



**Decentralisation and Localism Bill
Briefing on the consultation paper:**

Community Right to Buy

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Contact: Daniel Fluskey

Tel: 020 7520 2433

E-mail: daniel.fluskey@ncvo-vol.org.uk

1. Introduction

1.1 *The Decentralisation and Localism Bill*¹ (the Bill) published in December 2010 included new powers to enable communities to help them save local assets, both buildings and land (the Community Right to Buy) and to express an interest in running local services (the Community Right to Challenge). The idea behind these powers is that communities would be able to have sufficient time to put together a bid to save their local pub or village shop, and that if a group feels that they could run a public service better than they get a fair chance to put forward their proposal.

1.2 While the Bill sets out the statutory framework, the consultation paper *Proposals to introduce a Community Right to Buy*² invites views on proposals for how it will actually work in practice. The outcome of the consultation will form the basis of Regulations which will accompany the Bill and determine what communities will need to do to use the right. The Government is seeking views from county and district local authorities, voluntary and community bodies, charities, and other interested parties.

1.3 NCVO will be responding to this consultation paper. This briefing highlights key questions that are of most relevance to organisations and puts forward our initial response. This community right to buy is intended to enable communities to be more involved in their local area and it is important that the regulations best encourage and allow communities to take up and use this right. We would very much like to hear your views on these proposals to develop our answers and ensure that our members' views are best represented to government.

1.4 You can find out more about the Decentralisation and Localism Bill in our [briefing](#)³ which highlights potential opportunities and implications of the legislation for the voluntary and community sector. This paper outlines the proposals as set out in both consultations and includes:

- a summary of the proposals;
- issues for consultation; and
- our initial response to these.

1.5 To contribute your thoughts to our response please contact Daniel.fluskey@ncvo-vol.org.uk or phone 020 7520 2433.

1.6 Responses to the consultations can be sent directly through to Department for Communities and Local Government to crtbuy@communities.gis.gov.uk. There is also a template form available from DCLG⁴ which can be used to submit your response. The deadline for responses is 5pm on 3 May 2011

¹ <http://www.publications.parliament.uk/pa/cm201011/cmbills/126/11126.i-v.html>

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

³ <http://www.ncvo-vol.org.uk/networking-discussions/blogs/18452/11/01/11/briefing-decentralisation-localism-bill>

⁴ <http://www.communities.gov.uk/documents/localgovernment/doc/1836299.doc>

The Community Right to Buy – Assets of Community Value

2. What is an asset of community value?

The proposed regulations give local authorities the power to decide what constitutes an asset of community value based on a broad definition of 'local community benefit'. This should take into consideration a number of factors including: the ownership of the land and the current or former use of the land. The evidence of the strength of community feeling may also be considered, but this has not yet been defined. There are no plans to consider the future use of land in assessing whether an asset is of community value.

NCVO believes that a community should be able to nominate an asset based on its potential or future use. If the rationale for the Bill in general is to put more power into the hands of people and communities, they should have the ability to look at an asset in their locality and, where appropriate, be able to propose to the local authority that a different use of that building or land could be of benefit to the community.

Do you agree that a community should be able to nominate a land or building on its potential future use rather than just on its former or current use?

3. How the process will work

The provisions for the Community Right to Buy, as set out in the Bill, provide the framework for how this 'right' will work. The Bill:

- requires local authorities to maintain a list of assets in their area which have community value (which could include post offices, village shops, and local pubs, even if they are owned privately);
- allows communities to nominate assets which they believe should be included in the list;
- will ensure a 'moratorium' period during which the owner cannot sell the asset and therefore; and
- enables community groups time to put together a written request to be treated as a potential bidder and time to submit a viable bid.

NCVO believes there should also be provision for an emergency listing procedure where an asset of community value which is not yet listed is put up for sale.

Do you agree that there should be a procedure for an emergency listing?

4. Who can nominate an asset of community value?

The consultation paper considers who can nominate an asset and suggests two approaches. The first is restricting it to groups who meet certain criteria (that criteria is not fully defined but could include incorporated groups or those with a local connection). The second is to allow nominations by any person or group with a local

connection, such as: whether the local authority is explicitly included in the organisation's area of benefit; whether the group is based within the local authority, or whether the organisation has a number of members who live in the local authority or near the nominated asset.

NCVO believes the process should be open to any group or individual provided that they can demonstrate a local connection. The emphasis should be on the asset in question, and whether it has community value or not.

Do you agree that anyone should be able to nominate an asset and that they should have a local connection?

5. What information should be included in a community nomination?

It is proposed that, as a minimum, nominations from communities should be made in writing and include:

- a) a description of the land sufficient to identify its boundaries;
- b) a statement by the nominator of the information that they have about the current owner(s) and their address(es) and other legal interests in the land – probably with a copy of the current land register entry in the case of registered land;
- c) reasons for considering that the land or building is, or has recently been, an asset of community value; and
- d) evidence that the nominator is eligible to make a nomination.

