

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

~~The purpose of this policy is to set details~~ This policy sets out 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.

~~In particular this policy will:~~

- Provide clarity so that officers and ~~M~~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.

~~The aim is that, if the asset is a~~ nominated ~~to this list 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 ~~his 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:

- The Corporate [Plan-Strategy](#)
- Core Strategy 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.:

~~**Regenerating Rossendale:** The Right supports the opportunity for community empowerment and an inclusive community. The Community Right to Bid is also likely to produce closer, strong and resilient communities as they work together to produce high quality community services. It means that assets considered of community value could be protected and gives the community the opportunity to prepare to take on the asset themselves, should it come up for sale — contributing to a 'regenerating' of people and places.~~

~~**Responsive and Value for Money Local Services:** The Right provides an opportunity to contribute to efficiency saving in relation to Council owned assets on the assets of community value list. This could help the Council to meet budget cuts and maintain levels of service in other areas.~~

~~**Clean and Green Rossendale:** As a consequence of the Right there is an opportunity for integral buildings and land within the community continues to be utilised for community benefit.~~

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 ~~is~~ 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 a ~~the~~ list of assets nominated but as unsuccessful. ~~This is also published.~~

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 months¹ 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.

¹ From the original point of notification of the intention to dispose of the asset.

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
- c) A company limited by guarantee that is non-profit distributing
- d) An industrial and provident society that is non-profit distributing (these groups [will behave been](#) renamed as community benefit societies by the Co-operative and Community Benefit Societies and Credit Unions Act 2010 ~~when it comes into force~~)

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.

Rossendale Borough Council's Core Strategy [Policy 7 Social Infrastructure] defines "Community Facilities" as "Provide for the social, educational, spiritual, recreational, leisure and cultural needs of the community".

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 ~~or in Appendix A of this policy.~~

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.

~~All nominations received will be considered by elected members for a decision.~~

Nomination received:-

↳ All elected members notified of nomination, and notification published on website.

↳ Nomination to be presented to the ~~member~~ ~~Consultation Working Group~~ Monitoring Officer for decision.

See Appendix B-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:

~~Stuart Sugarman, Director for Business Committee and Member Services~~

Email: ~~stuart.sugarman@rossendalebc.gov.uk~~ 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 writing² 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

² Email or letter.

notification and the resulting interim and full moratorium periods and the protected period.

See Appendix [B-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;

- [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.

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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

~~First Tier tribunal (General Regulatory Chamber)~~

PO BOX 9300

Leicester

LE1 8DJ

Email: grc@hmcts.gsi.gov.uk

See Appendix [B-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:

~~Stuart Sugarman, Director for Business Committee and Member Services~~

Email: stuart.sugarman@rossendalebc.gov.uk ~~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 three-four years, and in accordance with legislative changes, best practice and learning as required.

Additional Information and Guidance

My Community Rights - <http://mycommunityrights.org.uk/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](#)

The Asset Transfer Unit - <http://locality.org.uk/assets/>

Land Registry - www.landregistry.gov.uk/

Locality - <http://locality.org.uk/>

Community Right to Bid Nomination Form - https://www.rossendale.gov.uk/downloads/file/13722/nomination_form

Asset Register - https://www.rossendale.gov.uk/downloads/file/13723/asset_register

Council contact details:

~~Stuart Sugarman, Director for Business Committee and Member Services~~
Email: ~~stuart.sugarman@rossendalebc.gov.uk~~ democracy@rossendalebc.gov.uk
Address:
Community Right to Bid
Rossendale Borough Council
The Business Centre
Futures Park
Bacup
Rossendale
OL13 0BB

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Appendix 1A – Community Right to Bid Nomination Form

This is the Nomination Form for groups interested in nominating an asset to be considered for the list of assets with community value. It can also be downloaded from the Council's website.

Rossendale
BOROUGH COUNCIL

Community Right to Bid
Assets of Community Value
Nomination Form

Please refer to the Community Right to Bid Policy on our website before completing this nomination form.

A. About the Organisation Submitting the Nomination

Nominations can be submitted by voluntary and community organisations with a local connection. Which of the following is your organisation?

(Please tick) Please refer to the policy for further information on eligibility for submitting nominations under this Right.

