

Stockport Council Policy Statement:

Community Right to Bid/Assets of Community Value

September 2016

**Owned by: Policy, Performance & Reform Team
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1. Introduction

The purpose of this document is to set out the Council's policy position and process with regards to the 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, interest groups and asset owners so that they are easily able to navigate the Council's process.

This policy is in force from **20th September 2012**.

2. Background

The Community Right to Bid ('the Right'), which is also known as Assets of Community Value, is one of the community rights derived from the Localism Act 2011, 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. In the event of a proposed sale, community interest groups will have a chance to consider and prepare a bid to purchase the asset.

The Right does not restrict in any way who the owner of the asset can sell their 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 Stockport Council's local process for operation of the Right. The process has been developed through consultation with Legal and Property experts, Elected Members and community representatives. As case law and the local approach develop, the policy and process are reviewed and updated on a regular basis.

The process falls into three sections:

- i) Listing

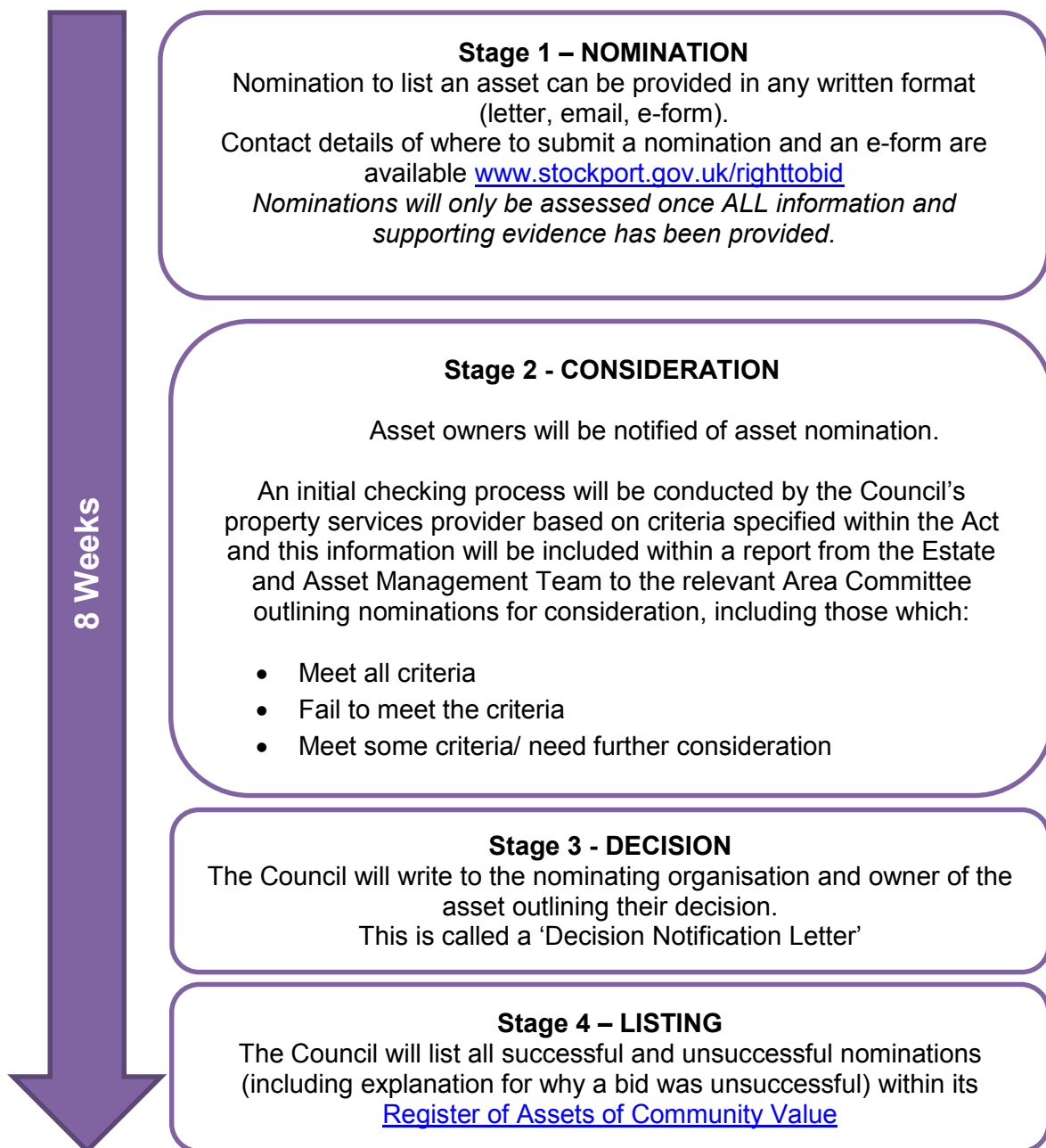
- ii) Review and Appeals
- iii) Sale

A flow chart providing an overview of all the stages of the 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



The Council will maintain and publish two lists:

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

Both will be published in the Register of Assets of Community Value. In order to ensure that the most up to date information is available for public inspection, the Council will publish these lists on its [website](#), and will make hard copies available on request.

The listing will also be added to the Local Land Charges Register entry for the asset. This will ensure that no disposal of the asset can proceed without the ACV process being followed.

