



Public Sector

Community Land Trusts - a citizenship model

Community Land Trusts (CLTs) have significant potential. They are designed to provide public custodianship of assets (land, buildings etc) which are to be used or otherwise kept safe for the community. By retaining ownership and appropriate degrees of control CLTs also make community projects affordable. Additionally, they offer potential for enhancing citizen engagement. Not only can citizens influence and indeed share control of their CLT, CLTs also offer citizens a real "job" to do, with a palpable link between engagement and output. Citizen participation will increase. All this delivers key government agenda, particularly for the Office of the Deputy Prime Minister (ODPM) and the Home Office. It also delivers the local government "local:vision" objectives.

CLTs can take many forms but the model envisaged here is designed to be as simple as is consistent with a wide-ranging interface with the community. In order to avoid public sector finance constraints (and increase the scope for private finance) and also to leave the local authority free to play its statutory role, the CLT would be "independent" for the purposes of public sector borrowing requirements tests (both legal and financial).

A board of 12 is usually taken as optimum for initiatives of this kind and in order to give the local authority a proper degree of "influence" four places could be allocated to councillors or council nominees. (In appropriate contexts, particularly outside the metropolitan areas, town or parish councils could be asked to nominate.) A further 1/3 of the places could be taken by other public agencies and these could either come directly or through the local strategic partnership board. The latter approach seems somewhat more desirable, but circumstances will vary. Finally and most importantly there need to be citizen representatives. These would be chosen by and through the proposed Citizens Forum.

The constitutional form of the CLT could be either a Company Limited by Guarantee (CLG) or an Industrial and Provident Society (IPS). There is a "community test" for an IPS which might provide some helpful reassurance. There is also proposed to be a new statutory regime involving an "asset lock" for an IPS. Depending on the constraints,

this might make an IPS somewhat more reassuring than a CLG. An "asset lock" is also a feature of the new Community Interest Company (CIC), but at present practitioners believe that this is likely to be most appropriate for small(ish) social enterprises and in any event it cannot be a charity. At this stage we do not favour a CIC model.

As to membership (as opposed to board membership) we would advocate simplicity: making the board members members as well (for so long as they are board members). We believe that citizen engagement can be achieved at board level (where key decisions are taken) rather than creating constitutional complications with a wide membership (whether shareholders or guarantors), even on a class-voting basis.

Citizens' forum

The work of the ODPM and Home Office has identified a wide range of possible mechanisms for citizen engagement: see "Civic Pioneers" produced by the Civic Renewal Unit of the Home Office and the joint ODPM/Home Office publication "Citizen Engagement and Public Services".

Two models from "Citizen Engagement" which might be of application here are the Birmingham CLT Model (with which we were involved) and the Wolverhampton Neighbourhood Management Strategy. It is however important not to be prescriptive. For this CLT model the citizens forum needs simply to play two key roles. The first is to secure citizen representation on the CLT board. Elections should play a part in this at some level, but skills and continuity are important and this may encourage the use of the forum as some sort of electoral college (ie indirect elections). In some circumstances representation for different areas may be important and sub-board structures may be useful. Here the various mechanisms being explored by the ODPM and the Home Office (model bye-laws, neighbourhood contracts and so on) may have a role to play. The second role for the citizens forum is to provide a way of communicating directly with the CLT board and, in a non-confrontational way, holding the CLT board to account. We envisage an annual meeting at which the CLT board explains its aim and

