Community Technical Aid Centre, and available to download from www.havco.org.uk/pdf

Managing Buildings

Information Sheet free to download from the Finance Hub website at www.financehub.org.uk.

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