COMMUNITY GROUPS
LEGAL STATUS, GOVERNANCE, SKILLS AND FUNDING

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Introduction

• Types of Organisations
  – Unincorporated (Sole traders, Partnerships and Trusts)
  – Incorporated (Companies, LLPs, Co-operatives, CIOs and CICs)
  – Charitable Status – can apply to both

• Skill Sets
  – Audit
  – Development

• Funding
  – Grants
  – Loans
  – Alternatives eg Crowd Funding

• Conclusion
  – How does this help Heritage at Risk?
Sole Traders

- If you work for yourself you are a self-employed sole trader
- You can employ staff. ‘Sole trader’ means you are responsible for the business not that you have to work alone
- You keep all your profits after tax
- You are personally liable and responsible for any losses
- www.gov.uk/business-legal-structures/sole-trader
Partnerships

• Unincorporated but governed by the Partnership Act 1890
• Automatically applies between persons carrying on a business in common with a view to profit
• Partners can bind each other and be liable for promise made by each other
• There is a fiduciary duty to act in each others best interests
• Individual tax and accounts
• Used to be common eg Legal Profession

www.gov.uk/business-legal-structures/business-partnership
Trusts and Associations

- Unincorporated – no separate legal entity individuals are liable
- Can be registered as a Charity and then has those benefits
- Should still have a Constitution or Trust Deed and will need one to be Charitable
- Not regulated unless registered as a Charity
- Advantages – easy to set up and operate, can be a Charity
- Disadvantages – Unincorporated so liability on Trustees for land ownership, employing people, signing contracts eg grant funding agreements
- For more info see: https://www.gov.uk/guidance/how-to-set-up-a-charity-cc21a
- Used for Community Projects, Sports Clubs, interest groups eg Railway Heritage and maybe small grant giving bodies
Incorporated Bodies

• All have separate legal status - Can contract and hold property themselves
• Gives the individuals protection but also harder to set up and run
• Charitable Incorporated Bodies (CIOs) - Introduced in 2013
• Industrial and Provident Societies (IPSs) – eg Co-operatives
• Limited Liability Partnerships (LLPs) – Often used for modern professional services eg Law Firms
• Companies
  – Company Limited by Guarantee
  – Company Limited by Shares (Ltd)
  – Public Limited Company (Plc)
  – Any company can be a Community Interest Company (CIC)
• Most common in heritage sector is Companies Limited by Guarantee
  – Members each have a share for token amount and are protected from liability
  – Registered at Companies House - comply with rules eg annual return and accounts
Charitable Incorporated Bodies

• Charities Act 2011 - CIOs started to be used in 2013
• Alternative to Company Limited by Guarantee or Charitable Trust but unlike them it cannot exist until registered
• Registered with and regulated solely by Charity Commission for free (do not need to Register with Companies House)
• Separate legal personality and limited liability
• Two tier structure: charity trustees and members
• Two different forms: Foundation and Association CIO
• Simple and cheap to set up: model constitutions
• Less onerous reporting and accounting requirements
• Limited transparency
• Good for medium-sized charities which want to employ staff and/or enter into contracts eg owning property
Industrial and Provident Societies

• Benefit of Community (BenCom)
  – Charitable
  – Democratic
  – Community Focused
  – Not for Profit
  – Housing Association, Credit Union

• Co-operative
  – Commercial social enterprise
  – Benefits its members
  – Financial Institutions

• Both are regulated by Financial Conduct Authority (FCA)
Choosing to be a Charity

• Charities exist to benefit the public. They:
  – pay reduced business rates
  – receive tax relief (eg gift aid)
  – can get certain types of grants and funding

• But charities are restricted in what they can do and how they work. Eg they must:
  – tell the Charity Commission and the public about their work
  – only do things that are charitable in law
  – be run by trustees who do not usually personally benefit from the charity
  – be independent - can work with other organisations but must make independent decisions about how it carries out its charitable purposes
Choosing to be a Charity

• There are four main types of charity structure:
  – charitable incorporated organisation (CIO)
  – charitable company (limited by guarantee)
  – unincorporated association
  – trust

