

## **Policy Review – Localism and Community Rights Policies**

**LEAD OFFICER:** John Groves

**REPORT AUTHOR:** John Groves

### **Why has this report come to the Overview and Scrutiny Committee?**

In January 2012 the Council adopted policies and processes to be utilised as communities became able to exercise rights under the Localism Act 2011. In deciding to adopt these policies it was also resolved to appraise and assess their effectiveness 12 months following adoption. This report provides this appraisal.

### **SUMMARY:**

The policies and protocols have not been utilised to any significant extent. It is apparent nationally that the provisions of the Localism Act, whilst providing considerable scope for community engagement in the management and use of publically controlled assets and services, a range of factors limit the occasions when these opportunities are taken up.

When the processes adopted by the Council have been brought into operation, they have been found to be fit for purpose, meeting operational and administrative requirements.

The Council's policies relating to provisions under the Localism Act 2011 have been seen to operate effectively in providing scope for the community within Copeland to exercise their rights under the provisions of the Act.

### **RECOMMENDATIONS:**

That members agree that at this time there is no need to update or alter these policies, unless further review of the Act prompts the need for change.

### **1. BACKGROUND**

In January 2012 the Council adopted policies to enable a number provisions for community rights, established through the Localism Act 2011, to be administered and managed.

- Community Asset Transfer – the transfer of Council owned assets to community interest groups
- Community Right to Challenge – enabling communities to seek to run a “relevant service” currently operated by the Council.
- Community Right to Bid – scope for a “Community Interest Group” to identify an asset of community value and to bid for that asset should it be offered for sale

## **2. COMMUNITY ASSET TRANSFER**

Community Asset Transfer was a concept which existed prior to 2011 Act. The Council has consequently had tried and tested methods to guide response to enquiries relating to the acquisition of Council owned land or property by community bodies. In line with policy the Council publishes a list of assets. It is open to community groups to seek transfer of these assets to community control. There are a small number of familiar examples of transfer of play areas, toilets and car parks where a mutually beneficial transfer has been possible. Whilst the Council has not sought to overtly promote transfer of assets in this manner, it is clear that in a number of cases transfer has been instigated as budgetary constraints have questioned the ability of the Council to maintain use of a building or land, and the bodies such as parish council have utilised awareness of this process to secure transfer. Adopted policy has supported these processes, particularly policy relating the transfer of an asset for less than best value.

The Council has a decreasing list of assets which may be of interest to community groups. It is also worthy of note that in many cases an “asset” also brings liabilities – building maintenance, running costs, insurances etc. which prevent initial interest to turn to a formal transfer. The Council has maintained a small budget provision to assist in the facilitation of transfer – such as payment of legal fees, where such payments may otherwise have prevented transfer of an asset. This has been used on one occasion since the policy was adopted last year.

The policy relating to CAT is considered to operate successfully with no requirement for modification.

## **3. COMMUNITY RIGHT TO CHALLENGE**

There is recognition nationally that this is least active area of activity which emerged from the Localism Act, with limited examples of community groups or other relevant bodies able to successfully challenge a local authority and take on the operation of a service. There have been no submissions of a right to challenge in Copeland. It is perhaps arguable that smaller scale operation of car parking, street cleaning etc. is effectively a community challenge, but where these examples have occurred they have been small, scale and facilitated outsider any formal process.

Policy has not been tested, but there is no indication that the approach presented is inadequate.

#### **4 COMMUNITY RIGHT TO BID**

A community right to bid enables the identification of buildings or premises which are an asset to a community – these have included pubs, village halls and similar premises. Once nominated, a community group secures the ability to bid to acquire the property should it be placed on the market for sale. Nomination does not make any provision for the community group to secure the property at anything other than market value and simply provides a window of opportunity to secure sufficient resources to bid for the asset.

Since the Council adopted policy in January last year three nominations to include premises on a list of Assets of Community Value have been made. One nomination sought to list a public house – this was rejected as there was no evidence that the public house was essential to social or cultural wellbeing of the community, particularly given that it was located next to a village hall already within community control. The other two nominations relate to existing village halls, where some degree of external control – a freehold interest for example exists. One of these applications is pending the other has been agreed and the asset included on the list of assets of community value.

There is no example to date where a listed asset has been marketed and the right of the community to bid to acquire the asset exercised.

As with other rights described here, it is considered that the Council's adopted policies are fit for purpose at this time.

#### **5. CONCLUSION**

The policies adopted in January 2013 provide suitable process and assessment criteria to enable the Council to properly manage and consider submissions made through the provisions of the Localism Act

#### **Background Paper and Appendices:**

Appendix 1

Report to Full Council and draft policy documents – Full Council 22 January 2013

<http://www.copeland.gov.uk/attachments/full-council-committee-item-9-tue-22-jan-2013>

**POLICY FRAMEWORK 2013-15 – LOCALISM: COMMUNITY RIGHTS AND  
COMMUNITY ASSET TRANSFER**

**EXECUTIVE MEMBER:** Cllr Elaine Woodburn  
**LEAD OFFICER:** Penny Mell, Head of Policy and Transformation  
**REPORT AUTHOR:** Jessica Hall, Policy and Scrutiny Officer

**WHAT BENEFITS WILL THESE PROPOSALS BRING TO COPELAND  
RESIDENTS?**

The report outlines the Council's policy response and key principles on key components of the Localism Act 2011, specifically Community Right to Challenge and Assets of Community Value (Community Right to Bid). It also outlines revisions to the Council's Community Asset Transfer Policy. The policy guidance demonstrates the Council's compliance with the Localism Act and an updated approach to Community Asset Transfer which supports the development of the new Policy Framework for the Council.

**WHY HAS THIS REPORT COME TO THE EXECUTIVE?**

**Council are required to approve the three policies for recommendation to Full Council: Community Asset Transfer Policy; Nomination of Assets of Community Value (Community Right to Bid) Policy and Community Right to Challenge Policy. These will form part of the new, wider policy framework.**

**RECOMMENDATIONS**

That Council approve

- (a) This report and its appendices form the basis of the policy framework for community asset transfer and the Localism Act 2011 rights to bid and challenge;
- (b) in respect of community asset transfer that the key principles in paragraph 3.3 of this report and the policy at Appendix A be approved.

## RECOMMENDATIONS CONTINUED

- (c) In respect of the community right to bid that:
- (1) that the Head of Nuclear, Energy and Planning be delegated with authority to determine (a) whether a community nomination request for a community asset be included in the list of assets of community value should be accepted and (b) in consultation with the Head of Corporate Resources applications for compensation and the amount thereof; and that the Director of Services be delegated with authority to determine requests for a review of a decision made by the Head of Nuclear, Energy and Planning;
  - (2) that the Head of Nuclear, Energy and Planning be delegated with authority to oversee the implementation and day to day management of the community right to bid process;
  - (3) in respect of community right to bid that the key principles in paragraph 4.2 of this report and the policy at Appendix B be approved;
  - (4) that a risk based reserve be set up utilising funds currently in the general fund for a sum up to £20,000 for the period 1<sup>st</sup> December 2012 to 31<sup>st</sup> March 2014 to fund claims for compensation which may become payable;
  - (5) That a separate report be made to the Executive in the event of any appeal being made to the First Tier Tribunal to put in place funding for dealing with such appeal; and
  - (6) That the scheme be reviewed in December 2013 to assess scheme take up, budget requirements for 2014/15 and whether it is advisable to specify any definition or guidelines on the meaning of social interest or well being for the determination of compensation
- (d) In respect of the community right to challenge that the key principles in paragraph 5.2 of this report and the policy at Appendix C be approved.
- (e) That the policy framework for community asset transfer and the Localism Act 2011 rights to bid and challenge and associated arrangements are reviewed within 12 months.
- (f) That resources required for the implementation of policy framework for community asset transfer and the Localism Act 2011 rights to bid and challenge set out at 4.3 are noted and that these are monitored and reviewed.
- (g) Subject to approval, each policy will be made available via the Council's website and made available upon request

## 1. INTRODUCTION

- 1.1 The Localism Act 2011 introduced two new requirements: Assets of Community Value (Community Right to Bid) and Community Right to Challenge. The Council's draft policy response is set out at Appendix B and C.
- 1.2 Localism has also placed a renewed emphasis on Community Asset Transfer and as a result, it is considered timely to review and update the Council's Community Asset Transfer Policy. The revised draft policy is attached at Appendix A.
- 1.3 Similarly the proposed revised Community Asset Transfer Policy compliments this wider localism agenda. This is set out at Appendix A. It is advised that the revised policy response provides adequate guidelines while ensuring proportionality and the degree of flexibility required for the communities we work for and with.
- 1.4 On approval of the policies, a detailed action plan will be developed.

