

Unclaimed assets distribution mechanism: a consultation

May 2007



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CabinetOffice
Office of the **Third Sector**



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FOREWORD BY THE ECONOMIC SECRETARY TO THE TREASURY AND MINISTER FOR THE THIRD SECTOR

In March this year, the Government, with the support of the bank and building society sector, launched a consultation on the operation of a scheme to reunite unclaimed assets lying dormant in bank and building society accounts with their owners, and reinvest back into society those assets that remain unclaimed. Unclaimed assets are defined as those in accounts which have seen no customer-initiated activity for a period of at least 15 years. The scheme will preserve a right for customers to reclaim their assets at any time, even after the scheme has been launched.

This second consultation document follows on from where the March document concluded, and outlines proposals for the distribution of the available assets for the benefit of communities.

The Government announced, in the 2005 Pre-Budget Report, that the focus of the available assets in England should be on youth services that are responsive to the needs of young people, followed by financial capability and inclusion, in areas where the third sector can play a key role. The devolved administrations of Scotland, Wales and Northern Ireland will determine the priorities for distribution in their own countries.

Focusing these resources on the needs of young people, encouraging them to engage in their local communities and helping them through the transition from childhood to adulthood, represents a worthwhile investment both now and for the future.

More also needs to be done to raise levels of financial capability and inclusion across the population and ensure that people make the right financial choices and develop the skills to manage their finances to their own advantage, and unclaimed assets can help to bring about change in this area.

Since the Government's announcement in 2005, the independent Commission on Unclaimed Assets was established and reported on their proposals for a 'Social Investment Bank'. In addition to the already stated investment priorities in England, the Government believes that a proportion of the available assets could be used for the purposes of social investment and improving the third sector's access to sustainable funding streams. This will depend on there being sufficient resources available to deliver this and other priorities in relation to youth and financial capability and inclusion.

The Government wants to ensure a 'light touch' approach to distribution, which maximises efficiency, minimises bureaucracy and ensures that as much money as possible is directed to good causes in a coordinated and transparent way. The Government is also clear that the spending of these assets must be additional to that which is provided by the State, and subject to open competition from third sector organisations.

Following an assessment against these principles, and the others outlined in this document, the Government proposes using the Big Lottery Fund (BIG) infrastructure to distribute unclaimed assets on a UK-wide basis.

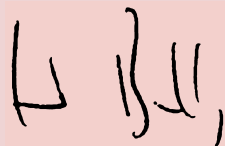
The rationale behind the proposal to use BIG as the single, coordinated, UK-wide distribution mechanism is based on BIG's experience of delivering successful programmes in the stated priority areas, as well as the extensive network of delivery partners and intermediaries, ranging from large national charities, to small grassroots community organisations, it can call upon to bring about real change. BIG is also required to be fully accountable for the resources it distributes, and be transparent in its allocations – including to Parliament.

Using an existing organisation to oversee distribution makes sense in terms of efficiency, forgoing the need to set up a new organisation from scratch and saving money on running costs which can instead be reinvested directly into communities. BIG can also be an effective UK-wide distributor, as it has established country headquarters in England, Scotland, Wales and Northern Ireland to which decision making is devolved.

The needs of the third sector must be taken into account as part the distribution process, and BIG is committed to intelligent funding and recognising the needs of the sector in its distributions. The major part of being an intelligent funder is having a clear vision and purpose, ensuring that distribution is geared towards the achievement of strategic outcomes and investing in those areas where it can deliver maximum impact.

The Government is clear that unclaimed assets would be managed by BIG as a separate and distinct funding stream, with its own brand and financial management arrangements – these assets will not be subsumed within Lottery resources.

The proposals outlined in this document represent an effective and efficient means of distributing unclaimed assets across the whole of the UK, taking account of the needs of the devolved administrations and ensuring that as much as possible is reinvested back into society. The Government welcomes comments on the information contained in this consultation, particularly the specific questions contained throughout and summarised in Annex A.



ED BALLS MP

Economic Secretary to the Treasury



ED MILIBAND MP

Minister for the Third Sector

INTRODUCTION

BACKGROUND AND CONTEXT

1.1 The 2005 Pre-Budget Report (PBR)¹ announced the commitment of the Government and the bank and building society sector to develop a scheme to access genuinely unclaimed assets lying dormant in accounts and reinvest them to the benefit of society, whilst retaining a right for customers to reclaim their assets at any time.

Consultation on the operations of the scheme

1.2 The Government published an initial consultation document on 20 March 2007² which set out proposals for accessing genuinely unclaimed assets held in dormant bank and building society accounts (defined as those accounts where there has been no customer-initiated activity for a period of at least 15 years) and transferring them to an independent central reclaim fund, which would then pass any surplus assets to a separate body for distribution. The consultation document covered the proposed operation of the scheme, including the issue of consumer protection, and set out proposals for legislation and changes to the Banking Code, as well as details of a comprehensive exercise by the bank and building society sector to reunite owners with their assets in the 12 months prior to the launch of the scheme.

Consultation on the distribution mechanism

1.3 The Government also committed to launching a further consultation to consider the most effective and efficient mechanism for distributing those surplus assets which remain unclaimed. This consultation document sets out the Government's proposals for an effective distribution mechanism, based on a series of key principles for distribution which are outlined in **Chapter 2** of this document. Views are welcomed from those who have an interest in the scheme, in particular from youth organisations, community groups, the wider third sector, the financial sector and from members of the public.

Previous announcements on distribution

1.4 The 2005 PBR stated that:

“The Government believes that where owners and their assets cannot be reunited, the money should be reinvested in the community, particularly in deprived communities, in a sustainable way, through a coordinated delivery mechanism, with a focus on youth services that are responsive to the needs of young people, and also on financial education and exclusion.³ There would also be an option for small locally-based financial institutions to focus on these needs in their local communities”.

1.5 These priorities for distribution were reiterated in the 2006 Budget⁴ and the 2006 Pre-Budget Report.⁵ The 2007 Budget⁶ made a commitment to consult on proposals for an effective distribution mechanism.

¹ Pre-Budget Report, *Britain meeting the global challenge: Enterprise, fairness and responsibility*, HM Treasury, December 2005

² A UK Unclaimed Assets scheme: a consultation, HM Treasury, March 2007

³ Referred to throughout this document as ‘financial capability and inclusion’

⁴ Budget 2006, *A strong and enterprising economy: Investing in Britain's future*, HM Treasury, March 2006

⁵ Pre-Budget Report, *Investing in Britain's potential: Building our long-term future*, HM Treasury, December 2006

⁶ Budget 2007, *Building Britain's long-term future: Prosperity and fairness for families*, HM Treasury, March 2007

Devolution 1.6 The Government will work to ensure that the scheme is designed in a manner which is fair and representative of the needs of England and the devolved administrations of Scotland, Wales and Northern Ireland. The proposals for ensuring that the needs of the devolved administrations are accounted for in the development of the scheme are outlined in **Chapter 6**.

Distribution priorities in England: youth services 1.7 The Government believes there is a strong case for focusing the available assets in England on improving the life chances of young people and helping them through the important transition from childhood, through adolescence, to adulthood. Focusing these resources on the needs of young people, and encouraging them to engage in their local communities, represents a worthwhile investment both now and for the future. The reasons why the Government believes young people should be the main focus of these resources in England are set out in more detail in **Chapter 3**.

Distribution priorities in England: financial capability and inclusion 1.8 The Government also believes that a proportion of the available resources in England should be invested to improve financial capability and promote financial inclusion. More needs to be done to raise levels of financial capability and inclusion across the population and ensure that people are able to make the right financial choices and develop the skills to manage their finances to their own advantage. **Chapter 3** examines these issues in more detail.

Distribution priorities in England: social investment 1.9 In addition to these primary priorities for investment, which have already been stated publicly, the Government, resources permitting, would also like to see a proportion of the available assets used to invest in the long term sustainability of the third sector and boost the social investment market; that is, investment made for a social purpose in organisations that are committed to delivering positive benefits for society. This builds on the work of the independent Commission on Unclaimed Assets, and their proposals for increasing investment in the social investment market. These issues are considered in more detail in **Chapter 4**.

1.10 Under the proposals outlined in this document, the devolved administrations of Scotland, Wales and Northern Ireland have the power to determine the priorities for distribution in their own countries, which may differ from those outlined for England.

2

PRINCIPLES FOR DISTRIBUTION

2.1 Under the proposals for the development of the unclaimed assets scheme, the following set of principles will be used to inform the process involved in the selection of a body or bodies to distribute those surplus assets that are made available for distribution:

- Distribution to be managed on a devolved basis, with distribution in **England** to focus on **youth services that are responsive to the needs of young people**, followed by **financial capability** and **inclusion**. Resources permitting, the Government would also like to see a proportion of assets used to **boost ‘social investment’ and develop the long-term sustainability of the third sector**. The devolved administrations of Scotland, Wales and Northern Ireland will determine their own priorities for distribution, which may differ from those of England;
- a **fair distribution of assets** across **all four countries of the United Kingdom**;
- spending to be **additional to Government provision**, in a manner that **takes account of the role of the third sector in the delivery of spending priorities**;
- a distribution process that is fully **accountable** and **transparent**;
- the available resources, in England, used to deliver **practical projects in local communities**;
- distribution to be managed **efficiently**, with as little resource as possible being spent on administration and running costs; and
- distribution in England to focus on a **diverse range of communities** across the country.