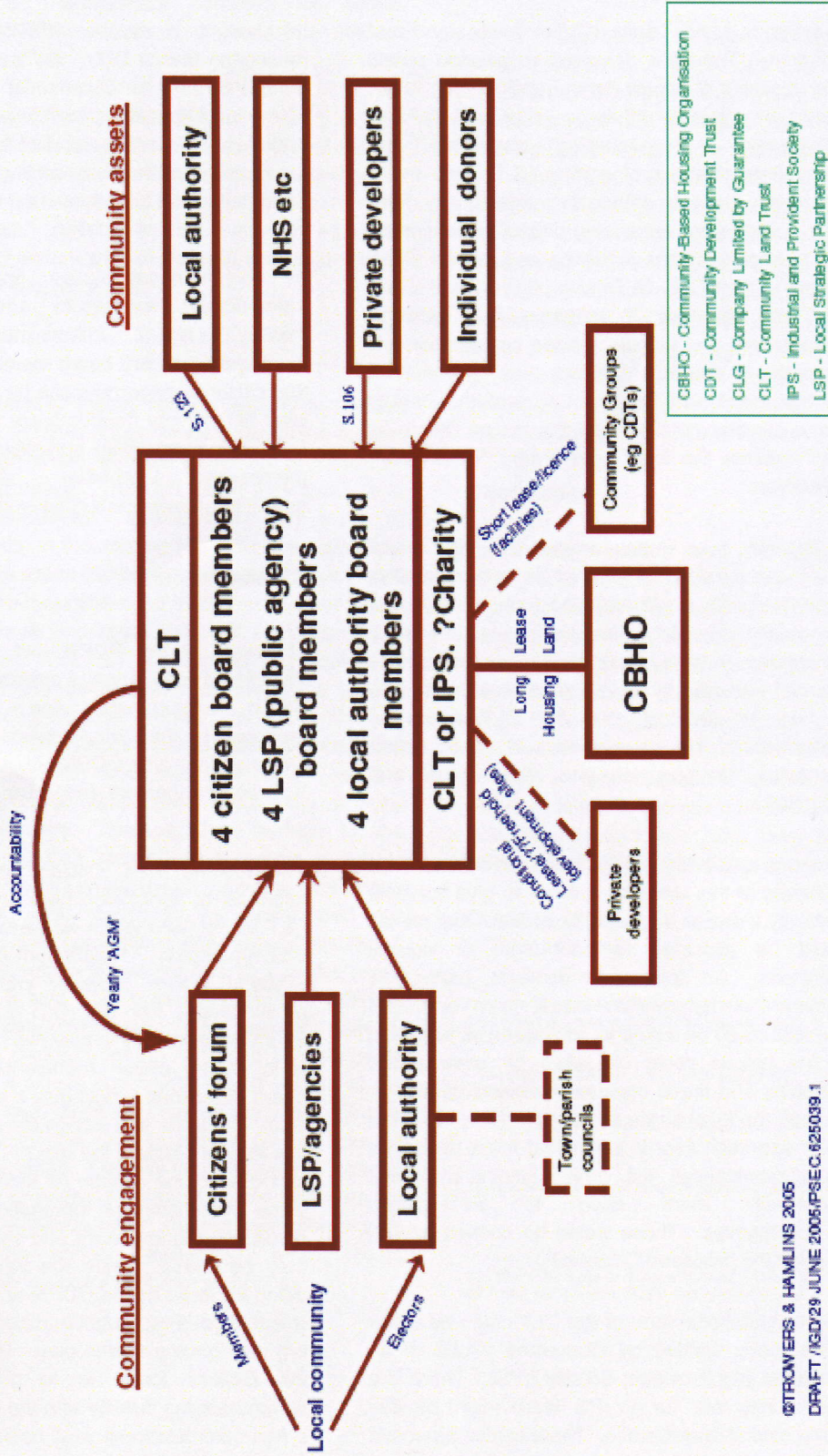
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achievements in the previous year and presents its accounts and so on in a formal way (as if to a general meeting). In this way, the opportunities that CLG/IPS membership affords for access to the board will be achieved without the constitutional complications which could impede crisp decision-making. This is no need, in our view, for the forum to be constituted in an elaborate way. An unincorporated association might be best, simply to ensure that it is clear who is a member of it and who is not. Clearly, it needs to be as inclusive as possible; but some structure and discipline (for example, for meetings) is important.

CLT assets

The CLT's constitution and citizen links are designed to encourage the transfer of assets into the CLT. Land and money could come from various sources. The local authority itself could dispose of land and, we anticipate, should have little difficulty in satisfying the requirements of Section 123 of the Local Government Act 1972. The threshold for disposals without government consent has been raised and in any event local authorities are experienced in satisfying themselves that they have achieved "best consideration". There would be no under-value, for example, if the CLT were required to satisfy certain conditions (especially ownership or use constraints). Similar considerations will apply to the direct or indirect transfer of National Health Service and similar property. The traditional "Section 106" planning gain route will also play an important part, with the local planning authority making it a condition of planning consent that the applicant make land or other assets available to the CLT. Private donors also will have a role to play. There have been some striking examples of (conditional) gifts in rural contexts. There will be more if a secure CLT model of the kind proposed here becomes fully established. CLT will adopt all appropriate mechanisms for securing its transferred or donated assets, whether or not there are "asset lock" provisions written into the constitution itself. Covenants, rent charges and mortgages can all be employed to ensure that the CLT can honour all express and implicit conditions imposed by the transferors or donors of assets to the CLT.

Community-based housing organisation

The term Community-Based Housing Organisation (CBHO) is not a technical one but reflects a commitment to make the composition and work of the (registered) social landlord as reflective as possible of the community it serves. There are now a number of models which are "community-based". Some achieve their community

focus by providing class-based $\frac{1}{3}$ voting rights for all residents, while others are exploring ways of achieving resident-only voting membership. Some have looked to the Tenant Management Organisation (TMO) model (which usually applies to individual estates but in one case, Kensington & Chelsea, applies to the whole Borough).