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**. An electronic version is also available on the [Council website](#).

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 Stockport 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
- A society registered under the Co-operative and Community Benefits Societies Act 2014
- 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

Please note, all parts of the nomination form must be complete and all supporting evidence must be submitted with the nomination. If a nomination is incomplete, the Council will write to the nominating group, specifying any further information required. This must be provided within 14 days, and incomplete nominations will not be considered by Area Committees for listing.

Nominating groups are therefore asked to read this policy and the nomination form carefully, ensuring that they have explained and evidenced why they believe the asset is of community value, in particular that *“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.”*

The nomination will also need to evidence the eligibility of the group to make a nomination, for example registration forms, constitution, or in the case of an unincorporated body, the names and addresses of 21 Members.

Once all information and evidence has been provided, the Council will assess nominations within 8 weeks. The Council and its property provider will make an assessment and recommendation based on the criteria set out above, which is considered by the local Area Committee. The nominating group and asset owner will be notified in advance of the date of the Area Committee so they can attend if they wish. A written notification of the Area Committee’s decision will then be provided to:

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

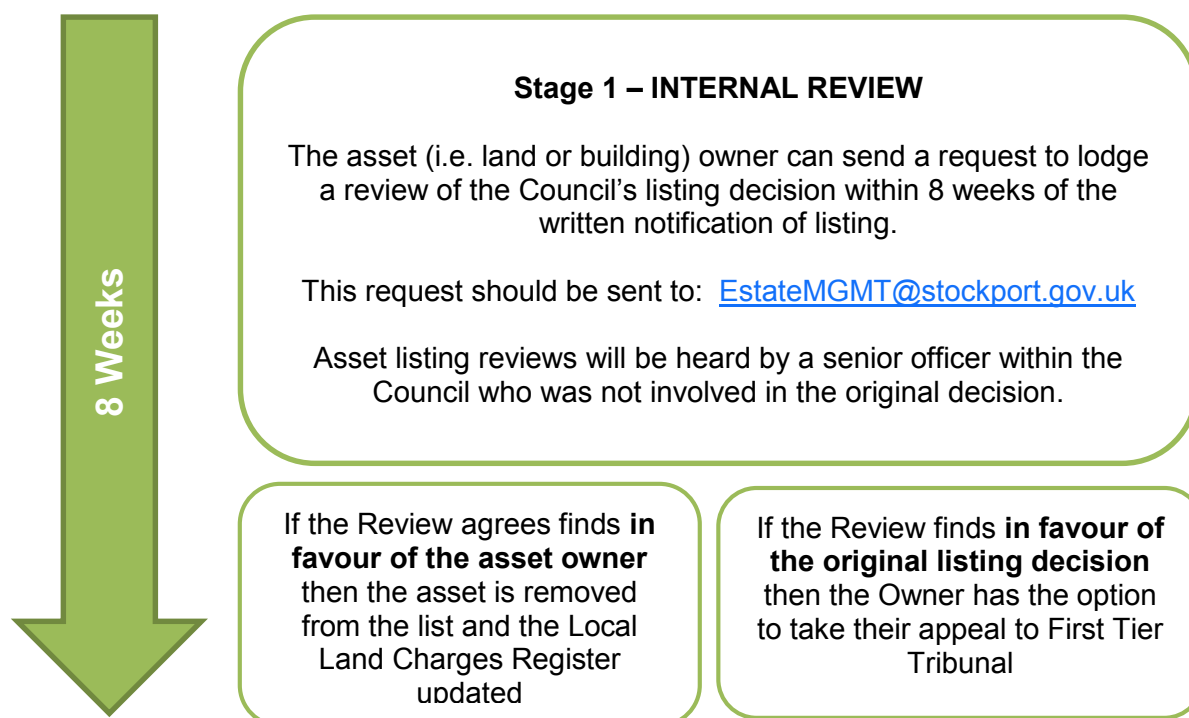
Where the Council decides not to list an asset, it will explain the reasons why. **There is no right of review or appeal for nominating groups.**