Question

- Are the principles underpinning the distribution of the available surplus assets the right ones?

3

DISTRIBUTION IN ENGLAND: A FOCUS ON YOUTH SERVICES AND FINANCIAL CAPABILITY AND INCLUSION

3.1 The 2005 Pre-Budget Report announced that, where assets could not be reunited with their owners, they should be reinvested in the community, with a focus on youth services that are responsive to the needs of young people and on financial capability and inclusion. These priorities will form the basis of the distribution of the available surplus assets in England.

The third sector **3.2** Organisations from the third sector, alongside local authorities, are important partners in delivering high quality youth services that meet the needs of young people and, as such, are well placed to benefit from unclaimed assets to develop their work with young people.

Why are youth services important?

3.3 Young people represent our nation's best hopes for the future. Investment in them and their success is a social and economic necessity. It is estimated that youth unemployment costs the economy £20 million per week in benefits, and £70 million per week in lost productivity.⁷ Altogether, the cost of young people who are not in education, employment or training (NEET) is estimated at £8.1 billion per annum, not including potential health and crime effects.

3.4 Conversely, the benefits to ensuring young people achieve positive outcomes are significant. Those who gain five good quality GCSEs, for example, will earn on average around £150,000 more over the course of their life compared with a similar person who does not have these qualifications⁸, with attendant benefits to the economy and society as a whole. Youth provision has an important contribution to make to realising these benefits, supporting young people to reach their full potential.

3.5 Unclaimed assets are, in effect, community resources. They are not a substitute for Government funding. It is right that they should be used and be seen to be used to develop and strengthen communities. Within communities, young people are a major priority. When polled, members of the public point to activities for young people as being a high priority locally.⁹ Good quality youth provision can also help to improve relations between young people and the wider community.

3.6 Young people are at a complex and exciting time of life. Adolescence is a key time of transition, as young people leave the confines of childhood and become exposed to wider influences and more opportunities. Research shows that this transition to adulthood is becoming increasingly complex. British young people are exposed to more information, make more consumer decisions, and are faced with less straightforward paths through education and into employment than once was the case.¹⁰ In addition, British young people spend less time with their parents than their European counterparts and more time with friends. In order to negotiate this important path to adulthood successfully, young people need the support of their communities and high-quality opportunities to make the most of their time outside school.

⁷ Prince's Trust, 2007

⁸Leith Review of Skills: Prosperity for all in the global economy – world class skills, Leith Review, December 2006

⁹ MORI, 2005

¹⁰ Transitions – Young Adults with Complex Needs, Social Exclusion Unit, Office of the Deputy Prime Minister, 2005.

3.7 Research shows that how young people spend their leisure time during this transition can make a significant difference to their life chances as adults. ‘Soft’ or non-cognitive skills are becoming increasingly important to young people’s ability to negotiate the complex path to adulthood and to make the best choices and decisions.¹¹ Spending time taking part in high-quality positive activities allows young people to develop these skills, such as teamwork, decision-making and better communication. These skills have a protective effect and help young people to reach positive outcomes such as attainment and employment. This results in concrete benefits, helping young people to do better at school, to make a contribution to their community and to be less likely to engage in risky behaviour such as offending or substance misuse. More broadly, it can help young people reach their full potential and develop in ways they would otherwise not have the opportunity to do.

The Children and Young People’s Review

3.8 The Government announced at the 2006 Budget that a review of the provision of positive activities for young people would form part of the Children and Young People’s Review (announced in December 2005). The Review’s remit was to inform Government spending and to identify priorities for the use of unclaimed assets. The final report of the Children and Young People’s Review will be published later in the summer.

Consultation 3.9 As well as analysing available evidence, the Review has consulted widely with a variety of stakeholders, including young people themselves, in a number of ways:

- In August 2006, the Review sought contributions to a Call for Evidence from individuals and organisations with an interest in children and young people’s policy. The Call for Evidence received over 100 responses.¹²
- The Review held a number of stakeholder consultation workshops with representatives from the statutory and third sectors, as well as visiting providers around the country to discuss youth provision.
- In partnership with the National Youth Agency, the Review consulted in depth with young people who have experienced social exclusion about their priorities for the review. As well as this, the Review drew on the 19,000 responses to Youth Matters, the Government’s Green Paper on young people.

3.10 January 2007 saw the publication of the Review’s discussion document, setting out the main findings from the evidence and consultation. The findings set out three priority themes for investment in youth provision.

Access 3.11 Young people are held back from participating in positive activities by a combination of barriers. ‘Hard’ barriers to access mean that young people are prevented from taking part by lack of money, poor transport, lack of information or safety concerns. ‘Soft’ barriers include a lack of confidence or low aspirations, which can hold a young person back from taking part. Disadvantaged young people are more likely to face these barriers, with the result that they are far less likely to benefit from positive activities. Improving young people’s access through supporting them to overcome these barriers is crucial to making sure that every young person can benefit

¹¹ IPPR, 2006

¹² Available on HM Treasury’s website, at www.hm-treasury.gov.uk/spending_review/spend_csr07/reviews/cyp_review/cypreview_index.cfm

from opportunities for personal development. This also means improving young people's access to buildings and making sure that there are enough places for them to go.

Empowerment 3.12 Ensuring that provision is attractive to young people is critical to raising their participation. An overwhelming majority of stakeholders who responded to the Review's Call for Evidence thought that securing young people's engagement in the design of their provision is the most effective way of ensuring they will find it attractive. This view is endorsed by research. Not only that, but young people develop leadership and team working skills through taking part in decision making processes. Some young people find it more difficult to take part in these processes, however. Addressing this is a priority in order to ensure that all young people can play a part in influencing decisions.

3.13 Adults can also be further empowered to play their part in improving what is on offer to young people. Communities, because of the importance they place on positive activities for young people, can hold services to account, pressing for improvements at the local level.

Quality 3.14 High quality provision is crucial to improving young people's outcomes, boosting their non-cognitive skills and enabling them to make better transitions to adult life. The Review found many examples of excellent provision, across the third sector and statutory sector, but also a recognition among stakeholders that more could be done to spread best practice. Additionally, the quality of co-ordination of the local offer is important. Improving partnership working, and taking a strategic approach to bringing provision for young people together, leads to improvements in the overall offer for young people. Quality also means making sure that provision is appealing to young people, which includes providing attractive facilities.

Places to go 3.15 It is clear from the Review's evidence that the need for more and better places to go is a priority. High-quality places to go benefit the whole community because attractive, high quality facilities are crucial to ensuring that young people benefit from positive activities in the ways described above. The Review consulted young people who had experience of social exclusion on their priorities for investment. For them, the quality of places to go was a major concern, along with the support necessary to access such places and activities.

3.16 This is particularly important for young people who are at risk of poor outcomes and who live in neighbourhoods they feel have nothing to offer them. Exciting, good quality places to go, coupled with support and activities, can signal to young people that they are valued members of the community, raising their aspirations and supporting them to reach their full potential. There is also evidence that good neighbourhood facilities, owned and managed by community organisations, can help to give whole communities a sense of empowerment to address local issues. Bringing redundant or underused buildings back into use, as well as building new community facilities, can have a major psychological impact on communities.¹³

3.17 The kinds of places young people want to go are very diverse, reflecting the dynamic nature of this age group. The Review considered the views of the 19,000 young people who responded to the Youth Matters consultation. While they were united in their opinion that they had too few places to go, the kind of provision they wanted was very varied, ranging from sports facilities, to youth clubs, to cafés, to somewhere to take part in dance and drama. The young people the Review consulted reflected this

¹³ *Community Assets: the benefits and costs of community management and ownership*, HM Government, July 2006

diversity, and also pointed out that they would like to be able to go to the kind of places enjoyed by the rest of the community, so they could form better relationships with adults.

Using the evidence to target distribution

3.18 The outcomes of the Children and Young People's Review, which involved extensive consultation with youth-focused third sector organisations, as well as young people themselves, will be used as a key source of evidence to determine the most pressing priorities for the distribution of the available unclaimed assets in England in the field of youth services.

3.19 Unclaimed assets offer a once-in-a-generation opportunity to realise a new vision for young people and their communities through investment in a network of high-quality, dynamic and attractive places for young people to go. There is, of course, uncertainty surrounding what level of unclaimed assets funding will be available. This will depend on the success of the proposed pre-launch reuniting exercise, and then what money is needed by the proposed central reclaim fund to cover anticipated reclaim requests. Final decisions on investment will be subject to the decision-making arrangements set out in the proposed legislation (see Chapter 6). Additionally, investment will follow the principles set out in Chapter 2.