## 2. THE FUTURE ROLE OF THE COUNCIL

- 2.1 In looking towards the future and aligning the role and services provided by the Council with the new financial reality, the Executive's vision is to continue to **work to improve lives, communities and the prosperity of Copeland**. By 2015 the Council is proposing it will be 'a small and flexible Council that works with partners to arrange essential services for residents in Copeland. To achieve this we propose to:
  - Reduce the number and type of services provided or supported directly by the Council;
  - Reduce the scope of other services;
  - Ensure that where possible our services are targeted, helping to meet community need and help the most vulnerable in our communities;
  - Strive continuously to deliver statutory services which are well managed, cost effective and easy to access and;
  - Continue to reduce our running costs
- 2.2 The proposed approach to **prioritise** the delivery of statutory services and reduce the delivery of discretionary services means that the Council will no longer be providing all the services it has in the past. The Council will recognise clearly the role, responsibilities and importance of others in delivering services in Copeland. We also recognise that roles will change, not only for the Council but also for partners and communities.

- 2.3 Based on this, the Executive developed revised priorities for the period 2013-15. These will form the basis of the Council's new Corporate Plan.

It is within this context that the three policies for Community Asset Transfer, Nomination of Assets of Community Value (Community Right to Bid) and Community Right to Challenge have been devised.

### **3. COMMUNITY ASSET TRANSFER (CAT)**

#### **3.1. BACKGROUND**

- 3.1.1 The term "Community Asset Transfer" (CAT) relates primarily to a long leasehold or freehold management and ownership arrangement on buildings or land at *less than best consideration* to certain community organisations.
- 3.1.2 Less than best consideration is a form of disposal permitted under the Local Government Act 1972 provided that the disposal promotes, or improves economic, environmental and social wellbeing and the discounted value is less than £2m. A valuation will be required in all CAT disposals.
- 3.1.3 CAT is not new. Up to 2010, the policy basis for CAT was underpinned by the vision for Sustainable Communities. The Quirk Review in 2007 "Making Assets Work: The Quirk Review of community management and ownership of public assets" concluded strongly in favour of local ownership and management of public assets.
- 3.1.4 While the Quirk Review remains a touchstone for CAT, a challenging financial reality means the Council will increasingly need to consider CAT as an enabler to achieving revised corporate aims and priorities.
- 3.1.5 Copeland Borough Council has long recognised the benefits of CAT in meeting corporate objectives and the needs of local communities. This is demonstrated by a long standing policy position supporting CAT in Copeland as well as a number of real examples across the Borough.
- 3.1.6 The Council's Asset Transfer Policy was last updated in 2009. It is therefore timely that the Council's CAT policy is reviewed to reflect the national policy developments and the local context of revised future priorities, service delivery and financial pressures.

## **3.2 ASSETS ELIGIBLE FOR COMMUNITY ASSET TRANSFER**

3.2.1 The Council has a range of assets (buildings or land) which are used for operational or investment requirements. On occasions, assets can become surplus to these requirements. In such circumstances the Council may consider disposals of an asset under CAT which enables transfer at less than best value.

This can put control, empowerment and ownership closer to communities and build the capacity of local groups. It can also ensure continued service delivery where appropriate and support communities who have identified that a need they have can be met through CAT.

3.2.2 It is proposed that the Council considers CAT in line with its own policies and procedures including the Asset Register and Contract Procedure Rule 28.

3.2.3 It should note that CAT is just one mechanism for disposal of an asset. Therefore for the purpose of the policy, CAT relates to an asset owned by Copeland Borough Council which have been identified as surplus and may be transferred at less than best value. It will not apply to those assets that are held for **investment** or **essential operational** purposes.

## **3.3. KEY PRINCIPLES OF THE PROPOSED CAT POLICY**

3.3.1 It is proposed that that the policy approach is based on the following key principles:

- CAT will be offered to eligible community bodies as outlined in Appendix A.
- Assets which are identified as surplus and available at less than best value will be considered for CAT. It is proposed that the Asset Register is reviewed on a quarterly basis by CLT and Executive in line with corporate objectives. This will be published.
- CAT will only apply to Copeland Borough Council owned assets that are not considered essential operational assets or held for investment purposes. (For example, assets that generate income or could be subject to other forms of disposal which would generate a capital receipt for the Council in line other policies and procedures).



- CAT will be offered on a **freehold or leasehold basis**.
- CAT will be subject to a transparent corporate process.
- The Council will actively promote CAT to community organisations through awareness raising and support to encourage selected groups to take on appropriate community assets.
- The Council will take a proportionate approach, working with communities to engage in the CAT process and take on community assets.
- Corporate Resources (Property) will be the initial point of contact for CAT, hold the policy and manage the process with the Head of Nuclear, Energy and Planning as the Senior Responsible Officer.

3.3.2 It is considered that subject to Executive and Council approval, the revised policy is designed to enable Council to adopt and retain a proactive approach to CAT which is transparent, proportionate and flexible.

3.3.3 The Council's proposed revised CAT Policy is set out at Appendix A.

## **4. ASSETS OF COMMUNITY VALUE (COMMUNITY RIGHT TO BID)**

### **4.1 BACKGROUND**

4.1.1 Assets of Community Value (Community Right to Bid) came into force on the 20 September 2012 under Part 5 Chapter 3 of the Localism Act 2011. The purpose of the Community Right to Bid is to prevent the decline of assets which are considered of benefit to local communities. It aims to do this by stopping the disposal of community assets without local communities having the opportunity to keep it in use by nominating it as an Asset of Community Value.

4.1.2 The right is made up of two components: Nomination of assets of community value and the Right to Bid if a nominated asset of community value is ever put up for sale. The Council's draft policy is set out at Appendix B and is based on the statutory guidance.

- 4.1.3 The right applies to publically and privately owned assets and gives local communities the ability to nominate any land or property (with some exceptions) in their area which promotes the social wellbeing or social interests of the community to a list of community assets.
- 4.1.4 The Council (as the local planning authority) is required to maintain and publish a list of community assets in the Borough. The Council is also required to hold a list of unsuccessfully nominated assets.
- 4.1.5 Copeland Borough Council owned assets can also be identified and subject to nomination of assets of community value and Community Right to Bid.

## **4.2 KEY PRINCIPLES OF THE PROPOSED ASSETS OF COMMUNITY VALUE AND COMMUNITY RIGHT TO BID POLICY**

4.2.1 It is proposed that the policy approach to Assets of Community Value and Community Right to Bid is based on the following key principles:

- Nominations can be made by eligible organisations and these are listed in Appendix B.
- Nominated assets must meet the definition of a community asset as set out in Section 88 of the Localism Act.
- Specific information is required from community organisations nominating an asset.
- The Council is not liable to incur any costs associated with the nomination process over and above what it is required to do within the statutory regulations.
- The Council is required to assess nominations, following specific procedures and adhere to timescales. These are outlined in the draft policy.
- The Council is also required to undertake specific roles and responsibilities in relation to Community Right to Bid which are outlined in the draft policy.

- The Nomination and assessment process will be managed, and subsequent decisions made under delegation by the Head of Nuclear, Energy and Planning who will be supported by a multi disciplinary group of officers including Legal services and Corporate Policy.

### **4.3 COSTS ASSOCIATED WITH COMMUNITY RIGHT TO BID**

- 4.3.1 Members should note that financial implications are associated with the Community Right to Bid component of the legislation. This gives the owner of an asset the right to claim compensation from the Council to recover 'loss or expense in relation to the land which would be likely not to have been incurred if the land had not been listed'. The regulations do not restrict the types of claim which can be made but do expressly state that claims can be made by an owner if they believe that they have incurred loss and expense in complying with specified timescales which has resulted in delay to entering into a binding legal agreement to sell the asset.
- 4.3.2 In the event that the Council declines the claim for compensation the owner has the opportunity to appeal initially to the Council and if unsuccessful to the First Tier Tribunal. Compensation is not payable to public sector bodies whose assets are involved in this process.
- 4.3.3 It is proposed that the Head of Nuclear, Energy and Planning in consultation with the Head of Corporate Resources will approve or decline the claim. Any appeal against the claim being refused or as to the amount awarded will be dealt with by the Director of Services within 8 weeks.
- 4.3.4 In terms of compensation payable the impact of this for the Council is not known. At its very worst a claim could be for loss of market value caused by a delay falling through; at least it could be for administration costs. The DCLG estimate that each claim will have an average amount of £2,000. The number of claims in any one year is likely to be low. Importantly the DCLG has agreed to meet the cost of compensation payments over £20,000 in any one financial year.
- 4.3.5 Another specific expenditure is that the Council will incur a Land Registry fee in making the restriction on the register of title. That fee is currently £40 per listing. This will be contained within Corporate Resources existing budget but should the number become excessive a separate application for budget will be made if virement is not an option.

