

# Community Right to Bid: Assets of Community Value Policy & Guidance

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#### Disclaimer

This is a guide intended as an introduction to the local scheme containing the initial procedures adopted by Rossendale Borough Council for the performance of its duty under Chapter 3 of Part 5 of the Localism Act 2011 and the Regulations. These procedures will be subject to frequent updates. The Guide is not and must not be taken as a statement of the law. Owners and community groups must obtain independent legal advice when considering their options when faced with choices under the scheme.

## **Introduction**

This policy details Rossendale Borough Council's approach to managing the Community Right to Bid provision within the Localism Act 2011. The Community Right is sometimes also referred to as Assets of Community Value.

This policy will:

- Provide clarity so that officers and members are able to effectively support the management of the process; and
- Provide transparency for community nominators and asset owners so that they are easily able to navigate the Council's process.

This policy should be read in conjunction with the Department for Communities and Local Government non-statutory guidance, which read together with Chapter 3 of Part 5 of the Localism Act 2011, provide full details of the legislative provisions.

## **Background**

The Community Right to Bid ('the Right') also referred to as Assets of Community Value was introduced by the Localism Act 2011 ('the Act') and came into force in September 2012.

The aim of the Right is to ensure that buildings and amenities can be kept in public use and remain integral to community life by providing town and parish councils and local voluntary and community organisations with the right to nominate local land or buildings which they believe to be of importance to their community's social well-being, for inclusion on an assets of community value list maintained by the local authority, in this case Rossendale Borough Council.

If a nominated asset subsequently comes up for sale, then the interested community group(s) will be given a fair chance to make a bid to buy it on the open market by delaying sale while the community prepare a bid to buy it.

The Right does not restrict in anyway who the owner of the asset can sell the property to, or at what price, and it does not confer a right of first refusal to community interest groups.

The Right does not apply to residential property or operational land as defined in the Town and Country Planning Act 1990 Part 2.

The Community Right to Bid should not be confused with Community Asset Transfer or the Community Right to Challenge.

## **Strategic Links**

The Community Right to Bid links to a number of policies and strategies, including, but not exclusive to:

- Our Place: Our Plan
- Local Plan and related planning documents
- The Community Asset Transfer Policy
- The Community Right to Challenge Policy
- The Equality Policy
- The Asset Management Plan

The Community Right to Bid also supports the Council's corporate priorities.

## **What is the Community Right to Bid?**

The Community Right to Bid came into effect in September 2012, and it gives communities and community groups a fairer chance to prepare and bid for a community asset (building/facility or land) that is considered to be of community value.

The right covers private as well as public assets.

There are some asset exemptions from the Community Right to Bid policy, for example, residential property.

The Council is required to keep a list of all of "assets of community value" for their area.

Assets can be nominated by a relevant community group to be added to the list which the Council must consider.

The Council then has 8 weeks to make a judgement about whether or not it meets the definition set out in Section 88 of the Act.

If the Council determines that the nomination *does* meet the community value definition, the asset then gets successfully listed as an asset of community value and all parties are notified. It must also be listed on the local land charges register and if the land is registered apply for a restriction on the Land Register. The asset will be included in the list of assets of community value and it will remain on that list for five years. The owner of assets placed on the list may appeal against its listing. See appeals section.

If the Council determines that the nomination *does not* meet the community value definition, the asset goes on the list of assets nominated but as unsuccessful.

Once the asset is successfully listed nothing further will happen unless and until the owner decides to dispose of it, in which case they must notify the Council. In turn the Council will then notify the nominating interested parties and publish the intention to sell on the Community Right to Bid pages of the website. Should they be interested in buying the asset they have 6 weeks to make a written request to be treated as a

potential bidder to the Council. If not done so in this 6 week period the owner is free to sell the asset. If a request is made, the relevant community group has 6 months<sup>1</sup> to prepare a bid to buy the asset before this goes on sale on the open market. This is called the ‘moratorium period’. See below for further details.

The Right to Bid *only* applies when the asset’s owner decides to dispose of it. There is no compulsion on the owner to sell the asset.

The scheme does not give first refusal rights to the interested community groups and it is *not* a community right to *buy* the asset, just to *bid*. This means that in some instances the local community bid may not be the successful one.

See Appendix B for process flowchart overview.

