

Practical use of the Well-Being Power



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This document draws on the formative evaluation of the Well-Being Power, commissioned from INLOGOV, University of Birmingham, and the Cities Research Unit, University of the West of England, Bristol.

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The findings in this report are those of the authors and do not necessarily represent those of the Department for Communities and Local Government.

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Section 1: The Well-Being Power

Introduction

Local government has made great progress over the last decade in improving services and the quality of life for local people. But at the same time, public expectations have risen fast and local authorities need to use every means at their disposal in order to exceed those expectations.

Research commissioned by us has identified several areas for improvement. In particular, this research suggests that councils are not fully aware of the opportunities provided by the Power to improve well-being introduced in 2000 to give local authorities the statutory powers necessary to allow them to play their full part in improving the quality of life for local people.

Local authorities can do only those things that they are empowered to do by specific statutory powers, duties and functions. Many specific powers have been granted to local authorities over the years but, prior to 2000, while this legal framework allowed local authorities to deliver a range of services, there were concerns that it restricted them from developing a broader and more innovative role. Local authorities had to consider a wide range of provisions before engaging in a particular activity and had no means to overcome any limitations they encountered.

Section 2 of the Local Government Act 2000 (the '2000 Act') allows principal local authorities in England and Wales to do anything they consider likely to promote the economic, social and environmental well-being of their area unless explicitly prohibited elsewhere in legislation. This Power ('the Well-Being Power') is intended to be all-embracing and in practice, the three objectives of economic, social or environmental well-being have been interpreted by local authorities to encompass cultural well-being and the promotion or improvement of the health of residents and visitors.

Local authorities have made great strides since 2000 in becoming strategic leaders of their communities; looking outside of their traditional service remit to link up other partners and tackle the issues their local communities want them to face. The Government is therefore keen to encourage more local authorities to consider the potential that this Power has to transform their role, support service improvement and improve outcomes for local people.

Policy Context

The Well-Being Power is part of a range of tools which help local authorities to exercise their role as strategic leaders of their communities. Under the 2000 Act which introduced the Well-Being Power, local authorities took responsibility for preparing a **Sustainable Community Strategy**, setting out the long term vision for the economic, social and environmental well-being of their area. In doing so they are encouraged to work in partnership with all of the organisations that provide local services or take actions that affect the local quality of life by convening a **Local Strategic Partnership** to bring partners together, tasked with jointly preparing the Sustainable Community Strategy and agreeing measures to implement it. The Well-Being Power was intended to make it easier for local authorities to then develop solutions in line with the priorities identified in the Sustainable Community Strategy.

Since 2000, the package of measures available to help local government and its partners improve well-being in the communities they lead has developed further.

The 2003 Local Government Act introduced a new general power for best value authorities¹ to **charge for discretionary services**, including for those they have opted to provide under the Well-Being Power.

Local Area Agreements were introduced on a voluntary basis from 2004 to encourage local authorities and their partners to prepare a shorter term delivery plan based on the priorities identified in the Sustainable Community Strategy. The Local Government and Public Involvement in Health Act 2007, introduced a new generation of **statutory Local Area Agreements** and a new duty on local authorities and other best value authorities to involve representatives of local persons in the exercise of their functions where it considers appropriate. The narrative of how these new duties fit in with the framework established by the 2000 Act is explained in statutory guidance: *Creating Strong, Safe and Prosperous Communities* published in July 2008².

The 2007 Act had other implications for the Well-Being Power, allowing for it to be extended to eligible parish councils. The *Local Transport Bill* introduced in late 2007 will also – subject to parliamentary approval – extend the power to Integrated Transport Authorities³.

2007 also saw the passage of the **Sustainable Communities Act** which brings another dimension to how local authorities improve the quality of life for local people. It will provide a process in which ideas for improving the sustainability of the area which can not already be met by using the Well-Being Power can be fed through a national selector to central government for it to take appropriate measures. See the statutory guidance *Creating Strong, Safe and Prosperous Communities* for further details.