- 4.3.6 In terms of setting up the new scheme and administering the new right this will be met by central government through the New Burdens Assessment, until 31<sup>st</sup> March 2015.
- 4.3.7 The Council's proposed Assets of Community Value and Community Right to Bid Policy is set out at Appendix B.

## **5. COMMUNITY RIGHT TO CHALLENGE**

### **5.1 BACKGROUND**

- 5.1.1 The Community Right to Challenge came into force on 27 June 2012, under Part 5, Chapter 2 of the Localism Act 2011. The purpose of the Community Right to Challenge is to enable and empower communities to shape and run local services by allowing 'relevant bodies' voluntary and community groups, Parish Councils and two or more local authority staff to express an interest in running a 'relevant service' of a 'relevant authority' – Copeland Borough Council is a relevant authority.
- 5.1.2 'Relevant services' refer to all of the services currently provided by the Council.

### **5.2 KEY PRINCIPLES OF THE PROPOSED COMMUNITY RIGHT TO CHALLENGE POLICY**

- 5.2.1 It is proposed that the policy approach to Community Right to Challenge is based on the following key principles:
- Community Right to Challenge can be exercised by specific eligible organisations ('relevant bodies'). These are listed in Appendix C.
  - 'Relevant services' are all of the services currently delivered by the Council.
  - Expressions of Interest are required from organisations exercising Community Right to Challenge. The draft policy specifies what the Council will require as part of this.
  - The Council is not able to allocate resources over and above what it is statutorily required to do.

- The Council will receive Expressions of Interest in a specified window in accordance with the annual business cycle with effect from 2013. The window for receiving Expressions of Interest will be 1 April to 31 May each year.
- The Council will set timeframes for deciding whether to accept or reject Expressions of Interest in accordance with statutory guidance and our own corporate processes. This will be three months.
- Community Right to Challenge will be managed and assessed by the Head of Nuclear, Energy and Planning, supported by a multi disciplinary officer group including Legal Services and Corporate Policy.
- The Executive will approve an acceptance or rejection of an Expression of Interest.
- The decision to accept an Expression of Interest will result in a procurement exercise which will be undertaken in accordance with existing/appropriate procurement law and regulations.

5.2.2 The Council's proposed Community Right to Challenge Policy is set out at Appendix C.

## **6. RESOURCING**

- 6.1 Resources are required to introduce and implement these policies and their accompanying procedures and action plans. This includes day to day management of the policies such as publication, revision and review. Practical application of the policies will require a multi-disciplinary team of officers from across the Council as and when. This will involve input from Corporate Policy, Legal Services, Planning and Property Services. This team will support the Head of Nuclear, Energy and Planning to implement the policies.
- 6.2 Member resources will also be required for policy review purposes and decision making.
- 6.3 At present it is considered that officer time can be met through existing resources. This will be monitored and a separate application for additional resources will be made if this cannot be contained within existing resources.

## **7. CONSTITUTION**

- 7.1 It is not anticipated that any amendments are required at this time. However, should the need arise, then any amendments required will be considered by Constitution Working Group before submitting to Full Council for approval.

## **8. REVIEW AND PUBLICATION**

- 8.1 It is proposed that a review of the policies is conducted by Overview and Scrutiny, and considered by the Executive thereafter within 12 months of their implementation.
- 8.2 Subject to approval, all policies and associated documents will be published on the Council website [www.Copeland.gov.uk](http://www.Copeland.gov.uk).

## **9. CONCLUSIONS**

- 9.1 The report and attached appendices provide a timely update to the Council's CAT policy and ensure compliance with Assets of Community Value (Community Right to Bid) and Community Right to Challenge – both key features of the Localism Act 2011. Fundamentally, all are integral to the revised policy framework going forward.
- 9.2 The revised Community Asset Transfer Policy will form the basis and support the implementation of a number of corporate priorities between 2013 and 2015 onwards. It will do this by ensuring a clear, open and transparent process for communities wanting to run and manage community assets which the Council no longer has the resources to do.
- 9.3 The introduction of policy guidance for Nomination of Community Assets (Community Right to Bid) and Community Right to Challenge will ensure that there is a clear, open and transparent policy and process for communities who wish to instigate these new rights.

## **10. STATUTORY OFFICER COMMENTS**

- 10.1 The Monitoring Officer's comments are: Incorporated in the report.
- 10.2 The Section 151 Officer's comments are: An earmarked reserve has been set up to provide for the known financial implications arising from the compensation elements of the community right to bid statutory

requirement. As the community right to bid and community right to challenge policies are new there is no history of the numbers of applications that the council may receive.

In the absence of application history other costs such as officer time to administer these schemes are assumed to be contained within existing budgets.

The position will need to be monitored and reviewed once the policies have been in operation for a year.

10.3 EIA Comments:

Under the Equality Act 2010, public sector bodies have a duty to eliminate discrimination, promote equality and foster good relations.

Each policy has equality implications and the Council will ensure equality and diversity is embedded into all processes associated with the policies to ensure accessibility for all groups and service users as well as promoting equality and good relations. This will be set out in the accompanying action plan and monitored accordingly.

10.4 Policy Framework comments:

The Policy Framework has been revised in the context of the Council's future role and priorities going forward. The revised Community Asset Transfer Policy, the Assets of Community Value (Community Right to Bid) Policy and the Community Right to Challenge Policy all form an integral part of the revised Policy Framework.

10.5 Other consultee comments, if any: N/A

**11. HOW WILL THE PROPOSALS BE PROJECT MANAGED AND HOW ARE THE RISKS GOING TO BE MANAGED?**

11.1 The proposals will be project managed by the Head of Nuclear, Energy and Planning.

11.2 Risks will be managed by CLT who will regularly review and monitor the implementation of the new policies with reporting to OSC and the Executive.

**12. WHAT MEASURABLE OUTCOMES OR OUTPUTS WILL ARISE FROM THIS REPORT?**

12.1 There will be a number of outcomes and outputs arising from the report, namely:

- (1) Council Policy statements in relation to Community Asset Transfer, Community Right to Challenge and Listings of Assets of Community Value, supporting the Council's new Policy Framework; and
- (2) A recognised mechanism to enable implementation of each policy and there these to be subsequently monitored..

**List of Appendices**

**Appendix A – Draft Community Asset Transfer Policy**

**Appendix B- Draft Listings of Assets of Community Value by the Community (Community Right to Bid) Policy**

**Appendix C – Draft Community Right to Challenge Policy**

**List of Background Documents:**

Asset Register

Community Right to Bid: Non Statutory advice note for local authorities – DCLG

Community Right to Challenge Statutory Guidance – DCLG

Localism Act 2011



# Appendix A



# Community Asset Transfer

DRAFT

Current Document Status			
Version	0.6	Approving body	Council
Date	November 2012	Date of formal approval	December 2012
Responsible officer	Pat Graham	Review date	December 2013
Location	Intranet and website		

#### VERSION HISTORY

Date	Version	Author/Editor	Comments
3 January 2012	0.6	Barbara Green, Clinton Boyce and Jessica Hall	First Draft for Executive Consideration

#### Equality Impact Assessment Record

Date	Type of assessment conducted	Stage/level completed (where applicable)	Summary of actions taken decisions made	Completed by	Impact Assessment review date
	(Initial)	Initial	(NFA)	Jessica Hall	<Insert date>
Responsible officer	Pat Graham	Review date			

#### Corporate Quality Assessment Record

Date	<Insert date>
Completed by	<Insert name(s)>

#### Document retention

Document retention period	E.g. 5 years in hard and electronic copies
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#### Protective Marking

Protective Marking	Not protectively marked
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Related policies/procedures

Asset Register

Contract Procedure Rules

## **Introduction**

Community Asset Transfer (CAT) is not new. Up to 2010, the policy basis for CAT was underpinned by the vision for Sustainable Communities. The Quirk Review in 2007 “Making Assets Work: The Quirk Review of community management and ownership of public assets” concluded strongly in favour of local ownership and management of public assets.

While the Quirk Review remains a touchstone for CAT, a challenging financial reality means the Council will increasingly consider CAT to enable communities to meet their needs and to achieve our own aims and priorities.

## **Community Benefits of Community Asset Transfer**

Copeland Borough Council has long recognised the benefits of CAT and this is demonstrated by a long standing policy position supporting CAT in Copeland as well as a number of real examples across the Borough.

The Council knows that the way physical assets are managed can have a positive impact on the long term strength of local communities. Through asset ownership, community organisations can grow and become more secure, gaining access to sources of additional investment that the Council itself is not able to access. Our policy enables community organisations to become more sustainable on long term basis.

## **What is Community Asset Transfer?**

CAT in Copeland relates to the freehold or long leasehold management and ownership arrangement on certain buildings or land.

Copeland Borough Council encourages CAT on certain buildings or land which have been identified as surplus and available for disposal at less than best value.