## **Who has the Right to Bid?**

Under the Community Right to Bid the following voluntary or community bodies may make a community nomination:

**Town or Parish Councils.** This may be for an asset in its own area, or in the neighbouring parish council.

**Neighbouring Town or Parish Councils.** If the parish council borders an unparished area, then they may nominate an asset within that neighbouring local authority.

**Unincorporated groups.** Nominations can be accepted from any unincorporated group with membership of at least 21 local people who appear on the electoral roll within the local authority area, or a neighbouring local authority. This will for instance enable nomination by a local group formed to try to save an asset, but which has not yet reached the stage of acquiring a formal charitable or corporate structure.

**Neighbourhood forums.** The procedure for becoming a neighbourhood forum is set out in section 61F of the Town and Country Planning Act 1990, added by the Localism Act 2011. There can only be one neighbourhood forum for an area. Existing community groups, civic societies and others can put themselves forward to be a ‘neighbourhood forum’. Prospective neighbourhood forums need to ensure they meet the conditions for designation set out in the legislation, for example a forum should have an open membership policy and seek to draw its membership from across the neighbourhood area and from different sections of the local community.

**Community interest groups with a local connection.** These must have one or more of the following structures:

- a) A charity
- b) A community interest company

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<sup>1</sup> From the original point of notification of the intention to dispose of the asset.

- c) A company limited by guarantee that is non-profit distributing
- d) An industrial and provident society that is non-profit distributing (these groups have been renamed as community benefit societies by the Co-operative and Community Benefit Societies and Credit Unions Act 2010)

Nominations may not be made by individuals and principle local authorities *cannot* list their own assets, it has to be nominated.

## **What is an asset of community value?**

Both privately or publically owned land, or buildings may be nominated where it is considered that the asset has a 'community value'. An asset of community value is an asset that furthers the social well-being or social interests of the local community (or has done so in the recent past). Social interests can include cultural, recreational and sporting interests.

A building or land is deemed to be of community value if, in the opinion of the Council:

- It is at least partly within the local authority's area
- Its actual current use furthers the social wellbeing and interests of the local community, or a use in the recent past has done so
- That use is not an ancillary one - e.g. a space used for an annual village fete
- For land in current community use it is realistic to think that there will continue to be a use which furthers social wellbeing and interests, or for land in community use in the recent past it is realistic to think that there will be community use within the next 5 years (in either case, whether or not that use is exactly the same as the present or past)
- It does not fall within one of the exemptions (Schedule 1). For example, resident property, land and building used for statutory undertakings.

Please see [national guidance](#) or the relevant [regulations](#) set out within the Localism Act on exemptions for full details.

## **How does the Community Right to Bid Process work?**

There are three key elements of this process:

- Nomination and listing
- Review and appeals
- Sale

This can be broken down to smaller steps:

If the asset is selected for nomination:

- Nominating an Asset of Community Value
- Review and Listing of Asset of Community Value
- Appeals
- Triggering the Moratorium - Getting ready to Bid
- Bidding for the Asset of Community Value
- Managing the Asset

See Appendix B for an overview flowchart of the process.

## **How to make a nomination**

Nominations must be made using the Council's Assets of Community Value Nomination Form, available on the Council's website.

The Council accepts nominations at any time. However, before making a nomination the current listed assets of community value and list of unsuccessful nominations should be consulted to avoid duplication and multiple nominations.

## **How the Council will deal with the nomination**

Receipt of nominations will usually be acknowledged within 10 working days.

Nominations will be considered in line with the requirements set out in the Act's regulations, including all practical steps to notify the following that the asset is being considered.

The Council will make a decision whether the nominated asset should be included on the assets of community value list within 8 weeks of receiving the nomination.

Nomination received:-

- ↳ All elected members notified of nomination, and notification published on website.
- ↳ Nomination to be presented to the Monitoring Officer for decision.  
*See Appendix A for overview flowchart of the full process.*

## **Disposal of a listed asset**

### **Procedure where an owner wishes to dispose of an asset on assets of community value list**

Where an owner wishes to dispose of an asset which is listed on the assets of community value list, they must notify the Council by email or in writing to:

Committee and Member Services

Email: [democracy@rossendalebc.gov.uk](mailto:democracy@rossendalebc.gov.uk)

Address: Community Right to Bid: Assets of Community Value, Rossendale Borough Council, The Business Centre, Futures Park, Bacup, Rossendale, OL13 0BB

We will acknowledge receipt of notification from the owner usually within 10 working days, confirming the dates upon which the interim moratorium took effect and when this period will end. This will then trigger an initial 6 week moratorium period.