¹ Best value authorities are those listed in section 1 of the Local Government Act 1999 that are subject to the duty of best value

² <http://www.communities.gov.uk/publications/localgovernment/strongsafeprosperous>

³ Integrated Transport Authority is the new name proposed for Passenger Transport Authorities, responsible for the provision, planning procurement and promotion of public transport.

The Well-Being Power gives local authorities the flexibility to overcome traditional limitations and act on the priorities identified with the help of their partners and citizens through their Local Strategic Partnership; Sustainable Community Strategy and Local Area Agreement. Where the Power is unable to overcome a barrier to delivering against a priority, local authorities are able to use measures in the 2000 Act or in future, the Sustainable Communities Act to request the assistance of central government.

Document Background

This document is based on research commissioned by the Office of the Deputy Prime Minister (ODPM), now the Department for Communities and Local Government. This research examined the take up and implementation of the Well-Being Power. The research showed that some local authorities are already using the Well-Being Power in a number of innovative ways and across a wide variety of policy areas. However, it revealed that the use of the Power was at best patchy and that there is an uneven level of knowledge and understanding of the Power amongst many important stakeholders at local, regional and central levels.

This document is designed to raise awareness of the Well-Being Power by giving practical examples of how the Power has been successfully used in the past.

It will be relevant to anyone who has an interest in how councils can deliver better and more efficient services, including: cabinet members and mayors, elected members, senior officers, lawyers, members of Local Strategic Partnerships, and other local authority partners.

This document explores the Well-Being Power through the following section headings:

- section 1 provides an introduction and brief summary of the use of the Well-Being Power
- section 2 provides a series of case studies showing how the Well-Being Power has been used
- section 3 provides links to further sources of information on the Well-Being Power

The document does not attempt to explain in any detail what the Power is or what the limits are to its use as those are already covered by the statutory guidance:

Power to Promote or Improve Economic, Social or Environmental Well-Being:
<http://www.communities.gov.uk/publications/localgovernment/powerpromote>

In reading this document, it should be remembered that it is not statutory guidance and does not replace any statutory guidance issued by Communities and Local Government. Furthermore, Communities and Local Government cannot give a legal endorsement of the use of the Well-Being Power in the case studies. It will be important for each local authority to take its own legal advice as to the use of the Power.

Usage of the Well-Being Power

All unitary, county and district councils in England have been able to use the Power since it came into force in October 2000. Evidence shows that where it has been used, local authorities have been able to:

- incur expenditure and give financial assistance... *so can spend, lend, and give guarantees*
- make arrangements, and agreements, and facilitate, incorporate, co-ordinate... *so can support partners, and set up contracts, companies, trusts, joint ventures, and take shares*
- exercise functions on behalf of other bodies: *including taking on responsibilities, lead/joint commissioning, integrating services, and pooling budgets, not limited to the NHS freedoms and flexibilities*
- provide staff, goods, services, or accommodation

The Well-Being Power has been used by councils to support partnership activity with commercial, private, and third sector partners as well as other public organisations. Case study examples of how these activities have led to improved well-being for communities can be found in section 2.

Evidence shows that local authorities have approached the Well-Being Power in a number of ways, including:

- *for reassurance* – where necessary legal power(s) to undertake an activity already exist, but there is a degree of uncertainty in their use; the Well-Being Power has been used to resolve the uncertainty
- *out of necessity since previously impossible* – where a new activity would clearly not have been lawful because there was no available legal power, the Well-Being Power has been used to fill the gaps in the legislative framework to allow the local authority to engage in completely new areas of activity

- *use as a Power of first resort* – some authorities have embraced the Well-Being Power as a power of first resort and have used it where it was known that other powers were available but that using the Power meant they would not have to mine all the different functions and specify all the different pieces of legislation that it might otherwise have had to do
- *for symbolic use* – here the Well-Being Power is used, often where other powers exist, in order to achieve a visible sign that the Council is responding to wider pressures by engaging in new approaches and activities. There is a sense that by being seen to use the new Power the perception, both within and of the Council, changes

"The experience of the demonstration projects and case studies suggests that local authorities with organisational structures that can easily support a focus on crosscutting issues combined with a culture that encourages innovation are likely to be in a strong position to make use of the Well-Being Power. However, use of the Power can be found in their absence, where the creativity and drive of key individuals is sufficient to overcome institutional obstacles."