Box 1: How young people and communities could benefit from unclaimed assets in England

Provision of new places to go for young people should reflect the wishes and aspirations of young people and communities, reflecting local circumstances and existing provision. In some areas, what is already available might be underutilised and seen as unattractive to young people, in which case the solution might be significant refurbishment. In other cases, provision may be poor or fail to reflect the activities that young people want to see. This may mean there is a need for new provision such as a dedicated integrated youth centre or smaller scale, more flexible places to go such as mobile youth centres or skate parks. It should be for young people and communities to determine what the local offer to meet the needs of young people should be. In doing so, they will be instrumental in creating a lasting legacy for their community, creating assets to benefit current and future generations.

For illustration purposes, if £100m were available for distribution in England, it could be split between investment in:

- Newly built youth centres (30 per cent);
- refurbishment of existing youth centres (40 per cent); and
- smaller scale flexible amenities such as mobile youth centres or skate parks (30 per cent).

Unit costs for this kind of investment vary widely, but using available estimates, this could mean 10 newly built centres, refurbishment of 110 existing youth clubs, and 350 smaller amenities, making a total of 470 places to go. To ensure that provision is integrated with the wider offer for young people and has local commitment, Government is attracted to the idea of requiring matched funding. If parties bidding for unclaimed assets investment secured match funding of 50 per cent, the total number of places to go could rise to 700. This is more than one for every constituency, or an average of 77 per region. These amenities would be real and lasting assets to the community and young people, reaping benefits for the young people of today and tomorrow.

Promoting financial capability

3.20 As financial products become more sophisticated, and the pace of economic, social and demographic change increases, it becomes more important for consumers to engage with financial services with confidence and skill – from everyday tasks like paying bills, to major financial decisions such as planning for retirement. The Government, along with the financial services industry’s main regulator - the Financial Services Authority (FSA) - and the industry itself, has long recognised the vital importance of increasing levels of financial capability in the UK.

3.21 Financial capability is a broad concept, encompassing the knowledge and skills that people, including young people, need to understand to manage their own financial circumstances, along with the motivation to engage in financial decision-making. Financially capable consumers are better able to plan ahead, find and use relevant information, know when to seek financial advice and are more likely to participate with confidence in the market in a way that meets their long-term needs. As such, financial capability can be thought of as a key life skill.

3.22 Individual consumers gain much of the benefit from increased financial capability. Better informed financial decisions can save money, and planning ahead helps to avert crises or difficulties in the future, including problem debt. But there are also wider benefits accruing to Government, the economy and society. These include higher levels of competition and innovation in the financial services market, as consumers become more demanding and informed, the potential for reduced welfare dependence and building the basis of an enterprise culture, as financial skills are an essential skill to supporting entrepreneurship and business success.

3.23 The Government has discussed its support for financial capability at greater length in its long-term approach paper, published in January.¹⁴ This sets out the Government’s aspirations for raising financial capability in the UK by ensuring that:

- All adults in the UK have access to high-quality generic financial advice to help them to engage with their financial affairs;
- all children and young people have access to a planned and coherent programme of personal finance education, so that they leave school with the skills and confidence to manage their money well; and
- a range of Government programmes are focused on improving financial capability, particularly in helping those most vulnerable to the consequences of poor financial decisions.

3.24 The Government’s long-term approach aims to meet these aspirations by building upon the wealth of emerging best practice from the FSA, the third sector and the financial services industry itself. The Government will enhance its own efforts to support capability and has established a Ministerial group, chaired by the Economic Secretary to the Treasury, to develop a financial capability action plan.

3.25 The Government has also asked Otto Thoresen, Chief Executive of AEGON UK, to provide options for the delivery of a national approach to generic financial advice. The Review’s Terms of Reference include developing options for funding a national approach that recognise the long-term benefits to all stakeholders, including Government and the financial services industry. The Thoresen Review issued a Call for

¹⁴ *Financial Capability: The Government’s long-term approach*, HM Treasury, January 2007

Evidence in March this year, and will deliver its final report to Government, informing the wider action plan, around the end of the year.

Using the evidence to target distribution

3.26 The Government would like to see a proportion of the available unclaimed assets in England used to deliver additional programmes in support of increasing financial capability, where the third sector plays a leading role. The Government will use the evidence from the Thoresen Review to help inform the key priorities for distribution in this area.

Increasing financial inclusion

3.27 The UK has one of the largest, most sophisticated and competitive financial sectors in the world. Yet there is growing evidence that the market is not able to meet everyone's needs. A small but significant minority are unable to access even the simplest financial services, meaning that they pay more to manage their money, find it harder to plan for the future and cope with financial pressures, and are more vulnerable to financial distress and over-indebtedness. Extensive research has shown that it is people on low incomes that are most likely to be affected by this growing problem, known as 'financial exclusion'. This is therefore an issue not only of economic prosperity but also of social justice.

3.28 The Government recently set out its strategy for taking forward work on financial inclusion.¹⁵ This highlighted how people with access to appropriate financial services and the confidence to use them are able to significantly improve their welfare and life outcomes by being able to:

- Manage their money on a day-to-day basis, effectively, securely and confidently;
- plan for the future and cope with financial pressure, by managing their finances to protect against short-term variations in income and expenditure, and to take advantage of longer-term opportunities; and
- deal effectively with financial distress, should unexpected events lead to serious financial difficulty.

3.29 The document also highlighted how the third sector has a crucial role to play in enabling people to achieve these outcomes. Credit Unions and Community Development Finance Institutions (CDFIs) are not-for-profit lenders with a community presence. By providing affordable loans, as well as connecting people to other mainstream financial products, they can be vital in helping people to plan for the future and cope with financial pressures. In addition, an increasing number of Credit Unions now offer transactional bank accounts allowing their members to manage their money effectively day-to-day. For those people who do run into financial distress, third sector providers of money advice can be essential in providing the information, support and confidence they need to get back on track.

3.30 In recent years there have been significant innovations in the delivery methods and outreach work employed by third sector providers. For example:

- Many third sector lenders are entering into partnerships with local housing associations. Members of the Wearside First Credit Union are able to make

¹⁵ *Financial Inclusion: the way forward*, HM Treasury, March 2007

loan repayments at 25 locations belonging to the Sunderland Housing Group;

- East Lancashire Moneyline (ELM), a CDFI based in Blackburn, is providing systems that allow customers the opportunity to start saving. Customers are offered the option of making an additional small payment with their loan repayments which goes into an HBOS savings account that can be accessed through ELM; and
- the Consumer Credit Counselling Service (CCCS), which already provides a well-established telephone advice service, is pioneering methods of providing money advice via the Internet.

Using the evidence to target distribution 3.31 However, the coverage and capacity of third sector providers of affordable credit and money advice is currently limited. The Government therefore believes that a proportion of the available assets from dormant accounts in England should be used to enable the third sector to continue to expand its role in promoting financial inclusion, including amongst young people. The Government will use emerging evidence from current third sector initiatives to determine the priorities for distribution in this area.

4

DISTRIBUTION IN ENGLAND: PROMOTING SOCIAL INVESTMENT

Social investment **4.1** This document has so far outlined the issues which the Government believes should be the primary focus for the spending of unclaimed assets in England, namely youth services followed by financial capability and inclusion. Resources permitting, the Government would also like to see some of the available assets in England used to invest in the long-term sustainability of the third sector. This chapter will discuss the case for boosting ‘social investment’; that is, investment made for a social purpose in organisations that are committed to delivering benefits for society and the environment.

The third sector **4.2** The Government defines the third sector as non-governmental organisations which are value-driven and which principally reinvest their surpluses to further social, environmental or cultural objectives, including voluntary and community organisations, charities, social enterprises, cooperatives and mutuals.¹⁶ A thriving third sector contributes to the creation of stronger communities, an entrepreneurial society, the participation and engagement of individuals and more effective services for the public.

4.3 Third sector organisations need adequate access to finance to enable them to continue to carry out their social and environmental objectives. Responses to the joint HM Treasury and Cabinet Office review of the future role of the third sector in social and economic regeneration revealed that access to appropriate funding and finance is often the single biggest concern facing third sector organisations.¹⁷

4.4 The third sector has traditionally funded its activities from a range of sources, including charitable donations, grants, contracts and income earned from trading in the market. The way in which third sector organisations fund their activities has changed over time. Data on general charities, for example, show that, over the last ten years, earned income has grown as a proportion of total income, in part due to an increase in contracts from central and local government.¹⁸ For example, recent research shows there are currently around 55,000 social enterprises, with a combined turnover of £27 billion and a contribution to GDP estimated to be around £8.4 billion.¹⁹

Small grants **4.5** In light of the findings of the Review of the future role of the third sector, the Government has already announced measures to increase resources from charitable donations and grants. As announced by the Chancellor of the Exchequer in the 2007 Budget, the Office of the Third Sector will launch a new £80 million fund, spread over four years, to provide very small grants to grass roots community organisations. This will help cover core running costs of small community groups and will be distributed through local independent grant makers, such as Community Foundations. The Chancellor also announced that the Government will consult with the third sector on measures to increase the take-up of gift aid on charitable giving, building on the £600 million increase in gift aid since 1997.

