Museums Libraries & Archives

# The opportunity of devolved governance

## for museums, libraries and archives

**April 2010**

# Contents

# 1. Executive Summary

## Purpose

1.1 This paper is intended to act as a think piece to stimulate debate around the concept of devolved governance for museums, libraries and archives. It outlines the range of devolution models that MLA considers applicable to museums, libraries and archives and the potential it considers such models offer to the sector.

1.2 The central problem it seeks to explore is how, in the long term, local authorities can seek to shape, improve and sustain cultural service delivery - with less.

1.3 In 2006 MLA commissioned Egeria to develop a series of papers exploring trust options for museums. This remains a valuable piece of work that continues to shape and inform MLA's thinking.

1.4 However this Executive Summary and the accompanying report sought to extend this piece of work by:

- widening the analysis to explore potential impact on libraries, archives and joint service devolutions – as well as museums
- exploring an increased range of delivery options
- reviewing the potential for devolution to support a financially more sustainable sector (ie. a funding model where local authority funding is more proportionate to earned income) – as well as create increased user benefits and drive sector improvement.

1.5 This paper is *not* intended to provide a practical framework for organisations considering devolution, as work has already been done in this area by Renaissance Yorkshire and made available by MLA.

## Context

1.6 The central problem facing local authorities and cultural services is how to shape, improve and sustain cultural service delivery in the context of a market driven by greater user expectation, more choice, and greater demand for accessibility - with less resource.

1.7 The exploration of new or alternative models of delivery for museums, libraries and archives within this context is by no means straightforward, representing significant change for service, authority, and user. Whilst the operational activity of a library service can be devolved, statutory responsibility for it remains with a local authority, and public perception around the responsibility of the state towards the cultural sector affects museums and archives. The issue of universal versus targeted service delivery brings additional tension to the mix of strategic considerations around new delivery models.

1.8 But these are times of change. Services are expecting cuts of 15-30% over the next three years, and there is a limit to the impact that creating savings can make. Service improvement that has been 'purchased' by additional investment over the past decade is no longer sustainable. Because additional resource – investment in new galleries, buildings, staff – cannot be relied upon to drive service improvement, there is an increased imperative to improve sector productivity and contribute demonstrably to economic regeneration.

1.9 Although the need to respond decisively to the economic downturn - the need to reduce costs and increase effectiveness – is providing the stimulus for many services, devolved delivery presents a longer term opportunity for museums, libraries and archives to re-vision their service delivery in the context of wider social change

1.10 The MLA recognises that the services that will thrive in this environment are those that are able to re-vision and re-think their service delivery models, traditional working structures and partnerships. In this context, it considers there is sufficient evidence that devolution of museums, libraries and archive services from local government direct delivery accelerates organisational innovation and growth, and increases user benefit and financial sustainability. Devolution is an innovation that accelerates improvement.

.

## Why devolve? What devolving services offers

1.11 Forward thinking local authorities are already seeking to develop 'new'[1] delivery models for their cultural services, including:

- strategic commissioning (Suffolk)
- jointly commissioned services (Colchester & Ipswich Museums, Tyne & Wear Museums)
- integrated and co-located services (Sport & Culture Glasgow) and
- devolved services (Luton, Wigan).

1.12 Evidence to date suggests that *all* the above models catalyse the following positive impacts:

- Efficiency savings
- Improvements in service delivery
- Increased productivity
- Increased user benefit – social outcomes
- Increased partnership working both across geographical and sector domain boundaries

[1] Alternative models are not necessarily new, but resurgent

1.13 There is evidence that, devolving services catalyses the development of an organisation capable of achieving greater ongoing financial sustainability through the generation of diverse income streams.

1.14 Achieving successful financial sustainability is the key risk faced by all devolving services.

1.15 For this reason, debate has centred around the question of whether devolved services should be created as specialist, single-service businesses, or multi-model businesses managing any combination of museums, libraries, archives as well as arts, theatre, sport, health, community and third sector services.

1.16 Most recent devolutions have devolved as joint services. Joint services create significantly increased efficiencies and economies of scale to support financial sustainability. Wigan Leisure & Culture Trust restructured their management team and changed terms and conditions of employment and was able to reinvest efficiencies in its services. This positively impacted on the library service by enabling two new outreach libraries, £350K in building improvements, a new branch library, a project development post, stock fund, marketing and branding. It is worth noting, however, that to date few joint service devolutions have developed a funding model where local authority funding is more proportionate to independent earned income.

1.17 Devolved single service museums, libraries or archives have adjustments to make around a business model more generally predicated towards free entry - unlike the arts or leisure services. However, the independent museum sector evidences single services that achieve financial sustainability, with organisations such as Chatham Historic Dockyard and Ironbridge Gorge Trust achieving a funding mix of philanthropy, earned income and private investment. The common key to successful income diversification in these cases has been the existence of capital assets that the newly independent organisation can exploit as a regular income stream to feed back into the charity or community benefit. This indicates that the successful devolution of museums, libraries and archives - and other cultural or leisure services - has implications for the programme of community asset transfer championed by local government since the Quirk Review of 2007.

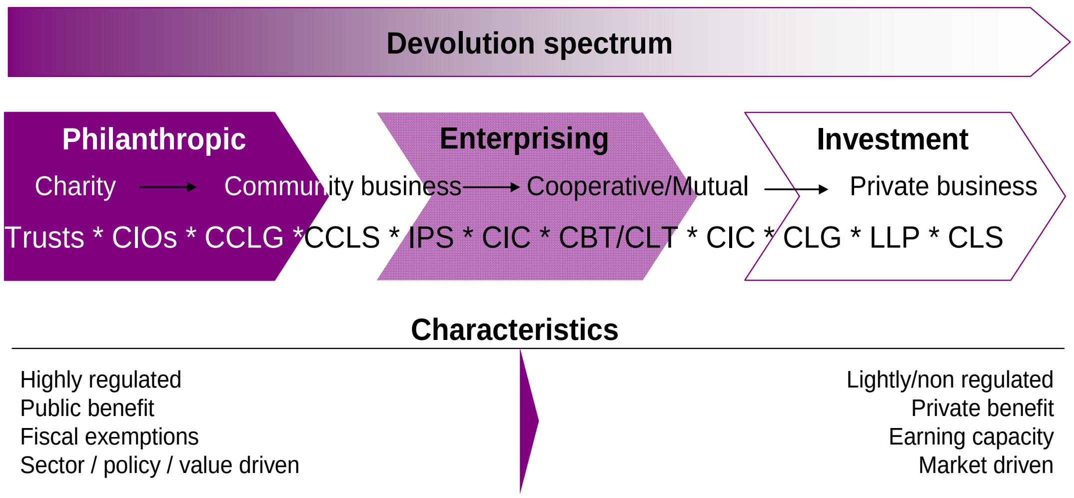
1.18 As well as the transfer of capital assets, and whether single or joint service, financial sustainability is positively affected by the development of a flexible governance model that plays to the strengths of the service(s), and enables growth through a blend of partnerships - in local and community enterprise - in increasing inward investment through philanthropy, and in attracting mutually beneficial contractual relationships with the private sector.

1.19 Successful examples of devolution elsewhere – including in the wider third sector – can inspire change and inform the strategic planning for devolution, but the decision over which devolution model to use should not be based merely on what has worked elsewhere. The devolution model selected should be determined by a thorough service review incorporating community consultation and based on the strengths of the existing services and the local market opportunities.

## Applicable devolution models

1.20 There are six devolution models applicable to the sector, comprising eleven legal formats: charitable trusts; charitable companies limited by guarantee; charitable incorporated organisations; community interest companies limited by guarantee; industrial provident societies; co-operatives; community benefit trusts; community land trusts; community interest companies limited by shares; companies limited by guarantee; and limited liability partnerships.

The devolution spectrum (Fig 3)




1.21 This spectrum is helpful as a tool to rationalise the models but it should be noted that organisations are rarely on one single point within the spectrum and there is a great deal of flex and overlap between the models. Whichever model or combination of models is used, benefits can be gained.

1.22 The philanthropic models (the charitable formats) offer the most potential to exploit philanthropic, enterprise and investment opportunity through the creation of appropriate subsidiary structures. For this reason, although they are applicable to joint service models, the philanthropic models are particularly suited to the creation of strong, single-service businesses able to exploit a wide range of assets. There are multiple examples - both within the national museum sector and regionally within the independent museum sector - that bear this out. The philanthropic models are the most used by devolved museums, libraries or archives.