Formative Evaluation of the Take-Up and Implementation of the Well-Being Power: Annual Report 2006

Raising the Profile of The Well-Being Power

"The case studies and demonstration projects reinforce findings... that understanding of the power of Well-Being Power is highly variable with lawyers remaining the group with the widest knowledge of the Power. The understanding of the Power rarely seems to go beyond lawyers, senior officials and the corporate centre. Nevertheless there are individuals at the frontline who have made use of the Power but these are the exceptions rather than the norm."

"Lawyers remain key enablers/constrainers of use of the Well-Being Power and are likely to remain so for as long as knowledge and discussion of the Power remains confined to these expert advisers and little attempt is made to publicise practice amongst staff and with other organisations."

Formative Evaluation of the Take-Up and Implementation of the Well-Being Power: Annual Report 2006

To make the most of the Well-Being Power, those who have an interest in the local authority's strategic responsibilities need to be fully aware of what it offers both as a tool in itself and in how it supports new ways of working with partners. Local authorities will be in a better position to make use of the Power in their community leadership role and in meeting public expectations if those who are aware of the Power encourage others to learn about it and use it.

Evidence suggests that the following persons and groups could do more to learn or share learning about the Power and to raise it up the local agenda:

Cabinet members, leaders and mayors

Cabinet members, leaders and mayors need the assurance that the Well-Being Power can be used to enable the authority to act flexibly and decisively to overcome traditional limitations and promote the well-being of the communities they lead. Research shows that local authorities with structures that easily support a focus on cross-cutting issues, combined with a culture that encourages joint working and innovation, are in a particularly strong position to make use of the Power.

Elected members

The national evaluation has shown that elected members have very little knowledge of the Well-Being Power unless they have specific responsibilities on the council's executive. This has been attributed partly to 'initiative fatigue' and partly to elected members perceiving their roles as being to propose policy intervention and leaving it to others to deal with the legalities.

Elected members have key roles through their membership of the Council, and where applicable, through membership of Overview and Scrutiny

Committees and Local Strategic Partnerships in developing the priorities agreed in Sustainable Community Strategies, Local Area Agreements and other key plans. Better knowledge of the Power could help elected members to frame discussions around the courses of action available to implement priorities.

Senior managers and strategic officers

Research commissioned by us has shown that understanding of the Well-Being Power amongst staff of local authorities varies greatly. This has led to widespread confusion within local authorities as to which staff correctly understand the Power.

In many cases senior managers assumed that operational officers would have a good understanding of the Power because they relied on them to deal with legal issues. In reality there was little awareness below the corporate level. Conversely, operational staff often assumed that senior staff would have a good understanding of the Power when in fact comprehension at higher levels was poor.

LSPs and partners

Most partners when asked are interested in developing a better understanding of the Power's potential in helping councils help them to achieve their goals. Yet research shows that few partners have any real knowledge or understanding of the Well-Being Power. Inevitably, without regular reported use or discussion of the possible contribution of partners, attention to the potential of the Power is likely to be overtaken by other priorities.

LSP awareness and oversight of the use of the Well-Being Power

"... while 92% of responding LSPs are 'aware' of the Well-Being Power, only a small proportion (19%) have considered making use of it, and an even smaller proportion (8%) are actually making use of it. (This is similar to 2004 responses, which were 89%, 17% and 8% respectively)."

National Evaluation of Local Strategic Partnerships – Report on the 2006 Survey of all English LSPs Vol.1

The Sustainable Community Strategy and Local Area Agreement agreed between partners are likely to be wide ranging in their scope and ambition and implementation may need all the legal powers available to partners—including the Well-Being Power. The national evaluation, and the work of other bodies such as the Local Government Association, has identified a wide range of ways in which the Well-Being Power can support partnership activity in the achievement of shared outcomes. The examples presented here are illustrative of what can be accomplished but are by no means exhaustive and it may be beneficial for partners to find out whether others have faced similar challenges and if they have used the Well-Being Power to help them achieve their goals.