NCVO believes that decisions about the minimum information needed should be left to the local authority's discretion. However, the nomination process should be as streamlined and simple for communities to use as possible and not overly burdensome. We would be concerned if condition (b) as set out above was included as a minimum requirement as it could put a burden and cost on communities or an individual to have to find out the legal interests in land as a first step to putting forward a nomination.

Do you agree that the criteria for submitting nominations should be left to the local authority to decide, or that there should be a list of minimum information?

If so, what information should be included in this?

Should the nominator have to find out what legal interests there are in the land?

6. What is the procedure for listing assets?

Both land and buildings can be assets of community value, regardless of who owns the land. This means not only publicly owned assets (those owned by the local authority), but buildings and land owned by private organisations (including charities) or individuals could be included. The consultation proposes that the local authority

must, if possible, notify the owner(s) of the land before deciding to list the nominated asset.

NCVO believes that owners must be informed and made aware of the nomination and the potential affect that this might have on what they can do with the asset.

Do you agree that owners should be informed before the local authority makes a decision whether to list the asset or not?

The Bill allows for the regulations to enable landowners to be compensated for their land or building being subject to the right to buy process. It is proposed that this should be a reimbursement of expenses incurred by the landowner as a result of complying with the procedural requirements of the scheme.

NCVO believes any definition of private landlord should include charitable organisations who may own land or buildings. It would be right to enable private landowners to recover reasonable expenses and costs incurred as a result of the process.

Should the definition of private landowners include charitable organisations?

Do you agree that landowners should be entitled to claim compensation?

7. What is the process for removing an asset from the list?

The current proposals suggest that once a listed asset is sold, the new owner would inform the local authority and the asset would then be removed from the list. The regulations could also give local authorities the power to remove an asset from the list if it considers that the asset is no longer of community value.

NCVO does **not** agree that an asset should be removed from the list following a sale. If the land or building was listed because it had community value, it should continue to be listed even after it has been sold. The important element is not who owns the asset at any one particular time, but the community value that the asset has. Continuing to list the asset of community value will ensure that if the asset comes up for sale in the future then community groups will have the opportunity to bid for it again. Local authorities should consult locally to best understand and assess what assets have community value. In particular, if the asset listed was one that was nominated by a community group then that group should be contacted and consulted before unilaterally removing the asset from the list.

Do you agree that the asset should not be removed from the list after it has been sold?

Do you think that local authorities should be able to remove assets from the list if it is no longer considered to have community value?

8. How should the lists of assets of community value be published?

Local authorities will be required to publish a list of assets of community value, as well as a list of assets that were nominated by communities but were unsuccessful. The Bill provides a duty for the lists to be published, but it is proposed that local authorities will have a great deal of discretion over how and where they publish the lists.

NCVO believes local authorities should in most cases determine the best way of publicising the lists. At a minimum, local authorities should be required to maintain an up-to-date listing on their website. Community groups should be able to register their interest against an asset, so that if it comes up for sale in the future they can be notified directly. For instance, they could put forward a provisional expression of interest in an asset and provide contact details to be kept informed if the owner wishes to sell.

How do you think that local authorities should publish and publicise their lists of assets of community value?

9. How long should the time periods be?

When a listed asset comes up for sale there will be an initial interim period when community groups can express an interest in being treated as a potential buyer. If an expression of interest is made, a longer period of time then follows which allows a community group to prepare a bid to buy the asset. If no written expression of interest is received in the initial period the owner of the asset would be free to sell the building or land.

It is proposed that communities will have six weeks (the initial period) and if they put forward an expression of interest they will then have a further (a) three months or (b) six months to finalise and put forward their bid. The proposed initial period of 6 weeks is to be included in this time. In effect this means that if a community interest group put in an expression of interest at the end of the 6 week period then they could have only a further 6 weeks within which to finalise their bids.

NCVO believes that the interim period should be 12 weeks. The decision to take on an asset should not be one that is taken lightly and communities will need time to make an informed decision, as well as time to prepare their expression of interest. Given that the interim period will start from when the owner informs the local authority, it could be some time before the community is aware of the potential sale and therefore 6 weeks would be too short a time period.

Three months is too short a time for communities to finalise and submit their plans and will restrict their ability to be meaningfully involved. The full window of opportunity should be 6 months, not including the interim window of opportunity, i.e. it should be a full 6 months from when the expression of interest is put forward, not an additional 20 weeks

What length do you believe the first window of opportunity should be? Would the proposed 6 weeks give community groups sufficient time to put forward an expression of interest?

What length do you believe the full window of opportunity should be? Would 6 months be sufficient time to put together a viable bid?

Concluding questions

Considering the proposals set out in this consultation, do you think overall it provides the right framework to enable communities to identify and bid for assets of community value?

If not, what else would you want to see included in the regulations so that communities and groups are able to take on assets in their locality?

What support would be most helpful to give VCOs the opportunity to use this right?