1.23 In terms of the risk, philanthropy is an extremely competitive market and evidence suggests that it is not automatically a competitive strength for local museums, libraries and archives. Many of the already devolved museum or joint service charities have extremely low or non-existent philanthropic income streams, and despite demonstrable public affection no library service has attempted to develop a single service philanthropic model. As a governance model it requires the least change from direct delivery. Museums, libraries and archives can maintain local funding arrangements whilst reacting to philanthropic support, but this could represent a potential barrier to success as change in structure and culture are, more often than not, key factors in successful devolution.

1.24 The investment models (devolving management of assets to the private sector) are the next most used model. Whilst the evidence base remains insufficient, it seems demonstrable - by Haringey's example - that these models offer restructure, culture change and the implementation of performance management to achieve standards. Arguably a partnership with the private sector is a rapid route to developing business model innovations – for example around digital – within service provision. Most significantly, the models offer the particular advantage of year-on-year funding reserves, enabling the sector to break the cycle of annual, short term, reactionary strategic planning.

1.25 In terms of risk, debatably there is a risk (reflected in the recent scale-up of contracted private and third sector leisure service providers) of handing virtual monopolies to large national private and third-sector businesses. This could result in the creation of an improved but homogenised service rather than one determined by, and suited to, local need. The creation of a well managed contract partnership with the local authority would avert such risk. More significantly, because they deliver private as well as public benefit, investment models could potentially discourage philanthropic support and therefore offer the least potential to exploit the full range of market opportunity open to museums, libraries and archives.

1.26 The philanthropic and investment models have been trialled by the sector. In addition to these models, there are community-based, enterprise-driven governance models that may well have the capacity to contribute to a stronger sector in the longer term. They include the resurgent business models of community ownership and staff ownership - in themselves a significant innovation to an overwhelmingly locally-governed museum library and archive sector. Third sector evidence points to community and staff ownership as a key driver in productivity and performance as well as economic regeneration.

1.27 These community enterprise models offer flexible, partnership-focused governance formats based around income generation that can support either philanthropic or private investment partnerships. For this reason, although they are applicable to single-service models, the community enterprise models are particularly suited to the creation of multi-faceted, joint-service businesses able to exploit a wide range of assets. Such a business could be a geographically joint service. The CIC structure offers a potentially strong legal format for enabling single services across multiple geographical boundaries to achieve scale within a specialist business model, or a locally joint service, delivering arts, leisure, sport or other local need. It is worth noting that the growth of the community enterprise sector over the past six years has created an existing pool of viable community development trusts to which, in the appropriate local conditions, local museums, libraries and archive services and their assets could be handed.

1.28 The significant risk associated with community enterprise models is that asset transfer, albeit with claw-back clauses, is required for success. Although more unfounded, there are also likely to be concerns around loss of the local authority's powers of direct influence.

1.29 The type of devolution models utilised by the sector to date remain confined within a fairly narrow range of constitutional formats – charitable companies limited by guarantee, charitable trusts, companies limited by guarantee and, mainly within the leisure sector, IPSs. This could indicate a lack of confidence or clarity about opportunities presented by newer models.

1.30 It is a misconception that money only 'leaves' the sector in some models; there is always a cost. Under direct delivery or philanthropic models, money leaves the sector in the form of staff salaries and high public-sector pensions. Under the investment models, money leaves the sector in the form of private profit. Under the enterprise models, money potentially leaves the sector to cross-subsidise other less profitable community organisations. It is more appropriate to judge financial sustainability on the basis of value for money – the value of the service and the outcomes it achieves relative to the public cost of provision – by tracking a proportionate decrease in public subsidy relative to earned income.

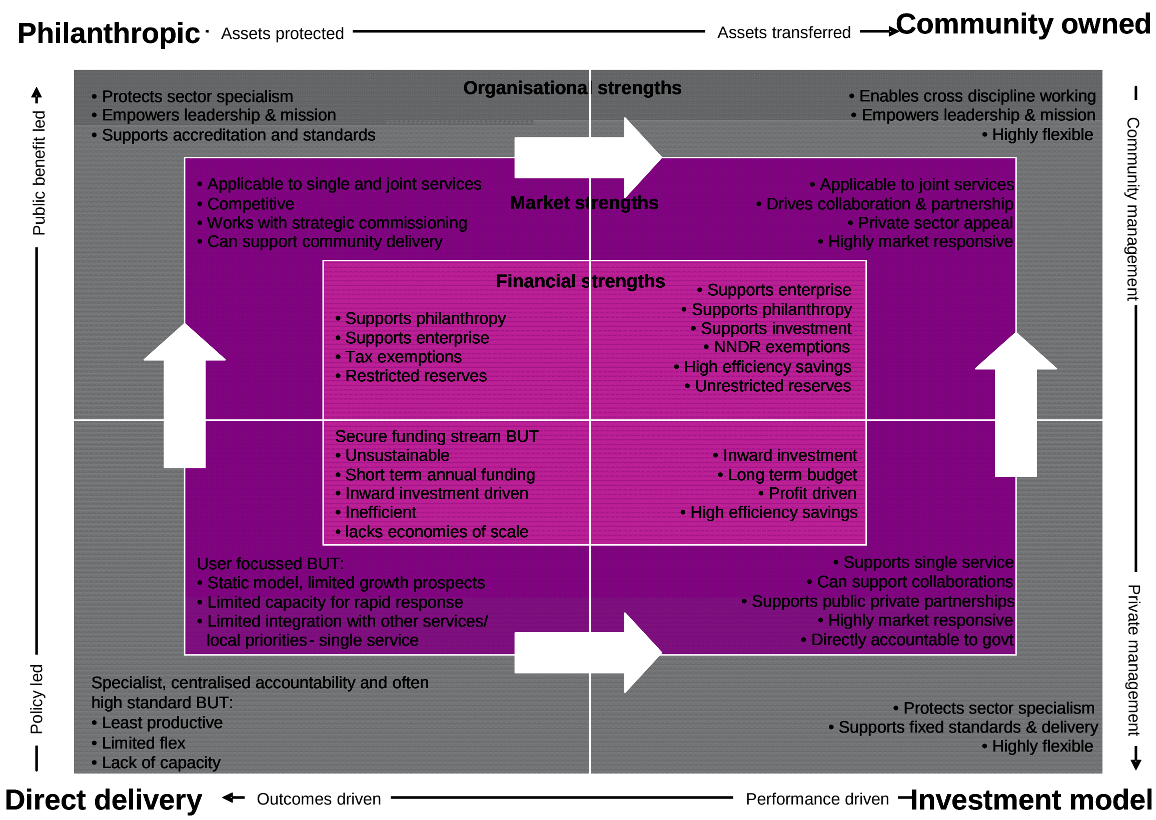
## Developing a devolution strategy

1.31 Devolved services need to develop business plans that seek to a) halt any existing financial decline, b) stabilise operation and c) plan for growth. The selection of a devolution model should be based upon the identification of opportunity(ies), around which the strategic business plan is built. If it is:

- philanthropic, there is opportunity for fundraising and philanthropy
- community enterprise, there is opportunity for the launch of an asset-based service for financial and social return
- investment, there is opportunity for a business proposition that requires investment to achieve mutually beneficial financial and social return

1.32 Where applicable, the most sustainable models diversify their funding models by successfully exploiting opportunities for all three. The charitable format is the most applicable legal model for such a business model. Whilst the characteristics of the models can be distilled into their purest form as demonstrated on the following figure, the business models of devolved organisations can grow in different directions to develop any unique combination of characteristics:

Fig 1: Progressive devolution




1.33 This is not to suggest that a devolved service should expect to have to change its governance model capriciously over time; rather that it should select the model that allows it the most flexibility to develop the combination of characteristics needed to grow in a planned manner. A thoughtful devolution strategy could envisage strategic direction at the outset.

1.34 There is no reason why a devolving service, to mitigate risk of failure and to gradually build capacity for the challenges of devolution, could not structure its devolution process progressively. Whilst setting its aspiration for community ownership, it could stagger progress through the creation of a philanthropically focused charity before setting up community membership structures and subsidiary community enterprises. Equally an investment model could move towards community ownership through the formation of a CIC limited by shares. For smaller organisations, such progressive devolution could enable it to begin simply but to add layers of complexity to its governance as it grows and achieves scale. The figure also outlines a framework for progressive devolution.

1.35 The model(s) selected should offer the best foundation for success. The determining factors should be what serves the public best, and best meets the interests of the organisation in the long term.

## MLA support

1.36 With the right, locally appropriate plan in place, there is no reason to suppose that any service, however low performing, could not successfully devolve.

