



# Leisure and library **trusts**

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## Summary of key issues

- An increasing number of local authorities are discussing transfer of leisure services to trusts. Twenty-one authorities have already established leisure trusts and a further 20 are either in the process of setting up trusts or are currently considering proposals. Two authorities are attempting to transfer their library service to a trust.
- Eight authorities have recently rejected transfer proposals, often after commissioning studies from management consultants. The loss of direct control, uncertainty over the continuation of National Non-Domestic Rates (NNDR) and VAT savings and political opposition to externalisation were key factors.
- Leisure trust transfers are driven primarily by financial considerations, mainly the threat of further local authority spending cuts and the opportunity to obtain savings from business rate relief and VAT. Almost all are management led proposals. Two firms of management consultants, Deloitte Touche and KPMG, have a virtual monopoly in leisure trust commissions.
- Local authorities are faced with having representation on the trust board but at the same time not being able to supply support services to the trust or being able to supply these services but having no council representation on the board. Few trusts use council support services and this has resulted in the loss of about £25m per annum in work for direct service organisations and in-house services.
- Transfer does not bring additional finance to the public sector, it merely enables individual authorities to gain at the expense of all councils by claiming rate relief from the national pool. It is a redistribution within government income and expenditure, or more accurately, it is a form of tax evasion by local government which ultimately reduces government income. For example, the establishment of 100 leisure trusts would result in the total loss of income of £37m through business rate relief and reduced VAT charges.
- Although it is now accepted that the TUPE regulations apply in trust transfers, consultants' reports usually pay scant regard to employment issues or to the effect of transfer on the rest of the authority.
- The transfer to a new organisation creates an opportunity for innovation in management practice and user/employee involvement. However, there is little evidence of this in management consultants' reports nor from trusts already established. Where this has been an issue, the focus has been on board representation of users and staff and not on developing new systems of democratic management.
- Uncertainty regarding the continuation of business rate relief, the planned transfer of business rate collection to local authorities, further changes to VAT regulations, the planned abolition of CCT, and the complexity of trust regulations on representation and trading powers, need urgent clarification by the government.
- Whilst a transfer to a trust will usually avoid the threat of imminent cuts and closures of leisure facilities, trusts lead to the further fragmentation of local government. While short-term considerations are a political reality, the longer-term issues including democratic accountability, sustaining user/employee involvement, developing best practice quality management, maintaining employment policies and achieving social welfare and community objectives, should be an essential part of the local government agenda.

- Experience shows that it is vitally important for UNISON branches to develop a branch policy and strategy as soon as any proposals for leisure trusts are discussed, even if this is only informally amongst managers. Many branches, opposed to trusts in principle, have nevertheless been involved in negotiating their implementation once the local authority has taken a decision to proceed. Other branches have continued to campaign against the formation of a trust because they believe that the proposals are fundamentally flawed. This is entirely consistent with demanding full representation on any trust which is eventually formed and ensuring full participation in setting up the trust in order to continue to represent the interests of UNISON members.



# Glossary of terms

**Company limited by guarantee (CLG):** A company in which the members have limited financial liability, usually £1. In other words, if the company loses money the director is personally liable for £1.

**Industrial & Provident Society (IPS):** A non-profit organisation with social welfare and community objectives which is owned by its members.

**National Non-Domestic Rates (NNDR):** The name for the national system for the collection of business and non-domestic rates.

**Non-profit distributing organisation (NPDO):** This is an umbrella term to describe non-profit organisations in which any surplus or profit must be reinvested to meet the organisation's objectives.

**Public body status:** This is required to enable the local authority to supply support services to a trust and is obtained from the Department of the Environment, Transport and Regions (DETR).

**Shadow board:** An interim board of management which is responsible for getting the trust established. Some members stay on as members of the permanent board in order to maintain continuity.

**Trust:** This is a general term to describe NPDOs (see above). It is a non-profit independent organisation, usually with charitable status, which provides social welfare and community services and activities. It is controlled by a board of directors representing a range of interests.

**Trustee:** Another name for the director or board member of a charitable organisation.

# Introduction

## What is a trust?

The setting up of a leisure or library trust involves the local authority transferring the service to a newly established non-profit organisation (which can be an existing trust). The council retains ownership of the facilities which are leased to the trust which also receives an annual grant from the council to make up the difference between its income from user charges and the cost of operating the service. A non-profit organisation is run by a board of between 10-20 appointed or elected members including staff, user, business, sport, voluntary sector and council representatives, although representation of the latter depends on the particular legal model adopted. A non-profit organisation with charitable status can obtain business rate relief and VAT savings which is an attractive option for local authorities faced with hard choices on budget cuts, closures, reduced services and redundancies.

Over the years some local authorities have set up trusts for individual leisure facilities. In addition, CCT has led to private contractors operating part or all of an authority's leisure service, although nationally the majority of contracts were won by direct service organisations (DSOs). CCT also led to a handful of management buy-outs in which senior managers set up private companies and won contracts to operate leisure services. A trust normally takes over the entire leisure services contract but operates as a non-profit organisation.

The trust operates at a distance from the local authority and is in effect another form of externalisation (see Externalisation by Privatisation, UNISON, 1997).

## Current trends

Proposals to establish leisure trusts have continued to increase under both the previous Conservative government and the current Labour government. This trend is fuelled primarily by financial issues. Local authorities face continued budget pressures but can achieve savings through business rate relief and VAT if they transfer leisure services to a trust. Transferring the service to a non-profit organisation is the price of avoiding direct cuts in services.

A survey of 22 local authorities which had established, or were considering establishing, a leisure trust revealed the importance of financial issues in the consideration of the trust option.

The reasons for considering not for profit status were:

	%
NNDR (business rate relief)	95
Tax advantages (VAT)	70
External funding opportunities	75
Community involvement	50
Employment security	40
Management stability	25
CCT	25
Diversification	5

(Thurrock Council, 1997)

Forty four per cent of authorities responding to the survey had adopted not-for-profit status while 18 per cent had rejected it. The survey also reported that "there is very little research available on the long-term implications of this step in local government generally".

Most trusts have been established in the last two years. Greenwich, regarded as an 'older' trust, was established in 1993. Hence there is not a long track record from which to draw evidence of their performance.

### **Objectives of the study**

The research, conducted by the Centre for Public Services for UNISON, had three main objectives:

- to assess the scale of transfers to leisure and library trusts and the reasons for transfer proposals;
- to assess the advantages and disadvantages of trusts;
- to provide guidelines for branches.

### **Sources of Information**

All local government branches were asked to inform UNISON head office of leisure trust proposals together with any evidence from trusts already established. The research involved visiting UNISON branches and obtaining information from others.

We experienced many of the same problems investigating leisure trusts as we encountered researching other forms of externalisation (see *Privatisation by Externalisation*, UNISON, 1998). It proved very difficult obtaining information about some leisure trusts because of the decline in shop steward representation and subsequent lack of information at branch level.

We would like to thank all those UNISON branches which supplied information and with whom we discussed many of the issues covered in the report.



# Part 1 The trust model

## Introduction

There is no single trust model but a number of legal alternatives which ultimately affect the composition of the board and whether the local authority can supply support services. There are also differences in charitable status, the effect of VAT on the trust and the local authority, and whether CCT rules apply or not. The situation is further complicated by the uncertainty over the availability of business rate relief being maintained at the current level, changes or abolition of the CCT regulations, and constantly changing VAT regulations. Detailed coverage of all these issues would require a separate study. This report focuses on the main trust models being used by local authorities and the implications of these organisational arrangements.

## Different legal and organisational options

In order to obtain the financial benefit of 80 per cent mandatory relief from national non-domestic rates, the council must establish a non-profit distributing organisation (NPDO). A NPDO can make a profit or surplus but it must be used to further the objectives of the organisation such as reinvestment in the service. Surpluses cannot be distributed to shareholders.

There are basically three models which are being used by local authorities to establish trusts:

1. a non-charitable Industrial & Provident Society (IPS);
2. a charitable company limited by guarantee;
3. an unincorporated charitable trust.

The advantages and disadvantages of each option are summarised below:

### Industrial & Provident Society (IPS)

Staff can have a higher degree of involvement in the management of the organisation than in other trust models. This model also permits the establishment of a workers' cooperative (for example, Greenwich). The organisation is registered, under the Industrial and Provident Societies Act 1965, with the Registrar of Friendly Societies. Members have limited liability (usually £1).

All representatives on the board, including staff or trade union representatives, have responsibility first and foremost to the NPDO. This could lead to a conflict of interest with respect to staffing levels and pay bargaining. At least one local authority is claiming that the trust rules will require staff representatives not to take part in voting in policy decisions on these matters. This would substantially dilute the effectiveness of staff representation on the issues of most concern to staff.

A non-charitable NPDO can claim up to 100 per cent rate relief at the discretion of the local authority (giving a saving to the council of 85 per cent) but unless this is already a council policy it would inevitably lead to existing non-charitable organisations claiming the same level of relief as a trust.

Facilities for recreation and leisure are considered to be charitable if they are provided in the interests of 'social welfare' under the terms of the Recreational Charities Act 1958.



### **Charitable company limited by guarantee**

The company limited by guarantee (CLG) would be subject to the Companies Act and registered at Companies House. Members would have limited liability, generally £1.

### **Unincorporated charitable trust**

The NPDO must have charitable status (registered and exempt) in order to obtain rate relief (Section 43(5), Local Government Finance Act 1988). This model has the advantage of being able to have council representation on the board and the ability to trade with the authority because it is not constrained by the local authority company regulations issued under the Local Government and Housing Act 1989. However, the board members have unlimited personal liability for the decisions and performance of the trust. Local authorities would find it extremely difficult to get local people to be members of the board because of the personal financial risk they would have to bear.

### **Trading activities**

Both an IPS and CLG would be required to set up a separate trading subsidiary to carry out activities which are not considered charitable such as catering, provision of management advice to other local authorities. Board membership of the trading companies has equal importance to the main board.