Lawyers and those with a legal interest

Lawyers have a key role to play in promoting confidence and helping to define the culture of their authorities. The national evaluation reinforced the view that lawyers have the most in depth understanding of the Well-Being Power and that their attitude towards the Power is a key determinant of its use and has a wider effect on an authority's general approach to promoting change and problem solving. Evidence suggests that lawyers are recognising that the Well-Being Power provides the opportunity to emerge from a regime driven by concern not to overstep more specific powers. However, there is often little expectation that others should know about the Power – an expectation that could form part of the explanation for the relatively low level of understanding uncovered across local authorities.

There is the risk of these opportunities being lost by lawyers keeping the knowledge of the opportunities and risks associated with the Power too close to the centre of the authority, and within too small a circle of senior lawyers.

Promoting creative use of the Well-Being Power but being aware of its limits

In considering how to bring about improved outcomes, those with an interest may wish to consider the following questions:

- Do officers and members at all levels of my organisation understand the opportunities offered by the Power?
- Could the initiatives we are planning be helped by the use of the Power?
- Is it recognised that the Power makes it possible to do some things that might have previously been outside the legal competence of the local authority?
- Are there activities that have been deferred or abandoned due to lack of powers in the past but which might now be possible?
- Are our partners aware of and have a good understanding of what can be achieved using the Power?
- If we are unable to achieve what you want through the Power are we considering other options such as the Sustainable Communities Act?

While the key point to remember is that the Well-Being Power may give the opportunity for more creative ways of solving problems than were available under pre-existing legislation, there are still legal limits to the Power and those with an interest in using it will wish to make sure that they have good advice from lawyers about what is possible.

Section 2 – Case Reports

Social housing – Wakefield

Key points

1. Well-Being Power used instead of applying the compulsory purchase order process.
2. Decision-making processes involved politicians and officers.
3. Use of Power as first resort.
4. Single use of the Power.

The Well-Being Power was used in Wakefield to purchase houses on an estate in rapid decline to facilitate speedy clearance of the site and afford reasonable recompense to residents and owners, without going through a compulsory purchase (CPO) process. The estate, divided between owner-occupiers, a housing association and private landlords, was overwhelmed by anti-social behaviour and drug-related problems. The many unfit or vacant homes reduced the market value of the remaining habitable houses. The council was keen to acquire and demolish the houses and re-house the remaining occupants, as part of a major regeneration programme for the area. It was decided that doing so using the Well-Being Power would make it possible to act relatively quickly and effectively. Without the Well-Being Power it was difficult to see how change could take place quickly enough.

Intensive negotiations took place directly with owners based on criteria of current market value and considerations of community gain. It emerged that it was most cost effective to pay more than the current market value if occupiers had kept their homes in good order. These people received the full market price, plus recompense for disturbance and re-location. Agreements were made for the demolition of housing association properties and re-housing of their tenants. Where property was privately owned but abandoned, the landlord would receive £3,000 to transfer rights in the property to the council.

Elected members had to be convinced of the value of the scheme. Officers identified and ironed out potential issues and problems early on. These included interpretations of the law and best value, and compliance with fiduciary duties. A cost benefit exercise by officials identified that using the Well-Being Power was the best approach. The then director of housing, supported by the local authority lawyer, drove the initiative. The cabinet member for social care and housing took the political lead.

A number of different resources were required. A team of key specialists had the policy and technical skills necessary to make appropriate use of the Power and combined creativity and risk taking with concern for legal processes. Good communication and influencing skills (on part of the officers and members) were necessary to convince local people of the value of the scheme. Significant financial resources were required for purchasing the homes and demolishing the site. Use of the Power in this way was therefore not without costs, and the council had to work hard to assemble necessary resources (including Neighbourhood Renewal Funding).