What you need to know:

- Complete the [nomination form](#) if you are interested in nominating an asset for the list.
- Ensure you have explained why you are nominating the asset and include any evidence to demonstrate that it meets the criteria and that your group is eligible to make a nomination.
- 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, an owner 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 owner must write to the Council within 8 weeks of receipt of the Council's notification that the asset is to be listed.

The owner 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 owner 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 review will be heard by a senior officer within the Council who was not involved in the original decision. The Council will complete this review within 8 weeks of receipt of the review request, or a longer period by agreement of both parties.

The findings of the review will be confirmed in writing to both parties. If the review finds in favour of the asset owner, the asset will be removed from the ACV register and Land Charges Register updated. If the review upholds the decision to list the asset, the asset owner has the right of appeal.

Appeal:

If an owner is dissatisfied with the decision reached through the internal review process then they are entitled to appeal to an independent First Tier Tribunal. This must be made within 28 days of the notification of the review decision. If successful in their appeal then the owner may apply to the Council for reasonable costs.

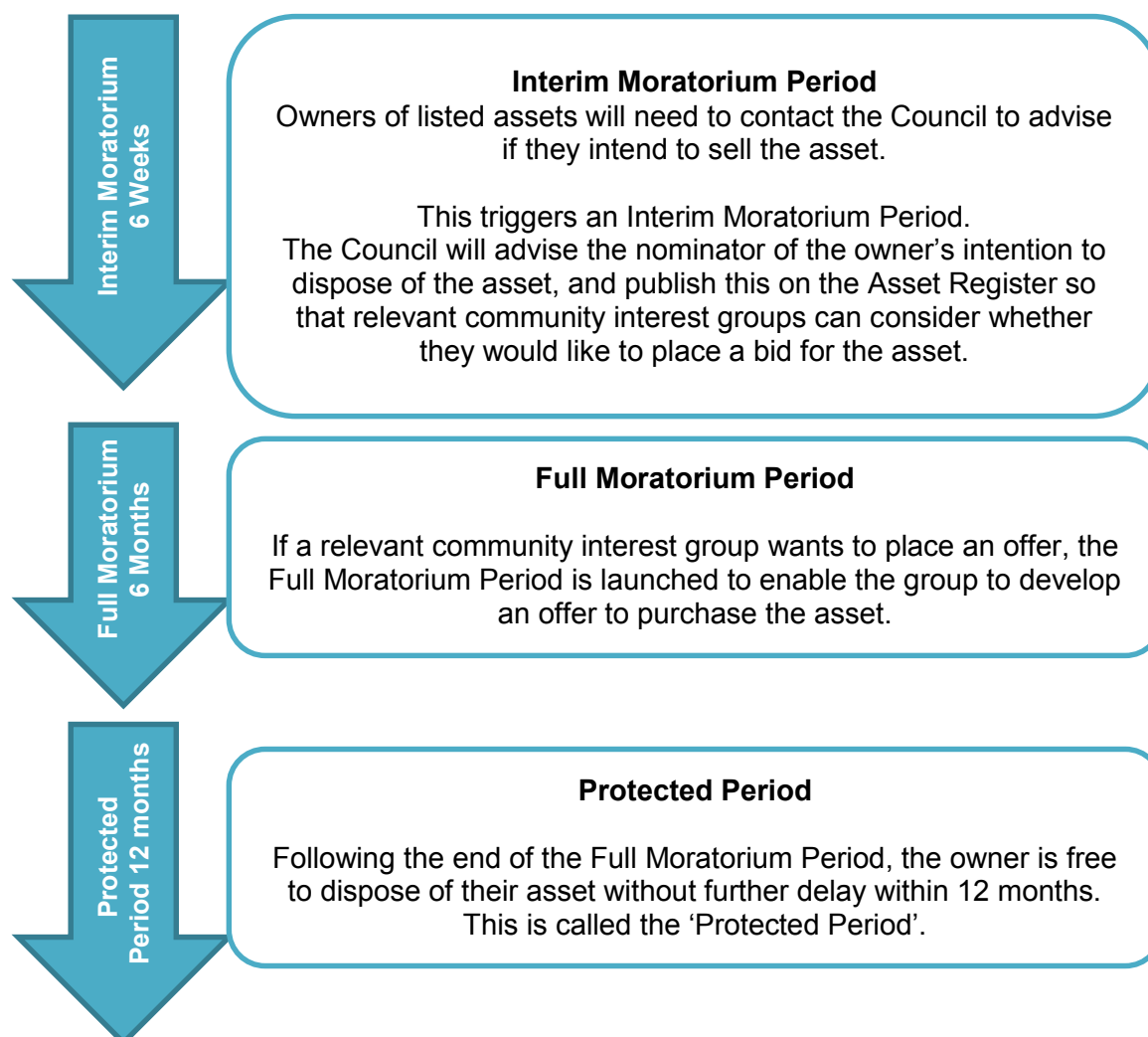
The [First Tier Tribunal](#) is an independent chamber responsible for handling appeals against decisions made by regulatory bodies, including the Community Right to Bid.

