



# **Blackburn with Darwen Borough Council Policy Statement:**

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

**April 2013 (as amended)**

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## **1. Introduction**

The purpose of this document is to set out the Council's policy position with regards to the new Community Right to Bid/Assets of Community Value. In particular:

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

This policy is in force from [**18<sup>th</sup> July 2013**].

## **2. Background**

The Community Right to Bid ('the Right'), which is also known as Assets of Community Value is one of the new community rights derived from the Localism Act, 2012, all of which have a stated aim of devolving power to local communities.

The aim of the Right is to empower communities wishing to protect valuable local assets (land and buildings) by requiring the Council to maintain a list of assets in its area which are of community value, so that upon sale, the community will have a chance to delay a sale in order to prepare a bid to buy it.

The Right does not restrict in anyway who the owner of the asset can sell his 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.

## **3. The Process**

The Government has published an Assets of Community Value Policy Statement and Statutory Regulations, which set out statutory elements of how the Right should operate; however, they do not specify how the Right should be administered by individual local authorities.

This section of the policy statement explains our local process for operation of the Right.

The process falls into three sections:

- i) Listing
- ii) Review and Appeals

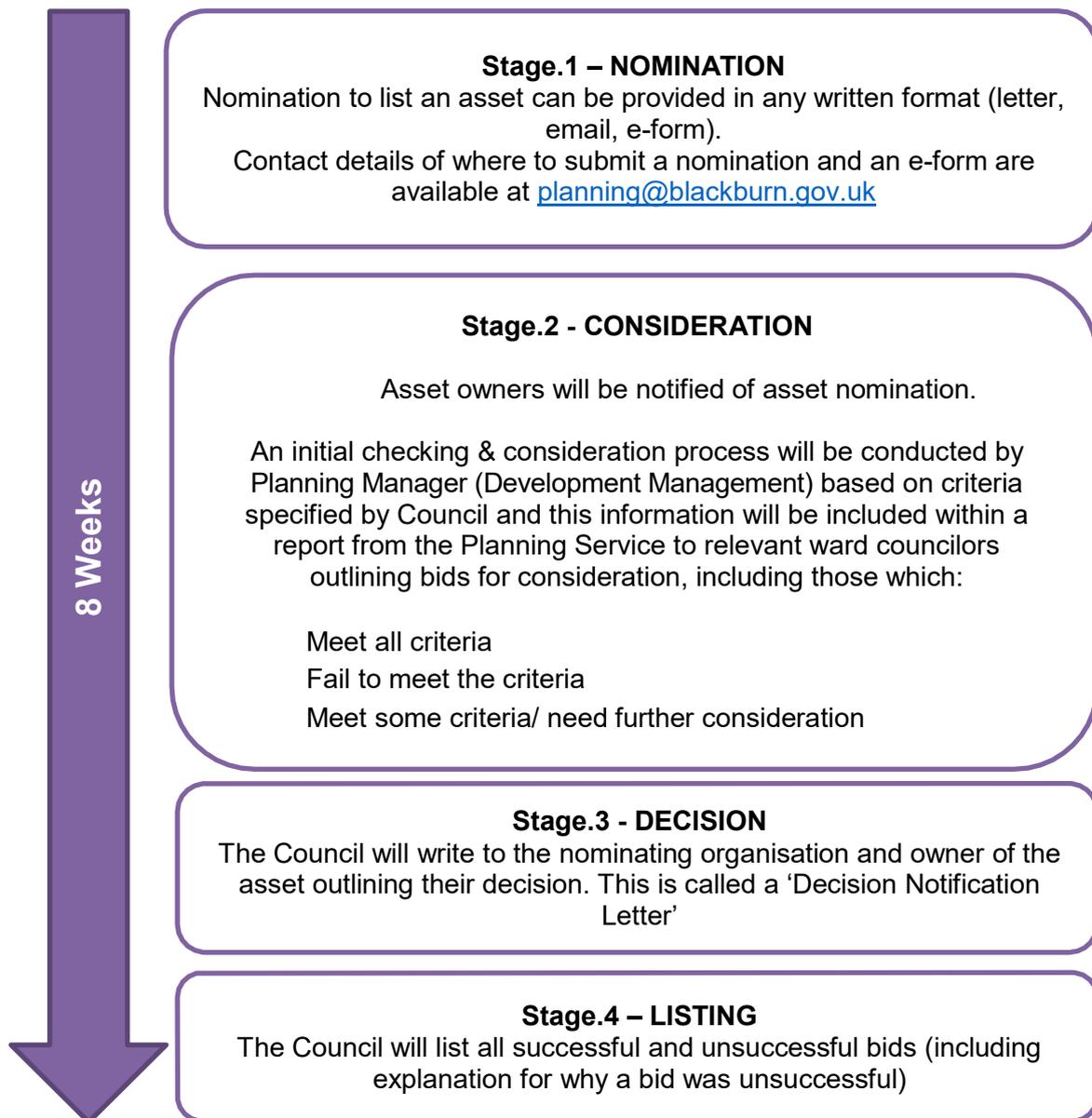
iii) Sale

A flow chart providing an overview of all the stages of our process is available at Appendix A.