Whether or not residents have a formal and full role in the CBHO's constitution at the outset, there is scope for subsequent devolution of power (management and possibly ownership) at a later stage. This is the so-called gateway principle, which is being developed in a full sense in Preston and has been adopted in a more limited way in some other large scale voluntary transfers (LSVTs). The combination of a CBHO and CLT is a powerful one. It achieves a number of purposes. The first is financial. By retaining the freehold within the CLT and incorporating appropriate constraints in the lease, value can be retained or captured within the CLT and the valuation and funding pressures on the CBHO can be lessened. Secondly, the leasehold structure can provide reassurance that the CBHO's assets are safe and, in turn, discourage attempts to introduce non-resident representation in order to provide (alleged) governance security. Finally, the combination of community-wide involvement in the CLT and resident involvement in the CBHO ensures that wide-ranging citizen participation is achieved without obscuring the important distinction between the role of the CLT as a community organisation on the one hand and the CLT as a landlord on the other.

A CBHO-type model (albeit on co-operative principles) is being examined closely in London. (We are involved in that review). It is important to add that there is no regulatory or systemic reason why a CBHO with a leasehold interest could not be registered with the Housing Corporation. A number of leasehold structures have proved acceptable in the past. In relation to other partners, the CLT could certainly make land available to private developers. This may be by way of private negotiation or through the planning (Section 106) process. As owner of the land the CLT would be in the "driving seat" in the negotiations, but clearly if it were to overplay its hand the financial and community benefits would be lost. In those circumstances a lease would usually be the appropriate way forward but a suitably conditional freehold transfer may conceivably be necessary or appropriate in a few instances. Restrictive covenants and perhaps rent charges or straightforward legal charges could be used to protect the CLT's interest. Private developers are unlikely to have difficulties with the arrangements and indeed if the communal facilities within a development were to be retained by the CLT this

would remove a problem for them. They invariably have to organise a management company or similar arrangement to take charge of otherwise "orphaned" assets.

Assets might also be transferred to community groups (perhaps in the form of community development trusts). These are likely to be shorter term arrangements than for private developers and indeed instead of leases might be licences instead. Suitable mechanisms can again be incorporated to ensure that the assets are used wisely, with recourse if problems arise.

Applications

This CLT citizenship model can be applied in various circumstances. It could apply, for instance, in the context of stock transfer, where we have elsewhere proposed an ownership trust model. The CLT could play that role in the right circumstances. It also might play a role in achieving transfer in the context of a "mix" low-value and high-value stock areas (where the valuations do not work separately). We have proposed a community trust model for that elsewhere and again the CLT could constitute that organisation. The CLT we propose here could also play a role in the development of the Arms Length Management Organisation (ALMO) model. We are proposing an Arms Length Sustainable Communities Organisation (ALSCO) and this CLT could be that ALSCO, delivering a (sustainable) community strategy for the local authority. There is scope perhaps for the application of this CLT model in the context of certain New Deal for Communities (NDC) projects, particularly when the NDC work needs to be consolidated and preserved for future generations (the "legacy" situation). We can also envisage a role for this CLT in the south east "growth areas" (as envisaged in the ODPM's sustainable communities plan). The need for delivery mechanisms is evident from the number of models being proposed and a simple community-based vehicle of the kind described here might very well be attractive. Finally, there is scope for the CLT to play a part in housing market renewal areas. Delivery vehicles are still needed there and this provides a halfway house between the perhaps over-ambitious urban development corporation model and the softer "partnership" arrangements employed by the various Pathfinder authorities.

Where?

A CLT model so far has been applied in relatively small-scale contexts. Most striking have been the achievements in rural areas, largely through the efforts of private donors and individual practitioners. There are some projects which now address, with local authority and other public agency help, the acute shortage of affordable housing in rural areas. There are plans to develop the model also for market towns. The importance of the model we are proposing here is that the CLT could also play a part in metropolitan areas and in particular in the so-called core cities. A number of them are developing neighbourhood and area-based strategies, often in the context of housing stock strategies. Birmingham, Manchester, Newcastle and Sheffield all feature in "Civic Pioneers".

Conclusion

The model proposed here has significant potential for joining up a number of policy agenda, both at a national and local level. This potential can be realised without compromising local authority powers and duties; it also presents no commercial constraints for private sector partners, such as developers. Above all, it provides scope for meaningful citizenship to be developed through genuine involvement and real decision-making. There is no need for "pilots", just encouragement. That should be sufficient to excite the attention of one or more core cities through market towns (and their hinterland) to rural communities. We shall be pleased to play a part in this.

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