



# Community Right to Buy

## Consultation response form

We are seeking your views on the following questions on the Government's proposals to introduce a Community Right to Buy – Assets of Community Value.<sup>1</sup> **If possible, we would be grateful if you could please respond by email.**

Please email: [crtbuy@communities.gsi.gov.uk](mailto:crtbuy@communities.gsi.gov.uk)

Alternatively, we would be happy to receive responses by post. Please write to:

Community Right to Buy Consultation Team  
Department for Communities and Local Government  
5/A3 Eland House  
Bressenden Place  
London SW1E 5DU

**The deadline for submissions is 5pm on Tuesday 3 May 2011.**

## (a) About you

### (i) Your details

Name:	James Allen
Position:	Policy Manager
Name of organisation (if applicable):	National Council for Voluntary Organisations (NCVO)
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<sup>1</sup> DCLG (2011) Proposals to introduce a Community Right to Buy – Assets of Community Value: Consultation paper.  
see: [www.communities.gov.uk/corporate/publications/consultations](http://www.communities.gov.uk/corporate/publications/consultations)

**(ii) Are the views expressed on this consultation an official response from the organisation you represent or your own personal views?**

Organisational response	<input checked="" type="checkbox"/>
Personal views	<input type="checkbox"/>

**(iii) Please tick the *one* box which best describes you or your organisation:**

Voluntary sector or charitable organisation	<input checked="" type="checkbox"/>	
Local authority (i.e. district, London borough, county council)	<input type="checkbox"/>	
Parish council	<input type="checkbox"/>	
Business	<input type="checkbox"/>	
Landowner	<input type="checkbox"/>	
Land conveyancer	<input type="checkbox"/>	
Other public body (please state)	<input type="checkbox"/>	
Other (please state)	<input type="checkbox"/>	

**(iv) Do your views or experiences mainly relate to a particular type of geographical location?**

City	<input type="checkbox"/>	
London	<input type="checkbox"/>	
Urban	<input type="checkbox"/>	
Suburban	<input type="checkbox"/>	
Rural	<input type="checkbox"/>	
Other (please comment)	<input checked="" type="checkbox"/>	All

**(vi) Would you be happy for us to contact you again in relation to this consultation?**

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

## (b) Consultation questions

### Section 3 – Definition of Asset of Community Value

Q1. Do you agree that the regulations should give local authorities the power to decide what constitutes an asset of community value based on a broad definition of 'local community benefit' and a list of excluded assets?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

Q2. If yes, (a) do you agree with the factors listed above that the local authority should take into consideration when deciding whether a piece of land or building is an asset of community value?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

Further comments:

**The list of factors in this consultation document should be seen as a starting point rather than a definitive, prescriptive list. In addition, the strength of community feeling is significant and ways in which this feeling can be understood, captured and acted upon should be developed in partnership with local authorities and the representatives of community organisations during the passage of this Bill.**

**NCVO believes that along with necessary additional powers for local authorities to make community assets a success, additional powers must also be devolved to local people and communities.**

**Local authorities should not, therefore, have sole power to decide what constitutes an asset of community value or to define a list of excluded assets without full, transparent consultation having taken place with the local community. It is important that a clear definition of how the strength of local community feeling around potential community assets will be considered in this process and appropriately weighted alongside**

**other factors including statutory provisions and land ownership.**

**Communities should be able to nominate an asset based on its current use and on its potential or future use and this power should not solely reside with local government.**

**As local authorities should be given additional powers alongside local people and communities, it is important that the right factors are considered when determining whether or not an asset is of community value.**

(b) Should these be set out in regulations?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

Further comments:

**These factors do not necessarily need to be set out in regulations. The important issue is that local authorities understand their obligations to communities clearly and have the confidence and skills to work with local community groups to ensure that the right factors are taken into consideration.**

**Given the diversity of local communities, it is important that any regulations and guidance have adequate flexibility to ensure that they can be interpreted at a local government level in a meaningful way.**

Q3. We envisage that the definition of 'land of community value' would not include a piece of land or a building which the nominator suggests has a potential use as opposed to former or current use – do you agree?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If No, why not?

