Cultural devolution?

What is devolution?

Devolution is the transfer of strategic and financial control

over its services

from local authority to a separate organisation:

- A charity or trust (**philanthropic**)
- A private sector company (**investment**)
- A new or existing social business (**enterprise**)

What does it look like?

Traditionally single service charities

But scenario now varying with new emergent models:

- **Merging of specialised services**
  - Northumberland Museum & Archive
  - Sport & Culture Glasgow
- **Merging of boundaries**
  - Greenwich Leisure
- **Merging with the third sector**
  - Salford Museum

Why devolve?

- To gain **savings**
- To keep services **open** in communities threatened with closure
- To make it easier to **fundraise** – people don’t give to councils
- To gain increased **independence** – external bodies have stronger voices
- To gain increased **expertise** / skills – plug capacity gaps
- To embed a different **culture**
- To become **sustainable** & vary sources of support

Efficiencies	Earning	Assets

• Fiscal exemptions
  • NNDR
  • VAT
 	
• Low operating cost
  • centralising costs
  • sharing resources
  • pay and pensions
  • volunteers
  • restructuring
	• Strategic commissioning
	
	• Entrepreneurialism
	
	• Admissions & consumer charges
	
	• Philanthropy & gift aid
		• Asset transfer
		  • Building & land
		  • collections
		
		• Endowment

Why devolve: social change

guardian.co.uk

Council services in our hands

With its thousands of volunteers, could the National Trust provide a model for running local parks and libraries as town halls face financial meltdown?

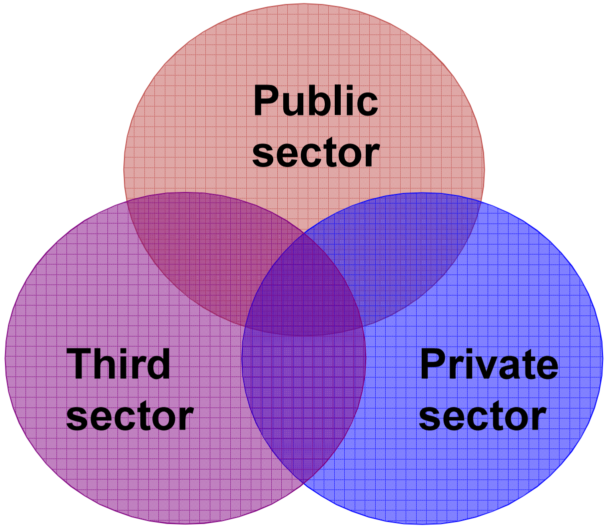
Peter Hetherington
The Guardian, Wednesday 12 May 2010

A larger | smaller

Will people volunteer to run their local parks and libraries? Photograph: Sarah Lee for the Guardian

Imagine a country where parks, libraries, leisure centres and a string of other facilities run by the local council are up for grabs; where valuable buildings and assets, from schools to swimming pools and land holdings, are hived off to neighbourhood groups, parish councils, charities or not-for-profit companies.

While public sector unions, and the municipal establishment, might visibly blanch at such a prospect, in the real world that we are now entering, after the insularity of a four-week election campaign, tough choices are looming. Functions seen as important, yet non-essential, face an uncertain future under any new government.



- Charitable delivery for public benefit
- Community delivery
- Staff ownership
- Private sector partnerships

Economic regeneration
Community empowerment
Big Society

Social change

- Economic regeneration
- Community and Big Society
- As well as state delivery:
  - Charity delivery
  - Community delivery
  - Staff ownership
  - Private sector partnerships

Financial change

- Managing cuts to budgets & resources
- Making savings
- Economies of scale
  - Merging with cultural services
  - Merging across boundaries
  - Integration with third sector

Achieving more… **… with less**

Philanthropic: applicability of format

Fundamentals

- Charity or trust
- Most common devolution format
  - 120 charitable leisure trusts devolved from direct delivery (sports)
  - 2006 museums survey: 76% councils delivered directly, 8% trusts

Key strengths

- Charities can create complex governance structures to exploit full market opportunity, scale up & grow
  - Charities are eligible for all public and private grants
  - Charities can trade and enter into business partnerships
- Supports single services because protects asset transfer
- Charities can benefit from the most tax exemptions of all models
  - NNDR relief not exclusive to charities and a gift of Treasury

Philanthropic: managing risk

Key risk

- Competition: UK cultural sector earns lots from fundraising
  - Fundraising traditionally low for regional mlas
  - Philanthropy is not ‘free’
  - market becoming more competitive
  - Statutory right to ‘free’ service models makes it a big culture change

Other risks

- More single services charities, the greater likelihood of growth slowing
- Growth requires enterprise activity and investment partnerships
- Model offers least versatility for partnerships at board level & the limited accountability can compromise board excellence
- Organisational stresses - grant funding can stress capacity for market responsiveness, trading subsidiaries need strategic integration
- Most devolved cultural services yet to exploit fundraising and gift aid - if not prepared to ask for donations why become a charity?