1.37 The MLA intends to offer support to services deciding to review their governance and delivery models. This support could include:

- the full report summarised by this Executive Summary
- Field Team support including presentations to Members and Heads of Services providing an overview of the models available and the contexts in which they might work, and option appraisal facilitations
- best practice case studies including museums, libraries and archives as well as other heritage / leisure sector organisations
- regional workshops exploring the opportunities of devolution for the sector from May 2010
- online publication of strategic research including:
    - strategic overview of museums that have devolved to museum trusts (Egeria)
- practical frameworks including:
    - 'The Road to Devolution: the Review Process & Legal Transfer Issues' (Egeria)
    - 'Feasibility framework for developing trust options for museum services' (Renaissance Yorkshire)
    - precedent documents including a Transfer Agreement, Collections Agreement & Services Agreement for museum services devolving to charitable trusts (to be followed by additional precedent documents for other governance models) developed by Egeria

1.38 Strategically, the MLA will continue to interrogate available evidence to shape and inform policy on devolution for museums, libraries and archives. It will collect and facilitate knowledge sharing amongst museums, libraries and archives. It will work with other NDPBs to provide coherent guidance and create networks with relevant organisations such as the Charity Commission, Development Trust Association, CIC Association, bassac, and third and private sector organisations seeking contracts within the sector.

1.39 It could also consider – as a means of smoothing the difficulties of transition and facilitating knowledge share for the wider sector - the provision of challenge funding to help support newly devolved services in developing financially, in successfully entering a less supported marketplace, and in embedding excellence and improvement.

## 2. The policy context

2.1 The term ‘devolution’ is commonly used in a local authority context as the transfer of responsibility from national government to local government. Throughout this paper, the term ‘devolution’ refers to what the Quirk Review identifies as ‘double devolution’ – the transfer of power and accountability from local government to local organisations. Devolution requires the creation of new organisations to receive the transfer of management responsibilities for cultural sector organisations – or the transfer to existing local organisations.

2.2 Devolution represents a positive and realistic response to a number of political and policy imperatives which are outlined below:

### 2.3 The imperative for improvement

The level of sector investment of the past 10 years is no longer sustainable. Without additional investment, improvement must be sustained by considerable, embedded change or reform. Devolution enables services to reform before, or as cuts or efficiencies, are applied, offering the opportunity to shape change rather than become its victim.

### 2.4 The financial imperative

The level of public sector retraction from April 2010 will be such that maintaining the status quo in service delivery will no longer be an option. There is a likelihood that cultural services will take a larger than average proportion of public cuts. *After the Downturn*[2] posits a growth in localism – the devolving of more decisions taken by local bodies with minimal oversight, the empowering of front line staff, significant de-layering of the public sector management machinery, and a greater variability in service provision across the country as judgements reflect priorities appropriate in different localities – as one of three strategic responses for managing the cuts.

### 2.5 The imperative for efficiency

To help protect improvement and innovation within financially constrained services, there is an imperative to save money and increase value for money. Despite high investment, public sector productivity has declined over the past decade; *The Ownership State*[3] cites Office of National Statistics figures showing a 3.4% decline compared to a 27.9% rise in the private sector and values the loss as worth £58.4 billion per annum. Devolution opens the possibility for efficiency to be delivered through innovative new business models.

---

[2] *After the Downturn – Managing a significant and sustained adjustment in public sector funding, produced by the Chartered Institute of Public Finance & Accountancy in conjunction with Solace, http://www.cipfa.org.uk/pt/cipfasolace/download/After_the_Downturn.pdf*

[3] *The Ownership State: Restoring excellence, innovation and ethos to the public services, NESTA / NAME*

2.6 The imperative for economic regeneration

Since the 2004 *Lyons Report* highlighted the relationship between active communities and economic development the role of local government has been increasingly about promoting community welfare, cohesion and capacity for self-management. Although local authorities have been stimulated to adopt a convening role in respect of other public services in their localities by the LAA and LSPs, the 2007 *Quirk Review* suggested that community management and ownership of public assets provided further significant benefits both for the community and stake-holder (local authority)[4]. Quirk determined that local authorities have the powers to transfer their assets into community ownership and that there were no substantive impediments to community management and ownership. This includes traditional charitable structures managed by service staff whereby the community influence as consumers or members and more transformative forms of staff ownership or community enterprise volunteer run models whereby local communities influence as co-producers.

2.7 Interest has grown in developing community anchors – organisations rooted in a sense of place and with a mission to improve things for the whole community, not simply a part of it'[5]. In November 2009 The Asset Transfer Unit estimated that there were 1,000 asset transfers to third sector organisations in train across England, of which 45% were in rural areas and 50% in areas of deprivation[6]. The 450 organisations within the Development Trusts Association have accumulated nearly £500 million of assets in community ownership, and the 90 members of bassac have a community assets portfolio worth £61 million. Importantly, in these markets very small and localised organisations can also thrive; most of the 900 members of Community Matters (mainly small, volunteer based associations) manage community buildings worth £76 million on peppercorn or low leases.

2.8 Case studies explored as part of this paper indicate that new governance models can be used to accelerate improvements in the productivity and quality of services and social outcomes which is traditionally how the sector has used devolution. This can be done through increased capacity, professional standards, greater adaption to new services such as digital, and local political relevance.

2.9 Whilst there are fewer examples from within the cultural sector, a more radical approach to devolution could utilise new governance models as the innovation that achieves both service improvement and other imperatives

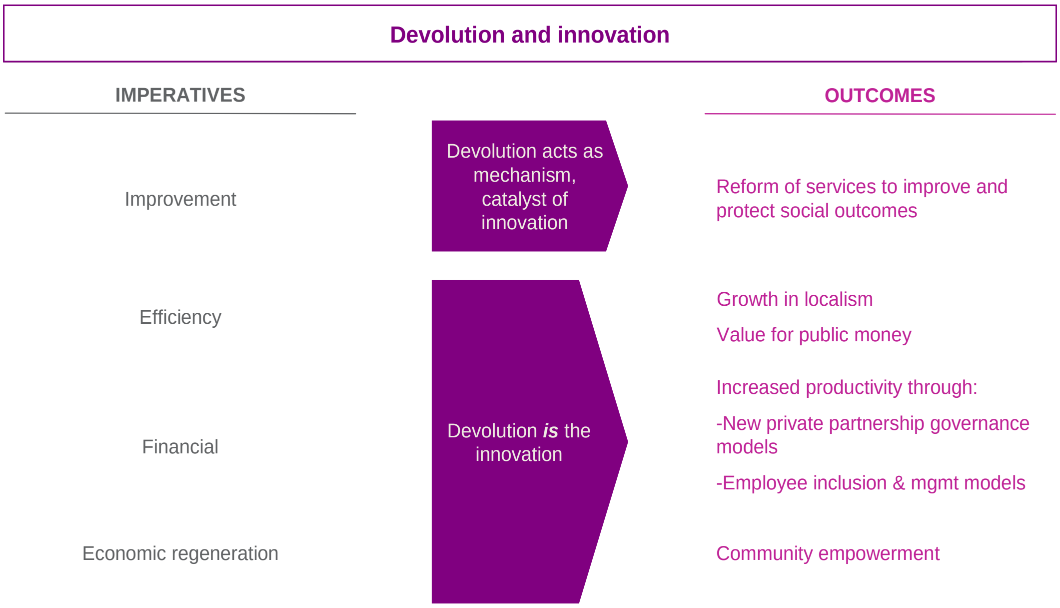
[4] Making Assets Work: The Quirk Review of community management and ownership of public assets, Chapter 4 identified that community outcomes include: increased income and improved health; the promotion of community cohesion, confidence and sense of worth; the surpluses generated by the organisation remain in the area and support innovation; a psychological boost and new hope; and the multiplier effect of success. Benefits to local authorities include: the gaining of a local partner able to tap resources closed to the public sector, complement their services and act as a channel for user and community feedback; a base for neighbourhood-based service provision; delivery of objectives in ways that are more community-responsive; a direct positive impact on pressures experienced by local NHS, welfare, education and criminal justice services.

[5] *Anchors of tomorrow: a vision for community organisations of the future*, *Community Alliance*

[6] http://atu.org.uk/LatestNews/ATUSurvey

such as productivity, value for public money, increased community empowerment and demonstrable contribution to economic regeneration.

2.10 Fig 1: The relationship between devolution and innovation




2.11 Devolution can act as a process for accelerating and driving improvement, but requires commitment to the long term rather than a response to short term need. Given the complex mix of factors including statutory and discretionary powers, ownership of collections or assets, and funding capacity, many devolutions are reversible. However, the success of devolved organisations depends on commitment to the process.

## 3. The devolution spectrum

3.1 The advantage of the range of legal models available for devolved governance is the freedom to create a structure designed to be locally appropriate. This section reviews the governance structures available to devolving services.