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 nominating 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 nominating organisations will be informed by a 'Review Notification' letter within 8 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 of 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.

When the Council receives notification of an intention to make a 'relevant disposal' from the asset owner, this information will be included on the Asset Register which can be found on the [Councils website](#).

The nominating group will be notified. *This notification will be sent to the contact details on the nomination form, so it is important for nominating groups to advise the Council of any change to contact details.*

The Council will also publicise the 'relevant disposal' and moratorium period information in the neighbourhood.

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
 - A society registered under the Co-operative and Community Benefits Societies Act 2014
 - A Community Interest Company
 - Any other body which is registered as a charity including a Charitable Incorporated Organisation

Please note, nominators will be notified irrespective of whether they are a community interest group. Although unincorporated bodies are eligible to nominate an asset, they cannot trigger a moratorium period.

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 cannot be completed and they are able to prepare a bid for the asset. The asset listing will appear on the Local Land Charges Register, but the owner is under no obligation to accept this bid and is free to dispose of their asset as they wish at the end of the moratorium period.

Any community interest group meeting the above criteria is eligible to express an interest and trigger the moratorium period. They do not necessarily need to be the nominating group.

During the moratorium period, the asset owner may continue to market and negotiate sales, but may not exchange contracts or enter into any binding agreement. The only exception is if the owner wishes to sell to a community interest group during this period.

If a bid is not received during the moratorium period then the owner 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.

Upon sale or disposal of the asset, once the local community has had the opportunity to bid, it will be removed from the ACV list. The Council will notify the new owners of this. However, where the asset has been purchased by a community interest group, or the disposal was made under one or more of the exceptions outlined above, it will remain on the list.

What you need to know:

- If you are the owner of a listed asset and intend to sell please notify EstateMGMT@stockport.gov.uk

