



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.¹ **If possible, we would be grateful if you could please respond by email.**

Please email: 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: | Nick Davies |
| Position: | Policy and Information Officer |
| Name of organisation (if applicable): | Children England |
| Address: | Unit 25, Angel Gate, City Road, London, EC1V 2PT |
| Email: | nick@childrenengland.org.uk |
| Telephone number: | 0207 833 3319 |

¹ DCLG (2011) Proposals to introduce a Community Right to Buy – Assets of Community Value: Consultation paper.
see: 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 type="checkbox"/> | |

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

| | |
|-----|-------------------------------------|
| Yes | <input checked="" type="checkbox"/> |
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| No | <input type="checkbox"/> |
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(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 type="checkbox"/> |
| No | <input checked="" type="checkbox"/> |

If No, why not?

Our members are sceptical about allowing too much local discretion over the definition of an asset of community value. Many have first hand experience of local authorities selling off land or buildings without due consideration and are concerned that too much flexibility will neuter the potential impact of this reform.

Rather than providing a fully comprehensive list, we suggest that central government provide a basic list of assets that should be considered of community value. This could then be augmented at a local level. In particular, assets that are used by children and young people, who are unable to exercise democratic accountability, and those for disenfranchised and unpopular minority groups, such as camp sites for traveller families, should be protected at a national level.

Assets that our members suggested should be included on a national lists are: children's centres, youth clubs, parks, bowling greens, children's playgrounds, tennis courts, football pitches and public toilets.

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:

Once a central list of assets has been set, we believe that these factors are appropriate for determining any additional assets that should be added at a local level.

(b) Should these be set out in regulations?

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

Further comments:

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?

As currently formulated, this is a very conservative mechanism as it only allows communities to protect existing community assets rather than gain new ones. We believe that it should be possible to list assets for which it is reasonable to envisage them becoming an asset of community value with minimal additional investment. For example, an area of unused land that may only require a clean and a small expenditure on fences and benches to be used as a community space. We also believe that any publicly owned building should be presumed to be of community value, no matter how it has been used before.

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

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

If Yes, what?

There should be an external appeals process. Given the current financial squeeze on local authorities, many will be tempted to sell community assets which they own. Indeed, many have already done so over the past 12 months. In these circumstances, where a local authority has a vested interest in not listing an asset, an internal appeals process is not only insufficient but also likely to lead to judicial review in many cases. We suggest that contested decisions should be assessed by non-neighbouring local authorities in much the same way as police forces investigate each other.

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?

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

If No, why not?

We agree that most private residential property should be excluded. However, it is clear that certain residential properties such as children's homes, retirement homes and housing associations have community value. We therefore request that these should be eligible to listing.

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

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

If yes, what?

It should also be possible to list assets which are owned by or fall under the remit of national parks (which are statutory planning authorities).

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'?

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

If No, why not?

We believe that the right to nominate, indeed any right, can only apply to an individual, not an organisation. If a community organisation want to nominate then this should be done as a group of individuals.

We are encouraged that the consultation document does not place any age limits on individuals who are able to nominate. Children under the age of 18 have just as much interest in assets remaining community owned as adults. This power would be a small step towards enfranchising those who are not of voting age.

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

An individual should have lived in the area for a certain amount of time before being eligible to nominate an asset. We would suggest 6 months as a minimum.

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

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

If Yes, what?

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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?

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

Further comments:

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

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

Further comments:

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

Every nomination should also be seconded by another individual who is not related to the nominator.

We do not agree that local authorities should be able to exercise discretion over whether to obtain information about an asset's owner in cases where a nominator is not able to provide this information. This will disadvantage those from more deprived communities who are less likely to have the expertise and confidence to obtain this information independently.

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?

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|-----|-------------------------------------|
| 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?

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

If Yes, what?

Local authorities should be required to publish their reasons for accepting or rejecting nominations, rather than just informing the nominator. It is in the community's interest that this information is made public.

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?

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| Yes | <input checked="" type="checkbox"/> |
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| No | <input type="checkbox"/> |
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If Yes, who?

Given that local voluntary and community groups may have the opportunity to purchase these assets, it is important that as many organisations as possible are aware of inclusions and removals. We would suggest that local CVSs should be notified as a matter of course so that they can inform their networks.

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?

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|-----|-------------------------------------|
| 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?

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

If No, why not?

Where an asset is not bought during the window of opportunity and is subsequently sold during the protected period, we believe that it should be removed from the list of assets.

However, where an asset is sold to a community group during the window of opportunity, it is important that the asset remains listed. In these circumstances, the local community has demonstrated that the asset is valued. If the new owner of the asset decides to sell it, then other community organisations should be given the chance to purchase it.