## **Representation on the board**

Council representation on the board is restricted by the need for the NPDO to be free from the controls on council finance and hence the regulations under Part V of the Local Government Housing Act 1989 and the Local Authorities (Companies) Order 1995 which cover companies which are 'controlled' or 'influenced' by the local authority. This means that council membership of the board (officers or councillors) is restricted to less than 20 per cent. The Act does not apply in Scotland. Council representation on the board could also mean that CCT would apply to sports and leisure management work carried out by the trust. Legal opinion and advice by management consultants involved in leisure trust proposals have generally been conservative indicating that any council involvement in a trust would trigger CCT.

The size of boards varies widely ranging from 10 in Bristol to 19 in Islington. The Bristol trust board is divided into five categories with one representative from the user category (Users Forum), citywide sports (Bristol Sports Council), executive category (Managing Director of trust) business category (Bristol Chamber of Commerce & Initiative) plus six representatives from the employee's category. The board also has a non-voting co-opted financial director.

Specific conditions were agreed for decision-making with respect to changes in the rules (75 per cent of the employees plus three of the other categories are required to ratify a change, compared to 50 per cent for other decisions). Financial proposals exceeding £75,000 and increases in pay in excess of inflation plus 10 per cent and any package over £40,000 per annum (inflation linked) require a quorum of the board of eight with eight votes in favour.

Bristol UNISON opposed the late introduction of the veto as being over-restrictive. They also pressed for nine representatives rather than six so that the workforce could be more fully represented by, for example, different types of jobs, location, type of facility, gender and full/part-time employment.

Islington's trust board includes three councillors, and two representatives of council's customer panels. The remaining trustees are from education, business and voluntary sectors.

In contrast, Sheffield's board includes one councillor and Hounslow's proposed trust has no council representation.

Councils have adopted different approaches to the selection of board members. Hounslow advertised in the local press for people to become board members. Informal networks are commonly used to identify 'trusted' individuals. A shadow board or interim management board is usually established to steer and develop the formation of the trust.

Trade union representation on trust boards is generally weak. The Thurrock survey found only one board with trade union representation. Elected staff were represented in 22 per cent of boards, elected users in a third, councillors in 55 per cent of cases and a category of 'others' in nearly 70 per cent of cases.

The lack of trade union representation usually reflects the attitudes of the local authority, leisure managers, management consultants and the level of union organisation.

### **IPS Cooperative**

The IPS model also permits the establishment of a cooperative in which staff who are members and have a share (usually £25) are entitled to vote for representatives on the board and attend annual meetings. Eighty per cent of the Greenwich staff became cooperative members.

## **Ownership of leisure facilities**

The local authority normally retains ownership of leisure facilities and responsibility for structural repairs although day-to-day repairs and maintenance is the responsibility of the trust. The council leases the facilities to the trust, normally over 10 years, in order that they can obtain National Non-Domestic Rate Relief. The lease can also include the use and maintenance of buildings and equipment.

## **Provision of support services**

The situation with regard to support services is complicated for it hinges on whether the council is represented on the trust board and there are differences between England and Wales and with Scotland. The local authority supplied support services in only 10 per cent of the 22 existing and proposed trusts in the Thurrock survey.

There is no definitive regulation which determines whether a local authority in England and Wales can or cannot supply services to a trust. Clarification of the legal complexity and different legal opinions is needed.

1. If a trust does not have any council representation on its board and it successfully obtains the approval of the Secretary of State for the Environment to add the trust to the schedule of organisations attached under the Local Authorities (Goods and Services) Act 1970, then the local authority can supply support services to a trust.
2. If there are council representatives on the board, even less than 20 per cent, the supply of services to a trust is likely to be covered by the CCT regulations (Section 4(1), Local Government Act 1988). The trust board would be required to go through the competitive tendering process before it could award a contract to the council for support services. Since avoidance of CCT has been one of the reasons attracting local authorities to the trust option, this is not an acceptable course of action.

It appears to be a crude choice between democratic accountability or retaining work for DSOs and in-house services.

Scottish local authorities have the power to provide financial and other assistance to a commercial or public undertaking situated in the council area and for the creation or protection of opportunities for employment with any undertaking (Section 1171A, Local Government (Scotland) Act 1973). Consultants have advised local authorities that if a trust is set up with "the express purpose of providing to the council the leisure services which it is



under a duty to provide, it may be regarded as public undertaking, albeit operating on commercial lines." (KPMG, West Lothian)

Irrespective of the regulations, trust board members have a duty to ensure value for money. The cost of council support services and 'cheaper' local options is likely to be on the board agenda once a trust is up and running.

## Summary

Chart 2.1: **Benefits claimed for a trust**

	<b>Local authority</b>	<b>Leisure trust</b>
Business rate and VAT savings	No	Yes
Not-for-profit ethos	Yes	Yes
Community involvement in service delivery	Yes	Yes
Access to Local Government Superannuation scheme	Yes	Yes
Tax efficient charitable donations	No	Reality?
Potential to obtain external funding without impact on LA	No	Yes
Avoidance of LA capital controls	No	Yes
Freedom from CCT	Coming	Yes
Trading opportunities	Coming	Yes
Access to National Lottery	Yes	Yes

## Community and social welfare objectives

There are two important issues. The first is the extent to which a trust is able to maintain and implement its social welfare and community objectives. This cannot be assessed at the present time because so many trusts have only recently been established and it can only be effectively determined over several year period.

The second issue is the extent to which the authority uses the opportunity of writing a specification which is not confined by the CCT regulations and is thus able to build in more comprehensive equalities and social requirements. This requires further detailed research.

### Market forces

Trust status does not shelter the organisation from the pressures of being an independent organisation separate from the local authority. Whilst a trust provides certain freedom from the constraints imposed on local authority departments and services, it opens the organisation to new pressures in the private sector. Being self contained and having independent budgeting and financial systems will mean that a trust could be more vulnerable to cash flow crises. It could face even stronger pressures to achieve economies.

## Part 2 Reasons for promoting leisure and library trusts

### Leisure services trusts

By early 1998, local authorities had established 18 leisure trusts in England and Scotland (see Table 2.1). The authorities varied between the Metropolitan authorities, London boroughs and smaller district councils in England and Scotland. The larger authorities were all Labour-controlled councils.

Table 2.1: **Local authorities which have set up leisure trusts**

Local authority	Type of trust	Year established	No of staff**
Blaby DC			n/a
Bexley LBC	IPS	1996	300
Bristol City Council	IPS/cooperative	1997	138 (200 casual staff)
Chester DC		1996	70
Christchurch DC			100
East Lothian Council			
Edinburgh City Council	IPS	1998	600
Greenwich LBC	IPS/cooperative	1993	120
Islington LBC	*	1997	150 (300 casual staff)
Hounslow		1998	700
Kettering DC			n/a
Merton LBC	IPS	1997	
Mid Bedfordshire DC			n/a
Moray Council			
Perth & Kinross DC	CLG		n/a
Ryedale DC		1997	
Sheffield MDC		1996	n/a
Shetlands			
West Lothian		1998	120
Woking DC			n/a
Wycombe DC	IPS		n/a

Source: Centre for Public Services, 1998

\* Islington used dormant Sobell Valley Islington Trust with new articles.

\*\* Full and part-time staff but excludes casual staff.

A number of local authorities have commissioned management consultants to examine the trust model and are currently considering the options (see Table 2.2).



Table 2.2: **Authorities currently setting up or considering trusts**

<b>Authority</b>	<b>Current situation</b>
Barnsley MDC	Report by Deloitte Touche
Coventry City Council	Report by Deloitte Touche
Derwentside	
Dumfries & Galloway Council	
Ealing LBC	Proposal from Relaxion PLC
Easington DC	
Hackney LBC	Report by Deloitte Touch
Highland Council	
Hillingdon LBC	Report by Deloitte Touche, on hold
Hounslow LBC	Report by KPMG, started May 1998
Rochdale MBC	Report by Leisure Partners Ltd, on hold
Scottish Borders Council	Report by Deloitte Touche
Stevenage DC	
Sutton LBC	Report by Deloitte Touche
Tameside MBC	Report by Deloitte Touche
Tandridge DC	Seminar by Deloitte Touche
Thurrock Council	Report by Deloitte Touche
Tynedale DC	
York	Report by KPMG
Wealden BC	
West Wiltshire DC	Report by Deloitte Touche

Source: Centre for Public Services, 1998

### Use of consultants

The role of firms who are contracted to perform district audit services to councils (on behalf of the Audit Commission) and are also engaged in management consultancy for the same authorities, represents a conflict of interest. The production of reports which recommend transfer to trusts is engaging in core policy formation of the council, a function which is not part of the district audit remit. For example, KPMG was the district auditor for Hounslow in 1996-97. In the same year, the firm produced the management consultancy report recommending the formation of a leisure and library trust.

Another issue is the quality of some of these reports. The Hounslow report failed to refer, let alone consider, the corporate effect of a transfer, and there was no consideration of service quality and delivery. Staff interests were ignored and the report did not consider any policy alternatives.

Two firms, KPMG and Deloitte Touche, appear to have a monopoly of leisure trust commissions. Both produce virtually identical reports for every client for approximately £20,000 per commission.

### Library trusts

No library trusts have yet been set up. However, two authorities are still planning to transfer all their libraries to trusts (see Table 2.3).

Table 2.3: **Authorities which have considered establishing library trusts**

<b>Authority</b>	<b>Status</b>
Dorset CC	Considered in 1994, decision not to proceed
Hounslow LBC	Transferred on 1 May 1998
Sheffield MDC	Deferred decision in 1997
Tameside MBC	Considered in 1996

Source: Centre for Public Services, 1998

Authorities which have considered, and rejected, contracting out library services in the 1992-98 period include:

Berkshire County Council (1992)

London Borough of Bromley (1993)

Hertfordshire County Council (1995)

London Borough of Brent (1994)

Kent County Council (1995)

Westminster City Council

## Inclusion of other services

The scope of facilities covered by trusts varies. Some operate only indoor facilities such as swimming pools and leisure centres whilst others cover both indoor and outdoor facilities such as playing fields and golf courses.

