9. Assets

9.1 Buildings

Finding it

Voluntary organisations will generally find property in the same places that any other organisation or individual would: estate agents, solicitors, local paper, Internet etc. However advice and information is available from:

- other voluntary organisations (including the local county voluntary council)
- local authorities
- community development associations or trusts
- social inclusion partnerships
- local enterprise companies

Organisations should shop around and try and find someone who understands their specific needs. They should compare and contrast the service they are offered. Some providers specialise in certain types of property and some are in a position to offer deals.

Renting it

The golden rule with *renting* any property is ‘study the small print of the lease’. Make sure it covers everything that it should and be clear what the organisation is liable for and what the landlord is liable for. If in doubt get it checked by a lawyer.

Here are some pointers:

- Check for ‘restrictive covenants’. This is the name for provisions in a lease that prevent the tenant from doing certain things in or to the property, for example, using it for residential purposes or as a venue for performances.
- Check with the local authority building control department whether there are any outstanding building notices on the property. The organisation may not have to pay for any work but it might disrupt its service.
- Make sure the property has an up-to-date fire risk assessment. It will be essential for insurance purposes. The tenant will usually be responsible for this but make sure this is spelt out in the lease especially if there are any shared areas. Some landlords may be willing to negotiate this provision.
- Check with the local authority planning department and the Highways Authority whether there are any imminent developments that will have an impact on the property, for example, shopping complexes, houses or roads.

- Be clear what the access to the property is like for different users and what alterations can be made to the property by the tenant as opposed to those that are the landlord's responsibility. For example, is the property accessible for disabled people and if not who is responsible for that work? Is there adequate parking, is it on a bus route, is it permissible to install satellite television or extra phone lines, is it in a conservation area and subject to restrictions on alterations, for example, on new windows, fixtures and fittings or use of wall space?
- To what extent is the tenant liable for the internal condition and any 'dilapidation' of the property? What works is the tenant liable for? For example, it is common for tenants to be able to redecorate or even to be liable for redecoration but who is responsible for re-plastering if, for example, plaster collapses while wallpapering?
- Is it possible to negotiate a 'stepped rent' or is such a rent on offer? This is a deal whereby the landlord agrees that the tenant can pay a discounted rent at first which gradually moves up to 100 per cent over a set number of years, for example, 25 per cent in years one and two, 50 per cent in year three, 75 per cent in year four and 100 per cent from year five onwards. Step rents are basically money off discounts to drum up interest among prospective tenants.
- Be clear about how and when rent will be increased.
- Be clear about what service charges cover e.g. heat, light, caretaker, toilets etc.
- Be clear about how any increase in service charge is made i.e. annual based on inflation is fair.
- Make sure the terms of the lease are not breached.

Buying and owning it

When buying property organisations should look out for many of the same things as they would when renting e.g. building notices, planning developments, is it in a conservation area etc. However, there are a number of things that are specific to buying:

- Get a full survey by a qualified surveyor – it may cost a lot but it could head off disaster.
- The buyer may be liable for stamp duty, which is additional to the asking price.
- The buyer's solicitor should be accredited by the Law Society of England and Wales or another professional body.
- Check prices for different types of property and areas with the local assessor to gauge what and where the organisation can afford and whether the asking price is competitive or not.

Once an organisation owns property it should manage it appropriately:

- Make sure it is suitable for the purposes for which it is being used.
- Maintain it in a good state of repair and insure it (make sure there is a budget for these costs and see information sheet 2.11 on Insurance).
- Perform an annual safety audit on all property to check things are in good repair and working order. The audit will include checking the condition of roofing, guttering, stairways etc.

- Comply with the relevant legislation covering, for example, areas of licensing, planning and building regulations.
- Ensure it is accessible to all users
- Install suitable security systems (burglar alarm, secure doors and windows, fire precautions etc.).
- Organisations often have members of staff nominated to be key holders. Key holders can be contacted by the police outside working hours should access to the building be necessary.

Letting it out

When letting out property, good management of it is essential and the following factors should also be considered:

- Organisations should be clear about their objective for letting, as this will affect the approach they take. For example, is it to make as much money as possible, to earn enough to simply maintain or upgrade the building (which may be sold in future) or just to provide enough money to keep hold of an asset while plans are being put together for its future?
- Anticipated rental income must be determined taking into account the condition of the property and balanced with the responsibilities of and possible costs to a tenant. There may be scope for landlord and tenant to work in partnership to upgrade or improve a building.
- Special status (e.g. historic building) may constrain the rents that can be charged and limit the improvements or changes that a tenant may want.
- Be upfront with prospective tenants about any restrictions. These may depress rental income in the short term but a good tenant/landlord relationship can make for long-term lets and consequent long-term income.
- If the lease is to run for time periods longer than the minimum required by law, make sure these are realistic for both parties and that there is something in them that covers unexpected eventualities e.g. the sudden need to sell the building.
- Account for the income stream (i.e. the rent) clearly.

Remember rental income could affect an organisation’s tax liability.

Selling it

An organisation should make sure that it is entitled to sell the property. For example, if it has been donated this may not be straightforward. It should attempt to get the best price it can for the property taking into account its location, condition, market conditions and professional advice.It should, as a matter of good practice, be upfront about any issues associated with it (e.g. restrictions on alterations due to listed building status).

It is worth noting that:

- The land should be utilised to generate as much income as possible for the organisation without reducing its capital value. It should be maintained in good

condition and checked regularly to see that the boundaries are not being encroached upon.

- The legislation governing the sale and leasing of land and property owned by charities in England and Wales requires: a report from a qualified surveyor acting exclusively for the charity, the sale to be advertised and the agreement to be the best that could reasonably be obtained.
- Where the property for sale is subject to the provisions of a trust requiring it to be used for a specific purpose it is necessary to check you have the power to sell it. The details of the trust may need to be altered and it may be that this can only be done with the consent of the Trust.

A mortgage can be raised on a charity's property. To do this written advice from someone with no personal interest in the loan must be obtained. This advice should contain information on the necessity of the loan i.e. if the terms are reasonable and whether the charity is able to repay.

Property law is a large, detailed and complex body of law, much of it very old and expressed in somewhat archaic terms. Most organisations will never need to worry about the detail but this is because they use lawyers who do. It is recommended that all voluntary organisations seek appropriate legal advice when dealing with property in any respect.

Further information

Charity Commission for England & Wales
Tel: 0845 3000 218
www.charity-commission.gov.uk

Ethical Property Foundation
www.ethicalproperty.org.uk

Disclaimer
The information provided in this sheet is intended for guidance only. It is not a substitute for professional advice and we cannot accept any responsibility for loss occasioned as a result of any person acting or refraining from acting upon it.

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