

Specific issues for local authorities which are charity trustees include:

### 1. Conflicts of interests

Local authorities also have to manage the conflicts of interest that can arise because of the different 'hats' they may be wearing - for example, as land-holding charity trustees, as the provider of statutory amenities, and as planning authorities. See: [Conflicts of interest](#)

### 2. Consulting the local community

Where a local authority is the trustee of charity land, there is often another important factor to take into account - the voice of local inhabitants. This is because the land is often a facility intended for local community use eg a recreation ground or public building. Proposals for a major change in the way the land is used, or for the sale or lease of a significant part, or all, of the land, will have an impact on its use by the public. There are likely to be strong local views. We encourage trustees to review their charity's purposes regularly to check that they are still relevant to the needs of its users. A local authority as a charity trustee is entitled to consider the suitability and the viability of the charitable property it manages, and to make proposals for the future of charity land and other assets.

However, we know from our casework that, if such proposals are not managed carefully, they can create problems for the local authority, including financial loss and reputational risk.

### [Transfer of assets \(land and buildings\)](#)

The general principle is that charity property being transferred must:

- continue to be charity property
- continue to be used for similar purposes to those for which it was originally used

However, a charity cannot generally transfer its property to a non-charitable body or for a non-charitable purpose – eg charity land could not be transferred to a local authority to form part of its statutory property, even if it were to be used for purposes similar to those formerly undertaken by the charity.

Here are some things to think about before transferring charity assets to another body:

1. Have you checked that the land is a charitable asset, and is not part of the Council's statutory property?
2. Is the land you want to transfer 'designated land'? This is land which was acquired to be used for the purposes of the charity. If you have such land, you can't use the simplified process of the Charities Act for transferring land, and you usually can't change the use of the land without the Commission's involvement, even if you transfer it to another body to manage.
3. Do you need to manage a possible conflict of interest arising because the Council is both the charity trustee and a local authority with an interest in the land in its statutory capacity?
4. Have you involved the local community in the proposals to transfer the land?
5. Is the transfer the best way of serving the charity's beneficiaries in future?
6. Is the body to which the land is to be transferred a charity? If not, that body would have to hold the property on charitable trusts separate from its other assets.
7. Does the body receiving the land have sufficient resources to manage and maintain the land?
8. Have you considered what legal methods are open to you to carry out the transfer?

You may be able to use a simplified process if the land is not 'designated land' (see question 2). You should check to see if the charity's governing document gives you power to transfer the trusteeship of the charity. You might need a Scheme from the Commission in some circumstances, for example:

- if there is no clear power to permit the transfer
- if the land is designated land and its use will be changed
- if the receiving body isn't a charity
- if the transfer involves innovative methods, eg a lease-back arrangement