3.2 There is no general agreement about what constitutes positive improvement in devolved delivery from direct delivery in a museum, library or archive context. The models have been reviewed against how well they facilitate:

financial security or sustainability, including:

- cashable and non-cashable savings
- greater diversity of income streams
- the holding of sufficient financial reserves.

organisational growth, including:

- greater flex, facilitated through the versatility of the model to support a range of market opportunities (enterprise, investment, philanthropy) and through the level of regulatory restrictions
- increased capacity at strategic level through channelling boards, partnership collaborations and members/voters
- use and security of assets in supporting the business model.

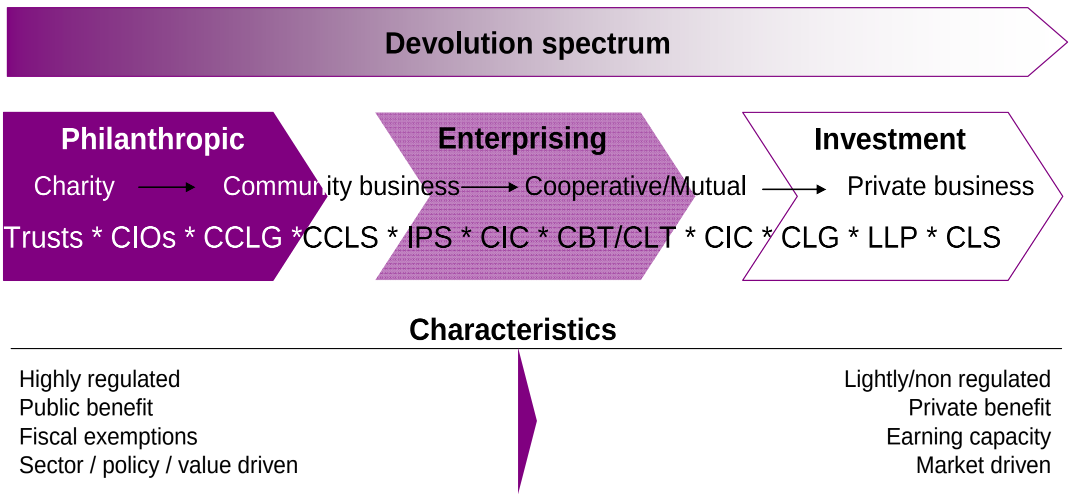
social impact & scale, including

- market-responsiveness: user-led, relevant service provision for users
- collaborative and strategic partnerships to best deliver local need
- scaling up: increased and diversified usage of services through market expansion.

3.3 There are six models of governance that are applicable to museums, libraries and archives, comprising 11 legal formats:

- Charities (CCLGs, trusts, CIOs)
- Community Benefit Societies ( IPSs, Co-ops)
- Community Interest Companies (CICs limited by guarantee and CICs limited by shares)
- Community Benefit and Community Land Trusts
- Limited Liability Partnerships
- Companies Limited by Guarantee

Fig 3: The devolution spectrum




3.4 This spectrum is helpful as a tool to rationalise the models but it should be noted that organisations are rarely on one single point within the spectrum and there is a great deal of flex and overlap between the models. For example, the characteristics of a charity differ according to which constitutional form it takes.  Equally, the characteristics of a Community Benefit Trust vary based on whether they take a CIC or charitable format. Where possible, the scope for differences has been identified but the intention of this paper is not to explore every possible legal ramification of the models; rather, to create an idea of where the models provide strengths most applicable to the sector.

3.5 Whichever model or combination of models is used, there are benefits that can be gained.

## 4. The philanthropic models (charitable formats)

### Summary of format

4.1 A charity is an umbrella term for the delivery of services by a non-profit distributing organisation for public benefit. It must be wholly and exclusively charitable. Governance models that could act as a charity include:

| Constitutional form | Broad characteristics |
|---|---|
| Charitable company limited by guarantee (CCLG) | Traditional corporate charitable model owned by members and controlled by directors / trustees, and as a legal entity with full financial and contractual capabilities offering limited liability protection. Restricted from non-charitable commercial activity. Subject to dual regulation by Charities Commission and Companies House and therefore more fixed governance provisions than Charitable incorporated organisations. |
| Charitable incorporated organisation (CIO) | New corporate vehicle[7] subject only to regulation by the Charities Commission, subject to fewer fixed governance provisions and offering more flex for merger and reconstruction, with less liability (the CIO will not to be penalised for the conduct of its directors). An untested model (with a projected launch date late in 2010). |
| Unincorporated charitable organisation or charitable trust (UIO) | The formal 'trust' format – assets held by a body of trustees for the benefit of agreed beneficiaries. This legal form offers no legal personality, requiring the body's members to take full liability for all contractual or financial responsibilities, and is only suited for small organisations or those without significant liability. |

4.2 There are a number of cultural service charities or 'trusts' already in existence and of these, the CCLG is the most common devolution format, so the following summary applies only to this.

4.3 The key advantages of the CLG format are:

- financial: tax exemptions including gift aid, VAT and NNDR; eligibility for all grant funds and commissioning
- market: the format is tried, tested and trusted across all sectors
- organisational: a risk averse regulation that protects the liability of its trustees
- organisational: although it's not straightforward, the structure enables the development of more flexible subsidiary structures, eg. enterprises, tax efficiently. There are also benefits associated with the familiarity of the format – although the CIO, which offers the most flexible format, is to date the most untested model.

[7] *specifically created for charities by the Charities Act 2006*

4.4 The key limitations of the charitable format are:

- financial: tax still applies to most enterprise activities undertaken by the charity. They cannot access debt finance because they cannot borrow against assets, and they cannot hold significant financial reserves and are therefore vulnerable in the long term or restricted to the short term, cyclical annual planning of grant funding
- market: the structure does not support collaborative working as much as competition; there is no flexibility for welcoming external stake-holders within the governance structure – such as universities and local authorities[8]; and private sector partnerships offer a very restricted appeal
- organisational: board have traditionally been unpaid and this can detract from the quality of leadership required especially in high need areas – although this is starting to change. The protection offered to boards by limited liability can make them less accountable for success/failure.

4.5 Could suit:

- a local authority in a highly philanthropic area where cultural services already earn significant additional income from giving
- a local authority subsidising a private/public venture that is able to use its subsidy to lever philanthropic private sector investment in a cultural services trust and claim back gift aid benefits

After the UK change in accounts preparation to align with the IFRS, PFI liabilities were made transparent in accounting. The result is that the NHS trusts (who would suffer approx £16bn of added debt) are exploring new structures – models where the trust opens new charities who would own the building for the purposes of the NHS trust. In such a model, the charitable format has more uses for private investment – as part of a PFI/PPP structure.

## Summary of format

4.6 There are 120 leisure services devolved from local authority direct delivery that now operate as charitable trusts but the vast majority focus on sports provision. Take up has been much more gradual in the cultural sector where mainly free services create a more complex business model in terms of sustainability. An assessment of devolved museums in 2006 found that approximately 76% of councils delivered museum services directly, that 15% were delivered through joint arrangements, and 8% had been devolved to charitable trusts. The charitable format is the most common to devolved cultural services.

[8] *Charity trustees are required to be independent of all outside concerns and act only in the charity's best interests – the Charity Commission would closely assess the independence of a Board featuring local authority representatives, to ensure that they are not functioning under local authority control in any aspect of their work.*

4.7 There is little evidence to suggest why the charitable formats are those most commonly used by the sector[9], but it is probably linked to the cultural sector's traditional philanthropic earnings, which are proportionately high. CAF's report *UK Giving 2009* lists arts and culture as the second most funded cause in the UK in terms of voluntary donated income. At first glance this would single out the charitable form as the most appropriate for local cultural services.

4.8 This premise bears closer examination. Philanthropy is not 'free' money – it is a competitive market the same as any other, and it requires investment, skill and time to build a philanthropic base and competitive 'offer'. In addition, the market is becoming more, not less, competitive: the CAF report demonstrated that UK giving has decreased by 11% with recession. Whilst a number of trusts, foundations and philanthropists exclude museums libraries and archives on the grounds that their offer is 'primarily the responsibility of central or local government' it is worth noting that virtually no regional organisations[10] are listed within CAF's top 50 philanthropy-converters. For regional cultural services, philanthropy is not automatically a competitive strength and should not necessarily be considered the determining factor in selecting a devolved model.

4.9 Although all charitable devolutions stand to achieve demonstrable savings, the key fiscal advantage in taking charity form (the opportunity to create development and fundraising capacities, and capitalise on the virtually unique opportunity offered by gift aid tax exemption) in many devolved cases has not been exploited at all. This begs the question: why then, become a charity?