**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.**

**Restricting assets to the current use would impose a heavy opportunity cost on civil society - where many innovative projects which could engage new members of the community would be disadvantaged. Meaningful local consultation would still ensure that assets would not be put to uses which were harmful or inappropriate when considering the overall well-being of the local community.**

Q4. Are there other areas that you believe should be explored further to strengthen the Community Right to Buy?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If Yes, what?

**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.**

**This provision is likely to be particularly significant in the short term - both before the community asset provisions are enacted and in the period immediately after, where local authorities and local communities may not be fully aware of their rights and obligations.**

**If there is no emergency listing, then this may also create an incentive to sell assets which may otherwise be of community value quickly, and there could be the loss of significant assets that would have benefited the community.**

**A right of first refusal for local voluntary and community groups should be included in regulations.**

Q5. Do you agree that all residential property should be excluded from being listed as an asset of community value, except where the accommodation is tied to the asset of community value or is integral to the working of the asset?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If No, why not?

**It is important that there is adequate flexibility to make these provisions meaningful. To that end, blanket exclusions of categories of properties should be avoided as far as possible. In some cases, it will be appropriate to exclude categories of properties, including those used for residential use, but this decision should be taken locally as a result of consultation.**

Q6. Are there other types of land or buildings that should be excluded from being listed as assets of community value?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If yes, what?

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#### Section 4 – Ways in which assets may be nominated and listed

Q7. Do you agree that the nomination process should be open to any group or individual and that they should have a 'local connection'?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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Q8. How else could an individual or group be defined as having a 'local connection'?

**We do not feel that it is necessary to have an exhaustive list defining what a local connection may be. Discretion should be given to enable good decisions to be made at a local level where local authorities can decide what is reasonable. Local connections can be made and demonstrated in many different ways and it should be determined on a case by case basis.**

Q9. Are there other process(es) by which an asset of community value should be listed?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If Yes, what?

**It will be important to adopt a flexible approach to the listing of assets. It may be appropriate for local authorities to proactively suggest assets which may be added to the list - this should then be subject to consultation.**

**Neighbourhood planning could be useful in identifying assets of potential community value and in taking a strategic view on how the listing of assets may enhance community well-being. For a full range of voices to be heard, VCOs should be engaged in this process at an early stage. These processes should be made as simple and streamlined as possible to facilitate a high level of community participation.**

## Section 5 – Information to be included in community nominations

Q10. Should (a) the regulations specify the minimum information that should be included in a community nomination?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

Further comments:

(b) Or should this be left to the local authority's discretion?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

Further comments:

NCVO believes that decisions on the minimum information needed should be left to the local authority's discretion. However, the nomination process should be as streamlined and as simple for communities to use as possible and not overly burdensome.

We would be concerned if condition (b) in paragraph 5.3 (At a minimum, it is

envisaged that regulations may specify that a community nomination must be made in writing and contain the following details: (b) a statement by the nominator of the information 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), was included as a minimum requirement as it would 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.

Q11. If you think the regulations should specify the contents of a community nomination, is there other information that should be included?

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## Section 6 – The procedure for listing assets

Q12. Do you agree that owners should be informed before the local authority makes a decision whether to list the asset or not?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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Q13. Should the local authority be required to follow any other procedures when deciding whether to list an asset?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If Yes, what?

**NCVO believes that owners must be informed and made aware of the nomination and the potential effect that this might have on what they can do with the asset. This would allow for proper planning and for engagement with the community around the potential use of the asset.**

## Section 7 – Notification about inclusion and removal of a listed asset

Q14. Is there anyone else (other than the owner, occupier and nominator) the local authority should inform of inclusion or removal of a community asset from the list?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If Yes, who?