Investment: applicability of format

Fundamentals

- Models that contract or partner private sector – for profit
- Second most common form of devolution
  - >1% museums in 2006 and two library services

Key strengths

- Partnership working – particularly applicable to joint services
- Probability of greater or speedier market responsiveness
- Associated with efficiency - and delivers - but not unique to model
  1997-2007 public sector productivity declined by 3.4%
  against a private sector rise of 27.9%
- Unique capacity for significant investment to restore deteriorating assets
  - Guarantee long term, year on year funding or budget projections

Investment: managing risk

Key risk

- Primary focus of investment models will be to achieve efficiency
  - unless significant consumer demand influences service provision

Other risks

- Risk of creating virtual monopolies driving improved but homogenised services rather than ones determined by need (offset by contract)
- Risk to integral service improvement & skills growth
  - little incentive to embed key entrepreneurial and management skills
- Apart from efficiency and investment it offers the least potential to exploit full range of income opportunity –
  - private benefit puts off philanthropy
  - greater challenges in asset transfer
- Over time investment is likely to be offset by gross profit

Community enterprise: applicability of format

Fundamentals

- Delivery of cultural services by social enterprises – for ‘profit’
- Little sector take up but third sector growth area - as charities but also social enterprises, community or staff ownership models

Key benefits

- Uniquely flexible governance formats for collaborative partnerships
- Demonstrable efficiencies through low net operating margins but also-
- Community & staff ownership linked to increased productivity with:
  - Less risk aversion than public sector (greater potential to innovate)
  - Greater entrepreneurialism than voluntary sector
  - Greater sense of mission than private sector
- Sound financial sustainability – attract philanthropy and investment
- Asset development models can be used strategically to create economic impact within deprived areas

Community enterprise: managing risk

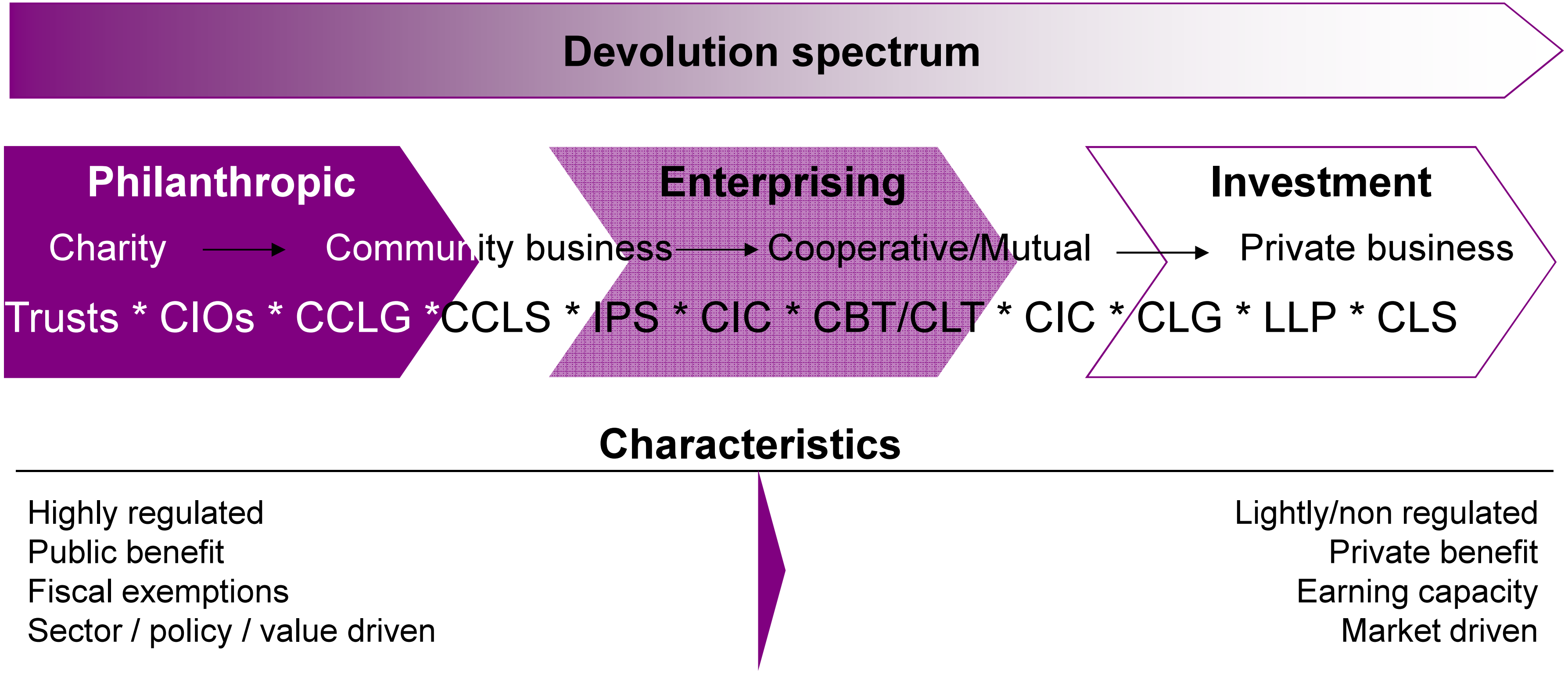
Key risk

- Transfer of assets – land, collections, building, money – for success
  - shared body of experience in assessing this area of risk – Quirk, DTA, Community Matters, BIG and ACF