¹⁶ The future role of the third sector in economic and social regeneration: interim report, HM Treasury and Cabinet Office, December 2006

¹⁷ The future role of the third sector in economic and social regeneration: interim report, HM Treasury and Cabinet Office, December 2006

¹⁸ The UK Voluntary Sector Almanac; NCVO, 2006

¹⁹ Annual Small Business Survey 2006, DTI 2006

The need for external finance **4.6** The Review has also identified the need for other forms of finance to support the growth of third sector organisations, complementing grants and charitable donations. This may come from surpluses or profits that they themselves have generated that can be reinvested to meet the aims of the organisation. However, some grants and contracts are restricted to the delivery of certain outcomes which makes it difficult to generate and retain a surplus. Instead, organisations may look for working capital or investment from charitable or commercial sources.

4.7 These sources may include loans from a range of providers, including high street banks as well as specialist lenders such as CDFIs. Although loans, unlike grants, have to be repaid from earnings or other income streams, they are not tied to specific outcomes, giving the third sector organisation sometimes greater freedom to use the money to meet its objectives. A loan may allow the third sector organisation the ability to invest in its own capacity to generate more income in the future. It may often be used in combination with grant or philanthropic investment by individuals or one of the many charitable trusts or foundations (see **case study 1** below).

Case study 1: Get Hooked

Get Hooked was established as a Charity in Durham in 2000 with the aim of using the activity of angling as a way of combating forms of social exclusion, and tackling anti social behaviour amongst young people.

The programme was delivered through the Durham Agency Against Crime (DAAC), which itself is a partnership between the Durham Constabulary and the local business community and was aimed at juveniles who had been identified by 'intelligence' (Police, Youth Offending Team, and School) as being at risk from crime.

Following initial success, Get Hooked North East was established as a social enterprise in 2005 to enable the creation of a locally based organisation to take forward a formal structure and sustainable business to ensure continuation of this vital work. Securing permanent access to fishing facilities was of major importance.

In 2006, Get Hooked North East acquired its own centre and fishing lakes from Bishop Auckland Angling Club at a total cost of just under £300,000. The Coalfields Regeneration Trust provided a Grant of £200,000 and The Community Loan Fund for the North East provided a £75,000 loan facility to allow the purchase to go ahead.

4.8 A limited number of third sector organisations have also raised external finance in the form of equity, through, for example, share issues to the public, or by attracting an 'angel' investor who is prepared to invest in the future growth of the organisation with the expectation of future financial and social returns. This differs from investments in conventional businesses, where the investor expects to maximise the financial return.

Case study 2: Cafedirect

Cafédirect plc was founded in 1991 with the aim of providing small producers with a better price for their crops and greater opportunities for their communities. Cafédirect is now the UK's largest Fairtrade hot drinks company. After making initial equity investments, the founders injected further equity in the form of preference shares and shareholder loans as the company attempted to secure external funding for growth. Because of the company's lack of assets, it could not secure additional debt to its overdraft and revolving credit facilities.

Cafédirect's board explored the possibility of venture capital but some of the founders were concerned about the emphasis on commercial return that a venture capitalist would inject into the business. In 2003, the company decided to raise capital through a public share issue order to invest in its brands, develop its presence in various markets, repay borrowings, fund working capital and invest in computer systems.

Cafédirect raised £5 million in a share issue in 2004 with sponsorship from Triodos Bank. The share issue was oversubscribed. The company's shares are not listed on an exchange but buyers and sellers are linked up through a matched bargain system.

4.9 External investment – whether from unrestricted donations, loans or equity investment - can be beneficial to a range of organisations, enabling them to develop their operations and become more sustainable. Enabling organisations to access finance in the market at the right time could help to develop more sustainable organisations and also free up limited grant funding for organisations that need it most.

The social investment market

4.10 The range and number of financial institutions that lend to or invest in the third sector has increased in recent years. Some of these, such as the high street banks, will lend to or invest in the third sector at a market rate of return. Others focus on lending to organisations that find it difficult to obtain finance from mainstream providers, again at market rates. Finally, some might accept a financial return that is lower than in a truly commercial arrangement, due to the additional social return that is generated by the third sector organisation. There are several finance providers now in the market that are experimenting with different ways of channelling investment to third sector organisations. **Box 2** illustrates the variety of approaches among different social investors.

Box 2: Examples of social investment intermediaries

Charity Bank is a commercial bank registered as a charity offering commercial banking services to charities, community and voluntary associations and organisations, community businesses, social enterprises, and not for-profit distribution companies where the purpose of the loan is exclusively charitable. Charity Bank has made £50 million of funding available to the sector since its inception in 2002.

Triodos is a fully commercial bank that operates with a defined social purpose. Its key investees include social enterprises and other sustainable organisations, local communities and the environment.

BIGinvest is a specialised provider of finance to social enterprises. Founded by The Big Issue, it is operated as a social enterprise, with an asset lock and any dividends paid to The Big Issue. It is accredited as a Community Development Finance Institution (CDFI) and for Community Interest Tax Relief (CITR).

Investment in the market

4.11 The Government has put in place a number of measures to address gaps in the supply of finance to third sector organisations and to build demand for external finance. For example, through the Phoenix Fund, the Government has invested in the growth of the Community Development Finance sector:²⁰

4.12 Some CDFIs, including two authorised banks (Triodos and Charity Bank), lend specifically to the third sector or to other organisations that benefit people or the environment. In addition, the Government has invested in the Futurebuilders fund and the Adventure Capital Fund, which offer longer-term finance arrangement and development support to third sector organisations that are involved in public service delivery and community enterprise (respectively). The Government has also supported the development of training materials to improve the financial awareness of third sector organisations and the sector itself has produced information to help organisations to improve their understanding of the finance that is available and how to access it.²¹ Together, these initiatives have led to an improvement in the supply of finance to the third sector.

Constraints in the social investment market

4.13 Despite these improvements, responses to the HM Treasury and Cabinet Office Review have highlighted the difficulties some organisations have faced in seeking investment. Barriers exist both in the demand for, and the supply of, finance for third sector organisations.

4.14 In terms of the demand for finance, many third sector organisations are reluctant to take on debt, because it is perceived to be too great a risk.²² It has also been suggested that some third sector organisations (such as smaller social enterprises) do not apply for finance because of a perception that they will not be successful, despite evidence that they are no more likely to be rejected than other types of business.²³ Even when third sector organisations do want to take on debt and lenders want to lend to them, there are issues to overcome. The Community Development Finance Association reported²⁴ that their members often invest resources in helping potential clients to get to the stage where they are ready to handle external finance. This points to an ongoing need to improve the visibility and understanding of all financing options available to the third sector, and to educate and improve the financial skills of potential borrowers.

4.15 In part, some of the difficulties in accessing finance reported by third sector organisations, particularly more high-risk investments, may be due to the capacity of the supply side. Some of the specialist lenders in the market are relatively small and new, and their need to generate a return on their investments to cover their own costs means that they need to be relatively conservative in the investments that they make.

²⁰ The trade association for Community Development Finance Institutions, the Community Development Finance Association, describe them as sustainable, independent financial institutions that provide capital and support to enable individuals or organisations to develop and create wealth in disadvantaged communities or under-served markets.

²¹ For example, *Unlocking the Potential – a guide to finance for social enterprises*, Social Enterprise Coalition

²² Reference forthcoming OTS research on *Access to Finance for the Third Sector*

²³ *ibid*

²⁴ *Access to Technical Assistance for Social Enterprises*, CDFA

Developing the social investment market **4.16** The independent Commission for Unclaimed Assets, and other commentators, believe that the social investment market is underdeveloped, which, in turn, undermines the potential of the third sector itself to deliver social change.²⁵ The Commission has proposed the introduction of a wholesale institution – a Social Investment Bank - to build the capacity of financial intermediaries and to attract new, private capital to the third sector.

4.17 In the mainstream finance markets this role is played by investment banks. Investment banks operate across the globe, financing the trading and commercial activities of other organisations, through, for example, corporate finance and advisory work, investment management and securities trading.

A social investment wholesaler **4.18** Applying this model to the social investment market would result in an organisation that would act as a wholesale distributor of funds to existing and new finance providers, carrying out activities such as:

- Capitalising the organisations that invest in and lend to the third sector, such as those profiled in **Box 2**, to enable them to meet the demand for their services;
- attracting capital investment to the sector;
- providing guarantees;
- promoting and trading in a secondary market for securities; and
- encouraging the use of financial advice and business support by third sector organisations and intermediaries.

4.19 This function could be fulfilled by a new organisation or by expanding the functions of an existing institution in the market. Either way, the intention would be to stimulate the market for social investment, which would, in turn, lead to more enterprising, sustainable third sector organisations.