**The local authority should make reasonable efforts to ensure that the local community is made aware of proposed changes to the asset register and that there is clear and well understood provision for communicating decisions to the local community.**

**Local authorities should in most cases be able to determine the best way of publicising the lists. As a minimum, local authorities should be required to maintain an up-to-date listing online. Community groups should be able to register their interest against an asset and if it comes up for sale, or there is a proposed change to its status on the register, then they should be notified directly. For example, this could include a provisional expression of interest that will generate a notification if there is a proposed sale of the asset.**

Q15. Is there other information (other than that listed in paragraph 7.3) that should be included in the notification of inclusion of an asset on the list?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If Yes, what?

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Q16. Do you agree that an asset should be removed from the list of assets of community value once the local authority knows that it has been sold as a result of a relevant disposal?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If No, why not?

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 again in the future then community groups will have the opportunity to bid for it again.

Q17. Should local authorities be able to remove an asset from the list if it is no longer considered to be of community value?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

Further comments:

**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.**

**Local authorities should not have the power to remove an asset from the list without prior consultation.**

Q18. Is there other information that should be included in the notification of removal of an asset from the list of assets of community value?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If Yes, what?

**Notice of removal of an asset from the list should include evidence on how the local authority has responded to points of concern raised during consultation and details of the assessed impact of the decision on the local community.**

Q19. Are there other ways (in addition to those listed in paragraph 7.11) in which an unknown landowner, or an owner whose current address is not known, might be contacted and notified that their land has been included on or removed from the list of assets of community value?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If Yes, what?

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## Section 8 – Content and publication of the list of assets of community value and the list of land nominated by unsuccessful community nominations

Q20(a). Do you agree that local authorities should decide the most appropriate ways to publicise the lists and bring them to the attention of the community and other interested parties, beyond what is set out in the Bill?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

(b) If not, what further requirements should be set out in regulations?

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## Section 9 – Right of appeal for landowners

Q21. Do you agree with the suggested period (28 days) for requesting an internal review?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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Q22. Is there any other information (in addition to what is listed in paragraph 9.3) the owner should provide?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If Yes, what?

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Q23. Do you agree with the proposed timescale of 6 weeks for the local authority to complete the internal review?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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Q24. Do you agree that the review should normally be undertaken by an officer in the local authority who is equal in rank to or more senior than the officer who took the decision to list the asset and who was not involved in the original decision-making?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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Q25. Do you think that the landowner should be entitled to an oral hearing as part of the internal review?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If Yes, in what circumstances?

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Q26. Should anything else be included in the internal review process?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If Yes, what?

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Q27. Should formal provision be made for landowners to appeal to a court or tribunal if they are dissatisfied with the outcome of the local authority's internal review?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

Further comments:

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### Section 10 – Length of the windows of opportunity and protected period

Q28. Do you agree with the proposed length of the interim period (6 weeks)?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If No, why not?

**NCVO believes that the interim period should be at least 12 weeks. This would bring it into line with standard consultation periods with which the VCS would be familiar.**

**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.**

**It is important to design a system that is flexible and accessible enough for a full range of organisations to seek to take over assets for community benefit. Timescales that are too short would inevitably result in some organisations, particularly smaller ones or those that serve harder to reach beneficiaries would be excluded.**

Q29. Are there any other kinds of groups that should be allowed to make a request to be treated as a potential buyer during the interim window of opportunity period, thereby triggering the full period?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If Yes, who?

Q30. Do you prefer option (a) 3 months; or option (b) 6 months; or option (c) other?

3 months	<input type="checkbox"/>
6 months	<input type="checkbox"/>
Other	<input checked="" type="checkbox"/>

If 'other', how long should the full window of opportunity be?

**Three months is too short a time for communities to finalise and submit their plans and wil restrict their ability to be meaningfully involed. The full window of opportunity should be 6 months, but this is based on the inerim window of opportunity being 12 weeks. Further, this 6 month period should not include the interim period, and should be a full 6 months.**

**We would urge local authorities to treat these guidelines very much as minimum benchmarks, not standard practice. In many cases a longer period should be given where appropriate.**

Q31. Do you agree with the proposed length of the protected period (18 months)?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

Section 11 – Exempt disposals and permitted sales within the full window of opportunity

Q32. To what extent should we allow for cases of partial occupation (as set out in paragraph 11.3)?