There are only two examples of trusts covering services other than leisure and libraries. The original Hounslow proposal included arts and heritage, grounds maintenance, cemeteries, school meals and building cleaning. Twenty six grounds maintenance staff employed on golf courses will transfer to the Edinburgh trust whilst Sheffield City Council proposed the transfer of the entire ground maintenance service to a trust (see Part 2).

Once trusts are well established it is conceivable that they may seek to extend the range of services and 'poach' the transfer of additional services.

## CCT in leisure management

DSOs retained over 85 per cent of sport and leisure management contracts by value (75 per cent by number of contracts). This is the highest DSO win-rate by value of contracts for CCT services (excluding white collar services) and some 10 percentage points higher than the next highest – school meals. Furthermore, there is little correlation between the regional DSO sports and leisure win-rates and the establishment of leisure trusts. In fact Scotland has the best in-house win-rate but the highest number of trusts. London is the only area where there is a correlation between the low win-rate and the establishment of four trusts. Even these four authorities had previously won their sports and leisure management CCT contracts.

Table 2.4: **CCT contracts and leisure trusts**

Region	% DSO contracts by number of contracts	% DSO contracts by value	Number of leisure trusts
Northern	80.6	94.7	0
Yorkshire & Humberside	94.1	98.4	1
North West	93.8	98.8	1
East Midlands	73.8	85.1	3
West Midlands	91.5	97.9	0
East Anglia	76.2	65.4	0
South East	57.9	80.9	1
South West	63.6	68.3	1
Wales	91.3	95.2	0
London	54.5	50.3	4
Scotland	98.3	99.5	5

Source: LGMB CCT Information Service, June 1997.

Management buy-outs have also occurred in Hinckley & Bosworth BC, Rochford DC, St Albans DC and Westminster LBC. Some other local authorities have used joint ventures with private companies for leisure services. For example, Cherwell DC and SERCO set up a



new company, Woodgreen Leisure, to finance a £1m refurbishment of a Banbury swimming pool. Each appointed a director together with four other directors appointed by local swimming and bowling clubs. SERCO operates the pool together with an adjacent indoor bowling centre.

## The leisure trust experience

The following section draws on the experience of leisure trusts in eight local authorities.

### Bristol City Council

The prime motivation for the formation of an IPS workers' cooperative leisure trust in September 1997 was the threat of the loss of the CCT leisure management contract at retendering. It was known that several companies were interested in tendering and the head of the leisure DSO had recently joined a leisure contractor. In fact all the major leisure contractors—Relaxion, Civic Leisure, Whitewater, DC Leisure Management, Glendale, City Centre Leisure and Sports & Leisure Management—applied for inclusion on the leisure management contract select list. The council twin-tracked CCT retendering with the formation of the IPS.

### London Borough of Greenwich

Greenwich Leisure Ltd was set up as a workers' cooperative in 1993 under IPS rules. The main motivation was to avoid CCT for leisure management and obtain business rate relief. The board has 18 members with 11 worker cooperative members, three councillors, two user representatives and one trade union representative plus the managing director. As a cooperative, it operates on the basis of one person:one share (£25 each) and one vote with 80 per cent take-up from the eligible staff.

The APEX branch has a number of strong criticisms of Greenwich Leisure (UNISON had only a handful of members and they transferred by agreement). Union strength (90 members out of 120 staff) has been significant in preventing management from implementing other changes.

- Management have pressed at every opportunity to change terms and conditions.
- The board is considered a 'puppet' because the key decisions are made by executive sub-committees and it is difficult for the board to challenge management decisions.
- Management take the view that they are no longer part of the local authority but operate in the private leisure sector and therefore have to be competitive. Staff are considered to be 'overpaid' compared to the private sector.
- The trust does not use council services and performs its own payroll, private security for cash collection and other services.
- The trust is competing for CCT contracts in the region, for example it won a five-year contract to operate the Callum Centre in Waltham Forest. This is giving rise to concern that it is developing into a larger leisure organisation which could eventually dilute its roots in Greenwich.
- Substantial growth in casualisation of the workforce.
- There have been several health and safety problems.

The trust is seeking to expand and has offered to work with other DSOs to set up similar trust organisations and/or to tender for CCT contracts to be operated either on a trust basis or by Greenwich Leisure Ltd under normal contract conditions.

Greenwich Leisure submitted a tender for one of two sports and leisure management contracts in the London Borough of Ealing in 1995. The Greenwich bid for the 4.5-year

contract was based on virtually no changes to staffing costs in the first year but included cuts in subsequent years which would have meant staffing costs being £261,000 below the in-house tender staffing costs in each of the last two years of the contract, some 17% lower than the in-house tender. Both contracts were awarded to Relaxion Ltd who submitted a very low bid based on highly questionable income forecasts (Centre for Public Services, Ealing UNISON).

### **Perth & Kinross DC**

Facilities are operated by Perth & Kinross Recreational Facilities Ltd, a company limited by guarantee which receives an annual grant from the council. The chief executive and the director of leisure are also directors of the company which also uses council departments for support services such as personnel and finance. Company staff have remained members of the council's superannuation scheme. Other sports facilities are operated by the Gannochy Trust, linked to Bell's whiskey, based in the town, who also helped to finance the facilities.

There have been some changes to NJC terms and conditions to reflect 'the needs of the service' with all full and part time staff operating shifts covering 7am-11pm over seven days. Trade union recognition and negotiation continues. Catering is contracted out.

### **Sheffield MDC**

Sheffield City Trust was established to take over Sheffield's new sports facilities. Initially the trust accounted for 20 per cent of leisure service's net expenditure. During 1997, the council proposed to 'fast track' all remaining sports/leisure centres and swimming pools to be managed directly by the Sheffield City trust or as a separate trading company under its umbrella. Three municipal golf courses and a tennis centre are included. Transfers to trust status were also proposed for galleries and museums, parks and open spaces, and libraries (since postponed). The corporate network of trusts is shown in chart 2.1.

The major reason for establishing further trusts in 1997/98 was the potential for cost savings and a means to address the reduction in resources. "*The decision to explore the potential for further cost savings through extending the use of trusts in delivery of Leisure Services signals a significant shift in policy emphasis.*" (Extending Trusts and Partnerships in Leisure Services, 1st May, 1997, Sheffield City Council).

Positive and negative factors were presented in terms of the arguments for trusts. However, the main saving identified is that to be made on NNDR. Additional savings were also identified in relation to VAT. The latest transfer is planned to save the council £250,000 per annum.

The development of trusts links to the strategy of Sheffield's new chief executive who supports external partnership. "*The chief executive designate in his most recent report on the implementation of the 1997/98 budget indicates that moves to place more elements of leisure in trusts should rapidly proceed.*" (Extending Trusts and Partnerships in Leisure Services, 1st May, 1997, Sheffield City Council).

#### **Trust structure**

Sheffield City Trust was established in 1987 as a partnership venture involving the City Council and Chamber of Commerce to raise capital to build new sports facilities. An operating company, Sheffield International Venues Ltd., was established to run the facilities. The facilities were initially managed by the city council's management DSO, but this was transferred to the company in December 1996. In 1993 the trust also set up another subsidiary company—Sheffcare Ltd.—to run some of the city council's residential care services.

There are eight people on the Sheffield City Trust with four trustees being nominees of the Sheffield MPs and the other four nominees of the Chamber of Commerce. The City Treasurer and the Chair of Sheffield International Venues attend the board as observers. One city councillor is represented on the board along with three local businessmen, one of whom is



the Chair of Sheffcare. The board of Sheffield International Venues has seven members, one of whom is a city councillor.

The city council is required to revenue fund the Sheffield City Trust and Sheffield International Venues to ensure that they both have sufficient funds for their operational requirements.

#### Sheffield City Council's corporate structure of trusts

Sheffield Theatres Trust	Sheffield Industrial Museums Trust	Sheffield Galleries & Museums Trust	Sheffield City Trust	Botanical Gardens Trust
Lyceum Theatre Trust	Kelham Island Museum	Ruskin Gallery		
Crucible and Lyceum Theatres	Abbeydale Industrial Hamlet Sheperd Wheel	City Museum & Mappin Art Gallery		
		Sheffield International Venues	Sheffield City Hall Ltd	Sheffcare 10 residential homes for elderly
	<i>Trust owned</i> Ponds Forge Don Valley Stadium Hillsborough Leisure Centre	<i>Council owned</i> Concord Sports Ctr Graves Tennis & Leisure Centre Stocksbridge Leisure Centre Uppertorpe Pool Heeley Pool Beauchief Golf Course Birley Golf Course Tinsley Golf Course		

#### Accountability

The council is concerned about accountability once external arrangements are in place and admits that processes in place with existing trust arrangements are "somewhat sporadic". (*Extending Trusts and Partnerships in Leisure Services*, 1st May, 1997, Sheffield City Council). Reporting to a council sub-committee twice a year on the trust's work plan, outcome targets, progress and review was also proposed.

#### Employment

Sustaining jobs and new employment opportunities are considered by the council to be possible through the trust option but no evidence of how this is to be achieved was provided. Apart from TUPE protection there are no guarantees for jobs.

#### Sheffcare (Residential care)

The company has charitable status and is responsible to the board of Sheffield City Trust. Twelve homes were initially transferred to Sheffcare and the city council is planning to transfer its remaining residential care homes to the company during 1998. Over 550 staff are employed by Sheffcare, the vast majority of whom are women. It is estimated that less than half the staff are now TUPE transferees, the rest are on Sheffcare terms and conditions of employment. Sheffcare pays lower hourly rates and no overtime or premium rates. New staff and staff promoted in the company are employed on Sheffcare terms and conditions of employment.

### **Chester City Council**

An NPDO, Cadsart, was established in April 1996 after a year of preparation. It includes one leisure centre and a mini golf course employing about 70 staff. The trust was set up with staff and trade union support. Although the council won the CCT contract in the initial round, one of the reasons for establishing a trust was the fear of losing the contract to the private sector. The trust has two councillors on the board and the trade union considers that there is a strong local presence.

