



Meeting on 1st February 2011

Localism Bill

Discussion Group - Community Right to Buy and Community Right to Challenge
(Workshop facilitator: Steve Howdle, Rural Policy Officer, East Riding of Yorkshire Council)

1) Community Right to Buy / List of Community Assets

Clauses 71 to 88 of the Bill. Also referred to as 'Community Right to Bid' in the Government's 'Plain English guide to the Localism Bill'.

The proposals are intended to give communities powers to save local assets threatened with closure, by allowing them to bid for their ownership and management.

Key aspects of the proposals:

- Local authorities will have a new responsibility to compile, maintain and publish a list of public or private assets of community value.
- Communities (inc. Parish Councils) will be able to submit nominations for consideration and inclusion on the list.
- It is for a local authority to decide the form and contents of its list of community assets, which will be specified in appropriate regulations.
- Once on the list, an entry is to be removed after a 5-year period, unless removed earlier in accordance with the regulations.
- Local authorities must notify all owners and occupiers of listed assets, deal with any reviews and manage the process when listed properties come up for sale. Local authorities will also be required to publish lists of unsuccessful community asset nominations.
- When listed assets come up for sale (by freehold or by long-term leasehold), the owner must notify the local authority and will be unable to enter into a disposal until completion of an appropriate 'moratorium' period.
- When listed assets come up for sale, communities will be given the chance during a moratorium period to develop a bid to buy the asset when it comes on the open market.
- Additionally, local authorities 'may by regulations make provision for the payment of compensation' in relation to assets of community value.

Main points discussed

Compilation and maintenance of the asset list will be a substantial task for local authorities and is likely to add to local bureaucracy at a time of public sector funding challenges.

Some workshop delegates were surprised that privately-owned assets are set to be included on asset lists; a potential minefield for conflict and compensation. Details on what constitutes a qualifying 'asset' are not (yet) firm and could lead to inconsistencies. The Hudswell Community Pub was seen as a good example of what a community can achieve working together, although not all communities would be able to replicate. Other potential community assets were discussed (inc. libraries, shops, woodland) although some delegates suggested that they might be liabilities rather than assets.

Public sector asset transfer was considered a key factor in making 'right to buy' work.

It was suggested that communities might seek to hedge their bets and add as many community buildings as possible to an asset list - rather than just those they might reasonably be able to buy - increasing administration of the asset list process.

A proposed moratorium period of 6 months was considered too short – 2 or 3 years might even be more realistic for communities to plan and take over assets (although that would presumably mean more compensation payable?).

Owners of listed assets have no obligation under the current proposals to sell to community bids and could still sell to a higher bidder. Delegates questioned whether the proposals would actually give communities any new powers or just 'buy them time'.

It was assumed that local authorities would be responsible for making compensation payments to owners of listed assets, but more details are required.

Workshop delegates have not noted significant community support for the right to buy proposals to date, but that could be due to a lack of detail and public awareness.

2) Community Right to Challenge

Clauses 66 to 70. The Bill will give communities a right of challenge to run local authority services, and is intended to get local communities more involved in the delivery of public services and help shape them in a way that meets local preferences.

Key aspects of the proposals:

- A 'relevant body' can submit a written expression of interest to a local authority to take over (or assist in) the provision of a service.
- The Bill states that relevant bodies are; a voluntary/community body; Parish Council; Body of persons or a trust established for charitable purposes; Two or more employees of the local authority; others specified by the Secretary of State.
- A local authority must consider the expression of interest, and choose to accept or reject it. It can only be rejected on grounds (to be) specified in regulations by the Secretary of State. The expression of interest may also be modified with the agreement of the relevant body.
- If the local authority accepts the expression of interest, it must carry out a procurement exercise relating to delivery of the service. The relevant body, and others, could then bid.

Main points discussed

Appropriate regulations relating to expressions of interest are still to follow - therefore difficult to appraise how reasonable and workable the proposals are.

It is unclear from the proposals whether any of the cost savings arising through a local authority ceasing to deliver a service would be passed on to organisations taking over service delivery.

The potential implications of TUPE were noted as an important factor if any staff were to be included as part of a transfer of service to a new provider.

Delegates questioned the intention that two employees of a local authority could potentially trigger a procurement exercise for service delivery - how representative of a community would an expression of interest from just two people be?

Workshop delegates have not noted significant community support for the right to challenge proposals to date, although delegates did discuss a small number of specific examples where the right to challenge could present an opportunity for parishes.

Key Conclusions

Workshop delegates were asked to feed back the three most important points of the discussion to the plenary session, as follows:

- **More clarity needed.** There is a lack of clarity in key areas of the Bill meaning it is difficult to pass informed comment. Many provisions are to be determined by future regulations. It is not entirely clear how much further guidance from central Government will be forthcoming.
- **Expertise and resources.** Where appropriate skills, time and financial means exist in a community there are likely to be opportunities (eg. to buy a community asset or to take over local service delivery) but there are concerns that many communities do not have the necessary expertise or resources, which could lead to greater inequalities. Funding (for the public and/or voluntary sectors) will need to be committed to help build capacity in communities where it is needed most, but there are strong concerns that this will not adequately be the case in the current economic environment.
- **Assets or Liabilities?** Taking over the running of a community asset or service obviously requires significant capital and revenue funding, and the risk is that communities could end up with substantial financial burdens and liabilities. This risk might prove to be a barrier in itself to communities wanting to embrace the 'Right to Buy' and 'Right to Challenge' proposals.

**** February 2011 update - Government Consultation Papers ****

Consultation papers for the 'Community Right to Buy' and 'Community Right to Challenge' proposals were both subsequently published in February, and are open for response until 3 May 2011.

- Right to Buy consultation - 68 pages, 46 questions
(<http://www.communities.gov.uk/publications/localgovernment/righttobuyconsultation>)

- Right to Challenge consultation - 40 pages, 16 questions
(<http://www.communities.gov.uk/publications/localgovernment/righttochallengeconsultation>)

SH / yhraf
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