• [https://www.gov.uk/guidance/charity-types-how-to-choose-a-structure](https://www.gov.uk/guidance/charity-types-how-to-choose-a-structure)

• who will run it and whether it will have a wider membership

• whether it can enter into contracts or employ staff in its own name

• whether the trustees will be personally liable for what the charity does
Starting a Charity

- If you set up a charity you must apply to register it with the commission if:
  - it is a charitable incorporated organisation (CIO) or
  - its annual income is more than £5,000
- If not you can apply to HMRC for charitable recognition to claim back tax on things like Gift Aid donations
- Trustees are normally unpaid volunteers - only be paid if authorised
- Should not benefit anyone connected with the charity, eg giving work to connect party
- Cannot have a mix of charitable and non-charitable purposes
- Cannot take part in certain political activities
- Strict rules apply to trading by charities
- Must provide public, up-to-date info about activities and finances
- Outward facing not benefiting narrow interests of closed group
Social Enterprises

• Alternative to a Charity many options from the list of business structures
• Popular one is a Community Interest Company (CIC)
• A CIC is a special type of limited company which exists to benefit the community rather than private shareholders
• A CIC cannot be a Charity
• To set up a CIC, you need to apply to Companies House, and:
  • include a ‘community interest statement’, explaining what you plan to do
  • create an ‘asset lock’- a legal promise that company’s assets will only be used for its social objectives, sets limits on money paid to shareholders
  • get your company approved by the community interest company regulator - your application will automatically be sent to them
• The CIC regulator has guidance on CICs, with forms to set one up
  https://www.gov.uk/government/publications/community-interest-
Skills

• Choice of legal body is important but achieves nothing if you do not have the right people with the right skills
• The skills you currently have are not necessarily what you will need
• Campaign or protest group has to become an organisation to be trusted with funding and to complete a project
• Easy to say what should not happen or what others should do
• The challenge is to make it happen and do it yourselves
Protest/Campaign Groups

• Strengths:
  – Public relations can make and grab the headlines.
  – Community engagement, raising awareness with petitions etc.
  – Quick to act so they can block and stop high risks to heritage eg demolition.
  – Personal commitment, it means something to them, they have passion!

• Possible Weaknesses:
  – Confrontational which can be counterproductive.
  – May have poor relationship with stakeholders eg Council or owner.
  – May lack financial or legal knowledge, admin ability or a unified approach.
Pathway to Preservation

• Campaign/save/protest group important first step but need a long term solution once short term risk is overcome
• This means working with others in partnership including meeting, discussing, listening and compromising
• Friends group can be more constructive. Be friends with all involved not just the heritage asset. If you alienate people your task will be harder.
• What’s your solution ie optimal viable use? Without one - no future!
• What will it cost? How will it be funded? Who will own & maintain it?
• What tasks need to be completed to get there and by whom?
• What skills do you need and how can you get them?
  – Research and training for existing members (do your homework)
  – New members
  – Pro bono work from professionals/volunteers
  – Paid consultants
Help and Support

• HE – Pillars of the Community - the transfer of local authority heritage assets (https://historicengland.org.uk/images-books/publications/pillars-of-the-community/)
  – Considerations for community organisations
  – Assessing options for use
  – Developing and maintaining support
  – Managing the risks
  – Agreeing terms
  – Building an effective organisation
  – Raising finance
  – Maintaining long-term viability
• Heritage Lottery Fund (HLF)
• Princes Regeneration Trust (PRT)
• Architectural Heritage Fund (AHF)
• Society for the Protection of Ancient Buildings (SPAB)
Funding

• First establish clearly what you need:
  – Condition Survey (including schedule of works) + Valuation (current and end value) = Conservation Deficit
  – This gap can be demonstrated by a Development Appraisal
  – You may also need a business plan/case to show how you hope to solve it (http://www.princes-regeneration.org/publications/how-make-business-case-your-project)

• Consider and research grants, loans and alternatives eg crowd funding or a community share issue
Grants