Town or Parish Council	
Unincorporated group (of at least 21 local people³)	
Neighbourhood forum (designated under the Town and Country Planning Act)	
Community interest groups with a local connection a) A charity b) A community interest company c) A company limited by guarantee that is non-profit distributing d) An industrial and provident society that is non-profit distributing (these groups will be renamed as community benefit societies by the Co-operative and Community Benefit Societies and Credit Unions Act 2010 when it comes into force)	
Proof of eligibility to make a community nomination: <i>E.g. This might be registration details, documentation demonstrating the nature of the organisation and the connection with the local area.</i>	

³ Must be on the local authority Electoral Register to be eligible.

--

Organisation name:	
Organisation address:	
Postcode:	
Main contact:	
Telephone:	
E-mail:	

B. About the Asset

To help us identify and process your nomination as quickly as possible please provide as much detail as you can:-

Type of Asset:	Please circle: <input type="radio"/> Building <input type="radio"/> Land <input type="radio"/> Both
Name of the Asset:	
Address of the Asset:	
Any other information that will help us identify the asset (E.g. an accurate map details of the land):	

C. Asset Owner

Please provided all information about the current owner and/or occupant (if applicable) and information regarding the current or last know freeholder or leaseholder. **Your accuracy here will help us to reduce time and costs associated with processing this nomination to determine ownership. Your own searches can be undertaken online www.landregistry.gov.uk/**

Owner / Occupant / Freeholder / Leaseholder Number 1	
Name(s):	
Connection to the asset:	Please circle: Owner <input type="radio"/> Occupant <input type="radio"/> Freeholder <input type="radio"/> Leaseholder Unknown <input type="radio"/> Other, please state:
Address:	
Contact Number(s):	
Email:	
Owner / Occupant / Freeholder / Leaseholder Number 2	
Name(s):	
Connection to the asset:	Please circle: Owner <input type="radio"/> Occupant <input type="radio"/> Freeholder <input type="radio"/> Leaseholder Unknown <input type="radio"/> Other, please state:
Address:	
Contact Number(s):	
Email:	
Owner / Occupant / Freeholder / Leaseholder Number 3	
Name(s):	
Connection to the asset:	Please circle: Owner <input type="radio"/> Occupant <input type="radio"/> Freeholder <input type="radio"/> Leaseholder Unknown <input type="radio"/> Other, please state:
Address:	

Contact Number(s):	
Email:	

(Please continue on a separate sheet if necessary)

D. Community Value

Under the regulation of the Community Right to Bid the nominated asset must have community value. 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.

Please see The Community Right to Bid FAQs for further information on 'community value'.

Please see national guidance or the relevant regulations set out within the Localism Act on community value and exemptions for full details.

Please now provide reasons below why you consider the asset you have identified to qualify as an asset of community value.

Please clearly demonstrate how and why you believe the asset you are nominating meets the criteria of an asset of community value.

Please provide, affix or provide links to any relevant supporting information.

For example an accurate map identifying the asset being nominated or other documentation to support the case as an asset of community value use.

Please note:

The Freedom of Information Act 2000 (FOIA) applies to Rossendale Borough Council and therefore information provided by you may have to be disclosed by us in response to a request unless we decide that one of the statutory exemptions applies.

