DEVELOPMENT TRUSTS ASSOCIATION SCOTLAND

DTAS Consultation Response

Community Right to Buy

October 2025

Development Trusts Association Scotland
A Thriving Community-led Network

DEMOCRATIC FINANCE SCOTLAND

Community Ownership Support Service
Development Trusts Association Scotland

DTAS Consultation Response – Community Right to Buy (CRtB)

Supporting evidence:

CRtB Consultation Survey Findings Report: Click here to read

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Introduction:

Development Trusts Association Scotland (DTAS) is a member-led organisation that provides direct support and advice to community organisations across Scotland. DTAS represents over 350 development trusts in 31 local authorities. Our Community Ownership Support Service (COSS) works with hundreds of community groups both within and outwith the DTAS membership to support them in taking assets into community ownership through Community Asset Transfer, Community Right to Buy, and Negotiated Sales. Our Democratic Finance team works with Community Benefit Societies and Cooperatives both in and out of DTAS membership to raise money locally to take ownership of important community assets and run democratic community-led businesses.

This consultation response is based on the extensive experience of the COSS team guiding communities through the community right to buy process, an online discussion event attended by over 30 community organisations, and an online consultation survey with 42 responses. Click here to read the full survey analysis report.

The number of CRtB registrations and successful applications has declined significantly over the last ten years[1]. While many applications registered under Part 2 have resulted in negotiated sales, an outcome which DTAS welcomes as a simple and effective mechanism for communities and owners to engage, the overall picture is one of reduced uptake and limited success.

The review of CRtB legislation carried out by the Community Ownership Support Service (COSS)[2] highlights several challenges with the legislation. The legislation remains complex, burdensome, and in many cases unfit for the realities that communities face today. These challenges are particularly acute in urban areas. The extension of CRtB to urban context was an important and welcome step, but the legislative framework was designed primarily with rural land in mind. In practice, this means that urban communities, especially in disadvantaged areas and those in town centres, find the ballot and petition thresholds impossible to meet.

We welcome the Scottish Government's commitment to review the legislation, and our response sets out where DTAS members and COSS clients see the most pressing barriers and highlights the importance of reform that will simplify the process and ensure that CRtB is fit for purpose for both rural and urban communities.

[1] https://www.communitylandscotland.org.uk/wp-content/uploads/2024/08/CRtB-Research-Summary-Final.pdf

[2] link to coss review – is it published anywhere?

Question 1:

Do you think that the three existing compulsory rights should be merged?

It is DTAS' view that it would be simpler and clearer to merge the two compulsory rights set out in Part 3A and Part 5 of the legislation into a single right. While retaining Part 2 and Part 3 as separate and distinct rights. As we have limited experience of supporting communities through the crofting community right to buy under Part 3, we will not be discussing this right further in our response.

Merging Part 3A and Part 5 would create two rights for communities (separate to the crofting right set out in part 3):

- One under Part 2 and
- One newly merged right combining the provisions of Parts 3A and 5.

However, such a merger would only be beneficial if the rights were significantly simplified and made less onerous for communities to use. At present, the level of complexity deters many community bodies from even considering CRtB as an option.

Although there are various resources available to support communities go through the Part 3 process, there has been a low level of demand from the community cases supported by COSS. As we have limited experience of supporting communities through the crofting community right to buy under Part 3, we therefore defer to the expertise of Community Land Scotland, who have extensively consulted their members on matters specific to crofting.

If so, given that each of the existing ones provide a different level of rights to communities, in what way should they be merged?

While DTAS supports the merger of the compulsory rights under Part 3A and Part 5, it is essential that this does not result in the loss of important protections or weaken the usefulness of the right to communities. Both part 3A and Part 5 have useful mechanisms that communities can employ to address different issues; Pat 3A serving to address *harm* caused by abandoned, neglected or detrimental pieces of land/buildings and Part 5 serving to bring land/buildings into more productive community use to further sustainable development.

It is vital that any merged right retains the ability of communities to address abandoned, neglected, or detrimental land and buildings, as Part 3A currently allows. Much of vacant and derelict land is held in private ownership, making CRtB one of the few ways communities can address these issues in their areas[3]. Our survey of DTAS members found that many communities are actively considering the use of CRtB to address such sites in their area. Yet despite this interest, very few applications have been made under Part 3A and none have been approved. The main reason for this is that the process is too complex and the threshold for landowners to claim that they have addressed the issues is so low that it

[3] Refer to this paper for more information https://policyscotland.gla.ac.uk/wp-content/uploads/2015/08/ULRBP-1-Compulsory-Sale-Orders.pdf

undermines the community's case. Unless the merged right directly tackles this imbalance, communities will continue to struggle to use it in practice.

