

Royal Borough of Windsor and Maidenhead: Community Right to Bid Policy

1. Introduction and Overview

- 1.1 The Localism Act 2011 introduces a new Community Right to Bid (CRTB). CRTB will give communities a right to identify a building or other land that they believe to be of importance to their community's social well-being. If such an asset or piece of land comes up for sale, the community will be given a fair chance to make a bid to buy it on the open market. The right will include private assets such as the local pub or village shop as well as assets owned and managed by the Council. To the extent that they meet the definition it will also include premises owned by other public bodies.
- 1.2 Local authorities will be required to develop, publish and maintain a list of assets of community value. If an owner of a listed asset wants to sell it they will be required to notify the local authority who would in turn have to notify interested parties. If local groups are interested in buying the asset they will have six months to prepare a bid to buy it before the asset can be sold.

2. Royal Borough of Windsor and Maidenhead (RBWM) Policy Position on CRTB

- 2.1 RBWM is committed to transparency and open government and will develop, publish and maintain a list of all properties owned by the Council on its website.
- 2.2 RBWM will publicise the Community Right to Bid on its web site and in resident newsletters and will provide links to the government's Community Rights web site where there is further information, support and advice for community groups interested in exercising the right.
- 2.3 RBWM will actively engage local residents to ensure that they are aware of the right, its potential benefits and the associated responsibilities.
- 2.4 However, whilst RBWM is committed to empowering local communities and ensuring they are fully informed, there is a recognition that the initiative in respect of identifying land or property that communities value and would wish to take into community ownership, rests with the communities themselves. The Council will give necessary support where needed but the expectation remains that parish councils, voluntary and community sector groups will take the lead in making nominations.
- 2.5 The Council will put appropriate structures in place for responding to nominations from relevant bodies and will ensure that nominations are dealt with efficiently and effectively. The procedure for responding to nominations is outlined in Appendix B.

- 2.6 RBWM recognises, as does government guidance¹, that the provisions will impact the rights of private property owners. To avoid unnecessary bureaucracy that will potentially arise from the associated rights of appeal and compensation, the Council will establish clear criteria for supporting or rejecting nominations for listing that are put forward by community groups. The grounds for supporting or rejecting nominations are set out in Appendix A – Criteria for accepting or rejecting nominations for listing as Assets of Community Value.
- 2.7 The criteria will relate solely to the process of nomination for listing. Nothing in the criteria would prevent the Council (or another owner) transferring an asset to a community group outside the terms of CRTB if this will serve to improve local services or enhance local facilities.
- 2.8 The Community Right to Bid Policy is separate from the Council's planning policy process, but it will reinforce existing planning policies² by reinforcing the power of local communities to protect assets that local people value. The criteria for deciding whether to list land or buildings as Assets of Community Value will support and make reference to the definitions of community facilities used in the Local Plan and the Maidenhead Town Centre Action Plan³.
- 2.9 Listing as an Asset of Community Value will not place any restrictions on what an owner can do with their property, once listed, if it remains in their ownership, because it is planning policy that determines permitted uses for particular sites.

APPENDICES

Appendix A – Criteria for accepting or rejecting a nomination for listing as an Asset of Community Value

Appendix B – Community Right To Bid Procedure

¹ DCLG – Assets of Community Value Policy Statement, Sept. 2011

² Policy CF1 of the Local Plan prevents the loss of existing community facilities subject to evidence being satisfied that there is no longer a need for them or an acceptable alternative provision is to be made elsewhere. Policy MTC13 of the Maidenhead Town Centre Area Action Plan indicates proposals that result in any loss of land or buildings in community, cultural and leisure use will only be permitted where it can be demonstrated that there is either no longer a need for the building/land to be retained in community, cultural or leisure use or acceptable alternative provision is made.

³ Appendix B – Para.2 of this document.

Criteria for accepting or rejecting a nomination for listing as an Asset of Community Value

1. The Department of Communities and Local Government has defined an asset of community value as follows:

“A building or other land should be considered an Asset of Community Value if:

- a) its actual current use furthers the social wellbeing and interests of the local community, or a use in the recent past has done so; and
 - b) that use is not an ancillary one; and
 - c) 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) and
 - d) it does not fall within one of the exemptions (e.g. residential premises and land held with them.)”⁴
2. RBWM’s Local Plan defines community facilities as ‘ day care centres for pre-school children and the elderly, schools, hospital and health facilities, churches, public halls, meeting halls, places for public religious worship, libraries, theatres, cinemas, museums, arts centres and Citizens Advice Bureau’ and the Maidenhead Town Centre Area Action Plan refers to community cultural and leisure facilities giving as examples: cinema, ten-pin bowling, bowls club, football ground, leisure centre and parks, meeting halls, the heritage centre and places of worship. This is not a definitive list but indicates the type of facilities RBWM will normally consider as assets of community value.
 3. Bids must be submitted to the Council’s Business and Community Partnership Unit by a parish council or a local voluntary or community organisation with a local connection. Nominating groups must have a primary purpose concerned with the local authority’s area or the neighbourhood where the asset is situated if this is in more than one local authority area.⁵
 4. RBWM will expect the nominating group to evidence that the land or building they are proposing to nominate plays (or has played) a significant role in local life and that the activity it supports (or that it is proposed to support) could not reasonably continue if the building was lost to community use. This will normally mean that there are no similar or alternative facilities in the local area that could support the existing or proposed activity.

⁴ DCLG Policy Statement on Assets of Community Value – Sept 2011 Sec 1, p6
<http://www.communities.gov.uk/documents/localgovernment/pdf/1987150.pdf>

⁵ Policy Statement on Assets of Community Value – Sept 2011

5. Nominating groups should be able to demonstrate that there is a continuing demand for the activity they are proposing and that the demand for it is likely to be sustained for at least five years.
6. Nominating groups should evidence that they have the capacity to raise the necessary capital and running costs or that they could reasonably expect to do so within the six month window allowed by the regulations.
7. The Council works proactively with parish councils and community groups to identify new and better ways to deliver local services and will look with particular favour on nominations to list buildings in community use that are owned by the Council.
8. Whilst happy to entertain submissions relating to the use of commercial premises (such as pubs or shops) - the Council will nevertheless proceed more cautiously in respect of such premises and will not normally consider commercial premises for listing if there are similar facilities in the local area that are easily accessible to local people. The Council will only consider commercial premises for listing if the nominating body can demonstrate that their loss to the local area would be a significant loss for local people in respect of their social well being.
9. Social well being is a sense of involvement with other people and with our communities. An Asset of Community Value should promote active engagement with life and other people which could be of a social, cultural or recreational nature.
10. DCLG guidance recognises that certain categories of land should be excluded from listing. These are specified in the regulations and are:⁶
 - a) Residential premises, including sites for mobile homes and boats. For a building which is or includes residential premises this will include land held with the residence under a single legal title, which would go beyond immediate gardens, outbuildings, yards etc and extend to all land held under that title. The exception to the exclusion of residential premises will be premises which include living quarters which are an integral part of a pub or shop and which are otherwise eligible for listing – these could still be listed as assets of community value.
 - b) Operational land as defined in Part 11 of the Town and Country Planning Act 1990 – that is land used for transport infrastructure and some other related purposes by specified bodies with statutory powers.
11. In considering appeals against listing as an asset of community value made by owners RBWM will take into account the following⁷:

1. ⁶ Assets of Community Value (England) Regulations 2012 (SI 2012/2421) – Sept 21 2012

⁷ DCLG - Assets of Community Value Policy Statement – September 2011

- a) The eligibility of the asset
- b) The eligibility of the nominating body
- c) Any new factors that have come to light since the original decision was made
- d) Any irrelevant or improper matter which the local authority might have taken into account in reaching its original decision

12. RBWM will not take the commercial effect of a decision to list the land or buildings into account. This is a separate matter that will be dealt with in relation to any claim for compensation.

13. The procedure for assessing nominations against these criteria is outlined in Appendix B.

COMMUNITY RIGHT TO BID PROCEDURE

STAGE ONE : NOMINATION AND LISTING

1.1 Nominations should be submitted to the Business and Community Partnership Unit in the Policy and Performance Directorate.

1.2 The Business and Community Partnership unit will inform the relevant Lead Member and Ward Members as soon as possible that a nomination has been submitted.

Who can nominate an asset of community value?

1.3 Only eligible voluntary and community organisations can make nominations, not individuals, not the Council. The organisations must:

(a) have a local connection to the property they wish to nominate; this means that their activities must be wholly or partly concerned with the administrative area of RBWM or a neighbouring local authority;

(b) be one or more of the following:

- a) an unincorporated community group with at least 21 members who are registered to vote in the RBWM area.
- b) a Parish Council
- c) a Charity
- d) an industrial and provident society
- e) a local neighbourhood forum
- f) a company limited by guarantee or a community interest company.