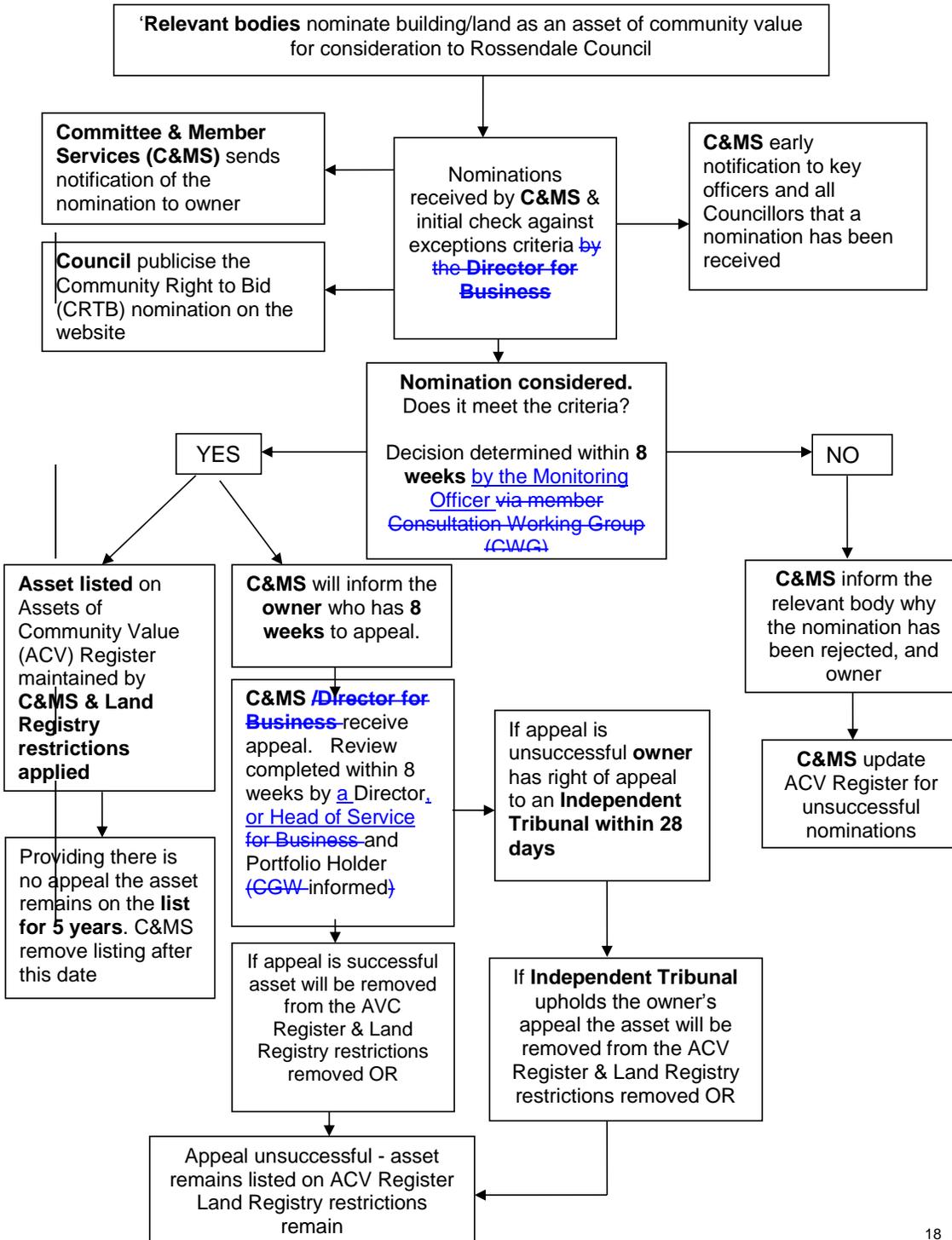
Any information you provide will remain confidential and will not be disclosed to any other party except where required either for official audit purposes or it is deemed subject to the Freedom of Information Act 2000 as detailed above.

Completed forms should be returned to:
Stuart Sugarman, Director for Business, stUARTSUGARMAN@ROSSENDALEBC.GOV.UK