4.10 The charitable formats offer the most potential to exploit philanthropic, enterprise and investment opportunity through the creation of subsidiary governance structures. For this reason they are particularly suited to strong, single-service businesses able to exploit a wide range of assets. A devolution linked with asset transfer is also likely to be pivotal to a single service's prospects of success. Multiple examples within the independent museum sector – including Chatham Historic Dockyard, the SS Great Britain, Ironbridge Gorge Museum Trust – bear this out.

4.11 Organisationally, the assumption of strategic and financial control is a significant change that is likely to support the growth of market-led decision-making and a higher performing management. This has been echoed by case studies from across the joint/single services spectrum, from Luton CST to Woking Lightbox.

4.12 The modernised charitable format, the Charitable Incorporated Organisation (CIO), is currently envisaged to be ready for implementation

[9] *The CCLG is the most common governance option chosen – although the CIO will not be available as a format until April 2010.*
[10] *Excluding national organisations based regionally*

from April 2010. Although untested, this format is likely to be attractive to museums libraries and archives, as it reduces bureaucracy and creates a more flexible charitable format similar to that of the company format.

4.13 Whilst VAT exemptions are exclusive to the charitable format - which could be, although rarely is, significant if the charity's trade is mission related - NNDR relief is not[11]. NNDR should not be the determining factor in following the charitable trust option.

## Managing risk

4.14 The charitable models are restricted to specific public benefit. Care needs to be taken in identifying the charitable purpose to ensure that it does not restrict flex in their capacity to respond to unknown future market need, or to restrict future commercial development[12].

4.15 The constraints around charitable governance and disinterested Board membership limit the versatility of the charitable format – in comparison to other models - in enabling stake-holding collaborative partnerships at governance level.

4.16 For local authorities considering the future options of several services, there is a greater risk associated with the creation of several single-service cultural charities in a local area. The CAF report's evidence shows regional philanthropy is usually weaker than national and increasing market competition decreases the viability of all. Competition is likely to ensure a natural plateau effect to any growth as regional philanthropy peaks – and a growth strategy would need to consider further developing income generation through enterprise activity and investment partnerships.

4.17 A danger for cultural services devolving to the charitable model is that the motives for transition are simply to gain slight fiscal savings through NNDR and VAT rather than developing the organisation's philanthropic capacity, income diversification and organisational growth. The Charity Commission warn that a key factor in achieving long term successful devolution will be the ability of the local authority to 'let go'. Strategies for underlining the genuine independence of the devolved service into a governance contract or agreement include:

[11] *Charities are entitled to mandatory rate relief of 80% of the full bill with the remaining 20% at the discretion of the Council. However Section 47 of the Local Government Finance Act 1988 provides discretionary power for the Council to grant rate relief in respect of a non-domestic property occupied by NPDOs - bodies not established or conducted for profit. As with the mandatory provisions, discretionary rate relief can also be considered in respect of Empty Property Rates due on unoccupied non-domestic property. The Government reimburses the Council with 25% of the discretionary rate relief for charities but 75% of the discretionary rate relief granted to NPDOS.*

[12] *as VAT exemptions relate only to mission-related trade*

- accountability to local authority funders managed officially through the reporting process of a LAA/LSP rather than unofficially through board membership
- realistic business plan created pre-devolution that is adhered to post-devolution and clearly outlines the expectations of the local authority in relation to the charity (objectives) and an agreed system for measuring delivery (outcomes)
- equitable relationship with LA supported through the short-term engagement of other funders (income diversification).

4.18 A good charity requires a good Board, ideally comprising strong philanthropists or fundraisers able to support the development function – but there is a risk that the limited accountability associated with limited liability, and the traditionally unremunerated nature of board participation can compromise its ability to be excellent. This risk is mitigated by the Charity Commission's recent recognition that heritage charities cannot be run exclusively by professionals and some paid board membership is permitted to support business capacity and performance-management, but this 'solution' increases costs (and therefore potentially decreases efficiency) still further.

4.19 Additional investment has traditionally been achieved primarily through public-sector or associated grants - including HLF, Art Fund and MLA. These are potentially unsustainable in the longer term if public sector funding decreases, but crucially they are also likely to stress an organisation's capacity for market responsiveness as they require the satisfaction of grant conditions as well as the needs of the user market. Babbidge rightly points out that another danger of this is the replacement of one layer of administrative bureaucracy (that of a local authority) with another (that of the funders).

4.20 Whilst charities can create trading sub-bodies (CLGs, CICs) there is a danger that the separate governance, reporting and auditing requirements of such bodies distances them strategically from the 'mother' charity, limiting their capacity to really deliver.

4.21 For small single service charitable models the creation of a separate trading entity to develop chargeable products and services is not always cost-effective.

4.22 The historic statutory provision of 'free' services makes a move to a philanthropic model a more significant cultural change for libraries, their existing local authority funders and their potential donors.

## 5. Investment models

### Summary of format

5.1 The term 'investment model' is used here to refer to governance or constitutional forms that enable private sector contractors or investors to invest in the sector with a view to generating a return on their investment, ie. profit. The creation of an investment model is likely to reflect an acknowledgement that the requirements of the service within an area (whether statutory, free accessibility, or target users) would constrain an independent model from earning income through philanthropy or enterprise. Governance models that support investment include[13]:

| Constitutional form | Broad characteristics |
|---|---|
| Limited Liability Partnership (LLP) | A body corporate with a legal personality separate from that of its members, the LLP is a hybrid entity combining the advantageous tax characteristics and organisational flexibility of a partnership with limited liability for members. LLPs are governed by the Limited Liability Partnerships Act 2000 and are subject to light touch regulation by Companies House. Governance is a matter of member choice – with no requirement for directors, board structures or management structures. Members have a joint responsibility to divide the running of the business but no individual responsibility for each other's actions – and as with a limited company cannot lose more than they invest.[14]. LLPs have 'unlimited capacity' – ie. no restrictions on any activities. |
| Company Limited by Guarantee (CLG) | A CLG[15] is a not for profit organisation owned by members who guarantee to pay the debts of the organisation up to a set limit, typically £1-£20. The format is frequently used by charities. There are no restrictions on trading or borrowing against assets. Although not a legal requirement, a CLG would typically qualify as a NPDO, restricting its objects and prohibiting the distribution of profits; without qualifying it would not be able to reap any tax benefits and would not offer any additional benefits to a company limited by shares. Despite qualifying as a NPDO – thereby forming to all intents and purposes a charitable vehicle – it is only subject to the light touch regulation of Companies House. |
| Company Limited by Shares (CLS) | The most commonly used business form. It is owned by shareholders whose other assets beyond their investment are protected by limited liability, should the company fail. The limitations of the (non charitable) CLG limited by shares model are so complete that it requires no independent regulation and can be sold or absorbed – this makes it a generally inapplicable model for the museum library and archive sector. Whilst some UK museums have constituted themselves in this way by vesting all shares in a single party solely for the benefit of the organisation, the other |

[13] *The CIC limited by shares also supports investment but has been reviewed with the other community enterprise models at section 6*
[14] *in the absence of fraud or wrongful trading*
[15] *Sometimes known as a Non Charitable Company Limited by Guarantee*

| | |
|---|---|
| | models are considerably more applicable for investment partnerships and it is included here for definition purposes only. |

*The Limited Liability Partnership*

5.2 The key advantages of the LLP format are as follows:

- Financial: taxation is applied as a partnership – members are each liable for tax on their share of the income or gains of the LLP; no restrictions on reserve holdings.
- Market: supports joint (public/private) ventures by bringing all stake-holders inside a partnership so that their interests are aligned, but offering the protection of limited liability for members in the event of failure. Appeals to private sector through tax, dividend and contracting opportunities and to the public sector through share restrictions and shared agency control.
- Organisational: unlimited capacity for flexible governance, flexible objectives and flexible profit share agreements without restriction or regulation.

5.3 The key limitations of the LLP format are as follows:

- Financial: no NNDR exemptions and ineligibility for grant or social enterprise funding.
- Market: less direct opportunity to fulfil community engagement and empowerment agendas.
- Organisational: lack of security provided by asset lock; probably ineligible for some professional standards such as Accreditation.

5.4 Could suit:

- a local authority in a deprived area or with services requiring high capital investment and wishing to contract out services to private partners in a PPP. The model offers a partnership system robust enough to attract the private sector but is flexible and easy to establish for social enterprises
- a local authority wishing to donate profits earned from LLP membership to other services and claim gift aid.

*The Company Limited by Guarantee*

5.5 The key advantages of the CLG format are as follows:

- Financial: eligibility for NNDR savings and some VAT savings as a non profit distributing organisation; eligible for certain grants, most social enterprise funding and commissioning contracts; no restrictions on reserve holdings.
- Market: model can be used in a flexible and commercial way as part of a group structure. It is therefore attractive to newly independent organisations with ‘parent’ organisations wishing to exercise control over the company in a manner that charitable companies and CICs do

not allow; flexible governance for private sector partnerships – enables operation within a wider commercial structure, flexible contracting, interest bearing loan agreements; flexible structure for collaborative approaches – directors associated with third party organisations can be employed.