1.4 Nominations must include the following information.

- The address of the property
- Details of the owner and current occupants
- The extent of the site and its proposed boundaries (a map would be useful)
- Why the group feels it is an asset of community value.

1.5 Nominating groups must provide evidence of their eligibility to nominate.

What counts as an "asset of community value"?

1.6 A building or a piece of land is deemed to have a community value if:

- the use of the land or building currently, or in the recent past, furthers the social wellbeing or cultural, recreation or sporting interests of the local community;
- this use of the building (as described above) will continue to further the social wellbeing or interests of the local community;
- the use of the building or land must not be deemed "ancillary", i.e. of secondary purpose. This means that the use of the land or building to further the social wellbeing or interests must be its principal use.

What happens following nomination?

1.7 The Council has to decide whether or not to list the asset within eight weeks following the nomination. Once we have received the completed form we will check the technical issues, such as the eligibility of the nomination and the organisation making the nomination, completeness of the information supplied, and the fact that the asset is not in an excluded category. These checks will be undertaken by the Business and Community Partnership Unit.

1.8 The Council will take all practicable steps to notify the owner and lawful occupants that it is considering listing the property On the Council's web page. We will also notify these people of the outcome of the nomination.

1.9 There will be a short consultation period (normally two weeks) during which the Business and Community Partnership will consult the local town or parish council (where it is not itself the nominating body) and other relevant local groups.

1.10 Decisions as to whether the nominated assets are of community value will be made by a specially convened officer group consisting of the Head of Business and Community Partnerships with Legal, Financial and Policy support as appropriate.

1.11 RBWM has established criteria, Appendix A of the Policy and procedure, for establishing if the criteria established by the regulations have been met. These will form the basis for officers' deliberations.

1.12 Assets that are considered to be of community value will then be added to the "List of Assets of Community Value". Assets will remain on the list for five years and a land charge will be registered against the property. When the five years have expired, an eligible community organisation can submit a new nomination.

1.13 The relevant Lead Member and Ward Members will be informed of the outcome.

1.14 The organisation which originally nominated the asset will be notified of the outcome. They will also be notified if the asset is subsequently removed from the list following a review of the decision.

1.15 If the nominated asset is not considered to be an asset of community value, or if the nomination was ineligible, we will provide an explanation as to why it was unsuccessful to the organisation which made the nomination. In such circumstances, the property will be added to the list of "Land Nominated by Unsuccessful Community Nominations" and will remain on the list for five years.

1.16 If we decide to list a property, the property owner can ask for a review. The review process will be led by Planning with representation from Legal, Finance and Property Services. Further guidance will be provided in a letter to the property owner.