- Or write to:-

- Stockport Council- Community Right to Bid

Estate & Asset Management

2nd Floor, Stopford House

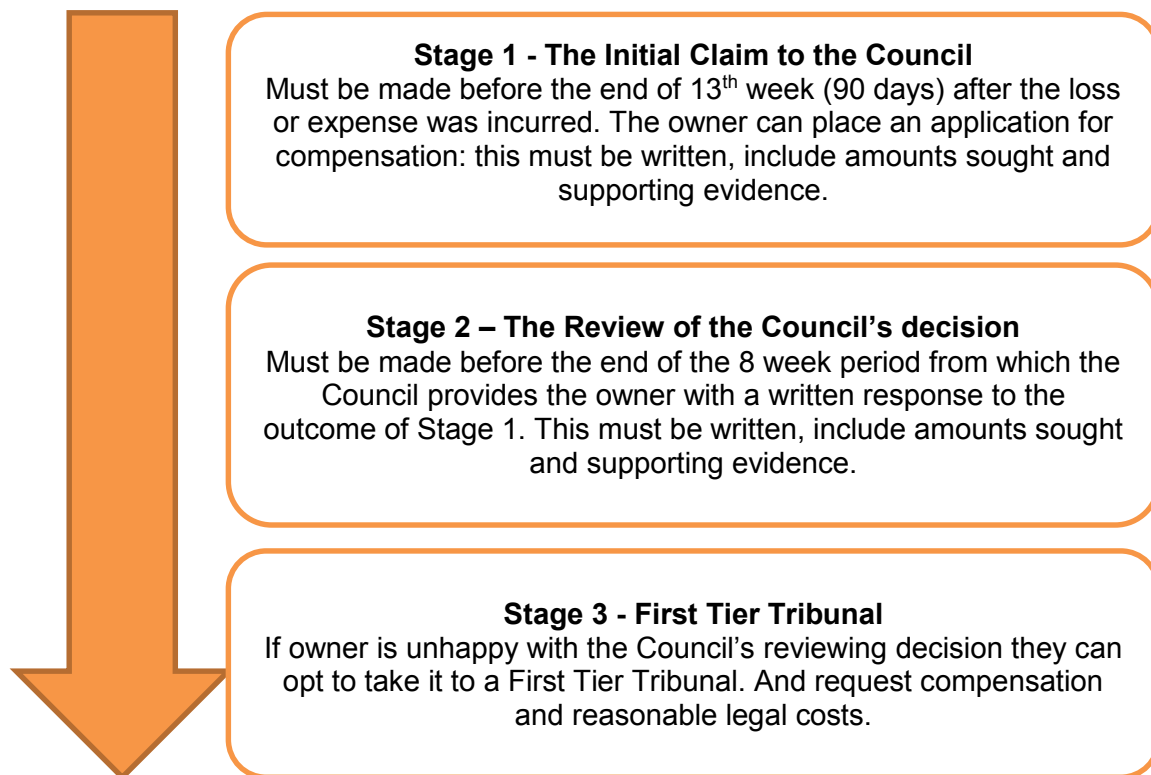
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Stockport

SK1 3XE

iv) Compensation

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 asset was listed, which they would not have incurred had the asset 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 asset, 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: EstateMGMT@stockport.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, they should contact the Council in the first instance. Information about who to contact for different services is available on the Council [website](#).

Support for communities interested in using this Right is also available on the Government's Community Rights webpage www.communityrights.communities.gov.uk

