



Assets: A local strategy for Council income generation, commercialisation and investments

Legal issues and powers for commercial investment options by
local councils

Assets

- Property portfolio
- Spare capacity
- Experienced work force
- Money / the ability to borrow money to invest

Matching strategic ambitions to local government delivery options

- Self funding
- Income generation
- Capital receipts
- Savings
- Better contracting
- Trade services
- Sell assets
- Acquire / develop assets
- Invest

Powers to Invest?

- Power to acquire land (LGA 1972)
- Power to borrow (LGA 2003)
- Power to invest (LGA 2003)
- Power to sell land (LGA 1972 / Housing Act 1985)
- Power to charge (LGA 2003)
- General Power of Competence (Localism Act 2011)

General Power of Competence

- Encourages Councils to develop new and innovative business models
- Power to do anything that individuals generally may do
- For a commercial purpose or otherwise
- For the benefit of the Council, the area or persons resident in the area
- Subject to existing statutory limits
- If for a “commercial purpose” must be through a company

Due Diligence

- Other statutory restrictions?
- Semi-fiduciary duty
 - CLG's Guidance on Local Government Investments
 - Must meet primary policy objectives and must not expose public funds to unnecessary or unquantifiable risk
- Wednesbury Reasonable?
- State Aid?

Managed Risk?

- Security:
 - Debenture
 - Charges
 - Parent company guarantees
 - Collateral warranties
- Clear written terms for contracts



Navigating your council through an investment and commercialisation strategy

Matching the delivery option with the ambition

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