- Organisational: directors are paid for their expertise and although they hold limited liability are performance accountable. As they can also operate as CICs they can form social enterprises.

5.6 The key limitations of the CLG format are as follows:

- Financial: ineligible for much grant funding.
- Market: prohibition on profit distribution could reduce its appeal to the private sector.
- Organisational: no asset locks reduces security for local authorities in transferring assets; no independent regulation, reducing security for local authorities in considering future management of assets; probably ineligible for some professional standards such as Accreditation.

5.7 Could suit:

- a local authority looking for a model that enables its devolved service to commit to public benefit but to achieve significant improvement and become financially self sustaining before becoming constrained by regulation. The CLG format is a useful 'first step' model for liberated cultural services because the local authority can retain control in a manner that charitable companies and CICs do not allow. The format also enables transfer to CIC status when the organisation is ready. In the meantime it benefits from the savings opportunities available to charities and social enterprises.

## Sector applicability

5.7 In 2006 Adrian Babbidge identified that less than 1% of devolving museums devolved to private sector management; there are two library services that have devolved delivery to private management[16]. There are additional services that have piloted innovative partnership arrangements with private sector providers. This review will restrict itself to the evidence available.

5.8 The most likely form for such a model is the CLG. No investment models have yet utilised the possibilities for the creation of a partnership model to deliver social mission and generate return – the CIC limited by share.

5.9 The two key advantages inherent in investment models are performance efficiency and investment.

[16] *Haringey Libraries were contracted to the management of Instant Library; this service has reverted back to direct delivery after the short term of contract ended, in 2008 Houslow Council has transferred management of its library service to John Laing Ltd.*

5.10 Outsourcing provision to the private sector undoubtedly generates efficiency. According to the Office for National Statistics[17], even during the prosperity years of 1997-2007, public sector productivity declined by 3.4% - against a private sector rise in efficiency of 27.9%. The adoption of private sector operational practice harnesses high-level, centralised administrative or 'back room' skills, improves the skills range available to a service through supplying HR, ICT, business administration and marketing, and puts in place performance management techniques to deliver economies of scale which, combined with a profit motivation, can generate real increases in productivity at value for money.

5.11 To date most devolved investment models have seen efficiencies achieved at a reasonably sensitive process of change management, involving the transfer or management of full professional staff. Savings have been driven through the transfer of administrative operations from a centralised local authority team. The change-management difficulties inherent in transferring whole-scale cultural service teams have been averted by bringing additional staff with new skills to the mix.

5.12 The ability to harness efficiency, whilst a strength of investment models, is not exclusive to them – efficiency relies more on effective leadership and good operational practice than the type of governance selected.

5.13 For this reason the *key* strength of the investment formats is the capacity to bring significant additional investment to smooth transition and restore, regenerate or improve deteriorating assets. This creates a key strength that the other models lack – which is the ability to guarantee long term, year on year funding or budget projections, rather than limit a service to the short-termist planning enforced by annual budgets.

5.14 It is a possibility as yet unproven, that investment models are likely to have a greater and speedier capacity for market responsiveness than the other models. The capacity of the private sector for business model innovation could see significant digital and other product innovations to a service – which is likely to expand and improve user levels and experiences.

5.15 The investment model lends itself to both single and joint service provision. For single services it enables specialisms to be preserved whilst efficiencies are embraced; for joint services the shareholding structure of the CIC limited by shares embeds equitable status of joint services at governance level.

5.16 The CIC limited by shares offers a format with the most potential to combine the advantages of private sector involvement with the social and ethical missions of the cultural services.

---

[17] *Referenced by The Ownership State, NESTA/Respublica*

## Managing risk

5.17 The key strength of the investment model comes with its own challenges. In an investment model the proportion of investment is, over time, likely to be offset by gross profit– as the private partner is involved to make a profit from the operation.

5.18 There is a risk that unless significant consumer demand influences service provision, investment models will innovate only to achieve efficiency. Here one model stands out – there is (unproven) potential for the CIC limited by shares to offer attractive investment propositions to the private sector to combine innovative business models with demonstrable, targeted social outcomes. The ability of non-CIC investment formats to provide a multi-faceted community service is determined only by the strength of the service agreement and the local authority team tasked with managing and evaluating it.

5.19 In a commissioned or PFI model (where the private partner is commissioned or contracted to manage the service) there is little incentive to embed key entrepreneurial and management skills within the cultural service. This would be self-defeating for investors (by removing demand for their services) in the longer term. There is a risk that at the end of contract the service would be improved for the user but not integrally – leaving it permanently dependent on the private sector.

5.20 The CIC limited by shares format can offset this risk as profit distribution is capped. It is also in the interests of the private sector partner to maximise net profits with as little additional investment as possible – ie. to embed the skills that are necessary to enable the enterprise to self-sustain and increase its overall profits, two thirds for reinvestment in growth and a third for distribution to shareholders. The CIC limited by shares offers the best scenario for embedded improvement of the service in partnership with the private sector.

5.21 There is a risk that investment models discourage philanthropic support because they deliver private as well as public benefit and therefore offer the least potential to exploit the full range of market opportunity open to museums, libraries and archives.

5.22 Investment formats have capacity to achieve scale-up, but there is a heightened risk of handing virtual monopolies to large national private and third sector businesses, and the creation of an improved but homogenised service which does not automatically equate with meeting local need.

5.23 There are greater challenges for an investment model in progressing towards a long term strategic goal of community ownership (although the CIC format offers the most flexibility for this). This is because the involvement of private sector partners limits the capacity for asset transfer without the additional contractual complexities of claw-back guarantees.

# 6. Enterprising models

## Summary of format

6.1 The term 'enterprise model' is used here to refer to governance or constitutional forms that actively embed entrepreneurialism (the generation of profit) within the heart of their business operation. The models range from those in existence for centuries (IPSs) to those only a few years old (CBTs, CICs) and many choose also to gain charitable status. Governance models that support enterprise include:

| Constitutional form | Broad characteristics |
|---|---|
| Industrial Provident Society (IPS) | An IPS is a society conducted for the benefit of a community. It is primarily a corporate body[18] which can hold charitable status - setting it apart from other charitable structures because its aim is not simply to provide public benefit but to produce a definable value and to generate income. Historically, charitable IPSs have been able to benefit from the tax exemptions available to charities whilst not requiring registration with the Charity Commission – but the Charities Act 2006 changed this. Many leisure trusts have devolved into IPSs but the structure is an archaic one and it is anticipated that the CIO will offer a better alternative for corporate charities. |
| Community Interest Company (CIC) | CICs are limited companies created for organisations that wish to conduct a business activity for community benefit. The majority of profits of CICs must be used for community benefit. CICs may engage in trading and, with approval, borrow against their assets. Some CICs are limited by guarantee and set up as NPDOs (thereby prohibited from distributing profits, which must be fully reinvested in the organisation) but it is more common for CICs to be established as companies limited by shares (using the CLG format)[19] - because one of the key attractions of a CIC is that it combines a social mission with the provision of dividends). |
| Community Land Trust (CLT) | Not a legal form it itself but the Housing & Regeneration Act 2008 defines the CLT as a corporate body[20] holding property for the purposes of the community rather than for private profit, and offering the opportunity for members of the local community to become involved in its governance. Its property represents fixed assets to be held in perpetuity for local use[21]. Its profits must be used to benefit the community, other than being paid directly to its members (if a CIC). Its purpose is to facilitate locally-driven long term and affordable development – providing regeneration, conservation, or cultural benefit locally. In addition to an asset lock protecting its property, a CLT is required to have a democratic membership. Its governance is flexible - it can choose to establish as a charity or a CIC and take on additional regulation - and its tax position depends on the legal form it uses. |

[18] *ie. a legal entity separate from shareholders and employees, with limited liability*
[19] *The ratio of CICs ltd by guarantee against shares is approximately 30:70*
[20] *The organisation could be a charity, CIC or non-charitable company limited by guarantee, or co-operative*
[21] *as well as or instead of land, a CLT's property could comprise workspaces, agricultural facilities, commercial outlets or community facilities*

*The Industrial Provident Society*

6.2 There are two forms of IPS – a co-operative society and a community benefit society (CBS). The mutuality implicit in co-operatives requires that although it can perform a user/consumer benefit it cannot be a charity and therefore benefit from the fiscal advantages that are likely to give the enterprise competitive edge in a free market. Only a community benefit society can register as a charity by citing special reasons for its difference from company status; those usually given include non distribution of profits and the vesting of control in its members equally. In addition the CBS would need to demonstrate exclusively charitable objectives and sufficient public benefit. Despite a historically light touch FSA regulation, accountability for CBSs will this year increase as they will be required to register with the Charity Commission. The tax benefits and regulatory burden for CBSs are similar to charitable CLGs and there is little material advantage in selecting a CBS over a CLG – except for the possibilities they offer for directly involving a democratic community ownership within governance.