Torbay Development Agency – Torbay

Key points

1. Well-Being Power used to set up a public-private regeneration company.
2. Decision-making process involved the lawyer and the creativity of the new managing director and leader.
3. Use of Power as first resort.
4. Part of a broader policy objective.

Torbay council used the Well-Being Power to set up a public-private partnership, Torbay Development Agency Ltd (TDA), as a company limited by guarantee without share capital. This was a fundamentally new approach, bringing together a variety of functions relating to tourism, marketing and development, economic development and regeneration and the management and development of Torbay harbour and its three enclosed harbours.

Torbay had received a poor CPA rating which was based on a poor perception of the council's economic regeneration and development capacity, in particular its failure to engage with the private sector. Performance in relation to obtaining external funding was also criticised. The response of the council was to seek a radical new way of delivering on economic regeneration, and a change in political and managerial leadership led to a range of policy developments.

The regeneration company was one such development. Councillors knew what they wanted to achieve and relied on their officers to advise on how they could achieve results they wanted and which powers should be used. Applying the Well-Being Power was primarily a result of the approach taken by the council's lawyer. Acting on the principle that it is a power of first resort, the council's lawyer and his staff determined the legal implications.

Although the lawyer was instrumental in deciding on this specific use of the Power, there were a number of other key players who developed ideas and initiatives that may, subsequently, make use of the Well-Being Power. The Managing Director provided a lead on many of the changes in the council and the leader helped create a cultural environment that encourages creativity and change.

The primary revenue demands of the company were in staff employment and operating costs such as office accommodation. As an interim phase, the TDA Board acts in an advisory capacity to the council, and the organisation remains funded by the council. It is anticipated that, as confidence and experience of these new arrangements grow, and as external funding opportunities are realised, the governance arrangements will change. Eventually, the Board, operating as an arms length company, will be fully responsible for funding and staffing. This change will involve the transfer of assets from the council to the regeneration company.

Waste Transfer Station – South Hams

Key points

1. Well-Being Power used as the basis of a district/county agreement to establish a waste transfer station.
2. Decision-making process involved crucial role for lawyer.
3. Use of Power as problem solving device.
4. Use addressed immediate environmental concerns and brought with it economic and social gains.

South Hams is a primarily rural area. Prior to the establishment of the waste transfer station, waste was collected locally and driven to a number of county sites down narrow country roads. This was unsustainable in use of resources, and there were environmental concerns about the number of vehicle journeys and the impact on roads and general traffic of the council's heavy waste collection vehicles. Waste from different areas is now bulked and transferred to large vehicles to be sent to county depots.

In parallel, the council was trying to solve a long-term problem caused by the noise and light generated by its Kingsbridge depot. If an existing quarry site could be expanded and developed to take the waste transfer station and depot, the land released could be used for social housing. The trigger for using the Power was the need to find a sustainable solution for use of the two sites and improve waste management, but there have been further outcomes in allowing the council to think ahead on waste issues such as recycling, economic development at the quarry site, and the release of land for housing.

The council was initially unable to solve the complexity of the arrangements needed for it to carry out the waste transfer activity, otherwise a disposal function of Devon county council, under the Environmental Protection Act 1990. The potential for using the Well-Being Power was recognised by the council's recently appointed lawyer, who was already aware of the Power, and saw how it could be relied on as a problem solver. Although elected members were aware of the Power, they had not thought about how it might be relevant to the council, but were relieved when officers put the solution forward.

The outcome is a contract between the two councils, which lays out the arrangements and provides the financial underpinning. The district council operates the transfer station and maintains the waste transfer licence. The county council funded the capital cost. There will be an opportunity for partnership advances, possibly through developments in charging and trading, when the contract comes for renewal. A private contractor manages the operations. Independent contractors have also established businesses on the quarry site.

The Well-Being Power was applied in this case to enable the district to carry out a function of the county. The lawyer went through the process recommended in the statutory guidance, and reviewed evidence of the outcomes: i.e. evidence of savings, environmental impact in reducing the mileage of heavy vehicles carrying waste on rural roads, and savings in contractual costs.