The following paragraphs of the policy provide more detailed information about each section of the process.

i) Listing

**Process Diagram – Listing Assets**



From 20<sup>th</sup> September 2012, the Council must maintain and publish two lists:

- List of Assets of Community Value
- List of Nominated Assets not of Community Value

In order to ensure that the most up to date version of our lists are available for public inspection, it is the Council's intention to publish these lists on our website and we will make hard copies available on request.

The listing process is community led and will be triggered by the receipt of a nomination. The Statutory Regulations specify what an asset of community value is, who can make a nomination and the information required in a nomination, which must be in written form. To assist, the Council has developed a nomination form which is available at Appendix B.

In summary,

**An asset is of community value if**

- It is at least partly within the local authority's area
- Its main use (i.e. not ancillary) has recently been or is presently being used to further the social wellbeing or social interests of the local community and could reasonably do so in the future i.e. within the next 5 years

- It does not fall within one of the exemptions specified in Regulations

**Only voluntary and community organisations with a local connection, so based in Blackburn With Darwen or a neighbouring authority can nominate an asset for inclusion on the list.** This includes:

- Neighbourhood Forums
- Parish Councils
- Unincorporated bodies of 21 named members
- A Charity
- Company Limited by Guarantee
- Industrial or Provident Society
- Community Interest Company

**Nominations must be in writing and include the following information:**

- Clear identification of the asset
- Names of the current occupants of the asset and names and current or last known address of all those holding a freehold or leasehold estate in the asset
- Reasons why it qualifies as an asset of community value
- Identification of the nominating organisation and some proof of eligibility to make a community nomination

The Council will assess all nominations and provide written notification of our decision to:

- The person nominating the asset
- The owner
- Any lawful occupier

Where we have decided not to list an asset we will explain our reasons why. There is no right of review or appeal for community groups.

We will complete this section of the process within 8 weeks of receipt of nominations.

**What you need to know:**

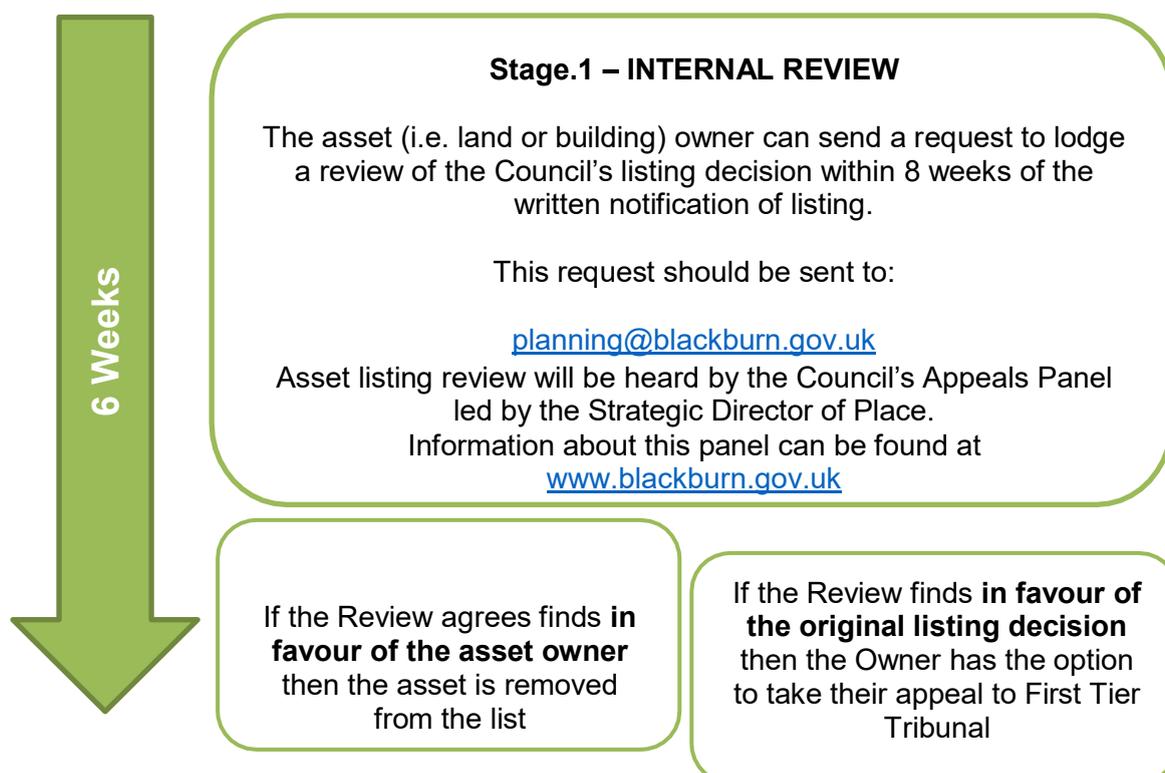
Complete the nomination if you are interested in nominating an asset for the list.