Public assets are rarely used by everyone: their ‘value’ being locked-in to a particular use or a particular group of people. Changing ownership or management can offer opportunities to extend the use of a building or piece of land, increasing its value in relation to the numbers of people that benefit and the range of opportunities it offers. Community-led ownership can offer additional opportunities to secure resources within a local area and to empower local citizens and communities.

## ***Less than best value***

Less than best value is permitted under the Local Government Act 1972 providing that a disposal promotes or improves economic, environmental and social wellbeing and the discounted value is less than £2m. A valuation is required in all CAT disposals.

If an asset is to be transferred at less than best value, the applicant will need to demonstrate that it will generate social, economic and environmental benefits. Examples include service continuation, employment or volunteering opportunities and providing an

accessible community facility.

### **When will we consider CAT?**

The Council has a range of assets (buildings or land) which are used for operational or investment requirements. On occasions assets may become surplus to these requirements. In these circumstances, the Council may consider disposal of such assets under CAT, which enables the disposal of the asset to take place at less than best value.

CAT will be considered for assets owned by Copeland Borough Council which are categorised as surplus and may be transferred at less than best value.

The Council will consider CAT in line with its own policies and procedures, including the Asset Register and Contract Procedure Rule 28.

Assets for **essential** operational or investment purposes will not be considered for CAT.

### **Which organisations will we consider transferring assets to?**

The types of organisations that would be considered for community asset transfer are those bodies listed in regulation 5 of the Assets of Community Value (England) Regulations 2012 namely:

- (a) A body designated as a neighbourhood forum;
- (b) A Parish Council or other statutory body with a local connection, for example, the Whitehaven Harbour Commissioners;
- (c) An unincorporated body whose members include at least 21 individuals, with a local connection and does not distribute any profit it makes to its members;
- (d) A charity; or
- (e) A company limited by guarantee, a community interest company or an industrial or provident society which does not distribute any profit it makes to its members;

In addition unincorporated bodies as described in (c) having less than 21 individuals will be considered.

In exceptional circumstances, the Council may consider other types of organisations. Organisations which do not constitute those listed above at a-e are asked to contact the Council in the first instance to discuss the possibility of CAT.

To enable transfers at less than best value, applicants will need to demonstrate that their acquisition of the asset will support, promote and benefit the economic, environmental or social wellbeing of the community.

## **How will we assess CATs?**

The Council will proactively seek opportunities for transferring assets that it has identified as eligible in line with its Strategic Asset Management Strategy.

The assessment will be proportionate to the organisation applying for the asset, the value of the asset and its proposed use. It will also ensure that due consideration of the aspects of CAT and what is involved in taking on an asset are covered.

The assessment will be based on the following:

- Eligibility of the asset for CAT
- Eligibility of the organisation applying for CAT
- How the transfer meets community need and what the asset is and will be used for
- Details of anticipated community benefit - What social, economic and environmental benefits will the transfer deliver (e.g service continuation, an accessible community service)

To help with this process, an application form for interested bodies is attached.

In some circumstances, the Council will proactively seek CAT for specific assets that it is no longer able to provide or maintain. In these circumstances, the Council may directly approach a specific organisation to explore the viability of a CAT. Should a CAT not be viable for any reason, alternative forms of disposal will be considered.

## **Asset Transfer Terms and Restrictions**

We want to support community organisations and enable them to effectively manage and develop an asset.

Having carried out an initial assessment of suitability we will, where appropriate, work with groups to affect a transfer. In doing this we will refer to the Council's relevant rules and procedures.

In the first instance the Council's Surveyor will be requested to prepare heads of terms relating to the proposed disposal in consultation with you, the applicant.

In some instances, the Council will need assurance about particular matters as part of the transfer process. These include the following:

- (a) If the asset comprises of public open space statutory notice will be given in a local newspaper for two consecutive weeks in accordance with section 123 of the Local Government Act 1972;
- (b) If the applicant is required to obtain any planning permission for the asset the applicant will be required to do so now; and

- (c) If the applicant's proposal is dependent on the receipt of grant, the applicant will be required to submit such an application now and obtain a grant approval. This is to allow the Council to ensure that no claw back conditions will be attached to it if a leasehold disposal is intended. The Council is not willing to be the accountable body for such grants.

CAT terms will be as flexible as possible, each transfer will be considered on its own merits to enable the applicant to effectively manage and develop the asset.

The type of disposal will depend on many factors including type of asset, size and value of asset, status of the group, financial stability of the group, period the group has been in existence and track record for delivering services of a type which the asset relates to.

A disposal could be a freehold or leasehold transfer the latter being of any period. In certain circumstances grant funding conditions might dictate the length of the lease.

Working together through the process will help ensure that you enter into the most appropriate arrangement going forward.

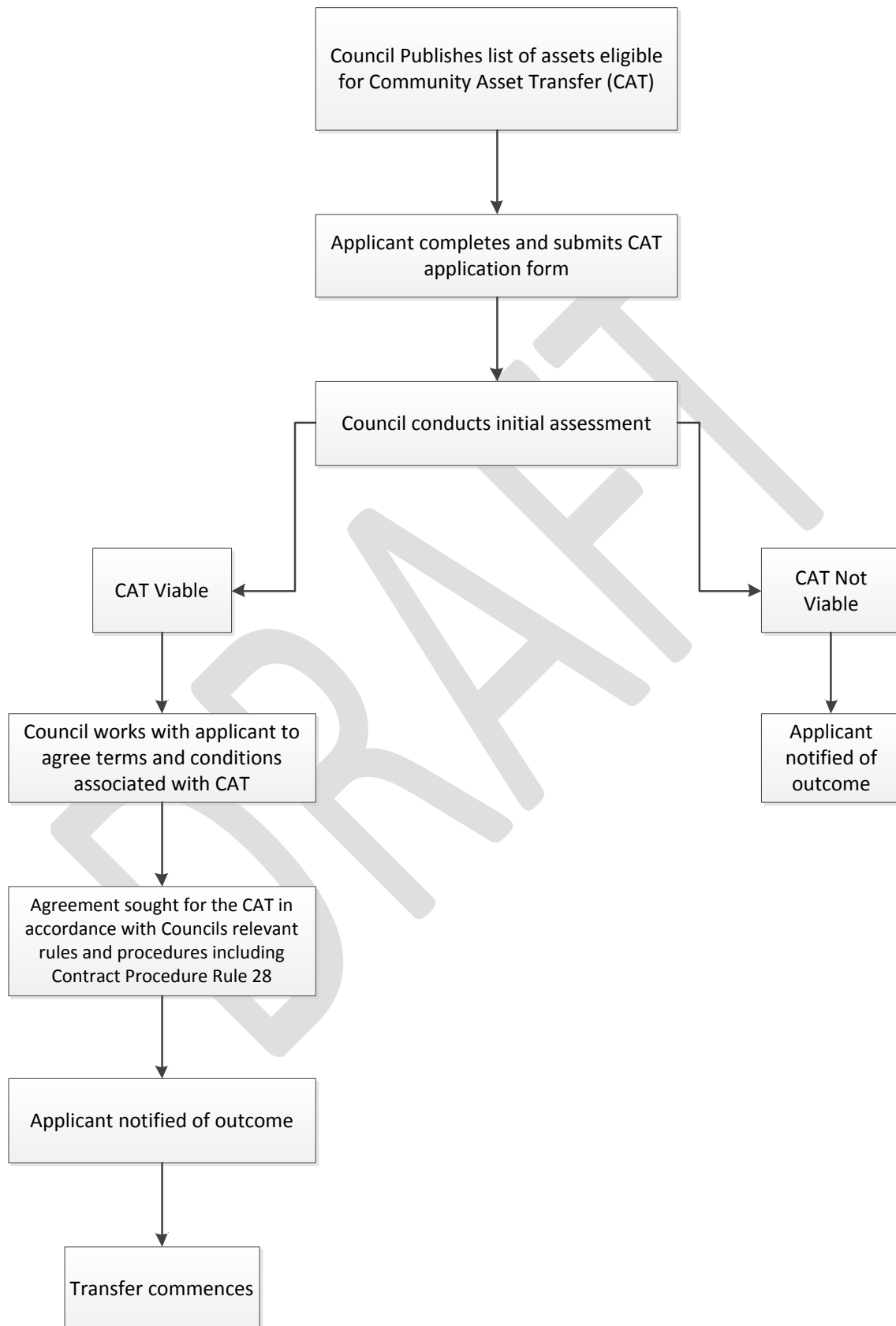
We strongly recommend that groups considering CAT read the advice and information available to assess its advantages and potential implications. We have included some details of where to find further information and advice later in this document.

It should be noted that negotiations, if successful, are then subject to contract.

### **Covenants**

If appropriate, on transfer, covenants regulating use will be included to ensure that the disposal continues to support relevant wellbeing powers.