The council now has an officer working-group to check executive reports. The lawyer has encouraged service sector managers to think more widely, and has found that managers began relying on the Well-Being Power when making their proposals. Elected members welcomed the opportunity to think widely and creatively about this particular set of problems.

Woodheat Technology – Nottinghamshire

Key points

1. Well-Being Power used to set up a non-profit distribution company limited by guarantee.
2. Use of the Power to intervene in an under-developed market.
3. Use of Power as reassurance measure.
4. Single use of Power.
5. Part of wider commitment to the environment and sustainability as defined in strategic plan.

Nottinghamshire County Council has been working to develop wood heat technology in schools, installing new boilers or converting existing school boilers to burn wood, to meet its PSA target to reduce carbon dioxide emissions. The council used the Well-Being Power to set up a private non-profit company limited by guarantee, Renewable Utilities Nottinghamshire (RENU) LTD, to promote the scheme.

RENU works to guarantee a quality-assured supply chain for woodchips and wood pellets. It develops relationships with local woodchip suppliers, and undertakes training, awareness raising and fuel screening to ensure quality of supply. The County Council is a minority shareholder in RENU (19% stake). The council nominates an elected member (Cabinet Member for Resources) to the Board of Directors, which includes representatives from the private sector and other partners. Its arms-length status enables the council to operate in innovative ways, making it possible to attract funding and promote engagement with the private sector.

Reliance on the Well-Being Power enabled the council to intervene in what was considered to be an under-developed, immature market. It was believed that grants or subsidies would have been ineffective in stimulating supply, and there were no supply companies to intervene in the market. There was a clear role for the authority in this case, and the project has proved a further impetus in the transition of the County Council towards being an enabling authority.

The use of the Power in this instance provided a reassurance mechanism for elected members and officers, as it gave a clear legal brief for the authority to establish RENU. The ambition to create an energy supply company predated the introduction of the Power. At that time, the authority and its partners had concerns over its legal capacity to create the company and the legal implications of doing so for members and officers involved. Recourse to the Power 'unlocked' such barriers to change as it put an end to such legal uncertainties and modified existing risk-assessments.

Applying the Well-Being Power cannot be divorced from the organisational culture of the energy team at Nottinghamshire and the close collaboration between officers and members. The organisational culture of the climate change and environmental services team stressed its community leadership role. The authority had even previously lobbied for a general power of competence to the House of Commons Environment Select Committee, recognising the rationale for the use of such a power.

Employment agency – Greenwich

Key points

1. Well-Being Power used to establish an employment agency.
2. Decision-making process involved lawyers, officers and the cabinet.
3. Use of Power of first resort.
4. Part of broader policy objective to address cross-cutting issues.

The Well-Being Power was used to establish an employment agency, Gateway Employment, as a not-for-profit company, in 2003. Greenwich has faced a severe economic crisis and local unemployment as a result of decades of de-industrialisation. More recently it has benefited from inward investment of largely private sector capital directed towards the Thames Gateway regeneration zone. The new agency built on the success of Greenwich Local Labour In Business (GLLab), which helps local people access training and jobs.

Gateway Employment was set up to support GLLab and the local community by playing a more direct role in placing staff in jobs, and to provide a better deal for employees and employers. Its key priorities are the development of local employment, and the utilisation of surplus profits for good causes as a non-profit venture. In its first year, the company was notified of 204 job vacancies, out of which it filled 186. It had a turnover of £1 million with a net profit of £2364. The Board, which is chaired by the council Leader, includes members representing the local university, college, development corporation and enterprise board.

The manager of GLLab and the council's economic development manager were key players in driving this project forward. Early development also involved the cabinet member for regeneration. The managers drew up the proposals, then discussed with the Greenwich Management Team, with support from chief officers. Lawyers were involved at an early stage, and a decision was made to establish the Gateway agency as an arms-length company, relying on the Well-Being Power. After having established legality and the business case, the proposal followed a decision-making process through to Cabinet.

Financial and personnel resources were committed to the project. Two full-time members of staff were seconded from GLLab to set up and manage the new agency. All costs of the new company were to be borne by the council channelled through GLLab. The Gateway Employment company was loaned £100,000 from Greenwich council through this route, in addition to borrowing of £42,793 via bank loans, overdrafts and other private credit.