4.20 In summary, if resources permit, and subject to clarifying and addressing any state aid implications, the Government would like to see a proportion of unclaimed assets in England used to support social investment in third sector organisations, by strengthening existing finance providers.

Questions

- Where is the greatest need for finance and funding for third sector organisations that is not currently being met in the market?
- Is there a need for a specialist social investment wholesale institution?
- Is this the best means of increasing the investment available to sustainable third sector organisations?
- If so, what kind of activities should the wholesaler focus on?

²⁵ *The Social Investment Bank: its organisation and role in driving development of the third sector*, The Commission on Unclaimed Assets, March 2007

5

PROPOSALS FOR DISTRIBUTING THE AVAILABLE ASSETS ON A UK-WIDE BASIS

Distribution via the Big Lottery Fund infrastructure

5.1 The Government wants to ensure that the distribution of unclaimed assets is managed in a coordinated way, and is consistent with the desire to deliver a ‘light touch’ scheme. The available resources should reach local communities as efficiently as possible to deliver the greatest possible impact within those communities. Following an assessment against the stated principles for distribution, set out in **Chapter 2** of this document, the Government proposes using the Big Lottery Fund (BIG) infrastructure to distribute unclaimed assets to deliver effective programmes and activities for young people in England, with a proportion of assets also going towards supporting financial capability and promoting financial inclusion. Priorities for distribution in Scotland, Wales and Northern Ireland will be determined by the administrations in those countries.

A flexible approach to distribution

5.2 BIG has extensive experience of distributing funding through a range of different programme models - from large transformational capital, to strategic partnerships and smaller scale grant making. The models it chooses depend on the intended objectives and outcomes of a specific programme, and the risk, nature, complexity and size of the individual projects to be funded. These models are flexible and can be adapted to meet different needs.

5.3 For many of its programmes, BIG uses traditional direct grant-making delivery models, where third sector and community organisations are able to bid for resources in a fair and open way. Alongside this, it has a strong track-record of running joint schemes, delegating grant-making responsibility to a third party, soliciting applications from strategic partners, and making allocations through bodies such as Local Authorities. BIG also has the power to offer non-grant funding through vehicles such as loans.

Core values

5.4 Underpinning all BIG’s funding decisions sit its core values, which include:

- **Fairness** - where it puts equality and diversity at the heart of its work;
- **accessibility** – where it strives to make access to funding easier and provides help to grant applicants and recipients;
- **strategic focus** - where it works in partnership and joins up with existing strategies; and
- **involving people** – where it involves the public and local communities across its work.

5.5 These are values the Government will want it to apply to the funds it distributes under the unclaimed assets scheme.

Intelligent funding

5.6 BIG is committed to ensuring the distribution of funding is geared towards the achievement of strategic outcomes. This intelligent funding approach, which BIG has pioneered, is based on identifying the difference it wants to make and investing in those areas where it can have maximum impact. At an individual funding decision level, it also means supporting those organisations best placed to deliver the strategic outcomes of individual funding streams.

5.7 At one level, this means making its programmes easier to understand and access, learning lessons from its funding and sharing best practice amongst other

funders. Being an intelligent funder also means investing in the projects funded – whether by introducing full cost recovery, providing longer grants of up to 5 years, supporting innovation or providing support and development activity to its partners. The intelligent funder approach is one the Government will want BIG to take in relation to the distribution of unclaimed assets.

Using the Big Lottery Fund infrastructure as a single, coordinated, UK-wide distribution mechanism: rationale

5.8 The rationale for using the Big Lottery Fund infrastructure as the primary UK-wide distribution body is based on an analysis of BIG’s suitability against the principles for distribution outlined in **Chapter 2**.

Efficiency **5.9** Using an existing body to distribute unclaimed assets makes practical sense and delivers real benefits in terms of efficiency and value for money. BIG is one of the few existing organisations that has the capacity to distribute resources on the expected scale without the need for substantial investment to cover administrative overheads. This fits with the desire to adopt a ‘light touch’ approach to distribution.

5.10 BIG is also an established and well-respected organisation, with a recognisable and flexible brand and a UK-wide infrastructure already in place to be an effective distributor of these funds.

Investment experience **5.11** BIG has extensive experience of investing often large sums of money (both resource and capital) directly into frontline services, as well as via existing intermediaries, with a strong focus on delivering effective programmes and activities for young people.

5.12 For example, BIG’s Young People’s Fund made a total of £220 million available across the UK and focused on 11 – 18 year olds and those up to the age of 25 who find the transition to independent living difficult. BIG worked in partnership with YouthBank UK to give young people direct input into the decision-making process under the grants to organisations strand of the Fund, and ensured that young people were at the heart of all the projects supported.

5.13 BIG, and its predecessor bodies, the New Opportunities Fund and the Community Fund, also has a strong track record in supporting financial capability and inclusion provision and has extensive networks and a history of supporting cross-sectoral working within this sector. Over the past five years, BIG, and its predecessor bodies, have allocated around £15 million to money advice programmes and tackling financial exclusion.

Distribution across the UK through existing networks **5.14** BIG operates across the whole of the UK, and has established country headquarters in Scotland, Wales and Northern Ireland to which decision making is devolved. In England, BIG also has a fully formed regional office structure. In addition, BIG has built up an extensive and trusted network of third sector and public sector delivery partners and contacts, particularly in the youth sector, ranging from large national charities, through to small, local grass-roots community organisations. Having ready access to such an extensive network of delivery partners will be of huge benefit when it comes to the effective distribution of unclaimed assets.

Transparency and accountability **5.15** As a Non-Departmental Public Body (NDPB), BIG is required to be fully accountable for the resources it distributes, and be transparent in its allocations, including to Parliament.

Research and evaluation **5.16** BIG is also committed to conducting wide ranging evaluations and research into the effectiveness of its programmes, in order to improve the impact of its funding and to simplify the application and monitoring processes involved. In addition, BIG is focused on sharing the lessons learned from previous investments to make future allocations more effective and pass on its knowledge and experience to other third sector funders.

Additionality **5.17** One of the key values underpinning BIG's work is that funding must be additional to that which Government provides, which fits with the principle that unclaimed assets spending should be additional to Government provision.

A new and separate fund **5.18** The Government is clear that unclaimed assets, under the proposals set out in this document, would be managed by BIG as a separate and distinct funding stream, with its own unique branding and financial management arrangements. Unclaimed assets will not be used to supplement existing Lottery-funded activities. The proposal to use BIG as an efficient distribution mechanism for these assets arises from BIG's suitability for that role.

5.19 The proposal to use the Big Lottery Fund as the primary distribution body for unclaimed assets meets many of the underlying principles of the scheme. On this basis, the Government will work with BIG and other key stakeholders over the coming months to develop a clear and deliverable long-term strategy for the effective distribution of these assets, taking into account the responses to this consultation.

Small locally-based financial institutions

5.20 In line with the underlying principle that the scheme should be as light touch as possible, the 2005 Pre-Budget Report announced that there would be an option for small locally-based financial institutions to focus the use of unclaimed assets on youth services and financial capability and inclusion in their local communities. The intention is to allow small institutions, principally small building societies, to use unclaimed assets to benefit the communities to which their members belong.

5.21 The proposed definition of a small-locally based financial institution and potential operational arrangements for affected institutions were discussed in the previous unclaimed assets consultation document - 'A UK Unclaimed Asset Scheme: a consultation'. One aspect of the operational arrangements is how small locally-based institutions will distribute unclaimed assets to meet the proposed spending priorities set out elsewhere in this document. It is proposed that these institutions transfer money not needed to cover expected requests for reclaim to an arm's length charitable body which could then distribute assets on to smaller charities at the local level. This distribution would be in accordance with the spending priorities of the scheme in that particular country of the UK.

Questions

- Is the proposal to use the Big Lottery Fund as the primary UK-wide distribution vehicle for the available surplus assets the right one, based on the principles for distribution outlined in this document?
- What are the different approaches that the Big Lottery Fund could take to the distribution of the available assets to ensure they deliver maximum benefit to communities? How should BIG best work with other intermediaries and delivery partners to ensure the best outcomes?

6

LEGISLATION AND WORKINGS OF THE SCHEME

6.1 The initial consultation document on the operation of the unclaimed assets scheme²⁶ outlined the proposed process for transferring unclaimed assets held in dormant bank and building society accounts to an independent central reclaim fund. This chapter sets out proposals for the way in which decisions about the distribution of unclaimed assets will be taken, once the surplus assets not required to cover future applications for reclaim have been transferred to BIG by the independent central reclaim fund.

Powers for BIG to distribute unclaimed assets

6.2 BIG is a statutory body established under the National Lottery etc Act 1993 (as amended by the National Lottery Act 2006). It is proposed that BIG should be given additional statutory functions as the primary distribution body for unclaimed assets to enable it to distribute these funds.