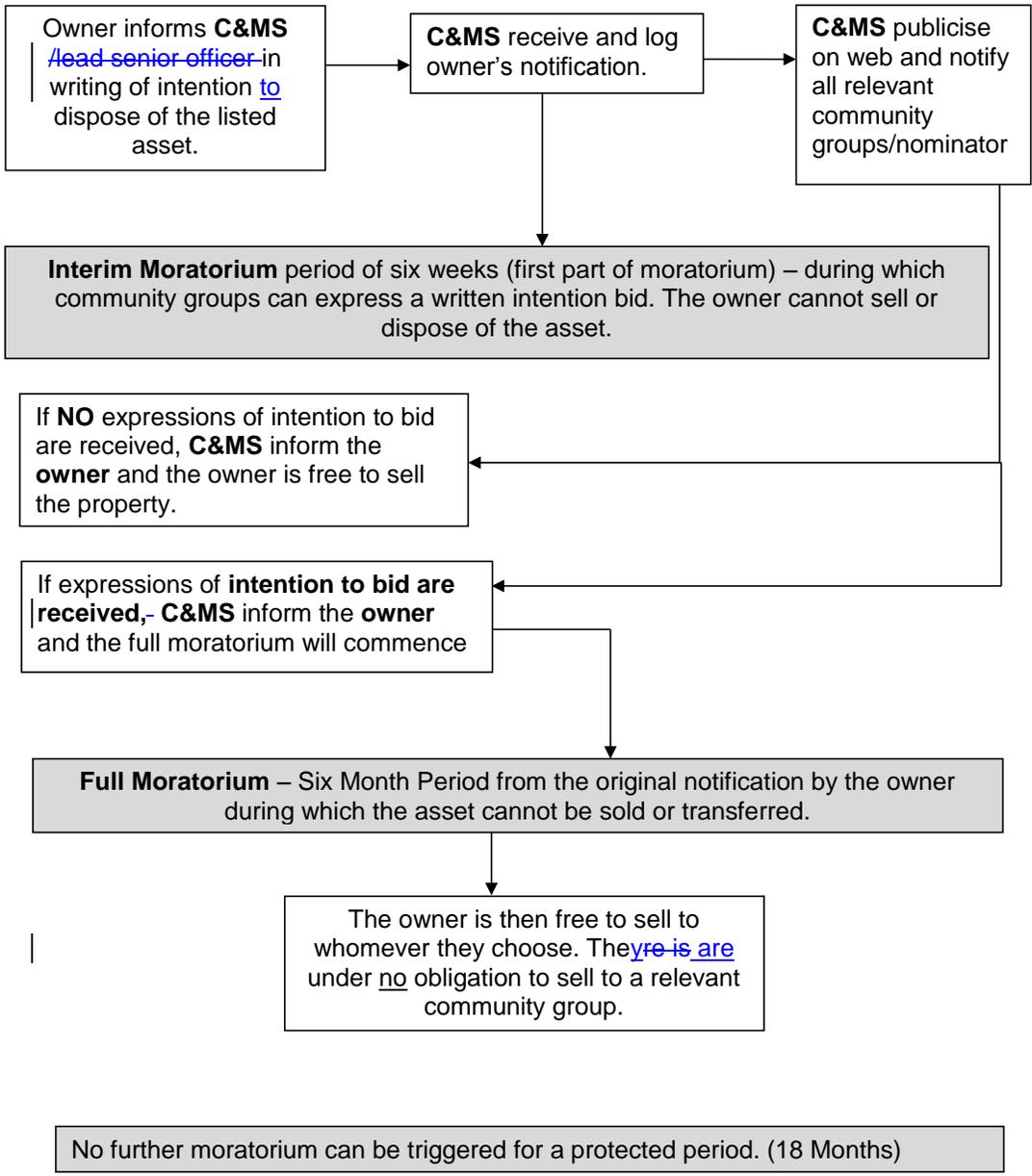
~~Rossendale Borough Council, The Business Centre, Futures Park, Bacup, Rossendale,
OL13 0BB~~

~~-ENDS-~~

Appendix A1B – Community Right to Bid Process Flowcharts
STAGE ONE – NOMINATION AND LISTING (OUTLINE)