You, and the relevant contacts for the property (owner and occupier), will be informed when the appropriate Area Committee meeting will be taking place.

You will be informed within 8 weeks of the Council's decision by a 'Decision Notification' letter.

**ii) Review and Appeals**

**Process Diagram – Review and Appeals**



**Review of Decision to List an Asset:**

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

The landowner must present a case for removing the asset from the list based on whatever evidence they consider appropriate, but it should be relevant to the following issues:

- Whether or not the asset is eligible to be listed;
- Whether or not the asset was nominated by an eligible group;
- Any new factors which have come to light since the original nomination was made; or,
- Any irrelevant or improper manner which the Council might have taken into account when reaching its original decision.

The landowner should present this in writing in the first instance, but may also request an oral hearing and be represented at this hearing by whomever they wish.

The Council will complete this review within 6 weeks of receipt of the review request, or a longer period by agreement of both parties.

**Appeal:**

If a landowner is dissatisfied with the decision reached through the internal review process then they are entitled to appeal to an independent First Tier tribunal. If successful in their appeal then the landowner may apply to the council for reasonable costs.

**What you need to know:**

The owner of a listed asset can request that the Council reviews its decision.

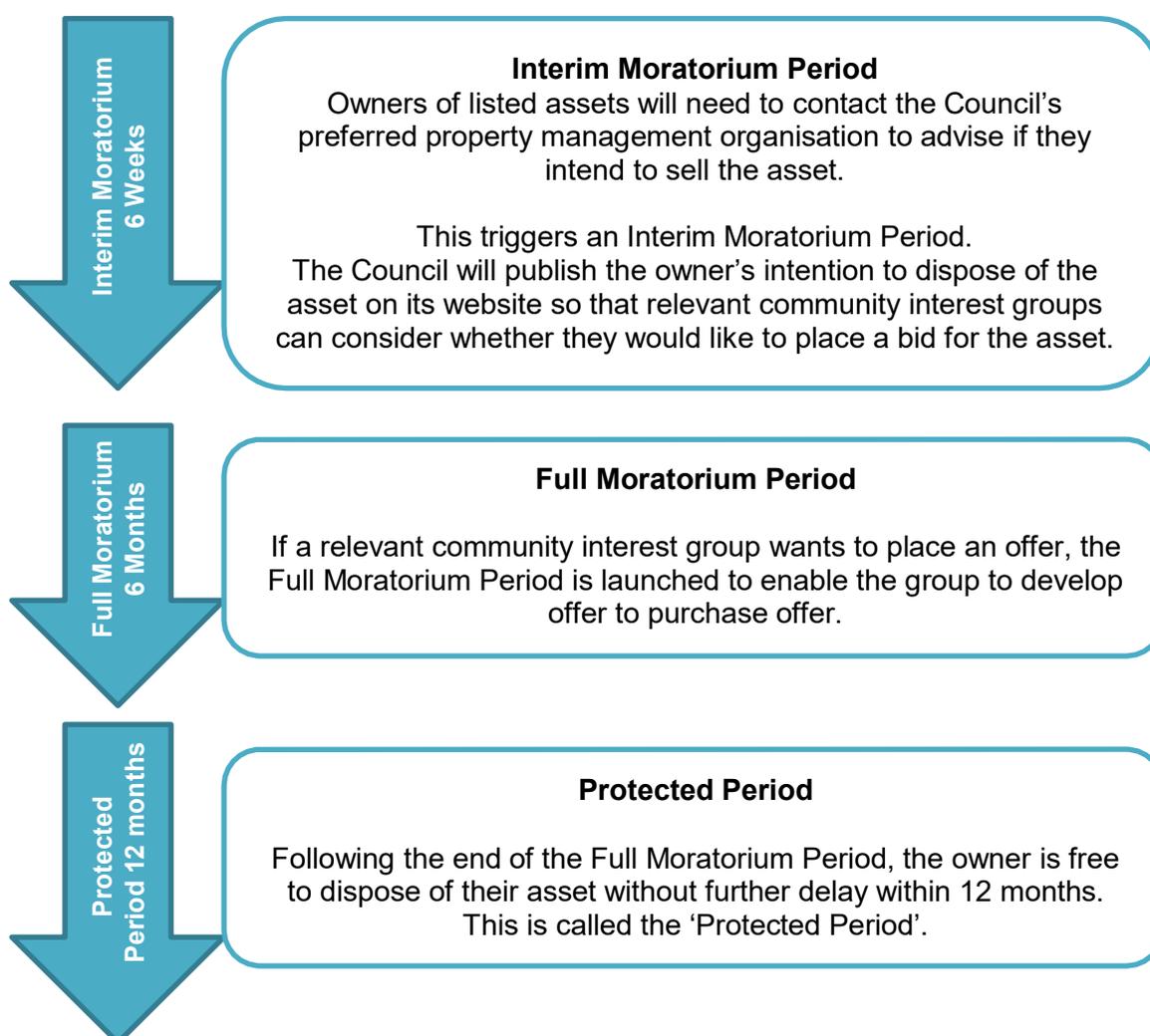
Owners will be provided with information about how they can do this in the 'Decision Notification' letter which will be sent to notifying organisations, occupiers and owners following the relevant Area Committee meeting.