In addition to providing communities with an opportunity to make more productive use of assets Part 5 provides communities with a useful route to secure community assets for long term environmental objectives such as biodiversity gain. This is particularly useful for communities looking to secure assets such as community woodlands, peatlands and other land/buildings with environmental purposes.

A merged Part 3A and Part 5 right must balance:

- A clear and robust definition of "sustainable development" that is applied in practice, not just in principle. Helpful models can be found in forestry plans, in planning frameworks, within National Park legislation, and in the Welsh Future Generations Act. Without such clarity, the merged right risks being open to inconsistent interpretation and challenge.
- A clearer definition of what constitutes "public benefit" and guidelines for community groups to demonstrate their plans would provide more public benefit than the existing landowners. We recommend aligning these with the proposed public interest test amendment in the land reform bill[4].
- Safeguards to prevent landowners from carrying out superficial or temporary measures that 'address' the condition of the land, on which the Part 3A application is based off. We urge the consideration of a mechanism whereby if the land has been abandoned or neglected for an unacceptable period, the landowner loses/ relinquishes the right to address its 'abandoned, neglected, or detrimental condition'. The timescales could be aligned to the Land Reform Review Group recommendations for the definition of an 'unacceptable' period of time "be linked to the current validity of planning permissions (generally 3 years)"[5]

Question 2:

Should the newly merged compulsory rights be based on the condition of the land or on the owner's use of the land?

In our answer to question 1 we are recommending that the newly merged compulsory right blend aspects of Part 3A and Part 5. We recommend that the newly merged rights are based on the use of the land with the argument that the Abandoned, Neglected, or Detrimental condition is not conducive to a sustainable use of land.

[4] Refer to this paper published by Community Land Scotland for more information: https://www.communitylandscotland.org.uk/wp-content/uploads/2024/11/Community-Land-Scotland-Briefing-for-Net-Zero-Committee-A-Public-Interest-Test.pdf

[5] https://policyscotland.gla.ac.uk/wp-content/uploads/2015/08/ULRBP-1-Compulsory-Sale-Orders.pdf

Question 3:

Do you support the Scottish Government recommendation that the residence and voting eligibility requirement is reduced to being anything over 50% of the community?

Yes. We recommend that a simple majority of over 50% be used as a requirement for ordinary members of a community body. This approach is consistent with DTAS' membership guidance for community-led organisations and is in line with Community Asset Transfer requirements.

What ratio of ordinary members should be required of a community body to ensure that control of community-owned assets remains with local members of the community?

We recommend that a simple majority of over 50% be used as a requirement for ordinary members of a community body. This approach is consistent with DTAS' membership guidance for community-led organisations is in line with Community Asset Transfer requirements.

DTAS sees the key element of 'community control' as the residents of the area (ordinary members) making up a majority when it comes to decision-making at general meetings, elections and through resolutions passed outwith those meetings. This means that the community can elect a new board or vote against a resolution if they choose to do so as they represent a majority of the organisation. Lowering the residence and voting eligibility requirement to over 50% of the community ensures that residents of the defined community always remain in control of the organisation and the assets it owns, while still allowing for a membership that encapsulates the wider support and interests a community asset may have.

As a whole CRtB needs to be reformed to reflect wider support for community plans, beyond the often small and tightly defined geographic community outlined in the applications. This point is referenced in our response to question 5a and 5b.

Question 4:

Should the ratio of members required to attend be amended from the current 10%? If so, what proportion do you think would still ensure that the local community is fairly represented at general meetings of the company?

No.

It is DTAS view that the assertion in this question - that the ratio of members required to attend a general meeting is currently 10% - is an incorrect interpretation of the Land Reform Act and Scottish Government guidance. Sections 34(1)(e) and 97D(2)(e) of the Land Reform Act 2003 and section 49(2)(e) of the Land Reform Act 2016 state that:

A body falls within this subsection if it is, a company limited by guarantee the articles of association of which include the following (e) 'provision whereby the members of the company who consist of members of the community have control of the company'.

The Scottish Government guidance[6] on Community Right to Buy makes no mention of the 10% figure, nor any requirement for either a minimum number or a ratio of members required to attend a general meeting to make it quorate.

It is DTAS view that if achieving community control necessitated a minimum number for a quorum at a general meeting, then that would be stated clearly in the guidance which was widely consulted on at the time.

