



## The Localism Act 2011: What does the Localism Act mean for community organisations?

After 11 months of intense lobbying in both the House of Commons and the House of Lords the Localism Bill has received royal assent and now passes into law as the Localism Act.

The Localism Act is intended to devolve power from central government to individuals, communities and local councils. The Act is a key piece of legislation in the government's drive for decentralisation. Locality has been lobbying strongly in support of the Community Rights throughout the Bill's journey through parliament and is pleased that the legislation now exists to help ensure local people and groups have a real opportunity to shape and influence their communities.

Here we provide a quick guide to two of key Community Rights within the Act- the Community Right to Challenge and the Community Right to Bid (Assets of Community Value), which was formerly known as the Right to Buy.

### Community Right to Challenge

Many community groups and social enterprises already provide services that are highly valued by their local community. Many more have innovative ideas about how to improve the services that they use.

The Community Right to Challenge gives community groups, parish councils and local authority employees the right to submit an "*expression of interest*" in taking over and running a local authority service. The local authority must consider and respond to the challenge. If a local authority accepts the challenge they must then run a procurement exercise in which organisations - including those that challenged the delivery of the service but also private companies - can bid to take over the running of the service.

#### Who can submit an expression of interest?

- A voluntary or community body
- A charitable group or trust
- A parish council
- Two or more employees of the local authority responsible for the service delivery

#### When can we submit an expression of interest?

- At any time.
- However, a local authority may also specify periods during which expressions of interest to deliver a particular service can be submitted. If this happens, the local authority must publish the deadline for submitting an expression of interest and also the dates on which the procurement exercise begins and ends.
- The local authority may choose how they do this but there is a minimum requirement that they publish these details on their website.

- The local authority will determine the time frames and deadlines.

**How will we know if the expression of interest we submitted has been successful?**

- The local authority must respond in writing.
- A local authority may reject the expression of interest only on the grounds set out in regulations - which will be published shortly.

**Is the local authority required to consider social value in its procurement exercise?**

- Yes, it must consider social, economic or environmental benefits.

**What support is available for community groups looking to activate their Right to Challenge and take over the delivery of a local service?**

- The legislation states the Secretary of State has the power to provide support, assistance and guidance to groups that submit an expression of interest. The details of this will be outlined in the regulations that follow the passing of the Localism Act.
- Locality is currently piloting a national Community Contracting Capability service. We will keep our members informed of the progress with this and/or similar services.

## **Community Right to Bid (Assets of Community Value)**

In neighbourhoods across the country there are buildings and amenities that are integral to the communities that use them. This could be a village shop, a pub, a community centre or a library for example. The closure or sale of such buildings and amenities create lasting damage in communities.

The Localism Act introduces a Community Right to Bid (Assets of Community Value) which aims to ensure that buildings and amenities can be kept in public use and remain an integral part of community life. Under the Localism legislation, voluntary and community organisations and parish councils can nominate an asset to be included in a '*list of assets of community value*'. The local authority will then be required to maintain this list. If the owner of a listed asset then wants to sell the asset a moratorium period will be triggered during which the asset cannot be sold. This is intended to allow community groups time to develop a proposal and raise the required capital to bid for the property when it comes onto the open market at the end of that period.

**What is the procedure for including land on the 'assets of community value' list?**

- The local authority will determine the format of the list, any modifications made to any of the entries on the list and any removal of an entry from the list.
- A community nomination must come from a parish council, a community council or a locally connected voluntary or community body. The nomination has to be made for land or buildings in the nominee's local area.
- If the local authority deems that the asset does have community value, and it is in their local area, then it will add that asset to the 'assets of community value' list.
- If the nomination is unsuccessful the local authority must notify the nominee in writing and provide an explanation as to why the nomination was unsuccessful.
- The local authority must notify the landowner, the occupier and the community nominee of any inclusion or removal of an asset to the list.
- A landowner can ask the local authority to review the inclusion of the asset from the list and there will be a process for an appeal to an independent body.
- The local authority must also maintain a list of 'land nominated by an unsuccessful community nomination'.
- If land is included in the list of assets of community value it will remain on that list for five years.

### What is defined as ‘community value’?

- A building or piece of land will be deemed to have community value only if:
  - The use of the land or building currently, or in the recent past, furthers the social well-being or cultural, recreational or sporting interests of the local community.
  - This use (as described above) of the building will continue to further the social well-being or interests of the local community.
  - The use of the building or land must not be deemed ‘ancillary’, i.e. of secondary purpose. This means that the use of the land or building to further social well-being or interests of the community must be its principle use.
- The regulations set out by the Secretary of State will provide more detail on assets that will be exempt from listing and who has the power to make this exemption.

### What is the Moratorium period?

- If a building or piece of land is listed as an ‘asset of community value’ and the owner wants to sell the asset, they must inform the local authority. This will then trigger a moratorium period.
- During a moratorium period the owner cannot conclude the sale of the asset.
- There are two moratorium periods to note, both of which start from the date the owner of the asset notifies the local authority of their intention to sell the asset:
  - ‘*Interim moratorium period*’ - this is a six week period during which a community group wishing to bid for the asset must notify the local authority that they wish to be considered as a potential bidder. If this does not happen the owner can proceed to a sale.
  - ‘*Full moratorium period*’ - this is a six month period during which a community group can develop a proposal and raise the capital required to purchase the asset.
- There is also a ‘*protected period*’ of 18 months from the same start date to protect the owner from repeated attempts to block a sale.

### Does the moratorium period apply to all disposals of land and buildings named on the “assets of community value” list?

- There *are* some circumstances when the disposal of an asset that is listed as having community value can be exempt from the regulations concerning the moratorium period. These include:
  - If the disposal is a gift
  - If the disposal is made between members of the same family.
  - If the land or building being disposed of is part of a bigger estate.
  - If the disposal is of a building or piece of land on which going-concern business is operating, provided that the sale is to a new owner to continue the same business ( for example if an owner of a pub wants to sell the pub to a new owner, to continue running it as a pub).

### We want to use the right to bid to takeover a community asset - what support is available?

- The Asset Transfer Unit led by Locality has been supporting community groups to take ownership of community assets for nearly four years. You can read about some of the projects we have assisted and find out what support we can offer by visiting this site [www.atu.org.uk](http://www.atu.org.uk) .

### When will the Community Rights come into effect?

Different parts of the Act will come into effect at different times as much of the detail about how the Community Rights will operate is still to be published. The Government has stated that they

are aiming for many of the measures to come into effect in April 2012 and will be issuing regular updates on the start dates and public consultations on different parts of the Act through the DCLG website- [www.communities.gov.uk](http://www.communities.gov.uk) .

## Useful Resources

- The Plain English Guide to the Localism Act - <http://www.communities.gov.uk/publications/localgovernment/localismplainenglishupdate>
- The Five Key Measures in the Localism Act - <http://www.communities.gov.uk/localgovernment/decentralisation/localismbill/keymeasures/>
- Download the Localism Act 2011 - <http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted/data.htm>

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### Further information

If you would like any further details, including case studies or evidence to support this response, please contact:

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