Asset owners will be asked if they wish to attend a Council Appeal Panel to review this decision.

Owners and notifying organisations will be informed by a 'Review Notification' letter within 6 weeks.

### iii) Sale

#### Process Diagram – Sale



The purpose of the Right is to provide 'breathing space' for communities to prepare a bid to purchase an asset when it comes up for sale.

It is the responsibility of the asset owner to contact the Council to notify them of an intention to make a 'relevant disposal'. This terminology is used because not all sales are covered by the Right, there are a number of exclusions specified in the Regulations, these are:

- Transfers made other than for value i.e. a gift
- Transfers between members of the same family i.e. made as a sale as well as a gift
- Transfers due to the inheritance of the asset
- Sales by personal representatives in order to pay estate debts or cash legacies
- Transfers occasioned by resignation or death of partners in a firm or trustees of a trust

Transfers between trustees, between a trust and settler, and between a trust and a beneficiary

Business to business transactions of a going concern, where the intention is to continue the existing use of the asset

Transfers where the listed asset forms part of a larger estate

Disposals made as a result of pre-existing arrangements

Transfers between connected companies

Disposals of land made under existing statutory provisions that clash with the Assets of Community Value moratorium rules

Provision of on-going public service delivery

Receipt of notification of a relevant disposal will trigger a **6 week interim moratorium period** in which **community interest groups** should decide whether they wish to prepare a bid to purchase an asset.

A community interest group is:

A Parish Council in whose area the asset lies, or

A body with a local connection which is constituted in one of the following ways:

- A company limited by guarantee
- An Industrial or Provident Society
- A Community Interest Company
- Any other body which is registered as a charity including a Charitable Incorporated Organisation