## COMMUNITY ASSET TRANSFER PROCESS



For further information and an informal discussion about Community Asset Transfer in the first instance, please contact:

Barbara Green  
Estates and Valuation Manager  
Tel. 01946 598515  
Email. [Barbara.green@copeland.gov.uk](mailto:Barbara.green@copeland.gov.uk)

Application forms for Community Asset Transfer (attached) can also be submitted to [barbara.green@copeland.gov.uk](mailto:barbara.green@copeland.gov.uk) or by post to:

Barbara Green  
Estates and Valuations Manager  
Copeland Borough Council  
The Copeland Centre  
Catherine Street  
Whitehaven  
CA28 7SJ

#### **Other Sources of Advice and Support**

**The Asset Transfer Unit** has a comprehensive website with a wide range of information, guidance and templates to support groups thinking about asset transfer. Contact 0845 345 4564 or [www.ATU.org.uk](http://www.ATU.org.uk) for further information.

**Locality** is the UK's leading network for community led organisations supporting community led change. For further information go to [www.locality.org.uk](http://www.locality.org.uk)

**Sport England** has a community sport asset transfer toolkit is a bespoke interactive web based tool that provides a step by step guide through the asset transfer process. This has been developed specifically for sports clubs in partnership with Locality. For further information go to [www.sportengland.org/support](http://www.sportengland.org/support)

**My Community Rights** is a source of information about asset transfer and the Community Right to Bid. For further information go to [www.mycommunityrights.org.uk](http://www.mycommunityrights.org.uk)



## ACTION PLAN TEMPLATE

Please list the policy or strategy's objective in the table below. Try to be as specific as possible about what you are going to do and how you are going to measure both progress and success.

Objective	Link to Council/directorate Priority	Measure (s)	Target(s)	Projects/Actions	Resources	Responsible Officer	Impact
The specific objective identified in order to address a need. Please also indicate, in bold at the end of the objective, which balanced scorecard perspective the objective falls into- customer, process, finance or learning and development.	State which Council or Directorate priority, or statutory requirement, the objective is contributing to.	The measures you will use to assess progress and success; often these will take the form of performance indicators, but could also be significant outputs or benefits to be realised, etc	What level of achievement are you aiming to attain and by when, to know if you have delivered on the objective?	A breakdown of what you are going to do to ensure the objective is met, but ensure conciseness by listing only headline activities and/or key deliverables	Not an exact costing (unless you have one), but are the necessary resources available (money, staff, time, etc) to deliver the objective- YES/NO	Senior officer responsible for driving and delivering the objective	Does the objective require significant input from other services and partnership organisations or will it have significant impact upon other services or partnership organisations? If so list those here

**Risks**- Please list the key risks to achieving the objectives detailed in the table above

Risk number	Risk Name	Risk definition	Risk Score Likelihood x Impact	Current Position/Action Being Taken (including responsible officer
Service initials followed by number E.g. F1 (Finance 1)	This should be a short name for the full risk	This should be in the following format: The risk is that the ....(Service, Directorate, Partnership, Contractor, Council) will fail to..... resulting in.....by.....	How likely is this:- 1-5 What would the impact be 1-5	What controls are currently in place? What needs to be done to reduce the risk and by whom?

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# Community Asset Transfer

## Application Form



Community Asset Transfer presents a number of long term benefits to communities and the Council. For communities, transfer of an asset to a community organisation means putting control, empowerment and ownership closer to communities and building the capacity of local groups. It also leads to regeneration, increased community confidence and more sustainable community organisations. For the Council, community asset transfer can assist it in meeting its wider corporate objectives.

The Council welcomes the opportunity to talk to organisations about community asset transfer. We recognise the valuable role that voluntary and community organisations have to play in the delivery of community services and are committed to working closely with you.

Once completed please return the application form to:

Barbara Green  
Estates and Valuations Manager  
Copeland Borough Council  
The Copeland Centre  
Catherine Street  
Whitehaven  
CA28 7SJ

Telephone Number: 01946 598515  
E-mail: [Barbara.green@copeland.gov.uk](mailto:Barbara.green@copeland.gov.uk)

We will make a decision on your application based upon the information that we ask for in this form and in accordance with our Community Asset Transfer Policy, 'How we will assess CATs'. We may ask you for further information to enable us to consider your application more fully.

When completing this form, please refer to the Council's [Community Asset Transfer Policy](#) for guidance.

**Please let us know if you need this form in a different format.**

Q1. Your Organisation	
Name of Organisation	
Contact Name	
Address (Including postcode)	
Telephone	
E-mail address	

Please also complete Q1 for any partner organisations.

Q1. Your Organisation Continued		
<p>In order to submit an application, you must be one of the bodies listed in the Council's Community Asset Transfer Policy, and these are listed for you as 'interested parties' category. Please indicate which description is relevant.</p> <p><i>(Please provide evidence that you fit into the category with this form)</i></p>	<b>Interested Parties</b>	<b>Tick which applies</b>
	A body designated as a Neighbourhood forum	
	A Parish/Town Council or other Statutory body	
	An unincorporated body	
	A charity	
	A company limited by guarantee, a community interest company or an industrial or provident society who does not distribute any profit to its members	

## Q2. Financial Information

Please provide details of your financial resources in the box below.

Examples of the information you may want to provide includes your most recent full accounts or those of your parent/ultimate holding company; any information about bankruptcy or administration; your business plan; bankers' or accountants' references. These examples are given for advice only and the information that the Council requires in order to decide whether or not to accept your application will vary depending on the type of asset you wish to acquire and the community service it provides. If the information that you provide under this heading is not sufficient to allow the Council to assess your application you may be asked to modify your application.

Please also provide details for each consortium member or sub-contractor where your expression is part of a consortium or sub-contractor arrangement.

*(If you would like to provide evidence in support of Q2, then please enclose with this form).*

## Q3. Capability

Examples of the information you may want to provide includes information about your organisation's objectives, structure, experience and referees; your plans for delivery; staff numbers and qualifications and relevant memberships; whether you have sufficient insurance and certification; information on policies such as health and safety, equal opportunities, environment and safeguarding. These examples are given for advice only and the information that the Council requires in order to decide whether or not to accept your application will vary depending on the type of asset you wish to acquire and the community service it provides. If the information that you provide under this heading is not sufficient to allow the Council to assess your application you may be asked to modify your application.

Please also provide details for each consortium member or sub-contractor where your expression is part of a consortium or sub-contractor arrangement.

*(If you would like to provide evidence in support of Q3, then please enclose with this form).*

#### Q4. The Asset and Community Service to be provided

Please provide the name and address of the asset you wish to acquire together with information about the community service that you would like to run from the asset.

Asset Name:

Asset Address:

Community service to be provided:

#### Q5. Outcomes

Please provide information about the outcomes to be achieved by yourselves (or consortium of which you are part) in acquiring the asset and providing the community service. In particular,

- a. How the provision will promote or improve the social, economic or environmental well-being of the local authority's area.  
Examples of the information that you may want to provide include creating jobs, improving skills, increasing local volunteering opportunities or improving environmental conditions; and
- b. How the service will benefit the community.  
Examples of the information that you may want to provide include needs assessments prepared by the council or other sources.

These examples are given for advice only and the information that the Council requires in order to decide whether or not to accept your application will vary depending on the type of asset and community service you are looking to provide. If the information that you provide under this heading is not sufficient to allow the Council to assess your application you may be asked to modify your application.

***(If you would like to provide evidence in support of Q5, then please enclose with this form).***

**Q6. Any other relevant information**

Please provide any other information you think will support your application to acquire the asset.

**Q7. Declaration**

I confirm that I have the authority to submit this application on behalf of the relevant body and that to the best of my knowledge the information contained in the application is complete and accurate.

Signed	
Position in the organisation	
Dated	

## Appendix B



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

**Localism Act 2011**

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<b>Current Document Status</b>			
<b>Version</b>	<b>0.3</b>	<b>Approving body</b>	<b>Council</b>
<b>Date</b>	<b>November 2012</b>	<b>Date of formal approval</b>	<b>December 2012</b>
<b>Responsible officer</b>	<b>Penny Mell</b>	<b>Review date</b>	<b>December 2013</b>
<b>Location</b>	Intranet		

#### VERSION HISTORY

<b>Date</b>	<b>Version</b>	<b>Author/Editor</b>	<b>Comments</b>
18 December 2012	0.3	Jessica Hall	First Draft Executive Consideration

#### Equality Impact Assessment Record

<b>Date</b>	<b>Type of assessment conducted</b>	<b>Stage/level completed (where applicable)</b>	<b>Summary of actions taken decisions made</b>	<b>Completed by</b>	<b>Impact Assessment review date</b>
	(Initial)	Initial	(NFA)	Jessica Hall	<Insert date>
<b>Responsible officer</b>	Penny Mell – Head of Policy and Transformation	<b>Review date</b>			

#### Corporate Quality Assessment Record

<b>Date</b>	<Insert date>
<b>Completed by</b>	<Insert name(s)>

#### Document retention

<b>Document retention period</b>	5 years in hard and electronic copies
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#### Protective Marking

Protective Marking	Not protectively marked
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## Introduction

The Localism Act 2011 provides for a scheme called 'assets of community value'. The scheme is in two parts: the Nomination and Listing of an asset and the Community Right to Bid.