Staff were transferred under TUPE and whilst there has been some reorganisation and new appointments, terms and conditions of service have remained. Trade union membership has been retained with staff remaining members of the Chester City branch of UNISON. The GMB also has members in the trust. A joint consultative forum has been established where local trade union representatives meet board members, the chairman and manager. A programme of renewal is planned, with finance from savings made through the transfer.

### **Ealing LBC**

Relaxion PLC won a 4.5-year sports and leisure management CCT contract in 1996 after submitting a very low bid. In 1998 Relaxion submitted a proposal to the London Borough of Ealing to establish a Relaxion Trust. This would be the first trust linked to a contractor rather than the local authority. The trust would include:

- An agreement to share the estimated VAT savings of £170,000 per annum after allowing for £30,000 administration costs in the first year and £15,000 per annum thereafter. Relaxion and the local authority would each benefit by £70,000 in the first year and £77,500 per annum in subsequent years.
- The Relaxion contract would be extended by 5.5 years to terminate in October 2005.
- The Relaxion contract would be replaced with a series of property leases with the firm taking over responsibility for full building maintenance after the BRETs contract expires in 1999. This will involve an annual £150,000 addition to Relaxion's contract sum to cover this work. The company has 'suggested' that it might invest £800,000 in improving facilities if the trust is established.
- Relaxion PLC would charge the trust a management fee for central and other services.

It is interesting to note that the planned trust is based entirely on VAT savings (or tax evasion) with only passing reference to possible future savings from business rates which form the bulk of savings in other leisure trusts. A decision has not been made and the proposal is still under consideration by the council.

### **West Wiltshire DC**

Leisure is one of the council's main functions, with leisure facilities in five towns employing several hundred staff. The original CCT contract for leisure was won in-house, but a trust is now being proposed.

A consultant's report recommended the establishment of a trust as the best possible route since it would avoid CCT, improve funding and involve less reliance on the council which is facing financial difficulties. The report is now being reconsidered following the council's response from the DETR, that if no leisure trust was set up, the contract would have to be retendered under CCT. At present the decision on whether to proceed with a trust has been put on hold.

UNISON have opposed the trust on the grounds of lack of accountability and loss of council control over the service.



## London Borough of Bexley

The council transferred leisure services to an Industrial and Provident Society (Bexley Community Leisure Ltd) in 1996, following a report by KPMG some two years previously. The trust employs about 300 staff operating indoor and outdoor facilities. The trust has a 10-year lease and partnership agreement with the council.

The annual council grant will be reduced from year three so that it will be 90 per cent of the original grant by year five. The trust can vary the mix of charges and can increase them by up to ten per cent above inflation if it has undertaken service improvement. Councillors are not represented on the board (see Part 6 for employment details).

The UNISON branch was opposed to the principle of transferring the service to a trust but recognised that a transfer provided the opportunity to restore, at least partially, the drastic cuts in terms and conditions which were imposed in CCT tendering in 1992. The branch were also concerned about the large number of casual staff, many of whom had been working for Bexley for several years, who did not have a contract of employment and were denied sick pay, holiday entitlement and pension rights.

## London Borough of Hounslow

The leisure trust proposal in the London Borough of Hounslow is unique in the scope of services which originally covered leisure, libraries, arts and heritage, grounds maintenance, cemeteries, school meals and building cleaning. KPMG (also the council's district auditor) produced 'a report for discussion' in September 1996 which reviewed options both in terms of the type of trust, which services might be included and the claimed financial savings. There are references to Hounslow in other sections of this report.

The council and KPMG believed that a phased transfer could start in April 1997 with leisure services in phase 1 and libraries and other services in a second phase. The timetable was repeatedly postponed to July 1997, October 1997, January 1998, March 1998. It eventually commenced in May 1998. The original plan to learn from the experience of phase 1 before transferring other services has apparently been abandoned, phase 1 and 2 have been merged, which effectively brought forward phase 2 by a year.

The UNISON branch opposed the leisure trust proposal and organised briefings for staff, senior management and councillors.

In February 1997, UNISON organised a ballot of all its members in leisure services on a straightforward 'for or against' the trust proposal. This resulted in a massive vote against the trust of 306 compared to only 33 in favour.

### UNISON membership ballot

Voting papers dispatched	696
Voting papers returned	343
Votes in favour of trust proposal	33
Votes against trust proposal	306
Spoilt ballot papers	4

Management carried out an opinion test, confined only to staff who would transfer, in which they asked staff whether they agree strongly, agree, neither agree nor disagree, disagree, strongly disagree.

### Management opinion test

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Voting papers dispatched	520
Voting papers returned	292
Votes in favour of trust proposals	96
Votes against the trust	145
Spoilt ballot papers	4

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Management split the results into the phases thus being able to claim that they had a majority of 11 in phase 1 despite an overwhelming vote against in phase 2 (108 against compared to 48 in favour).

The trust was set up in May 1998 and although the branch continues to oppose the principle of the trust, the branch is still working towards establishing trade union representation on the trust board. The branch has successfully negotiated:

- a joint consultative forum with the board for industrial relations purposes
- facility time for trade union representatives
- paid time off for the joint branch secretaries funded by the trust.

One of the main delays in setting up the trust was the work carried out by the District Auditor (KPMG) and the Audit Commission to assess the legal and financial robustness of the council's proposals. In addition the trust was dissatisfied with the grant proposals, which the delays compounded because the council could not make assurances to the trust it could not guarantee.

The branch has attended trust working party meetings, sought additional information, challenged management's figures and assumptions, kept staff informed through newsletters and met with the trust board.



## Part 3 Reasons why councils rejected trusts

This section summarises the reasons why leisure and library trusts have been rejected by local authorities. They are supported by the evidence on the employment impact of trusts in Part 4, the financial assessment of trusts (Appendix 1) and the important accountability and management issues (Appendix 2). The first section focuses on leisure trusts followed by library trusts.

At least seven local authorities have recently considered and rejected the establishment of a leisure trust (see Table 3.1).

Table 3.1: **Local authorities which rejected leisure trusts**

Authority	Summary of events
Bath and NE Somerset	Report by Deloitte Touche
Camden LBC	Rejected, opted for CCT but DSO lost contract
Dudley MBC	Report by Deloitte Touche, won retendered CCT contract
Lewisham LBC	Report by KPMG
Newcastle City Council	Did not go beyond initial consideration
Sevenoaks DC	Did not go beyond initial consideration
St Helens MBC	Report to committee
Stoke on Trent City Council	Report by Deloitte Touche
Tameside MBC	Consideration back on the agenda
Waveney DC	

Source: Centre for Public Services, 1998.

### Reasons for rejecting leisure trusts

Some local authorities, such as Newcastle City Council, London Borough of Lewisham, Tameside MBC and St Helens MBC examined and then rejected proposals to establish a leisure trust. The Thurrock survey noted earlier found that those authorities which had rejected leisure trust proposals did so mainly because of members' fears over the loss of control. The uncertainty of financial savings from VAT and business rate relief was also a key factor in those authorities which had rejected trusts or were still considering proposals. It is also significant that most of the authorities in Table 3.1 are committed to retaining services in-house under the CCT regime.

#### Newcastle City Council

Senior officers began discussing the leisure trust option in the context of further planned cuts in the leisure services budget. However, the UNISON branch acted quickly to indicate its opposition to a trust. The proposal did not have political support and was dropped without recourse to a consultants report.

#### London Borough of Lewisham

Following a management consultant's report by KPMG, the council rejected setting up a leisure trust primarily because of the impact it would have had on in-house services.

#### St Helens MBC

The council examined the possibility of establishing a leisure trust in 1996 as a way of achieving savings and safeguarding against the possible closure of facilities. Consultants were

not engaged and the trust option was considered in a committee report which showed that an estimated £161,000 could be saved in business rates. However, the council decided not to proceed any further with this option.

### **Bath and North East Somerset DC**

The council considered establishing a trust as a means of delaying CCT. Staff were opposed to the trust and the idea was rejected. The service was transferred to commercial services and the CCT contract won in-house.

### **Sevenoaks DC**

A leisure trust was considered by the council during 1997. However, the council decided it was not viable and would not benefit the leisure service.

### **Stoke on Trent City Council**

A leisure trust proposal was recently defeated by councillors. The authority had commissioned a report from Deloitte Touche and had presentations from Greenwich and Bexley. However, a transfer was considered only a matter of financial expediency with councillors committed to in-house provision. When the council's budget situation eased with the 1997/98 settlement, the transfer proposal was dropped.

### **Summary of reasons for rejection of leisure trusts**

- Loss of work for in-house services.
- No advantage in terms of access to National Lottery funding.
- Loss of direct democratic accountability.
- Questions arising over the longer term availability of NNDR and VAT savings.
- No advantage for achieving service improvements.
- Implementation of corporate policies more difficult.
- CCT to be abolished therefore 'avoidance strategy' not necessary.
- Commitment to retaining services in-house would be breached.
- Employment and cost impact of a reduction in central services workload.
- Concern about employment and staff interests with a new employer.
- Some loss of control over setting prices in order to obtain VAT savings.
- Financial advantage or opportunity cost over retaining direct provision which could contribute to investment in facilities.
- Cost of establishing trust, particularly in terms of staff time.

## **Reasons for not establishing library trusts**

### **Sheffield**

Sheffield City Council decided to retain libraries under council control rather than transfer them to a trust, at least for the time being. The council had initially planned to save £228,000 by the transfer.

The Director of Libraries claimed that the reasons for not pursuing the transfer were that:

- Some parts of the service may not be acceptable as 'charitable'.
- Music lending rights may not be transferable to a trust.
- There are no lottery funds open to libraries, unlike other trust-run leisure services.



- There may be issues in terms of the gifts and deposits of items in libraries.
- Library users also feel strongly that local libraries should be run by the local authority.