6.3 The proposed legislation will include provision in respect of the following:

- A new function for BIG to act as distributor of unclaimed assets for specified purposes (described in high level terms, for example, for ‘social or environmental’ purposes);
- the allocation of shares of the available assets for spending in England, Scotland, Wales and Northern Ireland;
- procedures for the establishment of priority spending areas for each country, which fall within the remit of the high level purposes set out in the legislation, with powers to vary these priority spending areas in the longer term;
- powers for Ministers in each of the four countries of the UK to issue directions to BIG with regard to the distribution of assets in each country, consistent with the specific priority spending areas, similar to the power to issue directions which currently exists under Lottery legislation²⁷; and
- arrangements for small locally-based financial institutions to distribute assets at a local level, consistent with the spending priorities outlined in each country of the UK.

Transfer of assets to BIG

6.4 Under the proposed scheme, legislation will require the independent central reclaim fund to pass surplus assets, which are not required to cover future applications for reclaim and reasonable administrative costs, to BIG for distribution consistent with the priority spending areas established for each country.

Dividing the assets

6.5 The unclaimed assets scheme will be a UK-wide initiative and it is proposed that BIG will be primarily responsible for the distribution of assets across the four countries of the UK. In keeping with the principles of devolution, the proposals to distribute unclaimed assets are designed in a way to allow the devolved administrations, who are better placed than the Government in Westminster, to determine their own priorities for spending which reflect the needs of communities in each country.

²⁶ A UK Unclaimed Assets Scheme: a consultation, HM Treasury, March 2007

²⁷ In the context of Lottery funding, Ministers issue policy guidelines about matters which BIG must take into account in carrying out its distribution functions, which are termed ‘directions’

6.6 Having designed the scheme in way as to allow spending decisions to be devolved, it follows that the assets should be divided for distribution on a UK-wide basis according to the Barnett formula – the agreed and established method by which spending allocations to the devolved administrations are determined. By using the Barnett formula, the four countries of the UK will receive a population-based share of the assets available on a UK-wide basis.

Spending priorities in England

6.7 Priority spending areas will be established for each country. In England, the first priority areas will be set out in legislation and will relate to youth services, financial capability and financial inclusion. It is also intended that an additional priority area relating to the development of the social investment market should also be specified in the legislation, but assets will only be distributed for that purpose if there are sufficient resources available to deliver the other stated priorities.

Spending in the devolved administrations

6.8 It is proposed that the priority spending areas for Scotland, Wales and Northern Ireland will be determined by Ministers in the relevant devolved administrations. Different priority spending areas may be set for the different countries of the UK.

6.9 It will also be possible to add or substitute different priority areas for distribution over time, and Ministers in each of the devolved administrations of Scotland, Wales and Northern Ireland will continue to be responsible for determining their own country's priority spending areas.

Power to issue directions

6.10 It is proposed that Ministers will be given the power to issue directions to BIG relating to the distribution of assets within the established priority spending areas for each country, similar to the power to issue directions which currently exists under Lottery legislation. These directions will set out matters which BIG is required to take into account when drawing up specific funding programmes to deliver objectives within the priority spending areas. They will also require BIG to take decisions, through fair and open competition, about which intermediaries to use to deliver these objectives. Ministers in each of the devolved administrations will be responsible for issuing directions to BIG in relation to spending in their countries, consistent with the specified priority spending areas.

Funding programmes

6.11 It is proposed that the funding programmes that BIG will be expected to establish within each priority spending area, consistent with requirements set out in the Ministerial directions, will be similar in style to those used in relation to the distribution of Lottery funding. BIG will have powers to distribute assets by way of loans or grants, as well as other arrangements.

Powers to delegate to specialist bodies

6.12 BIG will also be able to delegate its distribution functions to other specialist bodies, for example where other bodies are considered to have relevant experience to deliver specific objectives. Should enough assets be available to deliver this and other priorities in England, BIG would be able to use the proposed powers of delegation to select a body, through competitive tender, to manage the distribution of a proportion of assets for the purposes of boosting the social investment market and investing in the long-term sustainability of the third sector.

Distribution based on evidence of need

6.13 Under the proposals for the scheme in relation to England, the intention is that the directions issued to BIG in relation to the distribution of unclaimed assets in the area of youth services will be informed by the outcome of the joint HM Treasury and Department for Education and Skills Children and Young People's Review, which has included a wide ranging consultation with youth focused third sector and public sector

organisations, as well as with young people themselves, and represents a reliable and current source of evidence on which to determine priorities.

6.14 Evidence from the joint HM Treasury and Cabinet Office review into the future role of the third sector in social and economic regeneration, which involved the largest ever consultation with the third sector, will also be used to inform the distribution of unclaimed assets to ensure that distribution is managed in a way that meets the needs of the third sector. Distribution in the field of financial capability and inclusion will draw on the outcomes of the Government's recent long-term strategies for Financial Capability²⁸ and Financial Inclusion.²⁹

Small locally-based financial institutions

6.15 Legislation will also provide for the operation of the optional distribution arrangements for small-locally based institutions described in 'A UK Unclaimed Asset Scheme: a consultation'. Small-locally based financial institutions will be able to distribute assets via an arm's length charitable body, which will then distribute assets at the local level.

Question

- Do you agree with the proposals for how legislation will work in relation to the distribution of these assets?

²⁸ Financial Capability: the Government's long-term approach, HM Treasury, January 2007

²⁹ Financial Inclusion: the way forward, HM Treasury, March 2007

7

HOW TO RESPOND TO THIS CONSULTATION

7.1 The Government welcomes all responses to the questions outlined in this consultation document. The consultation will run for a period of 12 weeks from publication until **9 August 2007**. Please ensure that responses to this document reach us by the closing date. We cannot guarantee to consider your response if it arrives after that date. Responses should be clearly marked with the words 'Unclaimed Assets Distribution' on the title page, or in the subject box of all email correspondence.

7.2 Written responses should be sent to:

Unclaimed Assets Distribution Consultation
Charity & Third Sector Finance Unit
Room 1/30
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Email: unclaimedassets@hm-treasury.gov.uk (please clearly title your email 'DISTRIBUTION')

Telephone queries should be directed to:

Stephen Evans (HM Treasury) – 020 7270 4946
Steven Wallace (Office of the Third Sector) – 020 7276 6065

7.3 Comments on and questions about the purposes for which these funds may be distributed in Scotland, Wales, and Northern Ireland should be addressed to:

Scotland: Geoff Pearson
Third Sector Team
Scottish Executive
Victoria Quay
Edinburgh
EH6 6QQ
Telephone: 0131 244 5133
Email: geoff.pearson@scotland.gsi.gov.uk

Wales: Nicola Edwards
Lottery Policy and Major Events
Directorate for Culture, Welsh Language & Sport
Welsh Assembly Government
Cathays Park
Cardiff
CF10 3NQ
Telephone: 029 2082 3765
Email: nicola.edwards@wales.gsi.gov.uk

Northern Ireland: Paul Montgomery
Central Expenditure Division
Department of Finance and Personnel
Rathgael House
Balloo Road
Bangor
Northern Ireland
Telephone: 02891 858214
Email: paul.montgomery@dfpni.gov.uk

7.4 This document is available on both the Treasury and Cabinet Office public websites at the following locations: www.hm-treasury.gov.uk or www.cabinetoffice.gov.uk/thirdsector. Hard copies can be requested from the contact address above.

7.5 When responding, please state whether you are responding individually or on behalf of an organisation. If responding on behalf of a larger membership organisation, please make it clear who the organisation represents and, where applicable, how the views of members were gathered.

Confidentiality

7.6 All written responses may be made public on the HM Treasury and Cabinet Office websites unless the author specifically requests otherwise in writing.

7.7 Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regime. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations (2004). If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality will be maintained in all circumstances.

7.8 In the case of electronic responses, general confidentiality disclaimers that often appear at the bottom of emails will be disregarded for the purpose of publishing responses unless an explicit request for confidentiality is made in the body of the response.

7.9 Subject to the previous two paragraphs, if you wish part (but not all) of your response to remain confidential, please supply two versions – one for possible publication on the websites with the confidential information deleted, and another confidential version for use by HM Treasury and the Office of the Third Sector.