The local planning authority is required to maintain a list of assets of community value. These assets can be nominated by community groups and Parish Councils to Copeland Borough Council and if the nomination is accepted by the Council it will be placed on the list. The group will be given time to bid for the asset if it is ever put up for sale in the 5 year period it is listed as an Asset of Community Value. This part of the scheme is known as **Community Right to Bid**.

Local communities have the right to nominate any land or property in their area which promotes the social wellbeing or social interests of the community to local authorities to include on the list of community assets. The asset can be in public ownership (local authority or Crown) or private ownership. Only local communities can nominate assets to be on the list.

*The Council will hold and maintain the List of Assets of Community Value. It will also hold a List of Assets Nominated but not Listed.*

## PART 1 – Nomination

### Who can nominate an asset to the List of Assets of Community Value?

The following groups can nominate an asset for inclusion on the list:

- Parish Councils – for an asset in its own area or in the neighbouring Parish Council.
- Neighbouring Parish Councils – if the Parish Council borders an unparished area they may nominate an asset in that neighbouring local authority.
- Unincorporated Groups – with a membership of at least 21 local people who appear on the electoral roll in the local authority or neighbouring local authority. For example groups which have formed to save an asset but which has not yet reached a charitable or corporate status.
- Neighbourhood Forums – The Localism Act 2011 added a procedure for becoming a Neighbourhood Forum into Section 61F of the Town and Country Planning Act 1990. Existing community groups, civic societies and other bodies can put themselves forward to be a neighbourhood forum. Prospective neighbourhood forums need to meet legislative conditions such as an open membership policy which draws members from across the neighbourhood and different sections of the local

community.

- Community Interest Groups with a local connection and one or more of the following structures:
  - A Charity
  - A community interest company
  - A company limited by guarantee that is non-profit distributing (any surplus is wholly or partly applied to the local authority area where the asset is based and not distributed to its members)
  - An industrial and provident society that is non-profit distributing (any surplus is wholly or partly applied to the local authority area where the asset is based and not distributed to its members)

### **What may be listed as an asset of community value?**

A nomination must be assessed to determine if the land or building nominated meets the definition of an asset of community value as set out in Section 88 of the Localism Act.

A building or piece of land is of community value if in the opinion of the authority:

- If an actual current use (not an ancillary use) of the building or land furthers the social wellbeing or social interests of the local community
- If it is realistic to think that there can continue to be non ancillary use of the building or other land which will further the social wellbeing or interests of the local community during the next five years.

The definition of an asset of community value is wide. It is recognised that this creates a range of possible assets which can be considered as suitable for nomination. The implementation of the assets of community value will be monitored closely as it is considered that as it proceeds, the definitions and categories of affected assets will develop further.

### **What may not be listed as an asset of community value?**

The following cannot be listed as assets of community value:

- Residential property cannot be listed unless it is a building which contains integral residential quarters. For example accommodation as part of a pub or caretakers flat.
- Land licensed for use as a residential caravan site.
- Operational land of statutory undertakers.

## How to Nominate an Asset of Community Value

Eligible groups can submit a nomination bid at any time in writing, using our [corporate template](#).

### What must a nomination include?

Before it can be considered by the local planning authority, the nominators you must include the following information (*Please note that the Council is unable to incur any costs to support this part of the nomination process. For example, cost of land charges etc.*):

- Your eligibility to nominate an asset as outlined at section 2. **Please tell us what type of organisation is making the nomination and its local connection. Please note we may request evidence of this.**
- A description of the nominated land including its proposed boundaries. (These boundaries do not have to be the same as the ownership boundaries nor is it necessary for all parts of the nominated site to be in the same ownership). **Please tell us the address of the property and the extent of the site in question.**
- Any information about the freeholders, leaseholders and current occupants of the land or property. **If it is not a Copeland Borough Council owned asset, please tell us who the owner is and provide us with the details of any current occupants.**
- The reasons for nominating the asset and why it meets the definition in the Localism Act. **Please tell us why you feel the asset is of community value, how it furthers the social wellbeing or social interests of the community and how it will continue to do so in the next 5 years.**

On receipt of a nomination bid, the Council will:

- Acknowledge receipt of the nomination bid in writing
- Inform the following:
  - The Parish Council where the asset is
  - The owner of the asset
  - Freeholders and leaseholders who are not the owners
  - Any lawful occupant
- The Council will assess whether an asset meets the definition of an asset of community value as set out in Section 88 of the Localism Act 2011 within **8 weeks** of its receipt.

## Successful Nominations

- If the bid meets the criteria of an asset of community value, it will be added to the 'List of Assets of Community Value' where it will remain for five years. We will notify the owner advising them of the listing, giving them guidance and outlining their obligations should they seek to sell the asset, register a land charge against the property and apply to Land Registry to register a restriction on the asset. *After 5 years the asset will be removed from the list and a new nomination will need to be made. The Council will only make further contact if the asset is put up for sale within the 5 year period so it is important that the nominating organisation is aware of its expiry date.*
- Please note that if the Council does list an asset, the owner of the property can ask for an internal review of the listing. If the Council upholds the decision, there will be a process for the owner to make an independent appeal through a tribunal. If the owner is successful at either of these stages, the nomination will be treated as unsuccessful.

## Unsuccessful Nominations

Any nominations not considered to meet the criteria of an asset of community value will be added to the 'List of Assets Nominated but not Listed'. The Council will notify the nominating body of the decision and the reasons why.

This will also be held for 5 years. There is no appeal or review process.

## Part 2 - Community Right to Bid: Making a Bid

Once an asset has been listed as an Asset of Community Value, nothing further will happen unless the owner decides to dispose of it. The owner is required to notify the Council of their intention to sell.

The following will then take place:

- We will notify the group who made the nomination of the owner's intention to sell, place a notification on our website immediately and update the list to reflect the intention to sell and the expiry dates for making any written requests and submitting a bid. The group will be advised that it has 6 weeks to make a written request to the Council to be treated as a potential bidder.
- If it decides to do this, we will notify the owner. If it does not decide to do this within 6 weeks, the owner is free to sell the asset and exchange contracts.
- Groups will have six months from the date the owner advises the Council of their intention to sell to the asset to prepare and submit a bid (this is known as a moratorium period). During this time, the owner is able to market and negotiate sales but NOT exchange contracts unless it is with the group.
- The owner will then have the option to accept your bid or sell the property on the open market. Please note that the owner can choose not to accept the bid and dispose of the asset to another bidder on the open market.

For further information please contact

John Groves  
Head of Nuclear and Planning  
Tel. 01946 598416  
Email. [John.groves@copeland.gov.uk](mailto:John.groves@copeland.gov.uk)

