ESSU Briefing

The Case Against Leisure Trusts

European Services Strategy Unit
(Continuing the work of the Centre for Public Services)

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The **European Services Strategy Unit** is committed to social justice, through the provision of good quality public services by democratically accountable public bodies, implementing best practice management, employment, equal opportunity and sustainable development policies. The Unit continues the work of the Centre for Public Services which began in 1973.

Introduction

This Briefing Paper presents an overview of the case against the transfer of leisure services to Leisure Trusts.

What a Leisure Trust means in practice:

- Leisure services are outsourced to a separate organisation/company. The Council retains ownership of the facilities, which are leased to the Trust.
- Virtually all the savings come from rate reductions and VAT savings, which are much smaller initially because of the high set up costs.
- Direct democratic control of the service will cease - elected member representation on a trust is limited to less than 20% of the board. Company law requires that Board members must put the interests of the leisure trust before those of the local authority.
- After a year the Trust will usually cease to use council services and will be responsible its own procurement and contracting or corporate and other services.

The case against transfer

Performance of leisure trusts

Leisure trusts do not have a very good performance record.

An Audit Commission analysis of 84 inspection reports on local authority sports and leisure services shows that 6% of directly delivered local authority services were excellent compared to 0% of trusts; the comparable figures for good services were 37% compared to 30% of trusts; 60% of trusts were judged to be 'fair' compared with 52% of directly provided services; and 0% of the latter were considered poor compared to 10% of trusts. On the basis of this evidence, Leisure Trusts are not performing as well as local authority in-house services.

The Audit Commission carried out ten Best Value inspections of local authority leisure services where the Trust was established and operational at the time of inspection. 64% of the Trusts received only a fair one star service and one was rated poor, which has since been returned in-house, and the trust disbanded. Thus 73% of the Trusts had a poor or fair rating, which suggests that there is a large credibility gap between the promotional rhetoric surrounding trusts and operational reality.

Some trusts liquidated

Despite the fanfare surrounding the launch of the Bristol Community Sport (BCS) trust in 1997, the council's Best Value Review and the Audit Commission inspection in 2002 delivered a damning analysis of leisure services. Leisure was described as a 'service of two halves' – poor quality facilities (managed by the trust) and innovative sports development (provided by the council).

Enfield Leisure Trust went into liquidation in September 2006. Its subsidiary, East Herts Leisure Trust had a contract with East Hertfordshire DC that had a £500,000 deficit in the first year of a five-year contract (ESSU, 2006). East Herts Council were forced to terminate the contract and transfer the service and jobs to Stevenage Leisure Trust. Immediately prior to the collapse of the Trust, a UNISON study concluded: "From attempting to achieve a saving of £975,000 over five years the Council saved a little over £50,000 in the first year. It is now faced with an additional estimated cost of £903,560 over five years based on the 2005/06 budget" (ESSU, 2006). Chiltern District Council had to write off £1.2m and terminate its Leisure Trust in 2004 after its business plan failed to reduce mounting debts.

Some Trust contracts have been reduced in length and retendered. The Audit Commission has expressed concern about the level of 'competition' in at least two cases when trusts have been awarded new contracts.

Access to capital and savings

The case for leisure trusts is often presented in terms of creating new social enterprises, giving managers the freedom to innovate, establishing a new era of participatory democracy. But it is always about money - savings are always the core rationale. The Audit Commission concluded that there is a lack of rigorous assessment of options (Audit Commission, 2006). Financially:

- There is no advantage in terms of access to additional external funding – primarily because trusts do not have assets to secure a commercial loan.
- Virtually all additional investment has come from government and public sector funding available to local authorities through regeneration, housing and other programmes. Trusts status has not attracted additional investment of any consequence other than the savings claimed from business rates and VAT.
- Savings from NNDR and VAT have not been adequate to fund the required level of investment to stem the decline in the leisure infrastructure. Savings are diluted by considerable set-up costs, higher corporate costs with separate accounts and loss of economies of scale. The Council must treat the trust as a contractor and may therefore have higher contract management and monitoring costs.
- A leisure trust is highly dependent on a funding agreement with the council. Hence the trust budget is just as vulnerable to constraints and cuts in public spending as a local authority leisure service. Nor do they have sufficient reserves withstand significant changes in leisure patterns and the health and fitness market.