We will notify the nominator in writing<sup>2</sup> that we have received notice of intention to dispose of the asset as soon as is practically possible, but within 10 working days of notification being received.

If the nominator wishes to bid, an intention to bid should be submitted in writing to the Council, who will inform the asset owner as soon as practically possible after receipt. This will trigger the full moratorium period of 6 months (from the original notification date) for the interested community body to prepare a bid. The sale takes place under normal market conditions.

The assets of community value list will be updated to show that we have received notification of an intention to dispose of the asset, together with the date of that notification and the resulting interim and full moratorium periods and the protected period.

See Appendix A for an overview flow chart of the process.

## **The Moratorium Period**

When something is listed as an asset of community value and the owner of the asset wishes to sell their asset, then they must inform the local authority and this triggers what is known as the 'moratorium period'.

During the moratorium period the owner cannot conclude the sale of the asset.

There are two moratorium periods to note, both start from the date that the owner of the asset notifies the local authority of their desire to sell the asset:

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<sup>2</sup> Email or letter.

- ‘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 then the owner can proceed to a general sale of their asset.
- ‘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 to protect the owner from repeated attempts to block the sale.

## **Appeal**

In some cases, the asset owner whose asset has been included on the assets of community value list may wish to ask the Council to review its decision. In such cases, the asset owner must write to the Council within 8 weeks of receipt of the Council’s notification that the asset is to be listed.

The asset owner must present a case for removing the listing based on whatever evidence they consider appropriate. The Council will usually complete this review within 8 weeks of receipt of the review request, unless a longer period has been agreed in writing. The owner and the Council will bear their own costs of the review.

If the asset owner is dissatisfied with the decision reached through the internal review process, then they are entitled to appeal to an independent body called the ‘First Tier Tribunal’ within 28 days from the date on which notice of the decision appealed against was sent to the owner. The property will remain listed during the appeal process.

First Tier Tribunal Contact details:

Tribunal Clerk  
 Community Right to Bid Appeals  
 General Regulatory Chamber  
 HM Courts & Tribunals  
 PO BOX 9300  
 Leicester  
 LE1 8DJ

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

See Appendix A for appeals process overview flowchart.

## **Compensation**

### **How do I claim for compensation under the Community Right to Bid?**

The owner or former owner of an asset included in the list of assets of community value is entitled to make a claim for compensation from the Council, in respect of incurred loss or expense in relation to the asset which would be likely not to have been incurred if the land had not been listed. The Regulations should be consulted for details of bodies which are not entitled to compensation. Claims should be made in writing and be made within 13 weeks from the end of the interim or full moratorium period (as appropriate) or from the date when the land ceases to be listed. Claims must state the amount of compensation being claimed for each part of the claim and be accompanied by supporting evidence of loss. The responsibility of proving the claim falls on the owner.

You may be entitled to claim for one or more of the following:

- Loss incurred arising from a period of delay in entering into a binding agreement to sell
- Legal expenses incurred in a successful appeal to the Tribunal
- Loss incurred as a result of the land merely being listed

Claims should be sent to:

Committee and Member Services

Email: [democracy@rossendalebc.gov.uk](mailto:democracy@rossendalebc.gov.uk)

Address: Community Right to Bid: Assets of Community Value, Rossendale Borough Council, The Business Centre, Futures Park, Bacup, Rossendale, OL13 0BB.

Once the compensation decision is made you can request an internal review of the compensation decision, followed by an appeal to Tribunal if you disagree with the review.

## **Review, Monitoring and Evaluation**

This Policy will be reviewed at least every four years, and in accordance with legislative changes, best practice and learning as required.

## **Additional Information and Guidance**

**My Community - <https://mycommunity.org.uk/understanding-the-community-right-to-bid>**  
**The Assets of Community Value (England) Regulations 2012 -**  
<http://www.legislation.gov.uk/ukdsi/2012/9780111525791/contents>

**Department for Communities and Local Government - [Community Right to Bid Non-Statutory Guidance](#)**

**Land Registry - [www.landregistry.gov.uk/](http://www.landregistry.gov.uk/)**

**Community Right to Bid Nomination Form -**

[https://www.rossendale.gov.uk/downloads/download/10856/community\\_right\\_to\\_bid\\_as\\_sets\\_of\\_community\\_value](https://www.rossendale.gov.uk/downloads/download/10856/community_right_to_bid_as_sets_of_community_value)