Street lighting in North Tyneside and Newcastle

Key points:

1. Well-Being Power used to enter into a joint PFI
2. Cross-boundary working on cross-cutting issues
3. Use of Power as a reassurance measure identified by in-house lawyer
4. Part of broader policy objective

The Well-Being Power was included as a 'belt and braces' measure by North Tyneside Council and Newcastle City Council when entering into a joint Private Finance Initiative (PFI) to replace their entire street lighting infrastructure. The overall coverage of street lighting was poor, the physical infrastructure was outdated, and the councils were failing to meet the requirement of 4% annual replacement and repairs. The councils considered that poor street lighting contributed to increased levels of reported crime and heightened fear of crime as well as neighbourhood decline (through its impacts upon lower property prices, the outward movement of businesses, and the failure to attract both residents and businesses into the area). There were equally deemed to be benefits both of economies of scale and of pooling capacity and strengths in the two councils acting together.

The joint agreement with the private contractor entailed the provision of green energy (for three years), full replacement of streetlights, with higher density of area to be lit, as well as maintenance for a period of 25 years. It also had a symbolic purpose, to show that urban decline was being tackled to help restore civic pride. The agreement enabled the councils to tackle cross-boundary and cross-cutting issues, such as community safety, regeneration and sustainable development.

The use of the Well-Being Power as a 'belt and braces' element to the partnership agreement between the two councils was identified by Newcastle's head of legal services. External lawyers provided assurance to the partners. North Tyneside council found the opportunities for joint working created by the 2000 Act particularly valuable in stimulating project planning, and the business case was influenced by broader thinking about the well-being of the area.

The project was jointly drafted from the beginning, initiated by the respective Directors of Environment and Strategic Change at the two councils. Newcastle lawyers focused on the legal case, while North Tyneside led on finance. There was not much discussion about specific available powers with project officers, who were satisfied that legal advice made the project possible.

There were no quantifiable resources for the project, other than the time and effort of officers involved. Both councils incurred the cost of a jointly appointed project manager.

Formalising participation in LIFT project – London Borough of Newham

Key points

1. Well-Being Power used to support involvement in a new form of partnership arrangement with the Primary Care Trust (PCT).
2. Process involved high level officer commitment and a mayoral decision.
3. Symbolic use of Power as a pragmatic problem-solving device and as a reassurance mechanism.
4. The council is able to influence the future of the project.

The Well-Being Power has been used by Newham Council to purchase a symbolic share holding in the company that will be the basis of future partnership arrangements with the PCT. The partnership arrangements follow the modernisation of services and primary care facilities through a Local Improvement Finance Trust (LIFT) project, led by the PCT. The project, which spans three local authorities – Hackney and the City of London as well as Newham – has made it possible for the council to co-locate some social care facilities (care for the disabled as well as mental health related services) in new premises.

People in the Borough experience very high levels of social deprivation evidenced by poor health, low educational attainment, poverty and racial harassment. Interest in the LIFT project emerged first among regeneration and planning officers, due to the need for land, but was taken forward by the Social Services Department as an opportunity of providing integrated health and social care services. The chief executive's report to the Mayor noted that the statutory guidance on the Well-Being Power supports its use in the area of health sector partnerships.

There are three aspects to the Council's participation in the project – co-location of some of its services, making available and selling discounted land for the project, and providing planning permissions and assistance in the planning process. In addition, Newham Council supported the process of designing the new LIFT Company, in which it made a symbolic investment of 2 per cent in company shares to formalise its role. The project is considered innovative because of the new relationship between the Council and the PCT. This relationship not only entails the activities of joint project formulation, and operation, shareholding, land transactions and planning and human resource support, but also the joint development of a health strategy for Newham.