Some trusts are adept at claiming 'responsibility' for new leisure centres when in fact they are publicly funded and part of local authority regeneration schemes.

The savings must take account of the legal and financial set-up costs of a Trust, the additional corporate costs incurred by a stand-alone organisation and the knock-on effect on the Council's support services. The set-up costs will be at least a quarter of a million pounds.

There is no guarantee that concessions on business rates and VAT savings will continue in the longer term – this is dependent on the government not closing what are in effect tax evasion loopholes. Nor is there any guarantee that the savings will be ring-fenced by the council for the length of the contract. If the council is confronted by substantial budget cuts because of economic conditions and/or a change in government policy, then it is unlikely to continue to ring fence leisure services when cuts are required in other services.

The 'independent' status of leisure trusts is frequently claimed to be an advantage. However, externalisation from the local authority brings other responsibilities and costs. Managers who want to be free of established good practice employment policies cite the 'freedom' obtained by trust status.

Social enterprise and community ownership?

Most community organisations and campaigns take the view that they want and need to focus on contributing to policy and infrastructure provision rather than in directly managing and maintaining individual facilities. This model does not provide access to additional investment other than self-help and voluntary labour.

Don't be taken in by the 'charity', 'non-profit', 'social enterprise' or 'community-owned' branding of leisure trusts and their claims of 'added value'. A recent Guardian article concluded that "while there are undoubtedly positive attempts in some trusts to engage difficult-to-reach beneficiary groups, such as obese children and ethnic minorities, the survey also concluded that there is generally little identifiable benefit or distinctive value for the community when the service is run by a charity as opposed to the council" (The Guardian, April 2007).

Leisure trusts are arms length companies, which are being rebranded as so-called 'social enterprises'. As stand-alone organisations, Leisure Trusts are forced to expand and 'grow the business' which means winning additional contracts from other local authorities and/or bidding to takeover more council services. 50% of Leisure Trusts have two or more contracts. Greenwich Leisure has eleven. This process leads to the erosion of 'local' or 'community' provision as trusts become contractors and have little choice but to become commercial operations, prioritising business values, cost reduction and income generation, thus eroding public service principles and values.

Community ownership is viewed by many as a potential poisoned chalice – more a means of implementing budget cuts by replacing staff with volunteers and hiving off maintenance to local/cheaper alternatives.

Service integration

Whilst a single purpose organisation has some advantages, there is increasing emphasis on operating integrated and joined-up services. Leisure is not a stand-alone service but is an essential part of healthy living, children's services, regeneration, environmental services and parks and countryside provision. Improvements in community well being, the local economy and social justice can only be a reality if the organisational silos, divisions and cultures are removed from within both within local authorities and between other public bodies.

Transferring services to more arms length companies will make the horizontal and vertical integration of services more difficult and lengthy. It also makes co-location of leisure with schools and libraries more difficult. For example, the exclusion of education based sport and leisure facilities from the scope of trust contracts has led to fragmented service delivery and a loss of community benefit.

Similarly, neighbourhood management should be focusing on identifying needs, service delivery and community participation rather than using resources on coordinating a plethora of different organisations and contractors with different remits and responsibilities.

The effect on jobs

Greenwich Leisure was one of the first leisure trusts to be established in the early 1990s and is widely quoted as being a very successful "innovative staff-led leisure trust." However, UNISON branches in London have reported that many of its employment practices and attitudes to trade unions mirror those of private sector mainstream leisure contractors. The level of trade union organisation in leisure services in local authorities where Greenwich Leisure has contracts is very low. One contract reported that only 20% of staff who transferred to Greenwich Leisure are still employed by them.