Comment:

**Partial occupation should be considered by local authorities flexibly on a case-by-case basis, particularly where this would allow for greater community benefit to be derived than if there was no occupation at all.**

**Partial occupation may also assist in making proposals to take over assets more affordable, or to allow organisations to manage their start up costs over a longer period.**

Q33. Are there other disposals (in addition to those listed in paragraph 11.4) that should be exempt?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If Yes, what?

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Q34. Are there other circumstances (in addition to those in paragraph 11.6) under which sales should be permitted within the window of opportunity?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If Yes, what?

**All of these groups should be considered as those to which sales may be permitted. However, the list should not be seen as exclusive and nor should inclusion on the list necessarily allow for a decision on the sale to be 'fast tracked'.**

Q35. Do you agree with the list of groups in paragraph 11.7 that could be eligible to purchase an asset during the window of opportunity?

Yes	<input type="checkbox"/>
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No	<input type="checkbox"/>
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If No, why not?

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## Section 12 – Compensation for landowners

Q36. Do you agree with the proposal in paragraphs 12.3 and 12.4 (that compensation should be based on costs incurred as a result of the procedural requirements of the scheme)?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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Q37. Do you agree that compensation claims should be considered and paid for by the local authority?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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Q38(a). Do you agree that only private landowners should be entitled to claim compensation?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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(b) What do you think the definition of 'private landowner' should be?

NCVO believes any definition of private landlord should include charitable organisations who may own land or buildings.

Q39. Do you agree with the proposed time limit of 90 days for making a compensation claim?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If No, how long do you think the time limit should be?

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Q40. Do you agree with the proposal in paragraph 12.8?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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Q41. Do you agree with the proposal in paragraph 12.10?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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Q42(a). Should landowners be entitled to appeal against a local authority's decision about compensation?

Yes	<input type="checkbox"/>
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No	<input type="checkbox"/>
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(b) If Yes, on what basis?

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### Section 13 – Enforcement of the regulations

Q43. Do you agree that an enforcement regime is required?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If Yes:

Q44. Do you have any comments on the process of enforcement?

<p>Enforcement mechanisms should be in place, as the consultation suggests, to act primarily as preventative and disincentive measures. They should be there to enable communities to clearly understand the provisions in the legislation and to safeguard the community interest.</p> <p>It is not in the interests of community groups for enforcement mechanisms to be excessively bureaucratic, complex or burdensome.</p>
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Q45. Are there alternative approaches to enforcement that you would propose?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If Yes, what?

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### Section 14 – Support and Guidance

#### Q46. What support would be most helpful?

In order to ensure that a full range of people, communities and organisations are able to participate in the identification, listing and potential of owning community assets, a comprehensive package of help and support will need to be put in place.

This will include, but not be restricted to:

1. A commitment from local authorities to work with a diverse range of individuals and groups, including those that provide voice to more vulnerable and marginalised members of the community. Opportunities will need to be presented in a clear and accessible way and communicated clearly to community groups in order to enable their participation.
2. Partnerships between government, business and the VCS to develop where possible support networks to assist community groups in the process. This will include support for compiling bids and business plans for successfully running community asset projects.
3. Whilst community asset decisions should appropriately be made at the local level, there will be an important role for central government in setting expectations and minimum standards and in collecting and disseminating good practice.
4. Support and guidance that is provided for the Community Right to Buy should form part of a more comprehensive package which also includes the Right to Challenge and other aspects of community empowerment. Providing information in a joined up way would be more effective and also encourage best practice and good partnership working to be embedded across the relationship between local government and the VCS.

#### (c) Additional questions

Do you have any other comments you wish to make?

**The title of the Community 'Right' to Buy is misleading and causing confusion amongst the VCS. The duty on local authorities is to ensure a moratorium period and keep lists of community assets. At no point is there a 'right' for a community to buy an asset as there is no obligation to accept their bid or sell to the community. The 'right to buy' does not appear in the Localism Bill as the 'right to challenge' does, and is instead described as 'assets of community value'.**

**END**