• The type of project will determine who will fund it
• Think about initial funding for the trust to set themselves up, get constituted and research what the heritage asset needs ie prepare the business plan
• HLF Start up grants are perfect for this: http://www.hlf.org.uk/looking-funding/our-grant-programmes/start-grants
• Also consider the Local Authority, AHF, PRT or Locality
• For the main project the same parties are worth approaching as well as Historic England and possibly the Local Enterprise Partnership or ERDF
• Specialist funding is often available for certain asset types eg Costal Revival Fund, Churches and War Memorials
• Which ever fund you find, read their guidance in full to check eligibility and their expected outcomes and talk to them!
• http://www.hlf.org.uk/looking-funding
• http://www.ahfund.org.uk/grants.php
• http://locality.org.uk/our-work/community-grants/
• https://historicengland.org.uk/services-skills/grants/
Loans

- Not often considered but increasingly common, no grant obligations
- Maybe easier to obtain and more appropriate if you can afford to repay!
- **Charity Bank** - Our mission is to support your mission. £50k to £2.5m ([http://charitybank.org/charity-loans](http://charitybank.org/charity-loans), Simon Thorrington [sthorrrington@charitybank.org](mailto:sthorrrington@charitybank.org))
- **Triodos Bank** - fund businesses of any kind whose key objectives are to add value to society or the environment ([www.triodos.co.uk](http://www.triodos.co.uk), markogden@triodos.co.uk)
Alternative Funding

- Centre for Innovation in Voluntary Action - New ideas and new approaches can make a real impact in addressing social and community problems. (Michael Norton - norton@civa.org.uk, [http://civa.org.uk/](http://civa.org.uk/))

- Friends Schemes
- Online fund raising
- Income - events, merchandise
- Major Private Donors
- Gift Aid
- Legacies
- Community Shares
- Crowd Funding
Community Share Schemes

- Sale of more than £10,000 shares or bonds to communities of at least 20 people to finance ventures serving a community purpose
- Most made by enterprises registered as an IPS eg co-operatives or community benefit societies - suitable for community investment
- Up to 30% tax relief possible - HMRC Enterprise Investment Scheme
- **FC United of Manchester** (founded 2005)
  - Community Benefit Society
  - 5197 members - open to all
  - Equal co-owners one voting share each
  - £2m target reached in March 2015 – Built their own ground
Crowd Funding

- Raising many small amounts from large number of people, typically via the Internet. Debt, equity or donations
- Set an inspiring target if reached then money is paid if not then nothing received, progress measured against a deadline.
- Website is the platform and great way to communicate and engage
- Could be used as match for grant - shows community support
- Hard work and needs constant effort and campaigning to succeed
Community Right to Bid for Assets of Community Value

- The Localism Act 2011 introduced a new regime giving local community groups the right to make a bid to buy a property that has a community use when it comes up for sale.
- Every local authority must maintain a list of assets of community value. The current (or recent) and realistic future use of them must further the social wellbeing or social interests of the local community.
- The regulations exempt certain land and buildings, such as residences.
- Nominations for entry onto the list may only be made by community interest groups with a local connection.
- Once a building or parcel of land is on the list then the owner is obliged to give notice to the local authority of any intention to sell.
- There is then a process which brings this to the attention of the community and gives them the opportunity to make an offer.
- 6 weeks to register interest then 6 months- That is as far as it goes!
- There is no obligation on the owner to sell or give the group a right of first refusal.
- It is there to avoid missing the opportunity to negotiate an agreeable sale.
Community Right to Bid for Assets of Community Value

- The scheme is aimed at securing the ongoing community benefit of local shops, pubs, libraries etc.
- These buildings will frequently also be heritage assets
- Whilst their heritage value or significance cannot be described as a community use there is clearly nothing wrong in using this mechanism to secure the opportunity to negotiate the acquisition of important heritage assets that also have a community utility
- Government has produced non-statutory advice for local authorities on the operation of the scheme
Conclusion

- HAR Target achieved - Next target more challenging
- Less grant means community groups and more private funding are crucial
- HE and others are here to support and partner groups. Together even the most challenging sites can be saved!
Question Time

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