

Localism and Community Rights

Briefing Note

Part 2 of 3 on Localism

January 2013

The Localism Act opens up opportunities for community groups to run local services and assets, and to bid to own local buildings.

Communities are showing they have the ambition and determination to secure ownership of important local assets and get new projects off the ground.

In the three months to November 2012, the Community Rights Support website received over 1600 enquiries from groups interested in exercising the new localism powers. Grants of over £80,000 have been awarded.

The sector is expressing concerns over diversity issues and inclusion around delivering localism. The negative effect of this could be to increase inequalities as wealthier communities are able to take advantage of community rights in a way disadvantaged communities are unable to.

Other barriers to the right to challenge include TUPE and pension's liabilities and the large size of contracts, all of which makes it's more likely that large VCS organisations or private sector organizations will be the true beneficiaries of the community rights.

Without forms of specialist support communities that are best placed to exercise community rights are those where the community is likely to have access to volunteers with legal, financial or business planning skills. Communities without a similar source of volunteer knowledge will find it much more difficult to exercise these rights. For example in Jesmond, Newcastle the community takeover of the local swimming pool was made possible due to the presence of those with the right professional skills.

The government has a £30m support package for the suite of new Community Rights under Localism Act including Right to Bid and Right to Build. They have appointed Locality as the delivery agent to offer an advisory service, guides and resources, and grants to help groups at pre-feasibility, feasibility and service delivery stages.

Some support is available from Locality for small groups to get start up advice but the problem lies in organisations being able to access this. Bear in mind the considerable costs of even the legal advice needed for local groups to prepare bids to takeover buildings and services? Locality's resources won't stretch to funding even one community bid in every town and city.

There is a real risk that these measures will divert attention away from important causes both for VCS organisations and for councils.

Community Right to Bid

The Community Right to Bid allows people to step in and save the facilities and buildings that are important to them. However, within the right to bid (and the right to challenge too) the worry is that small VCS organisations will not have capacity to engage meaningfully.

The Community Right to Bid works by allowing communities to 'stop-the clock' on the sale of valuable local assets and amenities such as post offices, village shops or community pubs. It gives time to put in a local takeover bid and protect it for the wider community's benefit.

The right to bid (formerly the right to buy) process breaks down into a) how an asset of community value is listed and b) what happens when that asset is sold.

- Community organisations, parish councils etc nominate an asset. Anyone who is local should be able to do this. They could also do it through the neighbourhood planning process.
- Then the local authority decides whether the assets meets the prescribed definition and if so, will notify the owner.
- The owner then has an opportunity to comment and give their view about their asset being listed.
- The local authority will then consider any objections and decide whether to list the asset or place on a list of “unsuccessful nominations”.

Then after the listing the asset remains on the list for 5 years. There are no restrictions on the asset and what the owner can do with it, until and unless the owner decides to sell or dispose of their listed asset. At this point the owner cannot sell the asset until the following has happened:

- The owner has to inform the local authority and then the local authority must inform the groups that nominated the asset or the local neighbourhood if it was nominated through the neighbourhood planning process.
- The community groups then have a certain length of time (current suggestion is six weeks) to submit an expression of interest to make a bid. These should be put into certain types e.g. charity, non-profit, asset locked.
- If expressions of interest are received, a longer period (the ‘window of opportunity’) is imposed for bids to be put together and the capital raised. DCLG proposes six months for this. This six month window was a government compromise between the voluntary sector and business interests. Nevertheless, it is a very small timescale when considering communities ability to gather funding and raise capital
- During that period the owner can sell to the particular community groups bidding, so giving them the right of first offer.

- Otherwise, owner cannot sell till the end of the window of opportunity. After that they can sell to whoever they choose.
- The protected period applies even if the owner has not sold at end of window of opportunity. This gives the owner further time to sell the asset on the open market before another moratorium on disposing the asset comes into play.

Community Right to Challenge

The Community Right to Challenge opens up opportunities for community groups, including social ventures, to bid to run local services and assets.

It does this by allowing groups to challenge the way a service is run and to bid to run it themselves.

But the way this is done is by obliging councils to undertake a procurement exercise which covers the service. This means that should a voluntary sector group wish to run a local care home, the council would be fully entitled to put out a single tender for every one of their care homes. This would effectively exclude a single, local group from the process.

Indeed the advice from NAVCA is to be wary – the odds are stacked against the voluntary sector. Check out the actual position and how the council are thinking about the service. Voluntary groups could try and find another way to achieve what they are after, rather than seeing the whole service opened up to market competition.

This briefing was written by
**David Large, volunteer for
VONNE**

- www.vonne.org.uk/policy/
- **Tel: 0191 233 2000**