6.3 The key advantages of the IPS format are as follows:

- Financial: the IPS model effectively combines charitable status and risk-averse regulation with a model designed to generate income (that must be reinvested in the organisation); the fiscal benefits that come with charitable status are likely to provide additional competitive edge.
- Organisational: democratic management of assets can embed change within an organisation; strategic-level transparency to all workers supports unity and creates understanding of entrepreneurialism, and the model supports investment in skills and staff development.

6.4 The key limitations of the IPS format are as follows:

- Financial: set up costs can be high.
- Market: IPSs do not support collaborative working as much as competition.
- Organisational: old fashioned administrative and regulatory structure compared with CCLGs; largely unfamiliar within cultural sector.

6.5 Could suit:

- a local authority interested in using its annual subsidy as an investment to generate a growth social enterprise business that supports community ownership, empowerment and engagement in political processes
- a local authority interested in creating a cross-domain leisure and cultural services trust capable of earning significant revenues to reinvest in its own development and reduce the need for local authority investment over time.

*The Community Interest Company*

6.6 A CIC limited by guarantee can share the benefits open to charities (NNDR relief, VAT exemptions, virtually full access to philanthropy). The difference between a CIC limited by guarantee and a typical charity lies in its entrepreneurial focus (the aim of the format is to create profit to reinvest in its social business) and its capacity to engage the participation of stake-holding companies, community associations, or individuals at board level.

6.7 CICs that are limited by shares are able to pay a capped dividend per share and can be used to stimulate increased private or equity investment. The asset lock caps distributable profits at 35% of total profits and requires a minimum of 65% of total profits to be reinvested. A further attraction of such a model to private sector investment lies in tax benefits; although CICs are not entitled to tax benefits, its investors are.

6.8 In the four years since legislation created the CIC format there has been a steady growth in registrations with the CIC Regulator across the UK regions, indicating a national growth market[22]. There is already a very broad range of organisations formed as CICs[23], many of which are involved in public sector service delivery at a community level – including in particular transport and in health.

6.9 The key advantages of the CIC format are as follows:

- Financial: CICs are eligible for most grant funding and commissioning contracts; they can also access loan finance and hold unrestricted reserves without intervention; the structure supports enterprise and trade income generation.
- Market: the structure enables multiple shareholders at governance level and therefore underpins both collaborative working across private, public and third sector, and community engagement; equally it appeals to private sector collaborators because of ability to pay dividends, reward loans and contract out services.
- Organisational: it is reliably regulated, includes a capital and asset lock which prevents cultural property being used wrongfully; and its board members can be paid so are accountable and performance managed.

6.10 The key limitations of the CIC format are as follows:

- Financial: there are no tax benefits and the model arguably offers limited philanthropy.

[22] *This growth trend can be accessed on the CIC Association website at http://www.cicdev.org.uk/regions/index.php*
[23] *Examples include recycling companies, festivals, community radio stations, bus companies, catering companies.*

- Organisational: a CIC's shareholders can vote to change its purpose. This offers benefits for market flexibility but to safeguard cultural holdings, ownership should be clearly delineated or, in the event of transfer of ownership, claw back clauses should be adopted

6.11 Could suit:

- a local authority interested in actively enabling regeneration in deprived local areas
- a local authority able to broker strong relationships and partnerships between a thriving local private sector and its third sector / cultural sector direct delivery services – or working to a Total Place model
- a local authority interested in empowering small and specialist services to become fit for full devolution – by devolving management powers without either full liabilities or cultural asset ownership.

*The Community Land Trust*

6.12 The key advantages of the CLT format are as follows:

- Financial: CLTs can access loan finance, mortgage land assets and hold reserves.
- Market: CLTs are free to extend membership to private and public sector organisations (eg. investors and local authorities). The democratic influence of the community in decision making provides public and third sector stake-holders with some guarantees of independence should the CLT establish working partnerships with the private sector. They can work across domain boundaries and are likely to support collaborative, cross-agenda approaches to local issues and concerns and work positively across the public, private and third sector.
- Organisational: their statutory recognition provides confidence to parties interested in investing in them as it is a form that the government takes seriously and views as a significant long-term player in redevelopment and regeneration; they qualify as bodies that the Homes and Community Agency deal with and therefore are associated with the key programmes delivered by the Dept of Communities & Local Government; they cannot be sold but are able in principle to assimilate other models and scale up.

6.13 The key limitations of the CLT format are as follows:

- Market: in principle the democratic format could discourage the scaling up of activity beyond local area.
- Organisational: CLTs express the limitations that their constitutional form takes: if they take charitable status their restriction on the distribution of profit reduces the appeal of collaborations to the private sector, as investors cannot receive a financial return on investment; if they take CIC limited by share status, they restrict the fiscal benefits they can receive from Treasury.

6.14 Could suit:

- a local authority interested in furthering a policy programme of community asset transfer and participation in decision making and strengthening community influence in political processes
- a local authority interested in developing a private finance initiative (PFI) whereby the CLT would take ownership of the freehold and lease out the facility to the PFI provider for the duration of the agreement. In the short term, such an arrangement would provide a sustainable income stream for the CLT to fund its ongoing function of managing/promoting to/engaging with the community; in the longer term, it would ensure that the CLT was at the heart of the development and would take ownership of increased, well-invested community based cultural assets following development.

## Sector applicability

6.15 The enterprising models have to date been most often adopted by devolving leisure sector operations, where both customers and service providers have been used to operate a chargeable, albeit subsidised, public service. The focus on earning income means that culturally such models represent the most significant shift for museums, libraries and archives, but this should not prevent the models from being considered when reviewing the options for devolution. There are several excellent examples of innovative community run museums, libraries and archives.

6.16 The enterprise formats offer the most versatility for governance – including staff ownership, community ownership and shareholding membership models. As well as the option of establishing itself as an enterprise, a museum, library or archive enterprise business model could include forming an enterprise format as a funding subsidiary. This could either be mission or non-mission related. They could also form an umbrella enterprise format in partnership with other organisations amongst which the museum, library or archive is a member and/or a service provider. This versatility makes them applicable to either joint or single services and crucially, puts them in a uniquely strong position - comparatively to the other models discussed in this paper - in enabling stake-holding collaborative partnerships at governance level. The formats should appeal to local authorities wishing to drive Total Place or localism agendas.

6.17 Asset development (especially capital/land assets) is a common feature of enterprise models. This not only enables them to sustain independently and support ongoing organisational growth, but contributes to a significant impact on economic and social wellbeing within deprived areas, whether rural or urban. There are now 350 CDTs in the UK owning £550 million in assets and the majority of their income (£135 million out of £260) is generated through enterprise. A large number of development trusts are independent of public subsidy, with 42% relying on earned income as over 50% of their financial sustainability[24]. There are examples of museums or libraries managed by development trusts independent of the publicly-funded museum library and archive sector[25].

6.18 Efficiency is another common strength of the enterprise models. In many cases this is simply a direct effect of the need to operate cost effectively to maximise profit, and the employment of community volunteers to increase operational margins. However, emerging research links staff and community ownership models to increased efficiency. The Nuffield Trust researched four staff-ownership models and concluded that the efficiency of the models was also rooted in:

- less risk aversion than the public sector and therefore greater potential to innovate
- greater entrepreneurialism than the voluntary sector
- greater sense of mission than the private sector
- an open, egalitarian culture.

NESTA's recent report 'The Ownership State' cited the compelling statistic that in the UK over the past 10 years employee-owned companies have outperformed FTSE All-Share companies each year by an average of 10%.

6.19 The potential of a service devolving to an existing CBT or CLT - as Salford Museum has recently undergone - offers even greater efficiency savings, initially through reduced 'set up' costs, but mainly through the transference to a model where day to day operation is managed through volunteers. Community-run organisations are arguably by nature more closely aligned to the profile and needs of the community they service.

6.20 As social enterprises the enterprise models can be eligible for almost the same range of public/private grants, as well as individual and corporate philanthropy – although eligibility is likely to be limited to non profit distributing organisations, and models which include the private sector (eg. CICs limited by shares) are unlikely to benefit from a wide range of philanthropy.