**Asset Register - [https://www.rossendale.gov.uk/downloads/file/13723/asset\\_register](https://www.rossendale.gov.uk/downloads/file/13723/asset_register)**

**Council contact details:**

Committee and Member Services

Email: [democracy@rossendalebc.gov.uk](mailto:democracy@rossendalebc.gov.uk)

Address:

Community Right to Bid

Rossendale Borough Council

The Business Centre

Futures Park

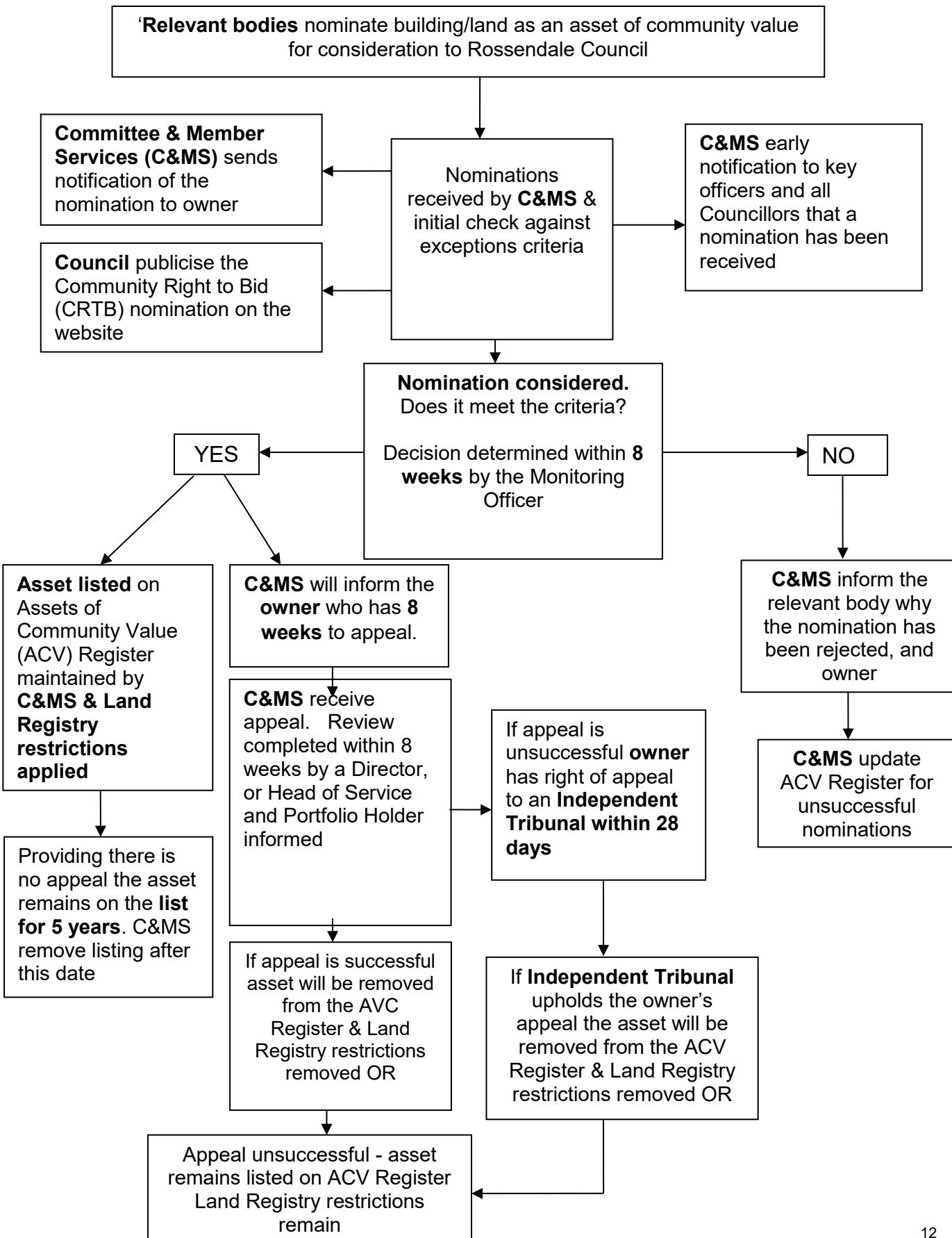
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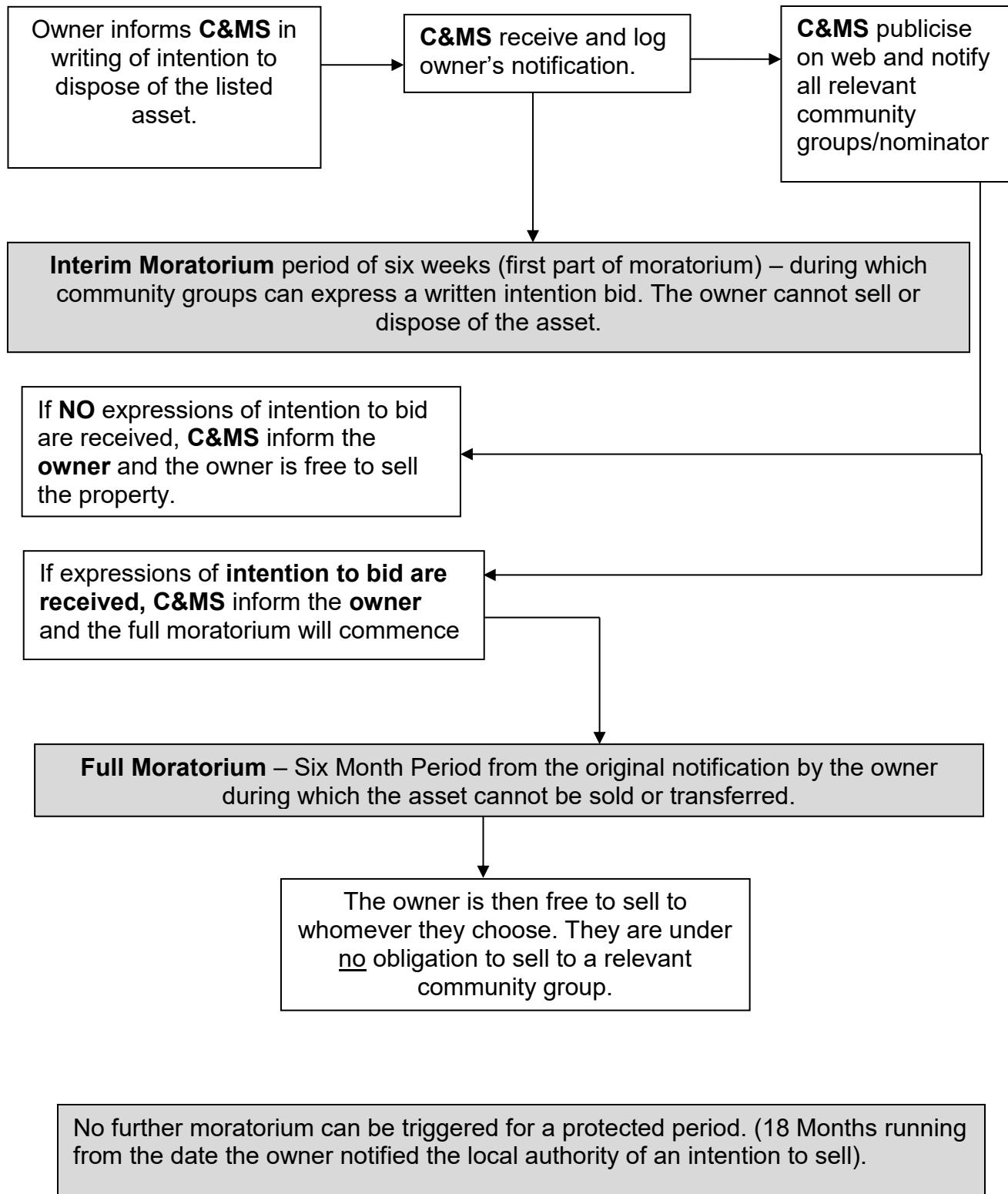
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## Appendix A – Community Right to Bid Process Flowcharts

### STAGE ONE – NOMINATION AND LISTING (OUTLINE)



## STAGE TWO – DISPOSAL<sup>3</sup> OF ASSET (OUTLINE)



<sup>3</sup> It should be noted that the notification of disposal must be determined a ‘relevant disposal’ as there are exceptions defined in the Act and Regulations that may mean that the disposal is not a relevant one.

## STAGE THREE – CLAIMS FOR COMPENSATION (OUTLINE)