This is in the context of severe budget cuts over the last decade including:

- Forty per cent reduction in opening hours.
- Six library closures.
- A reduction of book spending to one of the lowest per capita in the UK.
- Lack of investment in library buildings and other infrastructure.

### **Dorset**

Dorset County Council carried out a feasibility study of transferring its library service to a company limited by guarantee in 1994 as part of a Department of National Heritage funded study by KPMG into contracting out in public libraries. The department and county council jointly funded a separate study into the trust option which was carried out by Coopers & Lybrand. The study concluded that "the project was perfectly feasible and there were no substantive legal, operational or organisational barriers to the concept. However, the report did identify a number of areas that needed much greater exploration, in particular the organisational and management structure, precise details on the legal situation, questions of ownership of assets, and the important relationship between an externalised organisation and the library authority which remains responsible in law for the service." (KPMG, 1995)

The Dorset study produced a series of benefits of externalisation, some of which ranged from being questionable technically ("a client and contractor separation may give significant benefits") to unsubstantiated assumptions ("the provider organisation and the client organisation would have shared objectives") or being irrelevant ("a non-profit distributing company, recycling any surplus back into the organisation rather than distributing it to shareholders"). The county council did not proceed with the trust option.

### **Summary of reasons for rejecting library trusts**

- Saving on business rates but not on VAT.
- Libraries are not a defined service under the CCT regulations, unlike leisure services, and is not subject to competitive tendering.
- Legal questions regarding whether all library activities are 'charitable', for example, video and CD collections, thus affect the potential financial savings.
- Rights of owners of sound recordings not transferable to a third party.
- No access to additional funding. The National Lottery does not currently fund library services because they are a statutory responsibility. However, public libraries will be able to bid for approximately £300m of former Millennium Fund money which will be available after 2001 to fund information and communications technology.
- The potential effect on future donations of collections and gifts because on transfer from the public sector.
- User/public opposition.

It is significant that the recent Audit Commission investigation into the performance of the library service did not refer to the formation of trusts. The 'Due for Renewal' report identified the major challenges facing library services such as the need to respond to far-reaching changes in information and communications technology; the decline in traditional services, particularly declining usage, reducing access and rising costs; and the need to develop partnerships with other agencies. The Audit Commission found that there is considerable scope for improving the efficiency and effectiveness of core services, improved stock



management, better monitoring of resource use and more rigorous service planning and prioritisation. Externalisation of the service was not even considered by the report.

## Part 4 Employment impact

### Introduction

The TUPE regulations apply to the transfer of staff to leisure trusts and there is no evidence that this has been challenged in any of the authorities which have recently established trusts or are currently considering trust proposals. Most leisure services employ a significant number of casual staff, and although they are covered by the TUPE regulations, a transfer does not afford them any greater protection than they would otherwise have had.

### Staff will have limited protection from TUPE

Leisure services staff would cease to be employees of the local authority and would transfer to the new organisation under the TUPE regulations. This would apply to permanent, temporary and casual staff. However, the regulations do not define the period following transfer to which the regulations apply. Some contractors claim it lasts only a few months. It would be very important to ensure that a trust agreed to apply the TUPE regulations for a substantial minimum period, if not the length of the contract.

There are certain limitations of the TUPE regulations which would have to be discussed and negotiated as part of the trust's employment policy prior to transfer.

- An employer is allowed to make changes to jobs, pay and conditions of service before or after a transfer if they are in connection with 'economic, technical or organisation' matters not connected with a transfer. Those affected could claim unfair dismissal and would have to prove their case at an industrial tribunal.
- TUPE applies to transferred staff and not to new starters. The local authority would not wish a trust to adopt the practices of many private contractors in operating a two tier pay structure with new staff employed on inferior terms and conditions.
- TUPE applies to temporary and casual staff but a new employer could simply not renew the contracts of temporary staff when they came up for renewal.
- The regulations do not alter the fact that under existing UK law, employers can terminate collective agreements and derecognise trade unions.
- If the local authority later decided to abolish the trust and transfer the service back in-house, it would have to take on the trust's staff at their then current pay and conditions. This could result in wage differentials with the prevailing local authority terms and conditions and an additional transfer cost to the local authority assuming it would wish to eliminate such differentials. If CCT was still in operation, this could lead to difficulties in upgrading the ex-trust staff to local authority conditions.

### Single status

The implementation of single status can be a requirement on the trust where it has been applied to local authority staff prior to a transfer. It then becomes an integral part of TUPE.

### Impact of transfer on jobs, terms and conditions

There has been limited evidence, mainly because most trusts have been operating for a short time, of changes to terms and conditions. Several branches in both existing and planned trusts reported that changes to terms and conditions had been mentioned by senior

management. The Greenwich experience (see Part 2) highlights the importance of maintaining a strong trade union organisation after transfer.

**Bexley:** The council had previously won its sports and leisure management contract in 1992 but had substantially reduced staffing levels, terms and conditions both during the tendering process and subsequently. For example, the basic pre-tendering pay rates were £8200-£8760 (1991) but were reduced to £5865-£7900 (1992) – a reduction of £2,335-£860 per annum. A large number of staff are now employed on a temporary and casual basis. UNISON negotiated an agreement to use part of the claimed £280,000 annual savings to improve terms and conditions.

**Christchurch DC:** A trust was established about five years ago to take over leisure facilities and about 100 staff transferred. There have been substantial changes to employment policies in the new trust. The UNISON branch reported that only a handful of managers now have permanent contracts with all other staff engaged on a temporary or casual basis. UNISON had only six members who remained in the union for about three years and then left. The trust initially refused to negotiate with UNISON but later agreed.

## Equal opportunities

The representation and empowering of women to take part in the trust was an important issue for UNISON in the setting up of IPS in Bristol. Many of the male pool attendants did not recognise the need for full representation of women in the IPS board, believing that they could effectively represent the women's interests. This issue became more problematic as the size of the trust board declined with staff being represented by only six members. There were only a small number of workers from black and ethnic minorities and they were not represented on the board.

## Pension provisions

In most cases the NPDO can be granted 'admitted body' status to the local government pension scheme so that there is no question of transferring and obtaining broadly comparable schemes.

The Bristol IPS cooperative had to set up a new pension scheme because the superannuation authority (Bath and North East Somerset) were concerned that if the IPS failed, the pension fund would be left with liabilities because insufficient contributions had been received. Recent case law has established that the local authority has no power to fund any residual liability.

## Responsibility for employment policies

It is sometimes stated that externalisation is a convenient way of relieving councillors of any responsibility for staffing, pay, conditions of service, negotiations with trade unions, and more particularly, redundancies. While a trust would ultimately be responsible for these matters, the local authority, in awarding a grant to a trust, would also share responsibility for the trust's employment policies and practices. Up to 20 per cent of the trust board could be local authority appointees and they would be jointly responsible for employment matters.

Staff issues in trust proposals:

- Incorporation of all existing employment policies into a leisure services contract
- Security and continuity of employment  
Private sector profit margins, restructuring, takeovers and relocation
- Pensions: Not covered by TUPE – broadly comparable  
Continued membership of Local Government Superannuation Scheme



- Pay and conditions of service: holidays, overtime, maternity and sick leave
- Future redundancy and early retirement benefits
- Effect on administrative and clerical staff
- Trade union representation and negotiation
- Job satisfaction
- Equal opportunities
- Training and career development

## Impact on trade union organisation

The transfer to trusts has led to the loss of shop steward and union organisation in some authorities which can lead to the gradual loss of membership. It creates a vicious circle because there are fewer resources to try to recruit new staff into union membership. It also usually means that the branch has little information about staff concerns and issues in the workplace. Providing first-hand information on the practices and performance of the trust is more difficult.

## Consultation in the leisure trust process

The level of consultation has varied widely, largely depending on whether the branch is opposed to a trust proposal. In most cases, management consultants reports are made available to trade unions although this was refused in at least one case: Bexley.

**Consultation agreement:** There is no specific requirement or procedure for consulting and providing information to staff in the leisure trust process, other than through existing local structures. Local authorities have adopted different approaches, particularly where there has been trade union opposition. Branches should therefore press for an agreement covering the form of consultation, timetable, procedures and supply of information.

**Ballots:** The type and timing of ballots is crucial although there is no requirement for a ballot in the formal process of establishing a trust. The Hounslow opinion test did not constitute a formal ballot and allowed the authority to manipulate the figures to claim support for its proposals. The trade unions in Bristol, mainly TGWU, negotiated for staff working 11 hours a week or more to have voting rights in the ballot. This ensured the participation of staff only working weekend shifts but with many years' service. Three ballots were held, all of which voted overwhelmingly for transfer.

**Business Plan:** This is a very important document because it should set out how the trust will operate within its financial resources for a three year period. It should be used to determine the degree of commitment to TUPE and it should state how the trust will implement promises and assurances. Proposals to transfer services have sometimes floundered at the business plan stage either because there are insufficient resources or it includes cuts in jobs and/or terms and conditions, thus breaking previous assurances.

## Staff retained by local authorities

A longer-term option could involve the formation of a trust with staff remaining directly employed by the local authority. In the short term this will trigger CCT but could be a viable option after its abolition in the year 2000. The Registrar of Friendly Societies would also have to approve of such arrangements and preliminary consultations have been favourable. This option would, however, highlight the financial and tax avoidance motives which are at the root of most trust proposals and could hasten government action in reducing the financial advantages of the trust option.

## Part 5 Guidelines for branches

### Lessons learnt from campaigns

The following points are applicable irrespective of the branch's and members' final position with respect to the trust proposal. They will strengthen both an oppositional and/or negotiating position.