1.17 The procedure will follow the Royal Borough's procedures for similar review hearings.

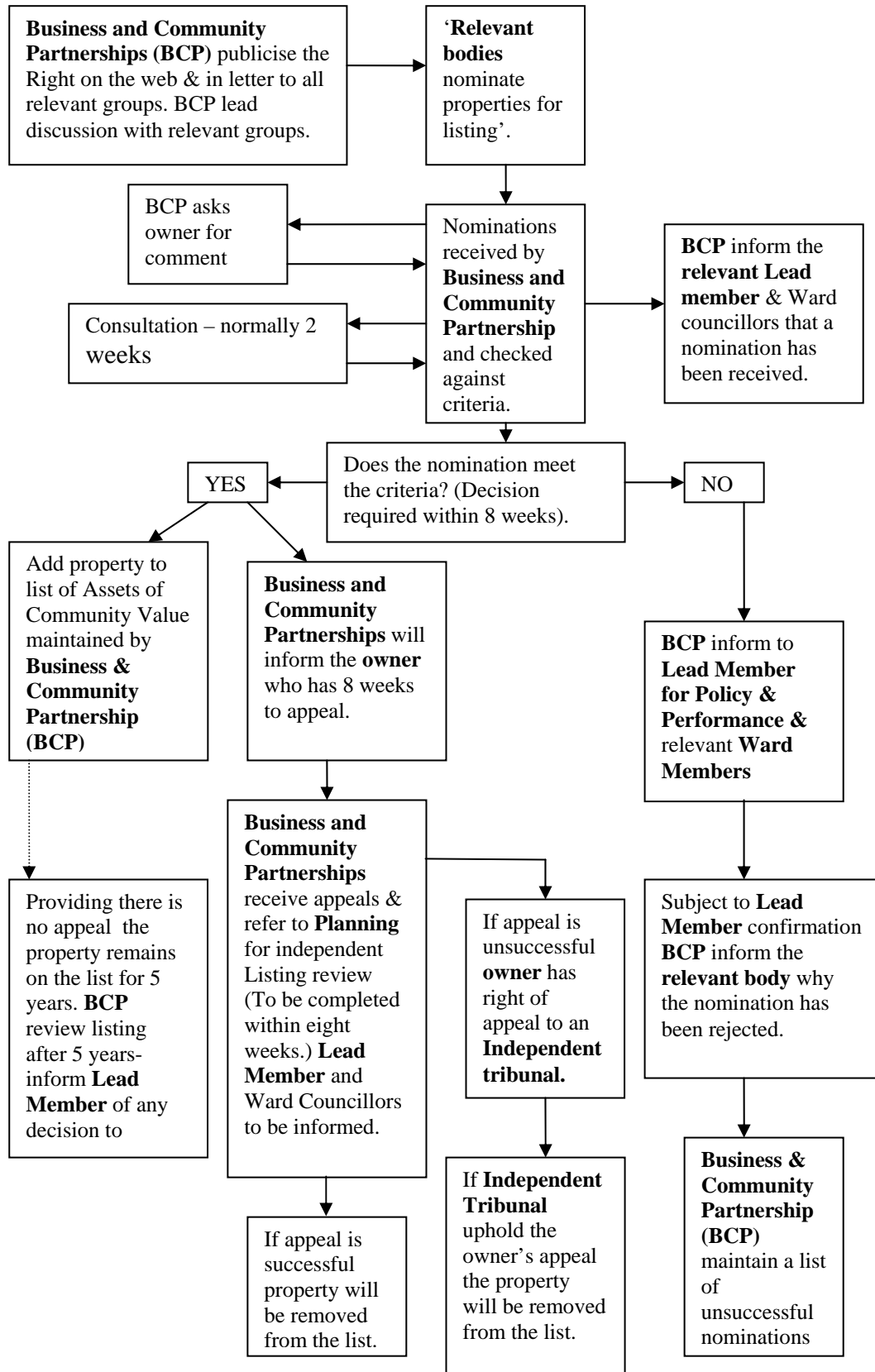
- i. Day 1 : notice of review sent to all parties/Royal Borough to consider the original evidence
- ii. Day 14 : the Owner must make written representations to the Royal Borough (and submit copies to the other parties) & confirm whether the Owner requires a oral hearing.
- iii. Day 21 : Date that representations are received from other parties including nominating party to the Royal Borough (parties to submit copies to Owner)
- iv. Day 28 : Royal Borough to confirm date of hearing (where Owner has requested hearing or Royal Borough determines hearing should be held).
- v. Day 35 : Hearing
- vi. Day 48 : Last date that decision notice to be issued by Royal Borough.

1.18 The timescale can be extended with the permission of the Owner.

1.19 If the appeal is not upheld, the owner has a further right of appeal to an independent tribunal.

1.20 Nominators are not able to appeal the decision made in respect of their nomination. However, they can make a complaint through the Council's complaints procedure if they feel the Council has not followed the correct procedure.

STAGE ONE – NOMINATION AND LISTING (OUTLINE)



Nothing further will happen in relation to the asset unless and until the owner decides to dispose of it, either through a freehold sale, or the grant or assignment of a lease granted for at least 25 years.

STAGE TWO : RELEVANT DISPOSAL

2.1 The owner of the property must advise the Council when they intend to sell the property and we will publicise this on our website and the Council will inform the nominator. If no community interest group notifies the Council within six weeks that it wishes to bid, the owner is free to sell their property as they see fit.

2.2 If an eligible community interest group notifies the Council within six weeks that it wishes to bid for the property, it will have up to six months in which to prepare its case.

Who can bid?

2.3 Only community interest groups that meet the Government's criteria can bid, not all groups that are eligible to nominate are also eligible to bid. Community interest groups should have a local connection with the asset and be one or more of the following:

- a Parish Council
- a registered charity
- a community interest company
- a company limited by guarantee
- or an industrial and provident society.

2.4 Full details of eligibility criteria can be found in the guidance notes for voluntary and community groups interested in nominating assets of community value and in the [Act](#) (Part 5, Chapter 3) and [Regulations](#).