---

[24] *in some ways this figure is misleading as a ratio of financial sustainability of DTs in that the more successful a DT is in accessing grants the lower the ratio earned income becomes. – and very few DTs don't apply for grants*

[25] Examples include: Lyme Regis Development Trust (http://www.lrdt.co.uk/) stage an annual Fossival Festival and are leading work on developing a world class Jurassic Coast Field Studies Centre. A Cultural Development Consortium has also been set up to progress the development of the Malthouse at the Town Mill and will also provide support for upgrading the Marine Theatre and the extension of the Lyme Regis Museum. Stourport Forward have a 'heritage room' as part of the building they have on a 40 year lease from British Waterways and are working with the local civic society to open another attraction in a former ticket office. Burslem School of Art runs a gallery space (sustained by tenants' rents) and houses the local library (although that is still run by the local authority). Spon End Building Preservation Trust is has restored a former weavers house and associated exhibition space. Great Torrington Development Trust manages the 1646 Visitor Centre – see http://www.torrington-1646.co.uk/about-us.html. Constantine Enterprise Company (see http://www.dta.org.uk/our_inspirations/cecruralassetscs.htm for background and contact details) runs a small local museum. See http://www.constantinecornwall.com/tolmen/?page_id=11 . Fresh Horizons runs the Chestnut Library and Information Centre for Kirklees Council. http://www.freshhorizons.org.uk/?page_id=82

6.21 The market challenge facing the model is identifying a commercial business opportunity sufficient to generate return and demonstrate social impact or support the social mission. Although the models are not all eligible for the fiscal exemptions of charities, it is possible that the transference to an enterprise culture would earn a cultural service a greater sum in profit than the actual value of VAT and some NNDR exemption savings.

6.22 The organisational challenge in applying this model to the cultural sector lies in managing the compatibility of charged services with a free core service. This charge could be applied to the local authority, to the customer, to business customers, or to a combination of these.

6.23 Evidence suggests that the enterprise models are extremely applicable for very small and specialist community or local services, but that if appropriately planned and managed, they have capacity to scale up, either geographically into regional or national bodies, or in terms of their market penetration.

## Managing risk

6.24 Successful enterprise models can be very significant within a local context but require a leadership and capacity to think laterally and opportunistically about income generation opportunities.

6.25 The success of some cultural services demonstrates that there is scope for cultural services devolving to enterprising organisations in appropriate local circumstances although there is a greater risk of staff cuts.

6.26 The key risk associated with community enterprise models is that the model is predicated upon asset development and that asset transfer must occur to underpin success. There is a shared body of experience in assessing this area of risk that can be accessed – Quirk developed and appended a risk assessment to his report; the DTA, Community Matters and bassac all provide advice, and a number of funders in this area including Big and the ACF are accustomed to providing frameworks for successful growth.

6.27 Whilst community enterprise models are well placed to be market responsive, managing diversity is a risk associated specifically with community management or ownership models. For example, where running a service requires community participation it is possible that sections of the community or workforce are unable or excluded from participation. This risk can be mitigated with a clear workforce policy championing inclusion and diversity.

6.28 The CIC format has been in operation for about five years and is frequently regarded as an untried medium. This said, most of the enterprise formats represent largely untried mediums for the museums libraries and archives sector. Examples of best practice can be drawn from the broader third sector to help manage this transition. The Social Enterprise Coalition is also spearheading activity to raise trust levels in enterprises, with charter mark initiatives such as the Social Enterprise Mark[26].

[26] *http://www.socialenterprisemark.org.uk/*

## 7. Concluding comments

7.1 There is no single shared business model common to devolution. Successful devolution of cultural (or any) services requires a focus on what is appropriate for the local market, and the selection of a governance model that plays to the strengths of the local service. Implicit within this selection is the need for a local authority to clearly identify its priorities for the devolved service and embed these within the outcomes it sets.

7.2 There are wide-ranging views within the sector as to the appropriateness of particular models over others, but ethical considerations should only form a part of the mix. In moving to a devolved model there are huge challenges facing organisations in managing culture change, capacity building, performance, cross domain working, market responsiveness and user need. The model selected should offer the best foundation for success in achieving local priorities, delivering social impact and increasing sustainability in the long term. The determining factors should be a) what serves the public best, and b) what is in the best interests of the organisation long term.

7.3 It is a misconception that money 'leaves' the sector in some models. Whichever model is used, there is a cost to the sector. Under the direct delivery or philanthropic models, money leaves the sector in the form of staff salaries and high public-sector pensions. Under the enterprise models, money could potentially leave the sector to cross-subsidise other less profitable community organisations. Under the investment models, money leaves the sector in the form of profit.

7.4 It is more appropriate to judge financial sustainability on the basis of value for money – ie. the value of the service and the outcomes it achieves relative to the cost of provision. In this scenario, the enterprise model is most likely to offer the greatest sustainability.

7.5 There is no evidence to identify a common or most likely financial trajectory of devolved governance: financial decline, stabilisation, or stabilisation followed by growth. Babbidge found that 'generally, the experience of devolved museums has been positive, with performance and morale achieved within short time frames'. A body of work is needed to assess more exactly how successful devolution is at improving financial prospects and diversity for a cultural service.

7.6 It is a common assertion that the service under transfer needs to have existing strengths ie. to be a successfully developed and maintained service, in order to develop a strong devolved model, and that a failing service cannot be expected to achieve transformation without additional investment. The Haringey example, which saw performance turned around by a private sector contractor without budgetary increases, disproves this assumption.

7.7 Successful devolution requires that the governance model selected is appropriate to the needs and strengths of the service. Devolved services need to develop business plans that seek to a) halt any existing financial decline, b) stabilise operations and c) plan for growth. The selection of a devolution model should be based upon the identification of an opportunity(ies) around which the strategic business plan is built, which:

- if philanthropic: a market strength / opportunity for fundraising and philanthropy
- if community enterprise: the launch of an asset-based service for financial and social return
- if investment: a business proposition that requires short term investment to achieve mutually beneficial financial and social return.

7.8 Key factors underpinning success include:

- appointing senior management and a chair with the experience and skill sets to complement the business plan. This process could include the consideration of remunerated board members
- achieving efficiencies in operations (restructure and reductions, increased value for money, capacity increases) and increased productivity
- diversification of income sources and proportionate increasing of earned income
- achieving economies of scale through scale up in terms of service provision (seek to include other services within a joint governance structure) or in geographical area (include library services from other local authorities)
- embedding real change within service culture, organisation and delivery.

7.9 With the right, locally appropriate plan in place, there is no reason to suppose that any service whether single or joint, high or low performing, or museum, library or archive, could not successfully devolve.

## Appendix: Case studies

Sector case studies demonstrating various types and levels of devolved governance and constitutional formats are becoming available on the MLA website on an ongoing basis. Each model offers complexities that cannot be easily summarised, but for the purposes of easy reference, the following attempts to capture some of the key characteristics of the organisations used as case studies have been made.

| | Format | Organisational model | Financial model | Market impact |
|---|---|---|---|---|
| Black Country Arts Partnership | CIC | Joint | Commissioning | Health |
| Cambridgeshire Library Access Points | Community delivered | Single | Public subsidy | Community |
| Chatham Historic Dockyard | CCLG | Single | 97% earned income | Regeneration |
| Greenwich Leisure | IPS | Single | Commissioned and earned | Health |
| Haringey Libraries (was Instant Library) | CLG | Single | Contracted | Improvement |
| Historic Royal Palaces | CCLG (Trust) | Single | 100% earned | |
| Hounslow (John Laing) | CLG | Joint | Contracted | Improvement |
| Kingsbridge Cooksbury Museum | IPS | Single | | |
| London Transport Museum | | Single | Earned | |
| Luton Cultural Services Trust | CCLG | Joint | Public subsidy | Improvement |
| Morwellham Quay | | | | |
| Museum of East Anglian Life | CIC | Single | Commissioning | Workforce |
| Museum of Kent Life 'Farmtastic' (Continuum) | | Single | | |
| North Pennines Heritage Trust | CCLG & Development Trust | Single | Earned | Community |
| Northumberland Museum & Archives | | Joint | | |
| Salford Museum | Development Trust | Joint | | |
| Topsham Museum | CCLG | Single | Earned | Community |
| Wigan Leisure Trust | CCLG | Joint | Public subsidy | Improvement |
| Woking Lightbox | CCLG | Single | Public subsidy | Community |
| Worcester Library | | Joint | PFI | |
| York Museums Trust | | Single | | |
| | | | | |

Museums, Libraries
& Archives Council

Grosvenor House
14 Bennetts Hill
Birmingham B2 5RS

T +44 (0)121 345 7300
F +44 (0)121 345 7303

info@mla.gov.uk
www.mla.gov.uk

Leading strategically, we promote best practice in museums, libraries and archives, to inspire innovative, integrated and sustainable services for all.