7.10 Any Freedom of Information Act queries should be directed to:

Correspondence and Enquiry Unit

Freedom of Information Section

HM Treasury

1 Horse Guards Road

London

SW1A 2HQ

Telephone: 020 7270 4558

Fax: 020 7270 4681

Email: public.enquiries@hm-treasury.gov.uk

Code of practice for written consultation

7.11 This consultation document is being conducted in line with the Code of Practice for written consultation (a full version can be found at www.cabinet-office.gov.uk/regulation/code.htm) which sets down the following criteria:

- Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy;
- Be clear about what the proposals are, who may be affected, what questions are being asked, and the timescale for responses;
- Ensure the consultation is clear, concise and widely available;
- Give feedback regarding the responses received and how the consultation process influenced the policy;
- Monitor the department's effectiveness at consultation, including through the use of a designated consultation coordinator; and
- Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

7.12 If you feel that this consultation does not fulfil these criteria, please contact:

Sowdamini Kadambari

HM Treasury

1 Horse Guards Road

London

SW1A 2HQ

Telephone: 020 7270 4867

Email: sowdamini.kadambari@hm-treasury.gov.uk

A

LIST OF QUESTIONS FOR CONSULTATION

- Are the principles underpinning the distribution of the available surplus assets the right ones?
- Where is the greatest need for finance and funding for third sector organisations that is not currently being met in the market?
- Is there a need for a specialist social investment wholesale institution?
- Is this the best means of increasing the investment available to sustainable third sector organisations?
- If so, what kind of activities should the wholesaler focus on?
- Is the proposal to use the Big Lottery Fund as the primary UK-wide distribution vehicle for the available surplus assets the right one, based on the principles for distribution outlined in this document?
- What are the different approaches that the Big Lottery Fund could take to the distribution of the available assets to ensure they deliver maximum benefit to communities? How should BIG best work with other intermediaries and delivery partners to ensure the best outcomes?
- Do you agree with the proposals for how legislation will work in relation to the distribution of these assets?

B

PARTIAL REGULATORY IMPACT ASSESSMENT

TITLE OF PROPOSAL

B.1 This is the partial regulatory impact assessment (RIA) of the legislative proposal to facilitate the establishment of an unclaimed asset scheme. The proposal is being consulted³⁰ on and includes a partial RIA which is reproduced here for convenience.

PURPOSE AND INTENDED EFFECT

Objective

B.2 The proposed legislation will facilitate the establishment of an unclaimed assets scheme in the UK, covering dormant accounts held by banks and building societies. Unclaimed assets transferred to the scheme will be used to fund ongoing reclaim from account holders with the balance being available for reinvestment in the community.

B.3 In bringing forward legislation, the Government's objectives are:

- wherever possible, to re-unite account holders with the assets that are rightfully theirs;
- to provide a legal right for account holders to reclaim their money at any time;
- to take a light touch approach which minimises running costs for the scheme and participating institutions, by wherever possible building on the existing infrastructure, in order to maximise the money available for reinvestment in the community; and
- to take account of better regulation principles. The proposed UK scheme will therefore differ significantly from other international arrangements being in part a self-regulatory scheme. It is proposed that legislation will enable, but not compel, banks and building societies to transfer funds held in dormant accounts. Banks and building societies have committed to work with the Government to design, and participate in the UK scheme.

B.4 The proposed legislation will apply across the UK.

Background

B.5 This partial RIA relates to proposals to facilitate the establishment of a scheme to allow money in dormant bank and building society accounts to be reinvested in the community without taking away consumers' rights to reclaim their money.

B.6 The scheme will apply to bank and building society accounts where there has been no customer-initiated activity for at least 15 years. On this basis, the banks and building societies estimate that several hundred million pounds may currently lie unclaimed. Going forward there will be estimated further flows of unclaimed assets amounting to tens of millions of pounds annually.

³⁰ A UK Unclaimed Assets Scheme: a consultation, HM Treasury, March 2007

B.7 A number of countries have unclaimed assets schemes. Typically these require unclaimed assets in dormant accounts to be surrendered to the government. Under these schemes account holders retain the right to reclaim their assets and there are procedures in place so that they can do so. Banks and building societies have agreed to work with the Government to set up an unclaimed assets scheme in the UK. The 2006 Pre-Budget Report announced the Government's intention to legislate and consult on this issue.

B.8 Work is continuing to determine the most effective and efficient means of distributing the available surplus assets in a coordinated way that delivers the best outcomes. The Government will produce a separate consultation document setting out proposals for a distribution mechanism in the Spring of 2007.

RATIONALE FOR GOVERNMENT INTERVENTION

B.9 It is not possible to introduce an unclaimed assets scheme and protect the rights and interests of account holders and financial institutions without legislation.

B.10 Banks and building societies that use International Accounting Standards and those that are following FRS 26 under UK GAAP are required to recognise in full their liability to repay each individual dormant account holder. The liability may be removed from the balance sheet ('de-recognised') when and only when it is extinguished.³¹ To extinguish the liability the bank or building society must:

- pay the dormant account holder;
- obtain release from the liability under some term of the contract with the account holder;
- obtain legal release from the account holder; or
- be released from the obligation by process of law.³²

B.11 However, the nature of dormant accounts is such that it is not possible for the bank or building society to pay amounts back to account holders or to obtain legal release from them, because they cannot be contacted. It would also be unusual for the current contractual terms underlying a typical bank account to make provision for unilateral legal release by the bank in the event of the account becoming dormant. Banks are not permitted simply to extinguish their liability and remove it from their balance sheets.³³

B.12 It is therefore proposed that legislation will allow banks and building societies to extinguish their liability to a dormant account holder so that the liability can be de-recognised for accounting purposes if certain conditions are met.³⁴

B.13 The proposed conditions include:

- the bank or building society undertakes to hold all records on behalf of the reclaim fund relating to the account, until the customer has been repaid;

³¹ IAS 39 paragraph 39.

³² This is set out in detail in IAS 39 guidance paragraphs AG57 to AG63.

³³ The impact of the Prescription and Limitation (Scotland) Act 1973 provides a possible exception to this in respect of accounts governed by Scots law, which will be taken into account in developing the details of the scheme.

³⁴ The proposed scheme will not affect account holders' building society membership rights.

- the bank or building society must transfer a sum equivalent to the amount owing to the dormant account customer to a central reclaim fund which itself must meet certain conditions; and
- the reclaim fund must consent to the transfer of the unclaimed assets.

B.14 In bringing forward legislation, the Government will provide the legal right for account holders whose assets are transferred to reclaim their money at any time.

CONSULTATION

B.15 This partial RIA concerns the plans for enabling legislation and considers the costs and benefits for each of the implementation options.

B.16 To assess the impact of the proposals HM Treasury has consulted with a wide range of central Government departments interested in an unclaimed assets scheme. In addition discussions have been held with the devolved administrations:

- Scotland: Scottish Executive, the Office of the Scottish Charity Regulator and the Accountant in Bankruptcy;
- Northern Ireland: Department for Finance and Personnel, the Department for Social Development and the Northern Ireland Insolvency Service; and
- Wales: Welsh Assembly Government.

B.17 HM Treasury is seeking comments on the analysis in this partial RIA, including costs and benefits, with any supporting evidence. If you believe other costs and benefits or alternative options should be considered, please suggest them. The feedback to the partial RIA will provide valuable information that will be considered for the final RIA following this consultation.

B.18 The consultation document for the proposed scheme is published in conjunction with this partial RIA and the two should be read together.

OPTIONS

B.19 The implementation options for an unclaimed assets scheme are:

- Option 1 - do nothing
- Option 2 – the proposed scheme
- Option 3 – a compulsory scheme

Option 1 - do nothing

B.20 Without legislation the current situation will continue as banks and building societies would not be able to extinguish their liability to dormant account holders upon transfer of unclaimed assets for reinvestment in the community. The pre-scheme reunification exercise and customer notification procedures will add to existing efforts undertaken to make customers aware of their dormant accounts.

Option 2 – the proposed scheme

B.21 The proposed legislation will facilitate the establishment of an unclaimed assets scheme to benefit the wider community. Where possible the scheme will draw on

existing systems and infrastructures to maximise the amount of assets for redistribution.

B.22 The British Bankers' Association (BBA) and the Building Societies Association (BSA) support the scheme as indicated in the foreword to the consultation document. They have confirmed that aspects of the scheme, those that regulate how financial institutions treat their customers, will be self-regulated through the Banking Code.³⁵ Consumers will also benefit from other protections.

B.23 Before the introduction of the scheme, banks and building societies will run a comprehensive reunification exercise to reunite customers with their dormant accounts. The BBA and BSA already have free tracing schemes in place to assist account holders looking for their dormant accounts. The reunification exercise will build on these processes, as well as financial institutions' internal systems, to reunite customers with their funds.

B.24 Where reunification is unsuccessful and the dormant accounts meet a statutory definition of an unclaimed asset, banks and building societies may transfer equivalent assets to a reclaim fund. An unclaimed asset will be defined as an account on which there has been no customer-initiated transactions for a period of at least 15 years. In addition to meeting the minimum requirement of no customer-initiated transactions, financial institutions will also have the flexibility to refer to other customer activities such as correspondence, phone calls and emails in deciding whether an account should be transferred.

B.25 Where assets are transferred, the reclaim fund will have the legal obligation to repay account holders. Participating institutions' existing liabilities on these transferred assets will be extinguished. A central fund will enable the reclaim risk to be pooled and managed as efficiently as possible. Customers will be entitled to reclaim money that has been transferred, on application to their original bank or building society, which will act as agent of the reclaim fund. Banks and building societies will be responsible for calculating the amounts to be repaid, including any interest due. As the fund will not manage customer enquiries this will reduce its running costs and avoid the need for personal account data to be transferred to it.³⁶

B.26 The central reclaim fund will be managed prudently so that money is available to fund applications for reclaim. Money that the reclaim fund does not require to meet reclaim, or cover its own costs, will be passed on for reinvestment in the community. At this point the reclaim fund will no longer have access to it.