### Links to further sources of advice and guidance

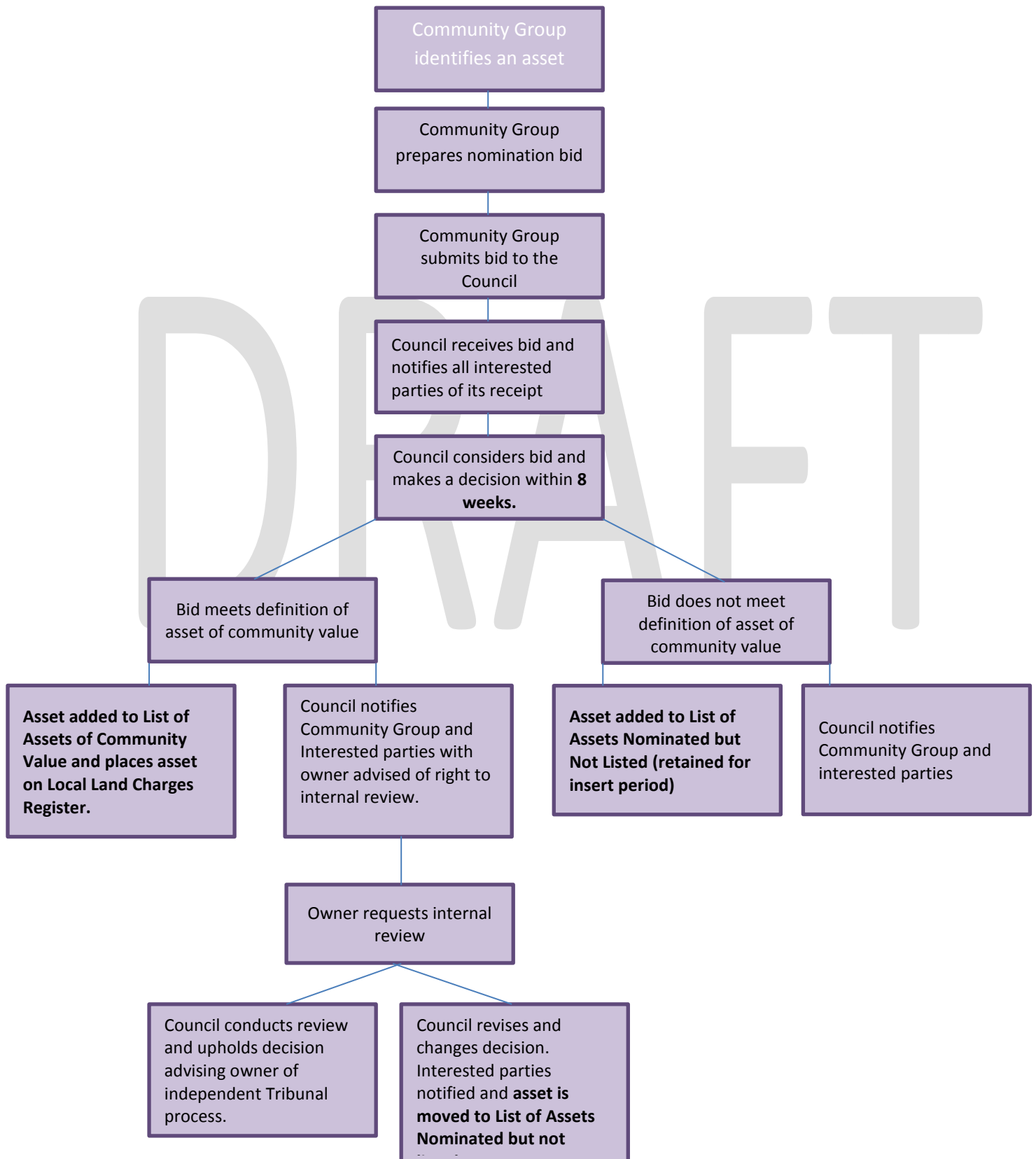
[Community Right to Bid: Non-statutory advice note for local authorities – DCLG](#)

Locality – <http://locality.org.uk/projects/community-rights/>

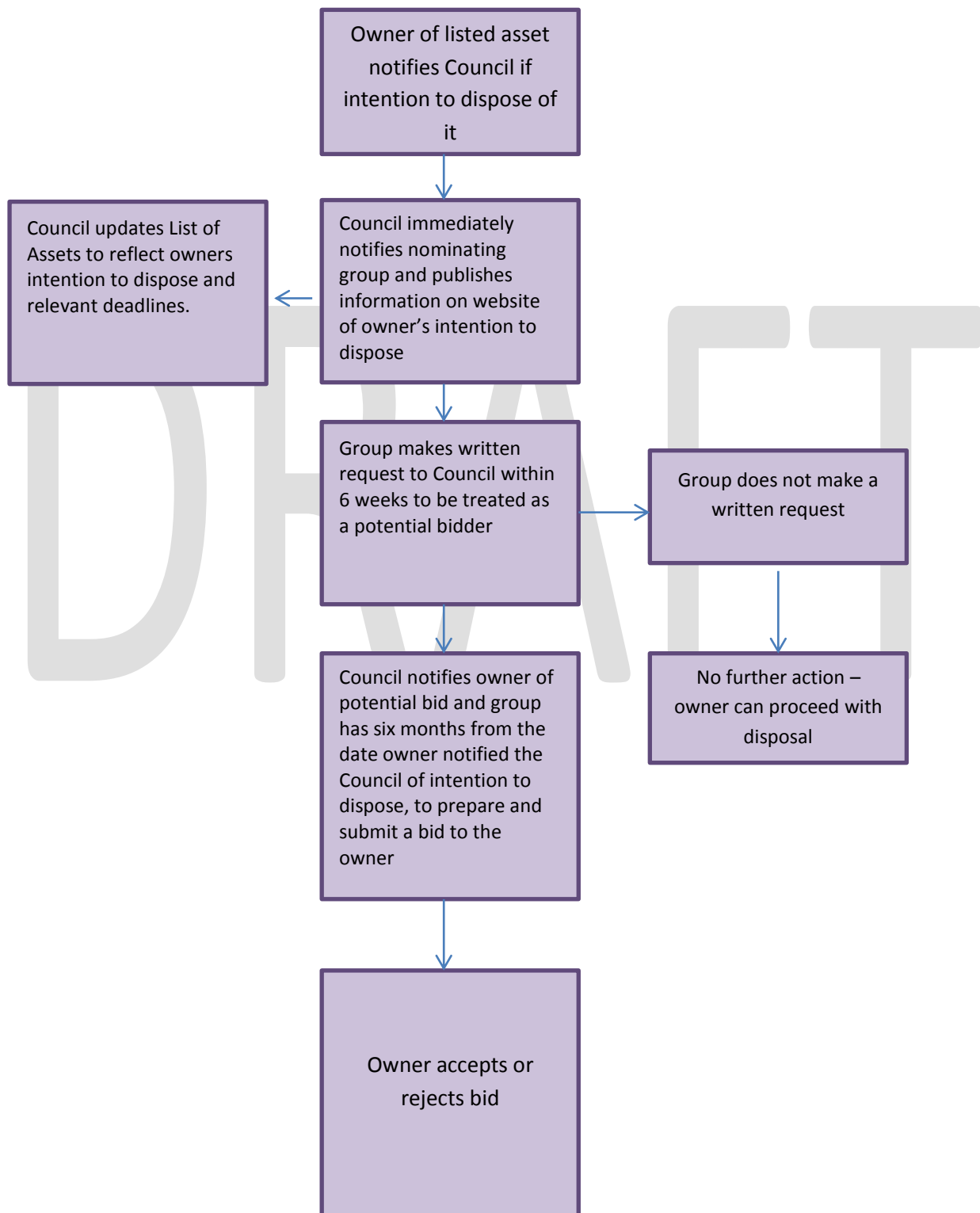
My Community Rights – Advice Line 0845 345 4564 (Mon-Fri 9.30am to 12.30pm)  
[www.mycommunityrights.org.uk/community-right-to-bid](http://www.mycommunityrights.org.uk/community-right-to-bid)

Asset Transfer Unit – [www.atu.org.uk](http://www.atu.org.uk)

## Part 1 - Process for Nominating an Asset of Community Value



## Part 2 - Process for Community Right to Bid: Making a Bid







**Risks**- Please list the key risks to achieving the objectives detailed in the table above

Risk number	Risk Name	Risk definition	Risk Score Likelihood x Impact	Current Position/Action Being Taken (including responsible officer)
Service initials followed by number E.g. F1 (Finance 1)	This should be a short name for the full risk	This should be in the following format: The risk is that the ....(Service, Directorate, Partnership, Contractor, Council) will fail to..... resulting in.....by.....	How likely is this:- 1-5 What would the impact be 1-5	What controls are currently in place? What needs to be done to reduce the risk and by whom?

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# Appendix C



# Community Right to Challenge

Localism Act 2011

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Current Document Status			
Version	0.3	Approving body	Council
Date	November 2012	Date of formal approval	December 2012
Responsible officer	Penny Mell	Review date	December 2013
Location	Intranet		

VERSION HISTORY			
Date	Version	Author/Editor	Comments
18 December 2012	0.3	Jessica Hall	Draft for Executive consideration

Equality Impact Assessment Record					
Date	Type of assessment conducted	Stage/level completed (where applicable)	Summary of actions taken decisions made	Completed by	Impact Assessment review date
	(Initial)	Initial	(NFA)	Jessica Hall	<Insert date>
Responsible officer	Penny Mell – Head of Policy and Transformation	Review date			

Corporate Quality Assessment Record	
Date	<Insert date>
Completed by	<Insert name(s)>

Document retention	
Document retention period	E.g. 5 years in hard and electronic copies

Protective Marking	Not protectively marked
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Related policies/procedures

Procurement Strategy

Contract Procedure Rules

## Introduction

The Localism Act 2011 introduced a new power allowing local communities the right to challenge how local authorities provide and run services. This is known as the Community Right to Challenge.

Community Right to Challenge was introduced to enable and empower Copeland's communities to shape and run local services which are responsive to the Borough's needs and offer additional social value outcomes or better value for money. It enables relevant bodies to bid to run Copeland Borough Council services by expressing an interest.

Copeland Borough Council is defined as a 'relevant authority'. This means that 'relevant bodies' including voluntary or community bodies, parish councils and two or more employees of the Council can challenge, through an Expression of Interest, the provision of a service by the Council.