Other risks

- Need for strong leadership to think laterally and opportunistically about income generation – capacity gap
- Greater risk of staff reduction
- Achieving diversity –sections of community or workforce can be excluded from participation (offset by good workforce policy)
- Success requires earning a greater sum in profit than actual value of VAT and some NNDR savings
- Challenge for the cultural sector in managing the compatibility of charged services with a free core service

The devolution spectrum



Final thoughts: diversity of options

Joint services

- Conglomerate cultural services / leisure charitable trusts utilising admissions income and economies of scale

- Private sector joint service delivery models investing in higher performance

- Community land / benefit trusts responding to social need around education, economy, health

Single services

- Specialised charitable trust utilising philanthropy and asset exploitation

- Specialised privatised business model investing in improvement

- Community managed / owned model

- Single service alliances through collaborative models such as cics

Final thoughts: financial sustainability

Efficiencies

- Fiscal exemptions
  - NNDR
  - VAT
- Low operating cost
  - centralising costs
  - sharing resources
  - pay and pensions
  - volunteers
  - restructuring

Earning

- Strategic commissioning
- Entrepreneurialism
- Admissions & consumer charges
- Philanthropy & gift aid

Assets

- Asset transfer
  - Building & land
  - collections
- Endowment

Final thoughts: MLA can help

Strategic analysis

The opportunity of devolved governance for museums libraries and archives

- range of models applicable to museums, libraries and archives
- assessment of strengths and weaknesses of each legal format
- ‘best practice’ case studies
- key areas of risk

Practical guidance

An online resource available shortly including

- A feasibility framework for developing trust options for museum services
- A guide to the review process and legal transfer issues
- Precedent legal documents to save replication costs from local authority to local authority
- Regional workshops

The Field Team

Practical advice and support

- Your Field Team can advise with options appraisals around devolution
- Strategically, Field Teams can help broker networks and relationships, and help develop collaborative working with the third and private sectors

Final thoughts

There is more than one devolution model

Devolution is a strategic response to more than one political imperative - sector improvement, economic recovery, Big Society.

Different devolution models will support different outcomes.

Selection should be based on local need and appropriateness rather than what has worked elsewhere.

Devolution is an option open to any service

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

Any questions?

Legal formats & their characteristics

Charities	Industrial Provident Society	Community Interest Companies	Community Benefit / Land Trusts	Limited Liability Partnerships	Companies Limited by Guarantee)
NPDOs for public benefit CCLG CLG CIO UCO	NPDOs or profit distributing • Community Benefit Society • Co-operative	Business activity for community benefit • Limited by guarantee • Limited by share	Defined by statute (H&R Act 2008) Democratic corporate body holding property for community.	• Hybrid corporate body combining limited liability with advantageous tax characteristics and organisational flex	• NPDO with restricted objects and prohibition on profit distribution but light touch regulation of Companies House
Tax exemptions inc gift aid Trusted format Protected liability Asset lock Risk averse regulation Subsidiary structures	• Charitable fiscal benefits • Model designed to generate income • Risk averse regulation • Can offer democratic governance	• Eligible for grants, loan finance, unrestricted reserves; supports enterprise & income • Collaborative • Reliable regulation & asset lock • Board members paid = accountability	• Access loan finance, mortgages, unrestricted reserves • Membership includes private & public sectors • Collaborative • Can assimilate other models but can't be sold	• Tax applied as partnership - only liable on member share • Unrestricted reserves • Supports public private ventures • Unlimited flex	• NNDR savings and some VAT; some grants; unrestricted reserves • Flexible model for private sector partnership (group structure) • Directors paid • Can form CICs
Tax on enterprise No debt finance Limited reserves Competitive Board membership less accountable	• High set up costs • Competitive rather than collaborative • Cumbersome administrative & regulatory structure	• No tax benefits • Arguably limited philanthropy • Shareholders can change purpose – claw-back clauses	• Democratic format could discourage scaling up geographically • Limitations on constitutional form they take	• NO NNDR exemptions • Ineligible for grant/ social enterprise funding • No asset lock	• Ineligible for much grant funding • Prohibition on profit distribution can reduce appeal • No asset locks
A LA in PPP able to use funding to lever philanthropy and claim gift aid	• Cross--domain leisure & cultural services to earn revenue & decrease LA investment over time	• Regeneration in deprived areas • Broker relationships between sectors • Empowering small / specialist services for full devolution	• Furthering programme of asset transfer & participation • PFI opportunities - CLT own freehold	• robust for private sector but flexible for social enterprise - PPP • Profits donated to claim gift aid	• Could be useful 'first step' model as allows LA to retain control - and can transfer to other formats when ready