B.27 The main risks of this model are:

- financial institutions might not take advantage of the enabling legislation so less money is released to the community. This has been mitigated as the bank and building society sector are committed to taking part in the scheme as it is currently proposed; and
- the central reclaim fund may not be able to cover reclaim. The fund will be managed prudently and will be able to take action to limit this risk. The

³⁵ The Banking Code is sponsored by the BBA, BSA and APACS – the UK payments association. It is a voluntary code, which sets standards of good banking practice for banks and building societies to follow when they are dealing with personal customers in the United Kingdom.

³⁶ In exceptional cases, such as in the event of disputes involving the reclaim fund it may be necessary for the fund to have access to information held by a bank or building society about an account that is relevant to the reclaim fund's liability. Provision will be needed to ensure that, subject to appropriate conditions, necessary information can be lawfully disclosed.

Government is also working with the Financial Services Authority (FSA) to ensure that the reclaim fund is able to apply for authorisation, subject to the reclaim fund meeting the relevant regulatory requirements. The FSA is an independent non-governmental body.³⁷ FSA authorisation would bring the fund under the coverage of the Financial Services Compensation Scheme (FSCS). The FSCS is an independent body, set up under the Financial Services and Markets Act 2000 as the UK's compensation fund of last resort.

Option 3 – a compulsory scheme

B.28 Compulsory unclaimed assets schemes exist in other countries, for example in, Australia, Canada, Ireland, New Zealand, Spain and the United States. As with the proposed UK scheme, account holders can claim their assets back but typically these schemes are government run with money held in dormant accounts going to the state. There is considerable variation between these schemes and they impact on consumers and businesses differently.

B.29 Features of some international schemes are:

- compulsory participation for certain institutions;
- no allowance made for institutions that may need to change their systems capability to comply with the scheme;
- relevant institutions are required to meet statutory requirements on reporting, record keeping and contacting asset owners;
- a searchable central register of unclaimed assets; and
- criminal sanctions for relevant institutions that do not comply with statutory requirements.

B.30 The principal drawbacks of a compulsory scheme are:

- that the costs for complying with and enforcing statutory requirements would be higher than the proposed scheme, reducing the amount of assets available for distribution to the community; and
- it could take longer to set up than the scheme proposed. Institutions would need time to adapt their systems and time would be needed to set up a monitoring and enforcement framework. This could affect when money would be available for distribution.

COSTS AND BENEFITS

Sectors and groups affected

B.31 The main groups affected by the proposed scheme and its implementation are account holders, financial institutions with permission to accept deposits under Part IV of the Financial Services and Market Act (or those with EEA passport rights), and the communities that might benefit from reinvestment of assets. The costs and benefits of each option are assessed in relation to these groups.

³⁷ The FSA is given statutory powers by the Financial Services and Markets Act 2000 to achieve the objectives of maintaining market confidence, promoting public awareness of the financial system, securing the appropriate degree of consumer protection, and reducing financial crime.

BENEFITS

Option one – do nothing:

B.32 Doing nothing would not alter the current situation of account holders, financial institutions, and communities that might benefit from reinvestment of assets.

Option two - the proposed scheme:

B.33 If a scheme is introduced some account holders will be more aware of their dormant accounts than they may otherwise have been. They will benefit from the comprehensive reunification exercise the banking sector has committed to undertake before the scheme's launch. Once the scheme is operational the BBA and BSA intend to have additional procedures in place to make account holders more aware of their dormant accounts and how they can access them.

B.34 Enabling legislation will give financial institutions the flexibility to build on existing self-regulatory systems such as the Banking Code and other procedures that trace dormant accounts. These will be familiar to customers. Participating institutions may also benefit from goodwill generated from releasing unclaimed money to the community.

B.35 Communities will benefit from funds that would not otherwise have been available. The self-regulatory aspects of the scheme should maximise the proportion of assets available for reinvestment in the community and minimise the scheme's running costs.

Option three – a compulsory scheme:

B.36 The benefits of a compulsory scheme to account holders, financial institutions, and communities are likely to be similar to those for option two. The existence of additional benefits would depend on the exact design of the compulsory scheme. For example, if a compulsory scheme involved the setting up of a public searchable register of unclaimed assets some consumers might become more aware of their dormant accounts. This could however involve additional risk and costs and involve the mass transfer of confidential data concerning individual customers. This may also reduce assets available for reinvestment in the community.

COSTS

Option one - do nothing:

B.37 Doing nothing would not create additional costs for account holders, financial institutions, and communities.

Option two – the proposed scheme:

B.38 The proposed scheme should result in no additional costs for account holders. The scheme will provide a legal right for account holders to reclaim their money at any time. Account holders will continue to contact their relevant banks and building societies as now.

B.39 In order to minimise costs to financial institutions the proposed scheme will build on existing arrangements for reuniting and reclaim. Any additional costs are expected to be small and incremental. These could include:

- identifying dormant accounts meeting a statutory definition of an unclaimed asset. This should have a minimal impact on financial institutions' existing procedures. Institutions already undertake similar checks to ensure the security of funds held in accounts that have not been accessed by account holders over a prescribed period of time. The proposed scheme will allow institutions to use their existing systems capabilities to identify their dormant accounts;
- administration costs relating to transferring unclaimed assets to the scheme, and claiming money back from the reclaim fund to reimburse account holders; and
- the costs to audit money transferred to and reclaimed from the central reclaim fund.

B.40 Financial institutions have been unable to quantify the administration costs relating to the scheme but these are expected to be small. We would welcome further information on costs, including audit costs. The most significant cost to institutions is likely to be audit. The audit cost will depend on the size of the institution, its quantum of dormant accounts and systems to record them. However, for illustration, if the annual cost per institution were on average between £10–25,000, the total cost to participating institutions could be around £1.2-3m.³⁸

B.41 Although not required by legislation, the participating institutions have agreed to carry out a comprehensive reunification exercise before the scheme is launched. This may lead to increased advertising and administration costs, but should reduce subsequent costs for handling reclaims.

Option three – a compulsory scheme:

B.42 As with option two, it is likely that a compulsory UK scheme would seek to ensure that account holders incurred no additional costs and that their legal right to reclaim their money is protected.

B.43 A compulsory scheme would oblige all financial institutions meeting a statutory definition to take part in the scheme. These institutions could incur similar types of costs to option two but these could be higher as compulsory schemes tend not to make allowances for institutions with differing systems capabilities. Some institutions may need to align their internal procedures or upgrade them in order to comply with statutory requirements. Schemes elsewhere place specific obligations on relevant institutions relating to the reunification of account holders with their assets, the identification of unclaimed assets, the transfer of assets to the scheme, record keeping and providing data on account holders for inclusion in a central register.

³⁸ If based on the institutions subscribing to the Banking Codes, about 117 institutions.

SMALL FIRMS IMPACT TEST

B.44 Small firms are defined by turnover, balance sheet size or number of employees. The most relevant measure for financial institutions affected by the scheme is balance sheet size. In this context small firms are those with a balance sheet total of not more than £11.4m.³⁹ It is unlikely any of the financial institutions likely to participate in an unclaimed assets scheme would count as small firms under this measure. As the proposed scheme is voluntary, small firms will not be compelled to take part.

COMPETITION ASSESSMENT

B.45 The proposed legislation will enable financial institutions, if they choose, to transfer assets into the scheme. The value of the assets likely to be released is very small in comparison with the total assets of the banking sector.⁴⁰ This, and the voluntary nature of the scheme suggest there is unlikely to be any significant competition impact.

B.46 As with the proposed scheme it is likely that the value of assets caught by a compulsory scheme using a 15-year definition would be small in comparison with the total assets of the banking sector. However, if a compulsory scheme necessitated institutions changing their systems in order to comply with it, this could have a disproportionate effect on some smaller institutions.

ENFORCEMENT, SANCTIONS AND MONITORING

B.47 The proposed legislation would enable but not compel financial institutions to take part in the scheme. There are some obligations for affected institutions, for example they will need to obtain an audit of money transferred to and from the scheme in order to participate. They will continue to be subject to the same regulatory framework and sanctions, underpinned by the Financial Services Authority and the Banking Code Standards Board.

B.48 If the scheme were compulsory, as well as complying with the scheme's obligations institutions might also need to prove compliance to a regulatory authority at periodic intervals. This could go beyond the proposed audit requirements to include a statutory inspection regime and fines or other sanctions for non-compliance.

³⁹ SI 2004 No.16 – The Companies Act (Accounts of Small and Medium-Sized Enterprises and Audit Exemption) (Amendment) Regulations 2004.

⁴⁰ Customer deposits make up the leading source of assets in the UK banking industry, at 59 per cent with a value of around £4.01 trillion, United Kingdom – Banks', Datamonitor (November 2004). Estimates from the financial institutions expected to take part in the proposed scheme put the value of unclaimed assets meeting the 15-year definition at around several hundred million pounds.

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