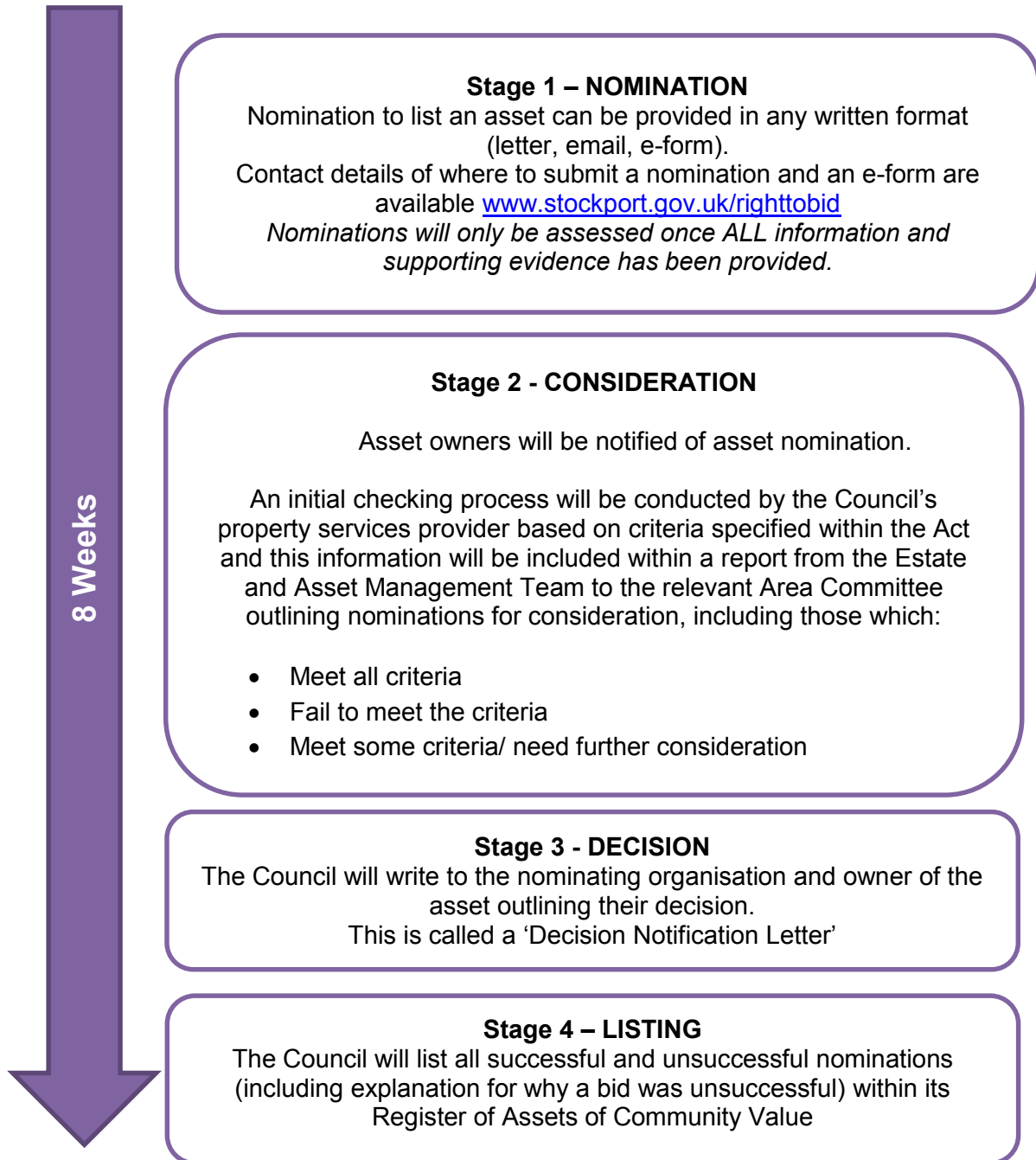
5. Policy Review

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. The Council is committed to monitoring the evolution of the Right locally and nationally, and may amend its policy in response to this research so that this continues to reflect best practice.