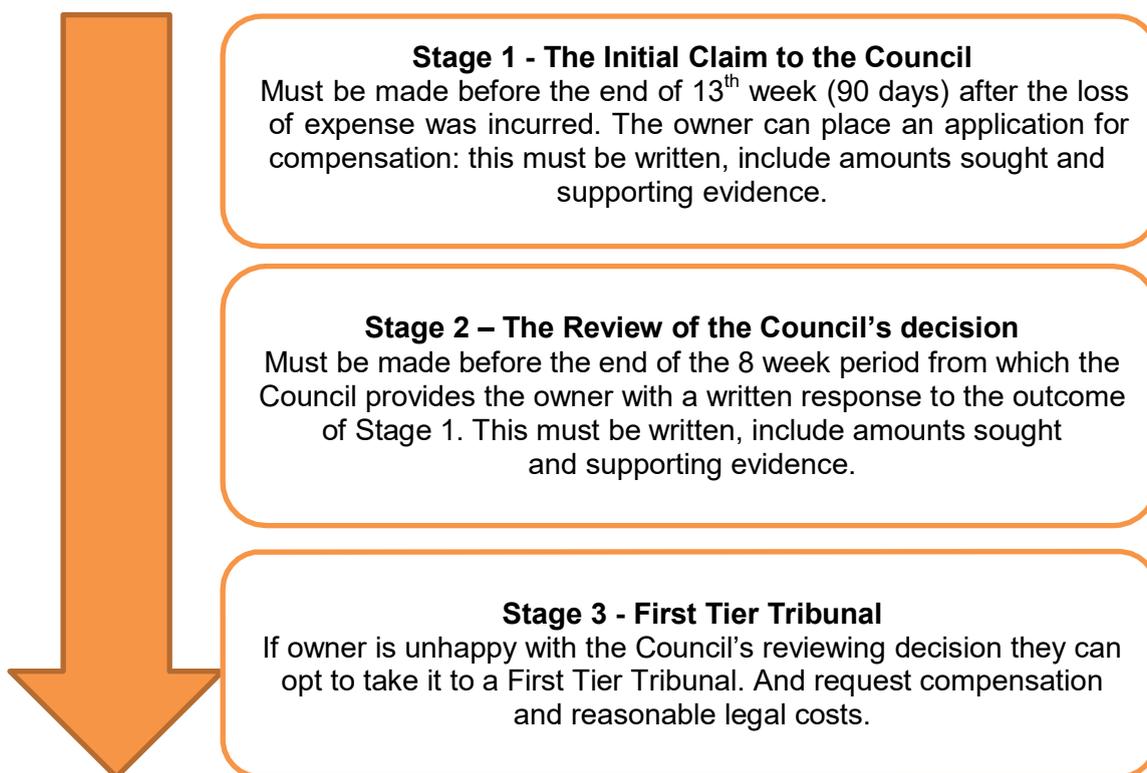
At this stage community interest groups only need to express an interest in bidding, they do not need to provide any details of their bid. This will trigger a **full moratorium period of 6 months** in total from notification of the relevant disposal during which time a sale is barred and they are able to prepare a bid for the asset. The owner is under no obligation to accept this bid and is free to dispose of their asset as they wish.

If a bid is not received during the moratorium period then the landowner is free to dispose of their asset as they wish and no further moratorium period can be triggered for a protected period of 18 months from the date that the council receives notification of a relevant disposal. This provides the owner with 12 months in which to dispose of the asset freely.

**What you need to know:**

If you are the owner of a listed asset and intend to sell please notify [planning@blackburn.gov.uk](mailto:planning@blackburn.gov.uk)

## Process diagram - compensation:



### Types of claim

The owner of the listed asset may make a claim for compensation for any loss or expenses he may have incurred at a time when the land was listed, which he would not have incurred had the land not been listed.

The following claims may therefore be made:

For Any loss, arising from any period of delay in the owner entering into a binding agreement to sell the land, which has been caused by either the interim or full moratorium periods.

A claim for reasonable legal expenses incurred in a successful appeal to the First Tier Tribunal against the Local Authority’s decision to;

- I. List the asset
- II. To refuse to pay compensation, or
- III. With regard to the amount of compensation offered or paid

### **What you need to know:**

For compensation queries contact:

[planning@blackburn.gov.uk](mailto:planning@blackburn.gov.uk)

#### **4. Support for Communities**

This policy does not supersede existing arrangements in place within the Council and other organisations to transfer assets to communities.

The Council recognises the added value that can be brought to communities through the transfer of assets to the community and is committed to continuing to work with groups who are interested in pursuing these options.

If groups are interested in finding out whether a Council owned asset in their local area would be available for transfer please contact us. Information about who to contact for different services is available on our website.

Support for communities interested in using this Right is also available on the Government's Community Rights webpage  
[www.communityrights.communities.gov.uk/](http://www.communityrights.communities.gov.uk/)