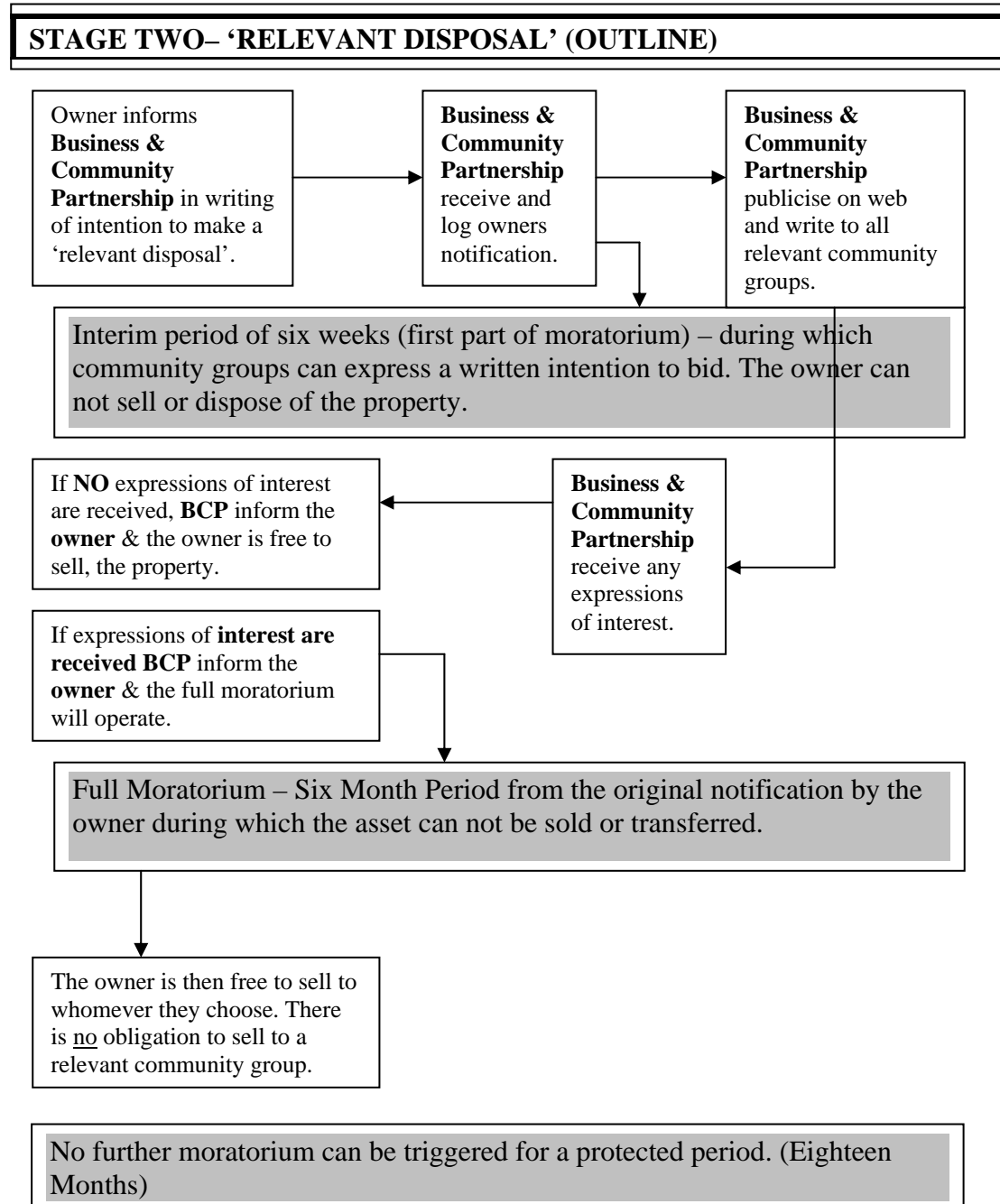
2.5 If more than one community interest group is interested in purchasing property, we would encourage the groups to work together.

How do community groups bid?

2.6 Within six weeks from the Council notifying the community that an owner wishes to sell their listed property, an eligible community interest group would need to let the Council know in writing that it wishes to bid. This then opens a six month period (from the day the owner notified the Council) in which to prepare a bid, this is known as the moratorium period.

2.7 The Council will acknowledge the request to bid and will notify the owner that the moratorium period has been triggered. The status of the listed

asset on the list will be changed to reflect that it is for sale and that the moratorium has been triggered.



N.B. The term 'relevant disposal' indicates 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

3.1 Private owners can claim compensation for loss and expense incurred through the asset being listed or previously listed. This can include a claim arising from a period of delay in entering into a binding agreement to sell which is wholly caused by the interim or full moratorium period; or for legal expenses incurred in successful appeal to the Tribunal.