> "Being taken over by GLL is just as bad as any private company. They like to portray themselves as being different as they are a "not for profit" organisation but their management style is the same as any hostile, anti-trade union, private sector employer."
>
> "Greenwich Leisure effectively, does not recognise trade unions. They don't negotiate about anything.....This is a company which has no respect for TUPE." (UNISON, London Borough of Newham)

Other leisure trusts have adopted the same approach to creating a casualised workforce, reducing terms and conditions and paying lip service to trade union organisation and facility time.

Private contractors in the leisure sector have a long record of low wages, high use of casual labour and multi-tiered workforces with minimal rights to pensions. Trusts competing for contracts against these firms inevitably adopt the same policies and practices. The fact that leisure trusts and private contractors had virtually the same cost per head of population between 2001/02 and 2004/05 and lower than the in-house cost, is indicative of their

employment policies given that labour costs account for a high percentage of total costs (Audit Commission, 2006).

Transfer of services out of the local authority inevitably results in a loss of jobs and/or higher unit costs within the Council. The quality of employment in trusts has a knock-on effect in the local economy.

The Best Value Code of Practice on Workforce Matters is supposed to protect the terms and conditions of staff working for contractors on public service contracts, including new starters, and to provide a negotiating framework for branches facing outsourcing.

However, there is no evidence that the government, local authorities, private contractors or trade unions are monitoring the Code thus "it is not possible to say whether these measures are successful, either in preventing a two tier workforce or stopping the driving down of pay and conditions" (UNISON, 2008).

Service improvement

Leisure services staff, including senior management, will transfer to a trust under TUPE or TUPE Plus. If a council's leisure service has a lacklustre improvement record then transfer to a trust is unlikely to change this situation. The same management team will be responsible for service improvement .

Most trusts pay lip service to staff involvement in service improvement. Yet Beacon Councils with a high level of staff engagement with the scheme reported significantly higher levels of proactivity, innovation, improvement and organisational performance compared to councils with lower levels of staff engagement.

Community participation

A Leisure Trust has no additional skills, resources or commitment to improve community participation compared to a local authority. It sometimes claimed that a trust has more 'freedom' to operate but there is no evidence that trusts have implemented a level or quality of participation over and above that which has been achieved by local authority leisure services.

Many Councils have been innovative in establishing new methods to engage service users and community organisations in leisure services. Participation structures and methods of engagement must be coordinated – service users and community organisations are already critical of disjointed and overlapping consultation with a plethora of different bodies.

The Audit Commission has been highly critical of some leisure trusts for a lack of formal consultation with users and sports clubs, for example, Bristol, Merton, and Stockport.

Democratic accountability

It is often claimed that trusts 'engage with the community through direct representation' but this is a distortion of democratic accountability. Trusts are required to operate as stand alone organisations, independent from the democratic structures of the council. The council loses a significant degree of control over the delivery of leisure services. Company law requires all Board members to act in the interest of the trust, over and above their other responsibilities and interests. They are also bound by commercial confidentiality. Furthermore, the vast majority of community and business Board members are unelected and 'represent' either themselves or a particular user group.

A trust should be subject to the Council's scrutiny procedures but ensuring rigorous assessment of arms length companies is difficult enough let alone whether and how recommendations are implemented.

If a trust has financial problems, Councillors will have limited influence over the strategies adopted. These will almost inevitably affect service delivery and staff and implementation of corporate policies and priorities get watered down.

Increased risks

The risks are real and are retained by the Council:

- Financial and organisational failure could result in liquidation of the trust.
- Savings may evaporate and the trust could require increased subsidy by the Council.
- Job losses and wage cuts could occur as the trust struggles with the challenge of stand alone management and company governance and changes in the leisure market.
- Leisure services performance could fail to improve.
- The trust may win leisure service contracts in other authorities but they could impose additional performance and financial pressures.
- If there is little or no substantive change in the level and quality of participation and user involvement this could lead to disillusion and low staff morale.

A long-term vision for the integration of leisure services with other public services, improved democratic accountability with wider user/staff participation is needed in place of short-term budget savings.

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