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

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

Further comments:

Any decision to delist an asset must be public and open to challenge. As mentioned above, local authorities have a vested interest in delisting assets which they own. As such there must be an external review process in cases where a nominator disagrees with a decision to delist. We would also resist any automatic delisting process, for example due to a time limit.

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?

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

If Yes, what?

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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?

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

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

The Bill should specify that local authorities are required to publish a copy of the lists on an easily accessible area of their website.

Section 9 – Right of appeal for landowners

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

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|-----|-------------------------------------|
| Yes | <input checked="" 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?

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|-----|-------------------------------------|
| Yes | <input type="checkbox"/> |
| No | <input checked="" 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?

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|-----|-------------------------------------|
| Yes | <input checked="" 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?

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

If No, why not?

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

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

If Yes, in what circumstances?

Yes, but only if the nominator is also able to make oral representations as part of the internal review.

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

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

If Yes, what?

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?

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

Further comments:

Formal provision should be made for both landowners and nominators to challenge the decision of an internal review. However, we suggest that a non-neighbouring local authority should carry out a review before the decision is judicially reviewed.

This would be more cost effective for nominators, landowners and local authorities alike.

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 type="checkbox"/> |

If No, why not?

Whether or not six weeks is sufficient depends on how much information an organisation has to provide in its expression of interest. If all that is required is that the organisation meets the definition of a community interest group and literally expresses an interest, then six weeks is enough time. If however, any financial information is required, such as an indication of where the community interest group will secure funding to purchase the asset, then significantly more time will be required. Otherwise, this will unduly favour large organisations with better access to finance and would run contrary to the Government's desire to nurture small community groups.

A six week window will also need to be accompanied by better dissemination of information by local authorities. At present, many of our members do not find out about funding opportunities until it is too late, even where application periods are significantly longer than six weeks. As previously mentioned, we suggest that local authorities inform CVSs whenever the interim period is triggered.

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?

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

If Yes, who?

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

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|----------|-------------------------------------|
| 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?

In many cases, four and a half months from the end of the interim period will not provide sufficient time for organisations to create consortia or secure funding. Funding may prove to be particularly difficult to find in the current economic climate and with charitable trusts and foundations seeing ever greater demands on their limited resources. Our members were particularly concerned that it would be disadvantaged communities which would suffer most as a result of a short window of opportunity. Whereas wealthy communities are likely to have the professional skills necessary to secure funding and develop a business plan, this may not be the case in deprived areas. As such, we would suggest a minimum of six months from the end of the interim window of opportunity, or seven and a half months in total.

If the Government does choose a six month window, then we would request that this is a minimum period which local authorities could extend at their discretion.

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

| | |
|-----|-------------------------------------|
| Yes | <input checked="" 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:

The principal aim of this policy is to ensure that assets of community value can continue to be used by the community that values them. As such, it is clearly better that the majority of an asset should be used for

community purposes than not at all. It would be perverse to delay the transfer of an asset to the community because of the existence of a sub-tenant, particularly one that in any case would pay rent to the community group.

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

| | |
|-----|-------------------------------------|
| Yes | <input type="checkbox"/> |
| No | <input checked="" 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?

It is important that there is a level playing field between large and small organisations which meet the definition of a community interest group. As large organisations will be able to raise funds and submit bids more quickly, it is essential that bids are not considered until the end of the full window of opportunity period. Otherwise, the very groups that the Coalition hopes to empower will be cut out of the process.

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

If No, why not?

As above, we do not believe that any group should be able to purchase an asset before the end of the window of opportunity.

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?

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

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

If No, why not?

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

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

If No, why not?

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

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

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

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

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

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

If No, why not?

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

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

If No, why not?

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

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

(b) If Yes, on what basis?

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?

We do not concur with the Government that the enforcement scheme proposed offers a strong deterrent to breaching the regulations. Smaller community organisations are unlikely to have the resources to launch a civil suit, nevermind take the risk that they would have to pay the defendents costs if they lost. As such, we think that many asset owners may choose to take the risk of not informing local authorities of their intention to sell, particularly those who may need to dispose of their asset quickly (likely to be a significant number given the current economic climate).

Q45. Are there alternative approaches to enforcement that you would propose?

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

If Yes, what?

We request that the Government reconsiders providing that a non-compliant transfer will be void.

Section 14 – Support and Guidance

Q46. What support would be most helpful?

Our members believe that the maintenance of local fora such as Councils for Voluntary Service and wider regional groups such as those maintained by Children England are absolutely key to supporting VCS groups. Firstly, they provide an effective and efficient conduit by which local authorities can disseminate information to local VCS organisations, both large and small.

Secondly, they act as a space where VCS groups can come together to discuss joint working. This will be particularly important for small organisations that may have to form consortia in order to be able to raise the money needed to purchase an asset of community value. Finally, local and regional infrastructure provides invaluable training, information and capacity building services.

(c) Additional questions

Do you have any other comments you wish to make?

END