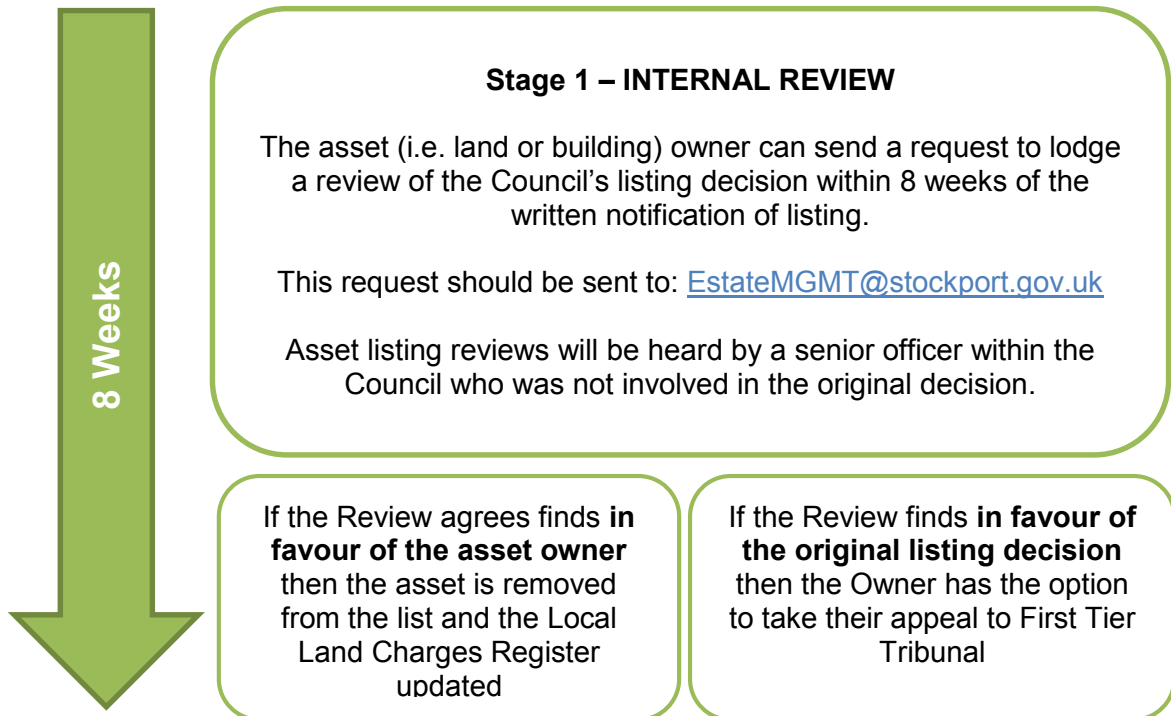
6. Appendices

Appendix A - COMMUNITY RIGHT TO BID PROCESSES

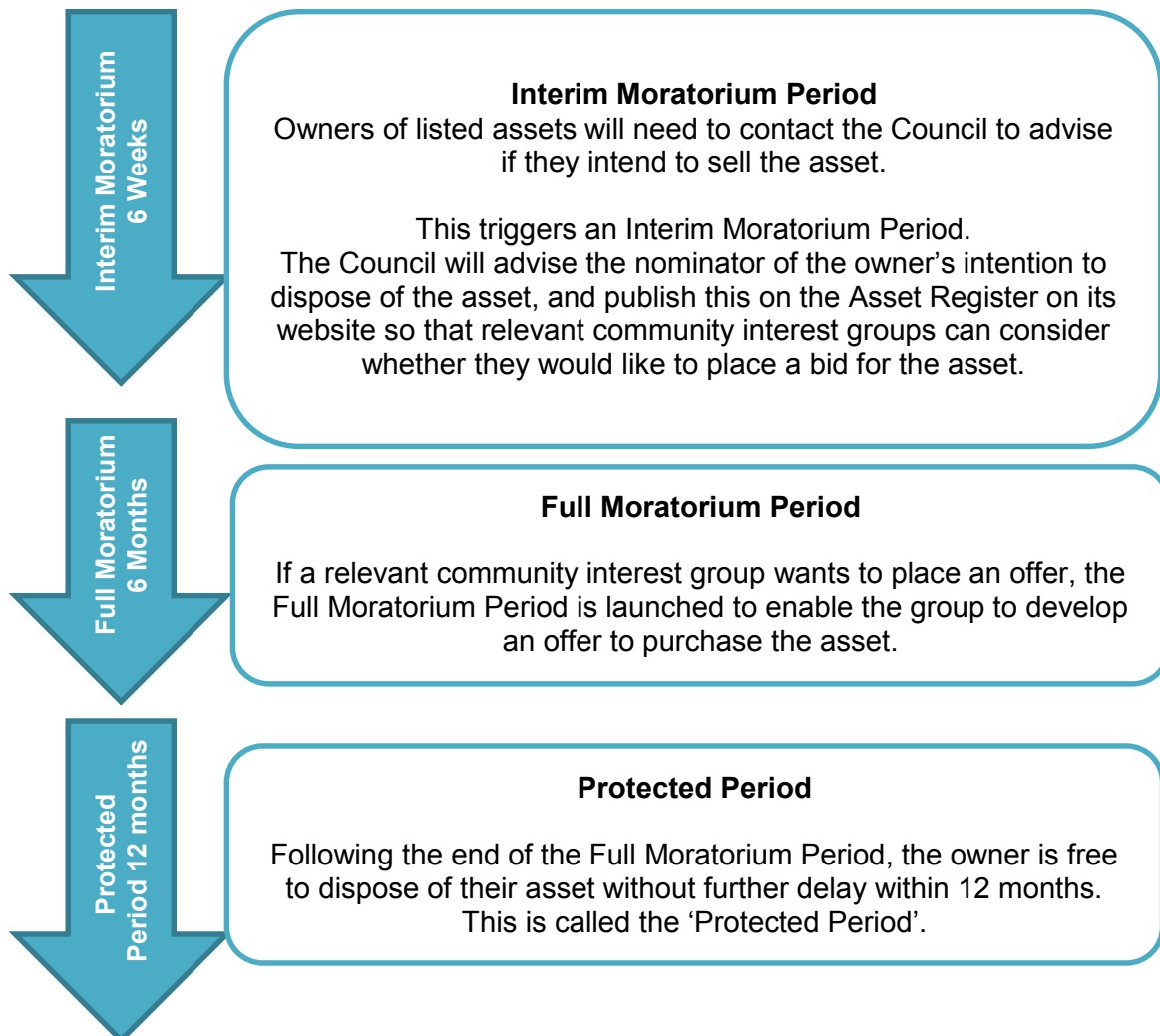
Listing Assets



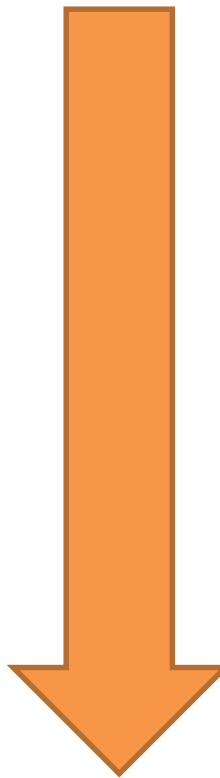
Review and Appeals



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 13th week (90 days) after the loss or 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.

Appendix B – Nomination Form

COMMUNITY RIGHT TO BID

NOMINATION FORM

This Nomination Form is for groups interested in nominating an asset for inclusion on the list of assets of community value.

Under the terms of the Localism Act, 2011 all Nominations under the Community Right to Bid must be provided in writing. The Regulations accompanying the Act specify the information required in a Nomination, so it is important that you answer all the questions in this form as fully as possible, and provide additional information where appropriate. Incomplete nominations will not be assessed.

An online version of this form is also available on the [Council website](#)

You can contact the Council's Estate and Asset Management Team on 0161 218 1934 or EstateMGMT@stockport.gov.uk if you require advice or assistance before submitting your nomination.

PART A: INFORMATION ABOUT THE ASSET

1. Identification of Asset

To help us identify the asset being nominated please provide as much information as possible:

Type of Asset	<i>Please circle...</i> Building Land
Title of the Asset	<i>e.g. name of the building?</i>
Address	
Any further information	<i>e.g. details of any additional information that you have supplied which will help us identify the asset.</i>

2. Asset Owners