The share holding was not necessary for any activities in establishing the LIFT project but the council wanted to be confident of a long-term strategic role. The relationship with the PCT was a new one, and there were uncertainties about the future role the council might play. This was in part because the LIFT company involved interests beyond the council's boundaries. Officers decided that the council should have an interest in the company, and the Well-Being Power gave legal advisers reassurance when there was uncertainty that this could be done using Health Act 1999 flexibilities. The council now has an ongoing stake in the activities of the LIFT company. Although the share holding is symbolic, the council has a voice on the board and can influence the future of the project.

Community Policing – Royal Borough of Kensington and Chelsea

Key points

1. Well-Being Power used to provide additional Police Community Support Officers.
2. Power used to avoid having to assemble package of different legal powers.
3. Importance of the strategic community leadership of the council leader and cabinet members.
4. Use of Power as power of first resort.

In 2003, the Royal Borough of Kensington and Chelsea used the Well-Being Power to provide fifteen additional Police Community Support Officers (PCSOs) to work in a number of wards across the Borough. Consultation by the Council with a panel of local residents had previously identified the demand for more uniformed police on the streets of the Borough. This pilot project was designed to demonstrate the contribution of PCSOs to the reduction of anti-social behaviour, street crime and the fear of crime and to the provision of effective support to other public agencies, in particular the Council. The additional PCSOs also tied into the Safer Neighbourhoods Initiative across London whereby the Metropolitan Police sought to establish uniformed safety teams in each ward neighbourhood, composed of a Sergeant, two constables and three PCSOs.

The additional officers were employed by the Metropolitan Police, but were funded by the Borough. The Police provided the officers to the Council under the auspices of the Police Act 1996 and the Police Reform Act 2002. A service agreement between the Council and the Metropolitan Police set out the process for joint deployment of the officers, thereby enabling the Council and local residents to directly influence how the PCSOs were used.

The Council judged the use of the Well-Being Power to be appropriate because of the community safety orientation of the scheme and the preventative, enforcement and community reassurance role of the PCSOs. The Power was seen to offer 'blanket [legal] coverage', providing the Council with a single legal power to support the scheme. As such, the Borough was able to avoid having to commit unnecessary resources in putting together a package of legal powers to cover the funding of the additional officers.

Throughout the formulation of the scheme, concerns were expressed that a potential challenge might have been made by Borough residents questioning the use of the council tax to fund additional PCSOs when national taxation already paid for the Police to provide such services. However, this challenge never emerged in part because of the highly visible political leadership of the scheme by the leader of the Borough and cabinet members. Frontbench (executive) councillors were important in driving the scheme forward and their sponsorship of the scheme made it a 'flagship project' in cabinet business plans; indeed, it figured in their 2002 election manifesto.

Equally important for the success of the project was the early involvement of the Borough's legal and finance teams because of the complex legal agreement that had to be negotiated between the Borough and the Metropolitan Police.

Pershore Community Hospital and Medical Centre – Wychavon District Council

Key points

1. Well-Being Power gave additional legal comfort for a project in which the council was the developer of a community hospital and medical centre leased to the PCT and GP practice.
2. Other specific powers were already available to the local authority.
3. Project linked to broader community leadership role and council's interest in using its reserves in public finance initiative (PFI).
4. Close involvement of elected members.

Wychavon District Council has used the Well-Being Power to give additional legal comfort for a project in which it has acted as developer of a community hospital and medical centre. The facility will be leased on a long-term basis to the local PCT and GP practice.

The initiative reflects the council's strong commitment to a community leadership role and its previous experience in developing a supermarket in partnership with Waitrose, enabled the authority to deliver a 7.4 per cent rate of return on its investment. The council also had considerable reserves that it wished to invest in a commercial project with community benefit.

The Well-Being Power was used in a 'belt and braces' fashion to provide additional legal comfort for the scheme. The council already had confidence that the Well-Being Power gave them the necessary legal authority.

The decision to proceed was unanimous on the part of the council's management team and elected members from all political parties.

The agreement with the PCT needed to accommodate NHS rules on risk transfer. Some elements of the contract are phrased at a general level, enabling the parties to work out the details between them in ways that are most appropriate. This required the partners to evolve a long term mutually beneficial relationship.

Section 3 – Further Information

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