- 1.** Develop a branch position and strategy as soon as leisure trusts are on the agenda. If you adopt a wait-and-see attitude this will enable senior management to build support for and approval of their proposals. Experience drawn from campaigning against all forms of externalisation clearly shows that the earlier the branch takes action, the more successful they will be in preventing it.
- 2.** Counter management consultants reports which, at least to date, always recommend transfer to a trust. Challenge the size and security of the savings and demand other alternatives are examined with equal vigour. These reports often do not include:
  - full examination of the employment impact of a trust;
  - the effects of a transfer on other departments and central services;
  - itemise the full costs of establishing a trust and exaggerate the potential savings.
- 3.** Draw up a list of key issues on which to base a campaign. These should include:
  - maintaining democratic accountability
  - management competence to operate a trust
  - myth and reality of opportunities for innovation in management systems and service delivery
  - access to finance and sponsorship over and above that obtainable by the local authority
  - the supply of support services
  - business rate (NNDR) and VAT savings continuing in the longer term
  - the real value of savings after all the costs of transfer and operating a trust are taken into account
  - the use of savings by the authority but rarely of benefit to the service
  - lack of protection to prevent further cuts and closures
  - trading proposals for the trust and plans to bid for other local authority work
  - membership of the trust board
  - funding and leasing agreements
- 4.** Seek the views of the membership in the affected services and keep the workforce informed through educationals, newsletters and workplace meetings.
- 5.** Regularly lobby key councillors, supply them with key evidence from other local authorities, raise key issues which have been omitted from the consultants and/or committee reports, and ensure they are made aware of the trade union views.
- 6.** Develop alternatives to a trust, for example, merging or re-locating the service in another department or directorate and establishing principles of transfer. These could include the



internal transfer of all staff, integration into the departments existing trade union and negotiation structures, budget verification for the host department, maintaining distinct management structure and budget and examination of economies of scale which minimised impact on staffing levels.

More detailed advice is included in 'Trade Union Strategies for Opposing Externalisation' (UNISON, 1998). This report presents the arguments against externalisation, suggests trade union strategies and tactics, and provides a list of questions for local authorities and potential employers. It is essential that branches use these guidelines in conjunction with this report.

## Deciding strategies and tactics

The initial response of UNISON branches could include a strategy to:

- Maintain outright opposition to a trust, both in principle and practice.
- Accept the principle or inevitability of a trust and campaign for greater involvement in the organisation and for improved terms of transfer.

These are not mutually exclusive because if opposition fails to stop the formation of a trust then the branch will seek to get the best possible terms of transfer. This strategy has been followed by a number of branches who were opposed to trusts in principle, campaigned against them but also sought to participate fully in the process of establishing the trust once the council was committed to establishing one. The views of GMB and TGWU members may have an important bearing on the branch position.

### Some key points:

- Demand information on the real level of threatened budgets cuts, projected levels of savings and the employment impact of a transfer.
- Ensure there is a debate about the longer term consequences for the authority—once a trust is formed it will be very difficult to return to direct council control.
- Ensure TUPE is not used to 'politically legitimate' externalisation and allow councillors to abrogate their employment responsibilities.
- Consider the longer-term impact of setting up a trust for trade union representation and organisation.

### Organisation

- Regular workplace meetings to keep staff informed of developments, to hear about their concerns and to gather information about what is happening at different workplaces.
- Ensure all main workplaces have shop steward representation.
- Contact other local authorities which have been or are currently involved in similar issues.
- Contact local user and community organisations to seek their support and involvement.
- Do a critique of management consultants reports, and if necessary, produce a UNISON report setting out opposition to the trust and the alternatives.
- Organise briefings for shop stewards, councillors and officers.
- Prepare regular leaflets or newsletters to keep the membership informed



## Trade union demands

UNISON branches have made the following demands in trust campaigns:

1. Transfer of all existing employment policies into leisure trust contract.
2. All existing corporate policies to be built into the contract and a requirement that the trust produce an implementation plan.
3. Maintain membership of local authority superannuation scheme.
4. Plan for genuine democratic accountability and participatory structures for staff, trade unions, users and user organisations be required as part of the contract.
5. Trading outside the local authority should be restricted and only permitted after full consultation with all parties concerned. The policy covering subsidiary trading companies should also be public.
6. Terms of the lease for the facilities should be tightly drawn up to prevent misuse and alternative use of council-owned facilities and include continued local authority repair and maintenance of the buildings
7. The board should have the maximum 20 per cent council membership of board of directors (the restriction on local authority representation does not apply in Scotland)
8. Production of an acceptable public service plan (business plan) by the trust which must be produced and be subject to consultation before a TUPE transfer. This is a very important document because it should indicate how the organisation will survive as an independent organisation. The policies and forecasts on which the plan is based could have a major effect on staffing levels, pay and conditions of service.
9. Appropriate full client monitoring arrangements should be established.
10. Establish strict mechanisms to control changes in leisure charges.
11. Trusts should be required to use council support services.
12. All new staff should be employed on the same terms and conditions as transferred staff.

## Wider issues

There are a number of broader issues which trade unions should highlight and develop strategies accordingly:

- Fragmentation of council services resulting in multiplicity of smaller employers.
- Retaining members—particularly difficult if more casual and temporary staff.
- Maintaining trade union recognition for collective bargaining.
- Staff involvement through IPS and cooperative versus involvement within DSOs and local authorities.
- Implications of the partnership and enabling models of local government on trade union organisation and policy.
- Applying 'Best Value' to trusts and other externalised services.
- Corporate use of trusts to transfer other services such as libraries, arts, museums, parks and other services.
- New vision of public service management.
- New alliances/consortia within the public sector.
- Local authority capital spending programme and use of capital receipts.

# Appendix 1 Financial assessment

## Introduction

The financial savings, primarily from business rate relief and VAT, are the main driving force behind the formation of leisure trusts. But there are also additional costs which a trust must bear as an independent organisation and there are also set up costs incurred by both the council and the trust. This section of the report examines the financial aspects of trusts.

A number of trust proposals have been delayed when the level of savings demanded by the local authority exceeds the savings generated by business rate relief and VAT. This has been a major factor in Hounslow and Edinburgh, although not the only cause of the delay.

## Source of savings

**National Non-Domestic Rate Relief:** If the local authority transfers responsibility for leisure facilities to a non-profit organisation with charitable objectives, the council could give up discretionary rate relief of up to 80 per cent. Some 75 per cent of the amount awarded falls on the national pool, the rest on the local authority. If the new organisation is registered as a charity it would also receive mandatory rate relief of 80 per cent, except that the entire cost would fall on the national pool.

**VAT:** A non-profit organisation would also be exempt from charging VAT on the provision of sporting facilities (although being outside of the local authority, it would no longer be able to reclaim all the VAT incurred on its expenditure). Hence there are costs and benefits of a transfer. Quantifying the financial gain is difficult because of the complexity of the financial regulations.

Local authorities are now exempt from charging VAT on sporting services which involve instruction. This recent ruling by Customs and Excise has the effect of reducing any planned VAT savings. For example, Bexley had estimated an annual VAT saving of £130,000 as a result of obtaining trust status but this was reduced to £60,000, less than half the original estimate, following the change in VAT regulations in 1994.

Local authorities can recover all VAT provided that the input tax related to exempt income is no more than 5 per cent of the total input tax. Changes in VAT regulations in April 1997 in the method of allocating input tax to exempt income changed, resulted in an increase of exempt allocations which means that authorities are more likely to exceed the 5 per cent limit. This would result in all of the exempt input tax being non-recoverable.

Since leisure trusts are invariably established as an alternative to budget cuts, it is very important to assess the real level of proposed cuts and the possible impact of cuts if a leisure trust was not formed.



Table 4.1: **Proposed NNDR and VAT savings before additional costs taken into account**

Local authority	NNDR £	% of leisure budget	VAT £	% of leisure budget	Total £
Bath & NE Somerset	260,000	7.4			
Bexley	290,000		60,000		350,000
Bristol	326,500		38,000		364,500
Hillingdon	n/a		n/a		207,000
Hounslow	302,000	5.3	100,000	1.7	402,000
Lewisham	366,000		27,000		393,000
Thurrock Council	185,000		28,000		213,000
West Lothian	412,000	10.3	120,000	3.0	532,000

Source: Management Consultants Reports

Note: These are gross figures and do not take into account the additional costs of the trust.

### Changes in estimated savings

Given that financial savings are the main driving force behind trusts, the level of initial savings is of vital importance. Rounded-up gross savings are attractive to councillors having to make cuts and tend to make the media headlines. However, these savings rarely take into account the additional costs of trusts and are always estimates. We were unable to obtain any information which provided audited evidence that the savings were actually obtained at the level predicted, once the trust was operational.

The Hounslow leisure and library trust proposal provides evidence of the change in estimated savings between the first trust proposal and later in the process (see Table 4.2). The press used the claimed full years gross savings of £725,000. The Hounslow estimates are complicated because the original proposal covered a wide range of services and some facilities and there has been little clarity about which facilities were included in transfer plans.

Table 4.2: **The decline in business rates' estimated savings in Hounslow**

Hounslow	Leisure	Libraries
KPMG report (Sept. 1996)	£302,000	£322,000
Council report (January 1997)	£394,000	£239,000
Latest	£337,000	£179,000

Source: KPMG and Council reports

Based on 80 per cent rate relief

The savings proposed in Sheffield are outlined in Table 4.3. The sports facilities are to transfer to a trust in 1998 whilst the library trust has been postponed.

Table 4.3: **Sheffield NNDR savings**

Service	96/97 NNDR Exp £	Trust status	1997/98 saving £	1998/99 saving £
Sports	273,307	Oct. 97	116,155	232,311
Galleries & Museums	71,945	Jan. 98	15,288	61,153
Libraries	328,005	April 98		278,804
Parks	19,829	April 98		16,855
<b>Total</b>	<b>693,086</b>		<b>131,443</b>	<b>589,123</b>

Source: *Extending Trusts and Partnerships in Leisure Services, Report to Policy A1, Sheffield City Council, May 1997.*

### Doubts over the continuation of savings

The continued availability of the savings depend on no changes being made to the VAT regulations or to the level of rate relief under the NNDR. However, there is no guarantee that the current level of savings will be maintained in the future. Whilst local authorities and trusts



might claim that they have benefited from savings up to the point of any changes, this would not be a satisfactory response when the loss of savings has to be accommodated in the trust budget.

