**Property Title Checklist for Community Organisations**

When agreeing to take ownership or a lease of property, community organisations will want to know exactly what it is they are taking on and whether or not the property is fit for the community’s intended use. They will also want to know what obligations come with ownership, as such obligations have financial and human resource implications.

It is recommended that those buying property have the title examined by a qualified legal professional. The following is a non-exhaustive list of some of the issues which that professional should be on the lookout for:

* Whose name is the title in? Does it belong to the organisation proposing to sell or lease or is it owned by another organisation or trust (which may or may not be linked to the organisation proposing to sell/lease).
* What is the physical extent of the property? Older titles may only contain a verbal description of the property but sometimes there is a title plan. Check that the boundaries on the plan correspond with what is on the ground. Have a plan drawn up per Land Register requirements (if necessary).
* Are there any title conditions (burdens) or servitudes over the property? Did the current owner preserve certain conditions over the land to protect its interests, eg access? The new owner or tenant will require to observe these, eg wayleaves for services or rights of way which cannot be blocked. The solicitor will check this by way of title examination and searches but some rights may have been established by use and not documented. Note that it is possible to own land but not own the mineral or fishing rights which can be owned by a third party.
* Check for other third party rights over the property, eg options to develop the land when it comes up for sale, or leases or other contracts (eg PFI/PPP) affecting the land.
* Details of environmental or cultural heritage designations. There are a huge range of designations and, where a site is so designated, the owner will have legal responsibilities eg listed buildings, conservation areas, scheduled ancient monuments, national scenic areas, sites of special scientific interest, special protection areas, special areas of conservation, Ramsar sites, tree preservation orders.
* Is the land contaminated land? If it is, will liability for remediation be passed to the new occupier?
* Should a coal report be obtained to identify any mineshafts or workings affecting the property?
* Should a Property Enquiry Certificate and any other searches be obtained to identify whether there are any planning applications against or affecting the property, and is the property served by mains water and sewerage?
* Check that none of the property has been sold to anyone else, or for inhibitions or insolvency of the owner.

This note has been produced purely as a guide. Please note that neither the Community Ownership Support Service nor Development Trusts Association Scotland is qualified to give legal advice and nothing in this note should be taken to constitute such advice.