## Right to Challenge and Copeland Borough Councils Services

**Before submitting a Right to Challenge Expression of Interest, contact us first for informal discussions on the service you are interested in. We may already be reviewing how we deliver a particular service and will talk to you about your ideas and plans. These discussions could help interested parties determine whether submitting a Community Right to Challenge Expression of Interest is the most appropriate course of action. They will also help facilitate information sharing about the service for which you are potentially submitting an Expression of Interest.**

## Who can bid to run a Council service?

The Community Right to Challenge allows relevant bodies to bid to run a Council service. The statutory guidance defines relevant bodies as:

- Parish Councils
- Voluntary or Community Bodies which are not for profit with any surplus being reinvested in the community and operate primarily for the benefit of the community. These include:
  - Community benefit societies including industrial or provident societies
  - Co-operatives primarily for community benefit
  - Community Interest Companies (CICs)
  - Charitable Incorporated Organisations
  - Other Incorporated bodies including companies limited by guarantee or shares where the companies Memorandum and/or Articles of Association state that its objectives are in the interest of the community rather than profit for shareholders
- A Body of people or Trust for charitable purposes only using charitable status
- Two or more employees of the relevant authority (Copeland Borough Council)
- Incorporated Joint Ventures where a relevant body and a non relevant body enter into a

partnership

- Any person or body specified by the Secretary of State

### **Which Copeland Borough Council services are covered by Community Right to Challenge?**

The statutory guidance also defines 'relevant services'. All of the services currently delivered by Copeland Borough Council are covered by the statutory Community Right to Challenge guidance. However it is important to note, that regardless of which body the runs the service, Copeland Borough Council would remain responsible for the delivery of the function.

### **Expressions of Interest**

Relevant bodies interested in bidding to run a Council service are in the first instance required to submit an Expression of Interest to the Council.

In accordance with the Council's annual business cycle, the Council will receive Expressions of Interest between 1 April and 31 May only, with effect from 2013.

Where a service is delivered through a contract with an external partner or provider, the Council will publish the contract end dates to enable relevant bodies to express an interest. (Please see our Contracts Register). The window of 1 April to 31 May in the year **before** the contract is due to end applies. *For example, if a contract for a service ends in July 2015, an Expression of Interest is required between 1 April 2014 and 31 May 2014.*

### **What needs to be included in an Expression of Interest?**

An Expression of Interest must be made in writing and can be submitted using our [corporate template](#).

The Expression of Interest must include the following:

- Information about the organisation's financial resources (if in a Consortium, information about each of the organisations financial resources). **Please submit your evidence of your constitutional status and accounts.**
- The service the Expression of Interest relates to and the geographical area it relates to. **Please specify which Council service you are expressing an interest in and what geographical area it relates to e.g Ward/Parish/Borough. Please tell us if the Expression of Interest covers current equipment, buildings, staff and service processes.**
- Evidence that the body will be capable of providing or assisting delivery of a service by the time any procurement exercise is undertaken. **Please provide an outline business case which demonstrates your knowledge of the service, service standards you expect to deliver, any relevant experience, statutory policies and procedures you will have in place (Health and Safety, Equality and Diversity Policy) funding and TUPE arrangements.**
- Information about the outcomes to be achieved by the organisation, or where appropriate, the consortium of which it is part, in providing or assisting in providing of the relevant service, in

particular: a) how provision or assistance will promote or improve the social, economic or environmental wellbeing of the area and b) how it will meet the needs of service users. **Please tell us about any community surveys/consultation you have undertaken and how the proposal might offer social, economic or environmental benefits – for example, job creation, improving local skills and assisting low income households. Please outline how the service will meet community need and how you will ensure accessibility.**

- Employee Expressions of Interest need to state how they will engage with other colleagues who are affected by the Expression of Interest. A ballot is not required. Levels of engagement will be appropriate and proportionate to the size and nature of the service and number of employees affected. **Please tell us how you will consult and engage with affected employees for example through face to face meetings, briefing sessions etc.**

### **What the Council will do when it receives an Expression of Interest?**

When we receive an Expression of Interest we will:

Tell the organisation within 30 days of receiving it how long we will take to make a decision. Organisations can expect a decision on whether the Council will accept or reject an Expression of Interest within **3 months**. ***In some circumstances, this timescale may take longer, in which case the organisation will be notified.***

We will assess the Expression of Interest to determine whether it includes the relevant information as set out within the Statutory Guidance.

The Council will make a decision to accept, reject or modify the Expression of Interest. Organisations will be notified within 10 working days.

### **Successful Expressions of Interest**

Once an Expression of Interest has been accepted, this will trigger a full procurement exercise and we will also notify you of when we will start this.

### **Procurement**

This will be carried out in accordance with the Council's existing procurement procedure and in line with procurement law. Interested bodies should note that once a full procurement exercise commences, the opportunity to bid for the service is opened up to all organisations including the private sector.

The Council must consider a number of factors throughout the procurement exercise including how a contract would promote or improve the economic, social or environmental wellbeing of the authority's area and we may include social clauses.

Organisations are advised that such an exercise can take between 9 and 12 months.

### **Unsuccessful Expressions of Interest**

An Expression of Interest can only be rejected on certain grounds. These are laid out in the statutory guidance and are:

- Failure to comply with the statutory requirements (as outlined at section 6)
- A material inadequacy or inaccuracy in the information provided
- Unsuitability of the organisation or any of its partners or sub-contractors
- A decision to stop providing the service has already been made and can be demonstrated in writing
- It relates to a service which is also integrated, provided and arranged with an NHS body and the continued integration is critical to the well-being of the person in receipt of the service
- It is already subject to a procurement exercise
- Negotiations have already commenced with a third party and this can be part demonstrated in writing
- The Council has already published an intention to consider provision by 2 or more employees who have made proposals
- It is frivolous or vexatious
- Accepting it is likely to lead to breaking of enactment, rule of law or statutory duty.

Organisations which have an Expression of Interest rejected will be advised in writing of the reasons for this.

### **Modification of an Expression of Interest**

An Expression of Interest can be rejected with recommended modifications. Organisations will be advised in writing of the reasons for the rejection and what modifications are needed for it to be accepted. This will enable them to modify an Expression of Interest. If a group chooses to modify an Expression of Interest, it must resubmit it within 8 weeks of the date it was notified.

### **Submitting an Expression of Interest**

For an informal discussion about submitting an Expression of Interest, please contact in the first instance:

John Groves  
Head of Nuclear and Planning  
Direct Tel. 01946 598416  
John.groves@copeland.gov.uk

**All Expressions of Interest should be submitted in writing to:**

**John.groves@copeland.gov.uk or by post to:**

**FAO John Groves  
Head of Nuclear and Planning  
Copeland Borough Council  
The Copeland Centre  
Catherine Street  
Whitehaven  
CA28 7SJ**



**Links to further sources of advice and guidance**

Community Right to Challenge Statutory Guidance: DCLG

My Community Rights – <http://mycommunityrights.org.uk/community-right-to-challenge/resources/>

Locality – <http://locality.org.uk/projects/community-rights/>

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# Community Right to Challenge Process



## ACTION PLAN TEMPLATE

Please list the policy or strategy's objective in the table below. Try to be as specific as possible about what you are going to do and how you are going to measure both progress and success.

Objective	Link to Council/directorate Priority	Measure (s)	Target(s)	Projects/Actions	Resources	Responsible Officer	Impact
The specific objective identified in order to address a need. Please also indicate, in bold at the end of the objective, which balanced scorecard perspective the objective falls into- customer, process, finance or learning and development.	State which Council or Directorate priority, or statutory requirement, the objective is contributing to.	The measures you will use to assess progress and success; often these will take the form of performance indicators, but could also be significant outputs or benefits to be realised, etc	What level of achievement are you aiming to attain and by when, to know if you have delivered on the objective?	A breakdown of what you are going to do to ensure the objective is met, but ensure conciseness by listing only headline activities and/or key deliverables	Not an exact costing (unless you have one), but are the necessary resources available (money, staff, time, etc) to deliver the objective- YES/NO	Senior officer responsible for driving and delivering the objective	Does the objective require significant input from other services and partnership organisations or will it have significant impact upon other services or partnership organisations? If so list those here

**Risks**- Please list the key risks to achieving the objectives detailed in the table above

<b>Risk number</b>	<b>Risk Name</b>	<b>Risk definition</b>	<b>Risk Score Likelihood x Impact</b>	<b>Current Position/Action Being Taken (including responsible officer</b>
Service initials followed by number E.g. F1 (Finance 1)	This should be a short name for the full risk	This should be in the following format: The risk is that the ....(Service, Directorate, Partnership, Contractor, Council) will fail to..... resulting in.....by.....	How likely is this:- 1-5 What would the impact be 1-5	What controls are currently in place? What needs to be done to reduce the risk and by whom?

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