The Government consultation paper on Local Government Finance proposes that central control and collection of the business rate should remain with the Government with a local authority discretion of 2%. We understand from the Local Government Association that discussions on the reform of NNDR have not yet examined the treatment of rate relief for charitable bodies and how this differs between local authorities. The proposals will need to incorporate equalisation measures but it is unclear at this stage how it will affect rate relief.

In addition *"it is also more than likely that a future chancellor will choose not to fund discretionary relief given by councils rather than mandatory relief. **There are, of course, no guarantees for any aspect of current relieves or funding arrangements.**"* (Deloitte Touche, Thurrock, 1997)

Whilst individual local authorities gain from trust transfers, the effect is to reduce the overall amount of finance available.

The savings are at the expense of public finance generally because reduction of VAT represents a loss of income to the Government. The estimated current annual loss of income to the NNDR pool from 20 trusts is £6.0m and a further loss of £1.3m VAT income to Customs and Excise. If the current rate of trust formation continued the respective financial loss from 100 trusts would be £30m and £6.7m respectively. If most local authorities followed this route the loss of income could exceed £100m.

Since the advantages of leisure trusts is primarily financial, they are likely to continue to be formed only so long as the savings continue.

## Additional costs

Certain additional costs must be taken into account. Average costs are indicated in brackets:

- cost of annual external audit (£5,000)
- tax advice (£3,000)
- initial set-up costs: consultants, legal advice, leases
- client costs of monitoring and safeguarding corporate interests
- additional insurance costs over and above those already incurred by the council (£8,000)
- IT costs (£2,500)
- council set-up costs including legal and professional fees (£50,000)
- finance officer for trust (£35,000)
- additional cost of separate office accommodation (£25,000)
- additional pension fund contributions as a result of trust being assessed as a separate body
- the effect of the loss of council support services—personnel, financial, legal and other support services—resulting in overheads being spread over fewer services.

The set-up costs may be more substantial. Table 4.4 itemises the additional costs which would have been incurred in Lewisham.

Table 4.4: **Example of additional costs of a trust**

<b>Additional costs</b>	<b>£</b>
NNDR Savings	312,000
VAT Savings	27,000
DSO Management Recharge	226,000
<b>Total annual savings</b>	<b>565,500</b>
<b>Costs arising from trust status</b>	
General Manager	52,000
Accountant/Company Secretary	35,250
Marketing Manager	27,025
Accounts assistant	22,325
Quality control manager	22,325
Technical manager	22,325
Administrative support	18,900
External audit	10,000
Legal/consultancy	5,000
Personnel consultancy	5,000
Health and safety adviser	6,000
Tax adviser	2,500
Payroll	21,700
Bank charges	49,170
Insurance (Public and employee liabilities)	12,000
Training budget	30,000
IT costs - business accounting system	3,000
Total costs	344,420
<b>Net annual savings</b>	<b>221,131</b>
plus <b>Set-up costs</b>	<b>90,000-120,000</b>

Source: *Future Options for Leisure, Lewisham LBC, KPMG, 1996.*

### Additional pension costs

Staff in a charitable organisation are usually able to remain in the local government superannuation scheme. However, the actuary will normally assess the liabilities of the trust as a separate body which would result initially in a higher level of contributions to the fund. In one recent outsourcing of council services, they were assessed at an additional 10 per cent of employer contributions. The local authority's contribution to the fund would be adjusted to take account of the increased contribution at the next actuarial valuation.

### The effect on DSOs

The financial viability of DSOs are affected by transfers in two ways. Firstly, when part of the staff of another service or DSO are included in a leisure transfer. For example, the Edinburgh trust includes grounds maintenance staff employed on golf courses. budget cuts and the trust transfer will result in the DSO staff reducing from 250 to 150 in a year. Secondly, DSOs and in-house services are affected when trusts do not use council support services. The loss of work usually means increases in unit costs for other council services.

### Economies of scale

A separate stand alone organisation such as a trust would inevitably be forced to examine ways in which it could achieve economies of scale. This could result in a combination of approaches. Firstly, seeking to obtain additional work in other local authorities in the region as a means of spreading the cost of overheads across a larger volume of work. For example, Greenwich Leisure Trust recently submitted an unsuccessful bid for the London Borough of Ealing's leisure services contract.



Secondly, by seeking further cost reductions within the organisation. There is limited scope for staff reductions and increased productivity, hence there is likely to be increased pressure on terms and conditions.

Thirdly, by maximising income from other activities and services, the value added approach. No doubt there is scope for further income generation, but this may be limited by the facilities themselves and/or client policies regarding the type of activity or services they want to be provided with leisure facilities.

## Client side costs

It is likely that client side costs will increase:

- A large contract covering all or most of the local authority leisure facilities with, in effect, an external contractor. This will lead to additional monitoring responsibilities covering buildings, equipment and services.

The establishment of a trust will involve additional expenditure in several areas both before the trust is operational and during its first year including:

- Legal and consultancy fees in formation of the trust and negotiation of leases
- Separate accounting and computing systems
- Other organisational costs

These costs have varied substantially between local authorities.

## Income generation

Transfer to trust status could affect income generation in two ways. Firstly, the trust would be free of local authority trading restrictions with regard to commercial activities being carried out within facilities, as long as these were approved by the local authority. However, assuming that the current service maximises income from related activities such as catering and other facilities, then the advantage to be gained from trust status will be small. It would be wrong to take a narrow definition of the powers available to local authorities to provide a wide range of services in order to justify trust status. Given the wide and different interpretation of local authority powers to trade, there is little that a trust could do that could also not be justified by the local authority. Trust status may open up new channels to finance new equipment which could be income generating.

Secondly, a trust would have greater freedom to compete for sports and leisure contracts in other local authorities. However, this current advantage may be short-lived. If CCT is abolished then most other local authorities in the region are unlikely to want to voluntarily tender their sports and leisure services. The 'contract market' will inevitably decline.

Furthermore, recent advice from the Department of the Environment reversing its previous position, has stated that "local authorities have the powers to trade for profit and take on staff for the purposes of those trading activities" and that the Local Authorities (Goods and Services) Act 1970 does limit trading. The Labour Government is considering extending local authorities' trading powers. These developments have the effect of substantially reducing, if not eliminating, any advantages a trust may have over the retention of services in-house.

Whilst the legal restrictions or interpretation of regulations concerning cross boundary tendering may be eased, there remain several substantial issues to be considered. The advice contained in 'Enforced Tendering Advice Note No 3', issued by the National Coordinating Committee, is still applicable. This states that any tendering outside an authority's boundary should only be undertaken with the agreement of the authority's trade unions. While a trust would be outside the direct control of the local authority, predatory bidding by the trust in



other local authorities would still be viewed as if the local authority were tendering for this work.

Another avenue for income generation would be to diversify the range of activities provided by the trust. However, this could lead to further services in the community and leisure services department being sought for externalisation. The trust in effect becomes a poacher of services from the local authority.

## Access to capital

Access to sources of capital not available to the local authority are usually exaggerated in order to support the case for a trust. The main sources of capital such as sports lottery, Single Regeneration Budget, European Funds, Private Finance Initiative and Capital Challenge are available to local authorities. Since local authorities usually retain ownership of sport and leisure buildings when trusts are established, it is the local authority which has a key role in attracting capital investment. Trusts thus have few capital assets and are therefore constrained in their ability to raise private sector capital.

It is often stated that trusts can raise additional revenue from the private sector through sponsorship of events and facilities but these sources are equally open to local authorities. Sponsors may be more inclined to support a trust rather than a local authority but we have no evidence that trusts have been successful in attracting any substantial additional income from private sector sources. It would appear to be a claim made in support of trusts which is not borne out by available evidence.

## Trusts and the Private Finance Initiative

Combining the formation of a trust with the Private Finance Initiative will require the local authority to invite tenders to participate in a joint venture with the council using the trust as the partnership vehicle. Additional uncertainties will be encountered with this type of project. For example, participation in a PFI scheme may affect the ability of the trust to obtain business rate relief, the conflict between the social welfare objectives of a trust and the commercial interest of PFI consortia, plus the legal issues raised by the Allerdale case.

## Summary of financial savings and costs

- The real motivation is usually financial savings (4-5 per cent), not improved accountability, public management or better service. Initial savings figures are usually exaggerated in order to promote the 'advantages' of transfer.
- The options are not always fully assessed and costed resulting in exaggerated 'savings' and partially quantified costs.
- Savings mainly achieved, at least initially, by NNDR and VAT but questionable whether they are sustainable in the longer term.
- Financial fix now but what happens in the future—leisure funding will not be ring fenced.
- Any financial advantages will not be fully available until the second and subsequent years because of the initial set up costs.

## Appendix 2 Accountability and management issues

### Introduction

The formation of leisure trusts raises a number of important corporate issues for a local authority in addition to the future of local governance.

### Accountability and loss of control

A local authority loses direct operational control of the leisure services organisation. It can however, impose a wide range of controls on a trust in order to maximise public interest concerns and to minimise the possibility of failure by the trust. These can include:

- Establishing the objectives of the trust to govern its purpose, scope, activities and the extent to which it can operate outside the local authority.
- The level of annual grant under a funding agreement.
- Approval of the trust business plan.
- Lease for the facilities with conditions covering the use, opening hours, maintenance of buildings and equipment, and the right of the local authority to regain control of the facilities if the trust suffered financial failure.
- Composition of the trust board including appointing council representatives.
- Contracts for the supply of support services to the trust.
- Client monitoring and performance assessment which should include the following:
  - implementation of the council's leisure and recreational objectives
  - implementation of council's corporate policies
  - involvement of and consultation with user groups
  - achievement of targets set out in the business plan.
- Annual review of trust audited accounts (in addition to statutory audit requirements).
- Continuing Best Value assessment.