Please provide details about the existing occupants (if relevant) and names and current or last known address of all those holding a freehold or leasehold estate in the asset

Occupant / Freeholder / Leaseholder #1	
Name(s)	
Connection to the asset	<i>Please circle...</i> Occupant Freeholder Leaseholder
Address	
Phone number	
Email	
Occupant / Freeholder / Leaseholder #2	
Name	
Connection to the asset	<i>Please circle...</i> Occupant Freeholder Leaseholder
Address	
Phone number	
Email	
Occupant / Freeholder / Leaseholder #3	
Name	
Connection to the asset	<i>Please circle...</i> Occupant Freeholder Leaseholder
Address	
Phone number	
Email	

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

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 [here](#)

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) A society registered under the Co-operative and Community Benefits Societies Act 2014
- g) Community Interest Company

Please provide information about the nominating organisation:

Name of organisation	
Type of organisation	<i>e.g. Neighbourhood Forums; Parish Councils; Unincorporated bodies of 21 named members; A Charity; Company Limited by Guarantee;</i>
Proof of eligibility to make a community nomination	<i>e.g. This could include documentation demonstrating the nature of the organisation and in what way it has a local connection. If you are an unincorporated body, you will need to provide the names and addresses of 21 members.</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.

Name:	
Address:	
Telephone Number:	
E-mail address:	

When completed, please return this form to;
Community Right to Bid
Estate and Asset Management
Stockport MBC
2nd Floor Stopford House
Piccadilly
Stockport
SK1 3XE

Or e-mail to EstateMGMT@stockport.gov.uk