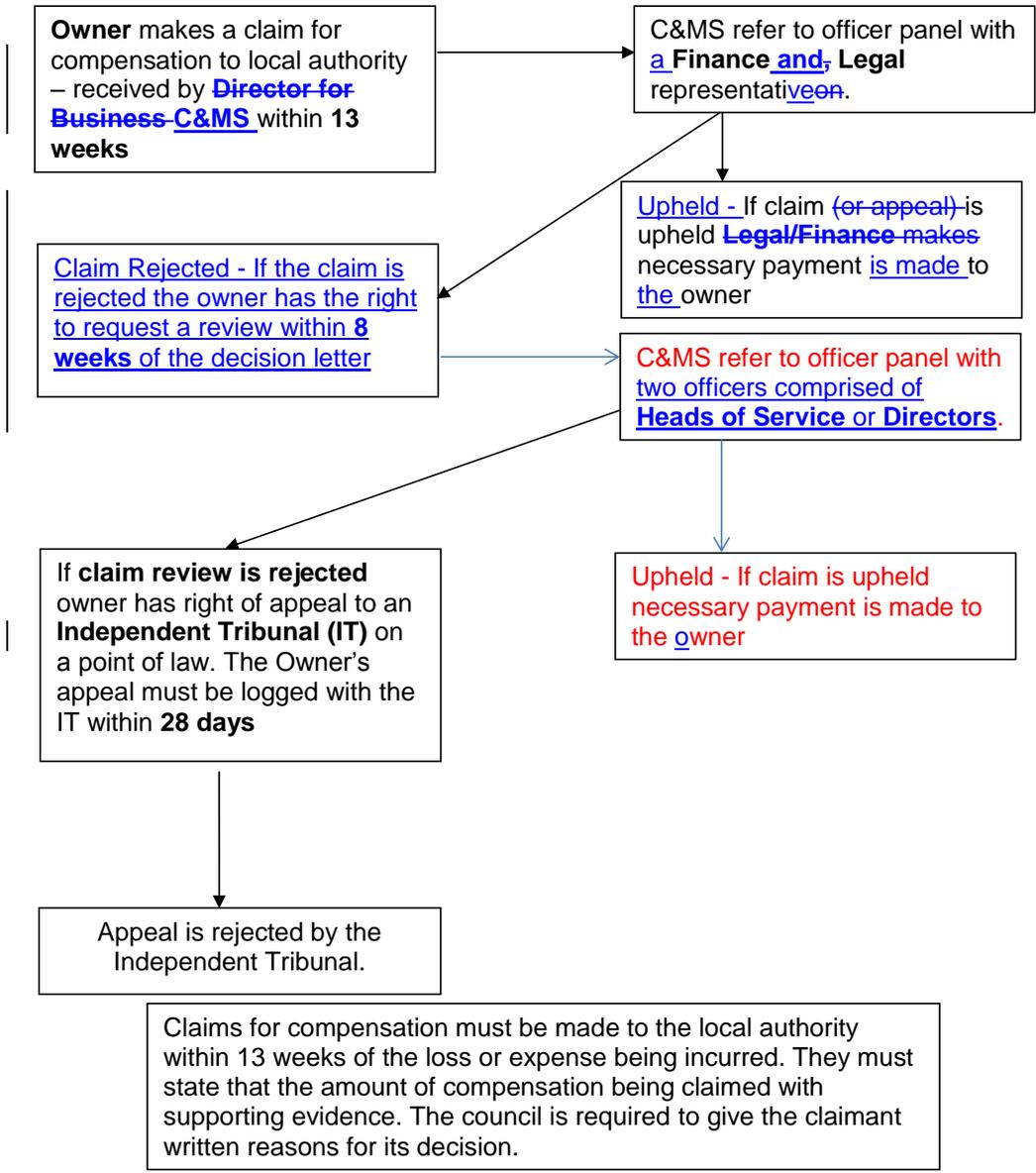


STAGE TWO – DISPOSAL⁴ OF ASSET (OUTLINE)



⁴ 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)



Appendix 1C – Sample Assets of Community Value Register

NB: This will be published on the Council's [Assets of Community Value Register](#) webpage.

Nomination received – awaiting decision

Reference	Address of buildings/land	Date of nomination	Source of Nomination	Decision due by	Status
AVC/001					
AVC/002					

Successful Assets of Community Value

Ref:	Address of buildings/land	Date of nomination	Source of Nomination	Date decision taken	Date asset entered	Date the asset will be listed until	Date of any review request received	Review outcome	Notification of intent to sell from owner	Notification of intent to bid from interested party	Interim moratorium expires	Full moratorium expires	Protected moratorium expires	Additional notes

Continued...

Unsuccessful Assets of Community Value

Reference	Address of buildings/land	Date of nomination	Source of Nomination	Reason for decision	Date decision taken	Additional notes

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~~Appendix 1D - Frequently Asked Questions (FAQs)~~

~~All FAQs will be published on the Council's Community Right to Bid webpages and will be added to as further questions arise. Please check here before you contact the Council.~~

~~We will endeavour to respond to all CRTB queries within 10 working days or as soon as is reasonably practicable.~~

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