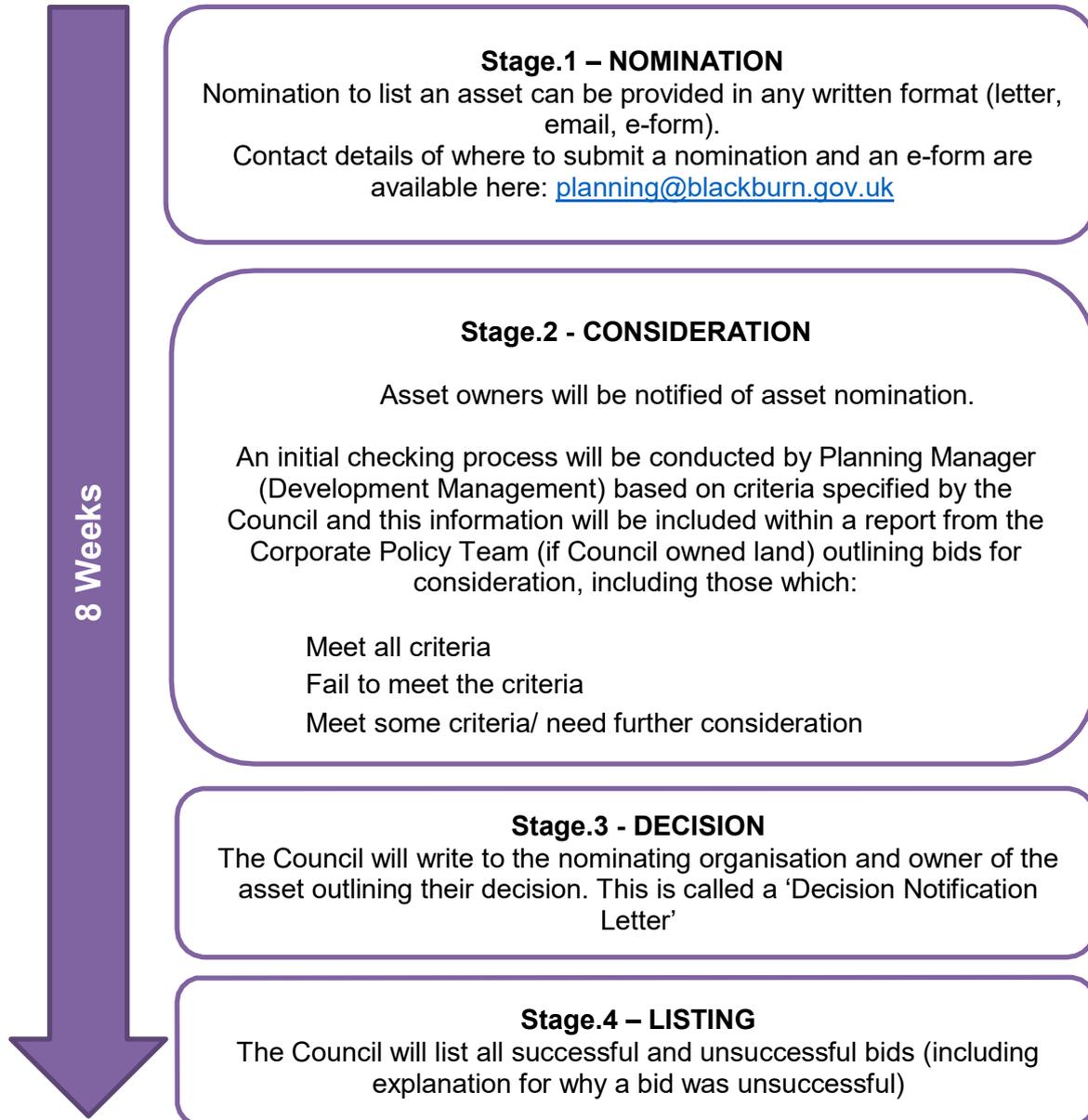
#### **5. Policy Review**

This policy has been developed in response to a new Right derived from the Localism Act, which means that understanding of how the Right operates will evolve over time. We are committed to monitoring the evolution of the Right locally and nationally, and may amend our policy in response to this research so that our policy reflects best practice.

