**Community Asset Transfer:**

**ASSET…..or LIABILITY?**

**How can you tell?**

The following information and questions are designed to help you determine whether a particular building or piece of land would be truly be an asset for your organisation and actively help to achieve community benefit:

* Is the land and building for transfer clearly identified?
* Do you have an internal floor plan and layout?
* Does the layout work –can you use it for the purposes intended?
* Can the building be used for the purposes you intend? (Restrictions may stop you from using the building for the purposes you intend. This can undermine your business plan, long term sustainability and block community use).
* Are there any planning restrictions, covenants, by-laws, etc.?
* Do you have a copy of the Building Management Plan?
* Have you carried out an Independent buildings survey?
* Is it Freehold or Leasehold?
* Have you sought independent legal advice on the lease, including negotiations? (This will identify the repair and dilapidation schedule and highlight when things like the boiler and roof need replacing or repairing. It will confirm or update any repair or dilapidation of the building).
* Is there a TUPE liability?

**Charity Trustees and Not for Profit Directors have a Duty of Care to ensure the organisation doesn’t take on excessive risk or liability**

* Freehold will mean you own the building and will be responsible for all repairs and maintenance
* Leasehold will mean you will need to negotiate terms and conditions and length of occupancy
* Who is responsible for repairs?
* Do you have protection under the Landlord and Tenants Act 1954?
* Is the lease long enough to get grants for capital expenditure?
* Do you have a break clause that favours the charity/company?
* Have you sought independent legal advice on all aspects of the lease, including the negotiations?
* Is your legal advice from a different solicitor to the one that the landlord is using? (*The landlord’s solicitor must act in the best interests of his/her client and what is best for the landlord probably won’t be what is best for the organisation.)*
* Have you checked your governing document to ensure that your plans for the building fit your primary purposes?
* Does the organisation understand how their work relates to the aims and objectives of their Local Authority?
* Are there any expectations to meet existing commitments to building users, local community groups?
* Do you understand the local community and have you asked them what they need and how they think the building can best serve the community?
* Does the organisation monitor the quality and relevance of its services, seeking feedback, and ensure that its services are fully accessible and appropriate to their community?
* Have you calculated the cost of taking on the building and the cost thereafter of running the building?
* Have you devised an income strategy to show how you will meet these costs?