### Return to local authority control

The question of returning the service to local authority control has not arisen in established trusts. There would appear to be no legal impediments. The formation of trusts is often a short-term fix in the face of difficult decisions concerning the alternatives of cuts, closures and redundancies. However, as more fully discussed in Part 4, the longer term effects of transfer are rarely fully examined.

### Implementing corporate policies

Although the local authority would be able to write its corporate policies on quality services, equal opportunities, health and safety, employment and anti-poverty policies into the contract, it will have less direct control over their implementation. Experience in other local authorities shows this to be a major problem when services are not provided by in-house staff.



## Possible loss of support services: impact on DSOs

The support services supplied by other central services and the DSO such as payroll, legal advice, personnel and so on may have to be provided by other sources. This will have a knock-on effect by further reducing the workload of these departments. We estimate that DSOs and in-house services have or will lose an annual total of £25m of support services work based on the current number of existing and proposed trusts. This work includes payroll and financial services, auditing, legal advice, repairs and maintenance.

Edinburgh Leisure Trust had only been established a few months when it put its catering service out to tender. The work was awarded to a private contractor solely on the basis of cost and not quality.

## Economic viability as independent organisations

The long-term future of leisure trusts remains uncertain. Their non-profit status and legal structure prohibits takeovers and mergers in the traditional sense. As stand alone organisations trusts will face the same pressures to achieve efficiency and productivity increases, generate additional revenue, particularly when local authority grants are reduced or do not increase in line with inflation. The question is whether these pressures are accommodated entirely internally or whether the trust seeks to diversify or achieve economies of scale by expanding the volume of work by bidding for similar work elsewhere. Greenwich Leisure has done both. Economic pressures could lead to the trust seeking to transfer other council services such as libraries, parks and arts at a later date.

## Evaluation process

The evaluation of leisure trust proposals has been partial and superficial in the authorities where we have been able to assess the process. One of two things tends to happen. Councillors and managers are fixated by the potential financial savings and press ahead with the formation of the trust. There is little or no evaluation of alternatives or the corporate impact, simply an examination of the best means of establishing a trust as quickly as possible so that the savings can be built into the budget. In the alternative scenario, the leisure trust proposal is defeated politically without recourse to detailed evaluation.

The Local Government Management Board (LGMB) report 'Partnering for Service Delivery' describes the 'process of evaluation' in the establishment of the Bexley and Hounslow Trusts. There is no reference to the evaluation of policy alternatives, only the means by which the trust is established.

The LGMB and local authorities urgently need to develop criteria to enable councils to comprehensively evaluate various options for the provision of leisure services. They should take into account corporate policies, accountability, Best Value, employment and other related issues.

## User and community involvement

The debate about trusts often includes references to 'greater involvement of staff and management in the business' and 'potentially faster and more flexible decision-making'. These are not exclusive to company or trust status and could be achieved within in-house services. There are many decisions which a trust will have to make which will require consultation and approval of the local authority and it will not have the freedom of decision making which is often implied.

Some of the newly-established trusts have sought to include user representation on their boards but it is too early to assess the different approaches adopted.



## Best Value will apply to trusts

The Best Value regime is intended to apply to all local authority services irrespective of who supplies the service and will, therefore, apply to leisure trusts. Best Value can be applied in two ways. Firstly, as part of the process of examining options. A seven-part definition of Best Value can be used as a framework to assess the extent to which a trust offers advantages. (see Table 7.1)

Table 7.1: **Applying Best Value regime to trusts**

Definition of Best Value	Application to trust
1. Quality of service	No material difference.
2. Achievement of sector/industry best practice	No material difference.
3. Quality of employment and training	May not be maintained at local authority level.
4. Implementation of corporate policies	More difficult to implement key policies.
5. Democratic accountability	Loss of accountability. Staff involvement could be achieved by in-house service. User and community involvement achieved by in-house services and through Best Value.
6. Cost effectiveness	Only if savings achieved and used for added value.
7. Social and economic equity	Tight monitoring required. Changes to employment policies will have negative effect.

Source: Centre for Public Services, 1998

Secondly, the process of assessing Best Value such as the use of performance standards, benchmarking, quality audits and service reviews will apply to a trust. The requirements imposed by the Best Value approach such as the cooperation of the trust, and the need for a continuous flow of verified performance information, should be written into formal agreements between the local authority and the trust. However, transfer to a trust means that the council loses the ability to directly implement Best Value in leisure services.

## Alternative organisational models

The question of whether there are alternative organisational structures which would provide a better basis for the protection of jobs, terms and conditions is important. The debate tends to focus almost entirely on the arguments for and against trusts. However, other alternatives should be examined.

**Workers cooperative:** This can be incorporated into the IPS structure, for example Greenwich. However, there is world of difference between transferring leisure management to an organisational structure which is cooperatively owned and one which is cooperatively managed. The view of the Greenwich trade union is that the former applies in Greenwich. This is only one example and until there are more it is difficult to draw conclusions. However, it is clear that innovation in organisational structures is insufficient and future worker cooperative ventures will need to focus heavily on changes to management practice. The rush to establish leisure trusts and access savings runs counter to the more patient process required to establish a genuine cooperative approach. It will also require local authorities to seek the cooperation of trade unions at a very early stage.

**Trust runs leisure facilities but staff remain council employees:** A trust is established in the normal way but sub-contracts the operation of the facilities back to the local authority. This model has been used in East Lothian. There is currently some confusion over the legality of the authority providing services in this way (note also differences between England and Scotland). The authority is currently in dispute with Customs and Excise concerning VAT. CCT regulations apply although their replacement by Best Value may ease the competition requirement.

Swindon BC manages leisure facilities on behalf of two community trusts. The local authority, in cooperation with the community trusts, built new leisure facilities over the past decade. The trusts have a lease on the facilities and have responsibility to provide services. The work was put out to tender under the CCT regulations as an identifiable package and the DSO won the contract. The trusts have a lease for the premises at a peppercorn rent with the council retaining responsibility for structural repairs, whilst the trust is responsible for day-to-day maintenance. The DSO assist the trusts in preparing their annual application for deficit grant. The trusts have a contract with the recreational DSO to manage and operate the facilities based on the trust's specification. The trust also pays the council to monitor the service on its behalf. There is also an agreement between the trust and the DSO to share any surplus or deficit.

**Partnerships and joint ventures:** There is considerable scope for the development of partnerships and joint ventures between local authorities. For example, the Audit Commission and other organisations have noted the potential of partnerships between the library service and other agencies within the local authority and/or involving a group of local authority library services.

However, unless these partnerships also provide an opportunity to access business rate relief and VAT savings they are likely to be of only marginal interest to many local authorities, unless the scale of these savings changes dramatically.

**Publicly funded directly provided services:** The debate over leisure trusts is not dissimilar to the debate over the use of PFI. There appears to be no suitable alternative to properly funded public services. Just as there are conditions and consequences tied to the use of private finance, local authorities cannot achieve savings through business rate relief and VAT without externalising the service to a non-profit organisation.

Local authorities, trade unions and user organisations are placed in a difficult position when faced with the choice between more cuts or externalisation to access savings. Transfer to a trust is not an escape route from cuts because the local authority can readily impose them through the annual grant to the trust. The longer-term solution, on which all organisational models are dependent, is an increase in local authority spending (capital and revenue) and greater local powers to vary expenditure according to local needs and priorities.

The debate should focus on seven key criteria and not be confined primarily by the source of financial savings. Otherwise a case could possibly be made to transfer many more services out of local authority control if finance was the only criteria.

The criteria are:

- Democratic accountability
- User/employee involvement
- Good quality management
- Good quality services
- Access to capital
- Employment policies
- Maintaining social welfare objectives

Research into the opting-out or transfer of other services from local government such as grant-maintained schools, housing associations and NHS trusts concluded that "self-management among local service providing organisations has been one of neither triumph nor disaster. Easy claims that most public service managers have been 'energised' and service users 'empowered' will not stand up to close scrutiny. Our research shows very little



evidence of 'empowerment' and plenty of examples of both continuing and new frustrations among local managers." (ESRC, 1997)

## The enabling model of local government

### Longer-term impact on local government

The impact of incremental externalisation and privatisation must be considered. The authority cannot treat each decision, be it a leisure trust, a local housing company, a PFI project for a school, a residential home for the elderly, separately. The ability of councillors to determine needs and priorities and have a high level of control over their implementation is slowly being eroded. The enabling model assumption that the council will have the same degree of control over a plethora of companies, trusts and other organisations in the private and voluntary sectors is an illusion. The board of directors and 'stakeholders' in these organisations invariably have their own agendas, priorities and vested interests. And whilst the local authority will have a degree of control and influence through contracts and grants, this is materially different from the current situation.

### Fragmenting local government

The externalisation of one service must not be viewed in isolation. Piecemeal transfer of local authority services and assets will have a profound longer term effect on the organisation and management of services. The transfer of services leads to the local authority adopting the 'enabling model' of local government in which a core of client officers attempt to control contracts with private contractors, voluntary agencies and other organisations.

### Corporate structure of trusts

The corporate structure of trusts—in the Sheffield model, for example—could be expanded to transfer an increasing range of services. There are limits to the range of services which would attract business rate relief but there are no limits if the motive is to create new employers as a means of reducing labour costs.

## The advantages of in-house services

It is very important to keep restating the case for the retention of in-house services throughout the debate on leisure trusts. This will help to provide a framework for the debate which can so easily be dominated by claims of the advantages of externalisation.

- **Direct democratic control and accountability of service delivery**
- **Maintain quality of service: The contracting or grant awarding system is not the most effective way of controlling the quality of services.**
- **Ability to implement corporate policies at service level.**
- **Maintain an integrated community leisure service for the local authority**
- **Maintain a strategic overview of services across the authority**
- **Maintain best practice employment policies including training, equal opportunities, and health and safety.**
- **Maintain close client-contractor-user relationships.**
- **Obtaining lower prices than would otherwise be the case – in-house service serves to regulate market prices.**
- **The retention of professional and technical expertise within community leisure services and the authority.**
- **Driven by service needs, not profit objectives or the needs of external organisations.**



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