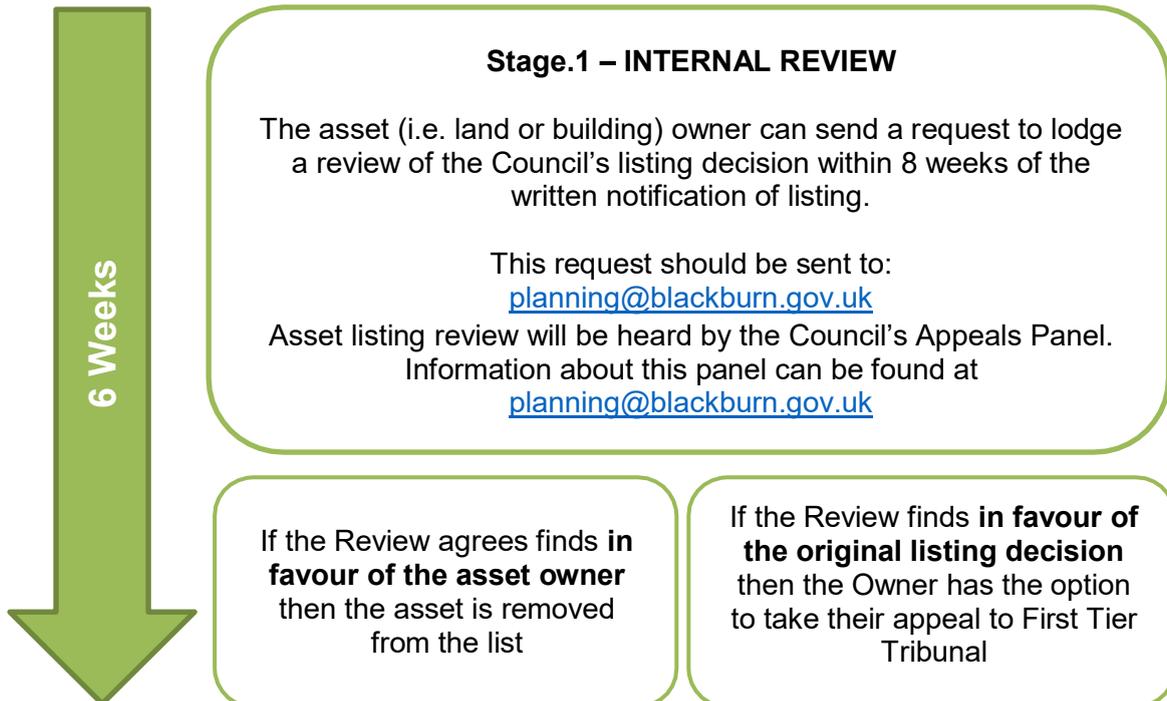
## 6. Appendices

### Appendix A - DRAFT COMMUNITY RIGHT TO BID PROCESSES

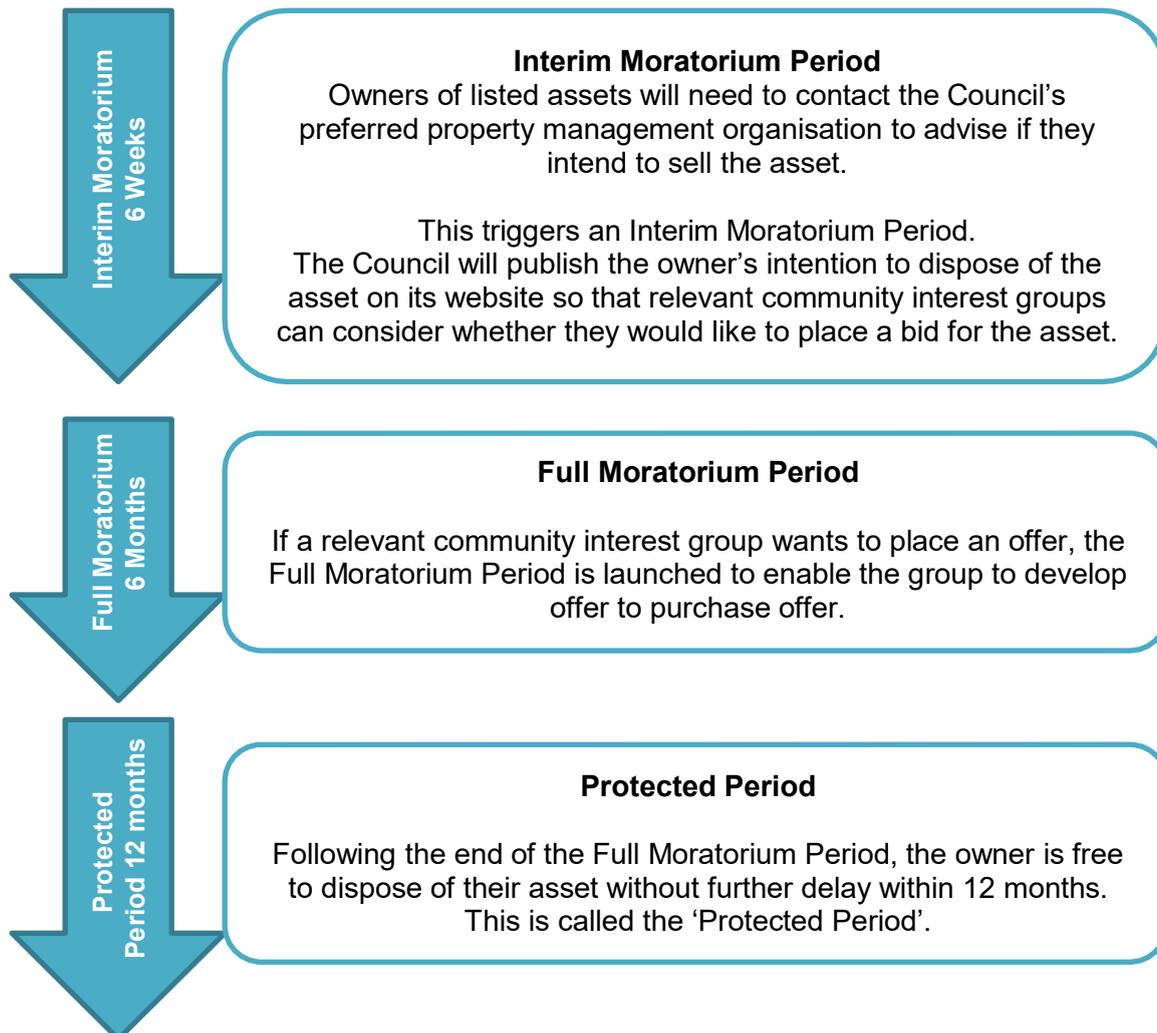
#### Listing Assets



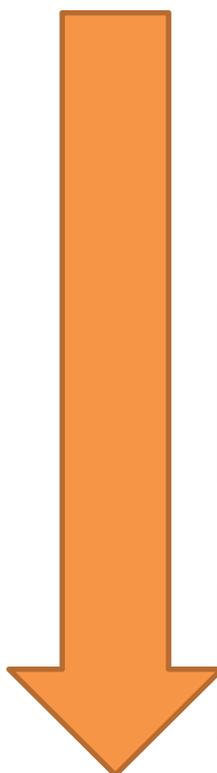
## Review and Appeals



## Sale



**In some circumstances an owner may apply for compensation:**



**Stage 1 - The Initial Claim to the Council**

Must be made before the end of 13<sup>th</sup> week (90 days) after the loss of expense was incurred. The owner can place an application for compensation: this must be written, include amounts sought and supporting evidence.

**Stage 2 – The Review of the Council’s decision**

Must be made before the end of the 8 week period from which the Council provides the owner with a written response to the outcome of Stage 1. This must be written, include amounts sought and supporting evidence.

**Stage 3 - First Tier Tribunal**

If owner is unhappy with the Council’s reviewing decision they can opt to take it to a First Tier Tribunal. And request compensation and reasonable legal costs.



<b>Connection to the asset</b>	<i>Please circle...</i> Occupant      Freeholder      Leaseholder
<b>Address</b>	
<b>Phone number</b>	
<b>Email</b>	
<b>Occupant / Freeholder / Leaseholder #2</b>	
<b>Name</b>	
<b>Connection to the asset</b>	<i>Please circle...</i> Occupant      Freeholder      Leaseholder
<b>Address</b>	
<b>Phone number</b>	
<b>Email</b>	
<b>Occupant / Freeholder / Leaseholder #3</b>	
<b>Name</b>	
<b>Connection to the asset</b>	<i>Please circle...</i> Occupant      Freeholder      Leaseholder
<b>Address</b>	
<b>Phone number</b>	
<b>Email</b>	
<b>Occupant / Freeholder / Leaseholder #4</b>	
<b>Name</b>	
<b>Connection to the asset</b>	<i>Please circle...</i> Occupant      Freeholder      Leaseholder
<b>Address</b>	

<b>Phone number</b>	
<b>Email</b>	