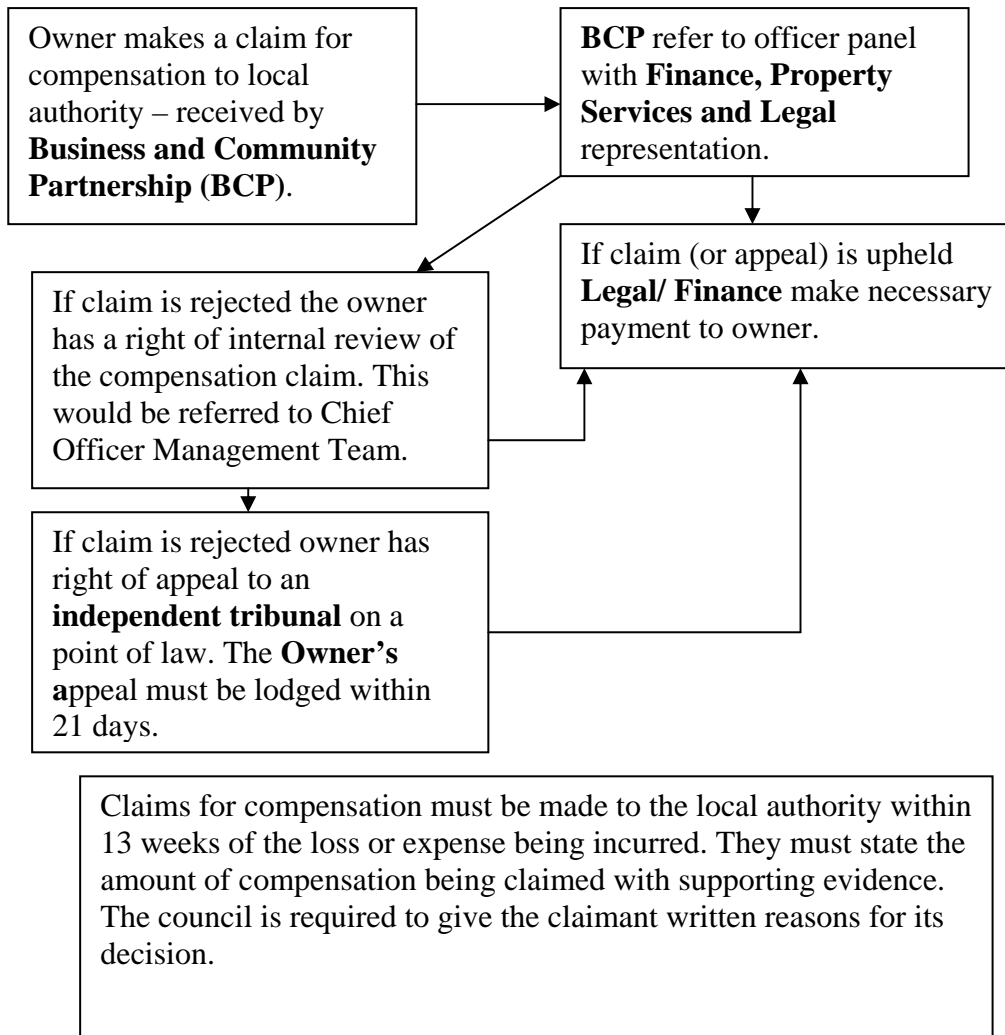
3.2 The time limit for a compensation claim is specified in Schedule 2 to the Regulations as whichever is earlier of 13 weeks from the end of the interim or full moratorium period (as appropriate) or from the date when the land ceases to be listed.

3.3 Claims must be made in writing, state the amount of compensation sought and provide supporting evidence. They will be received by the Business and Community Partnership team for consideration by Chief Officers Management Team.

3.4 The local authority must consider the claim and is required to give written reasons for its decision. No time limit is specified as it may take time to assemble all the necessary evidence but once the evidence has been gathered the Council should come to a decision as quickly as is practicable.

3.5 The Council can then request the Department of Communities and Local Government for financial support providing evidence of the compensation costs incurred.

STAGE THREE – CLAIMS FOR COMPENSATION (OUTLINE)



Further details of the processes can be found in the Act and Regulations and explanatory notes published by the Government.

- [The Localism Act \(Part 5 Chapter 3\)](#) and
- [The Assets of Community Value \(England\) Regulations 2012](#)
- [Community Right to Bid non statutory advice note for local authorities](#)