### 3. Community Value

Under the Community Right to Bid regulations, an asset is of community value if:

It is at least partly within the local authority's area  
 Its main use (i.e. not ancillary) has recently been or is presently being used to further the social wellbeing or social interests of the local community and could reasonably do so in the future i.e. within the next 5 years

It does not fall within one of the exemptions specified in Regulations

Information about what is exempted from this definition can be found at [web address]

**Please provide reasons below why the asset you have identified qualifies as an asset of community value.**

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

## PART B: INFORMATION ABOUT YOUR ORGANISATION

Nominations can be submitted by voluntary and community organisations with a local connection.

Relevant bodies include:

- a) Neighbourhood Forums
- b) Parish Councils
- c) Unincorporated bodies of 21 named members
- d) A Charity
- e) Company Limited by Guarantee

- f) Industrial or Provident Society
- g) Community Interest Company

**Please provide information about the nominating organisation:**

<b>Name of organisation</b>	
<b>Type of organisation</b>	<i>e.g. Neighbourhood Forums; Parish Councils; Unincorporated bodies of 21 named members; A Charity; Company Limited by Guarantee; Industrial or Provident Society.</i>
<b>Proof of eligibility to make a community nomination</b>	<i>e.g. This could include documentation demonstrating the nature of the organisation and in what way it has a local connection.</i>

### **PART C: CONTACT DETAILS**

We will need to contact you to respond to your application, please provide contact details for the person who is leading this Nomination.

<b>Name:</b>	
<b>Address:</b>	
<b>Telephone Number:</b>	
<b>E-mail address:</b>	