It is DTAS view that 'community control' can be achieved without any minimum requirement for attendance at an organisation's general meeting and that if a figure of 10% (or higher as is proposed in the consultation) is imposed, this would disrupt and in some cases bring to a halt the normal business of community organisations. It could also have a negative impact by discouraging organisations from building up their membership, to keep down the number required to proceed with a general meeting.

The reality for many of DTAS members is that they struggle to encourage their members to attend general meetings. This can be particularly difficult when things are running smoothly, and the community is happy with their work. For an organisation that has built a strong membership of say 600 members, requiring 60 people to be in attendance for a general meeting could be problematic and will lead to cases where general meetings aren't able to go ahead - stopping elections, delaying the approval of accounts and appointment of auditors. This could lead to fines from regulators; loss of reputation and delay changes the community wishes to make to the governance of their organisation.

Our experience is that if an organisation is operating contrary to the communities wishes or moving in a direction not supported by the community, then their members will attend general meetings to affect change. Ensuring ordinary members are always in the majority when it comes to decision-making, including at general meetings, elections and through resolutions passed outwith those meetings is sufficient to ensure community control. With those protections in place, if the community are unhappy with the work of the organisation, they can elect a new board or vote against a resolution, if they choose to do so.

Having an arbitrary minimum number of members present isn't necessary for that to be a 'representative local voice' and places requirements on community bodies beyond those expected of community councils and other democratic bodies and processes that take place in Scotland.

[6] https://www.gov.scot/publications/community-right-buy-guidance-applications-made-15-april-2016/documents/

Question 5a and 5b:

Question 5a: Could some of levels of community support and turnout required be reduced while still providing sufficient evidence that the proposals have community support?

Question 5b: Should the demonstration of support in a ballot be solely based on the percentage of the community in support (i.e. with no separate minimum turnout requirement)—so for example a 25% threshold could be met by a 50% turnout and 50% support—or a 25% turnout and 100% support?

The petition and ballot requirements continue to represent one of the greatest barriers for communities seeking to use CRtB. This is especially true for urban communities, which are classified as SURC 1 and 2 in the six-fold urban/rural classification and town centres.

The petition process is cumbersome and outdated. Communities must collect wet signatures, and petitions are only valid for six months. Many groups have told us that these requirements put them off starting an application altogether. Allowing digital petitions and extending the validity period to twelve months would ease this burden considerably.

Validation of petitions against the electoral register is another serious barrier. In communities like Govan, only 40% of residents are registered to vote. This excludes young people, transient populations, and new Scots who may play an active role in community life but are populations far less likely to be registered to vote. The result is that petitions fail to reflect the real level of community support. Alternatives, such as validation against council tax records, could provide a more inclusive measure. There is already precedent for using council tax records to validate residency in petitions, as many local authorities rely on the council tax register when considering petitions submitted to them. This provides a more inclusive and holistic measure, as it reflects households and residents beyond those captured in the electoral roll. In addition, councils across the country now routinely accept e-petitions alongside traditional paper petitions.

The ballot process is equally problematic. The requirement for 50% support is almost impossible to achieve in an urban context, where the defined community is often artificially small. In the Portobello Bellfield CRtB, the group was advised to draw its boundary narrowly in order to achieve the necessary ballot threshold. This did not reflect the real shape of the Portobello community, and the boundary has since been expanded at two successive AGMs. Similar pressures have been reported in other communities, where groups are forced to manipulate their boundaries simply to make the system workable. Town centres also prove to be particularly problematic with the residential community, who have an interest in securing the asset living outskirts of the towns.

This points to a core tension in the current framework. On the one hand, intermediary organisations such as DTAS, and funders such as the Scottish Land Fund, encourage community bodies to define their communities as widely and inclusively as possible. This ensures open access, representative membership, and a genuine mandate. On the other

hand, the Community Land Team's recommendations for CRtB encourage communities to define the smallest possible boundary, simply to make it feasible to achieve the required support percentages. These conflicting approaches undermine both inclusivity and effectiveness. For CRtB to be a truly workable tool across both urban and rural contexts, this tension must be addressed and the requirements for defining a community harmonised.

Removing turnout requirements from ballots would help, but this alone will not resolve the fundamental problem of the thresholds being set too high for urban communities. The legislation should recognise the difference in context and provide for lower thresholds in urban areas. Communities should also be allowed to define their boundaries more naturally, without being penalised. Evidence of demonstrable community interest, such as inclusion in local place plans or extensive engagement records, should also be accepted as valid support.

Question 5c:

If a ballot were based solely on the percentage of community support, with no minimum turnout, should the percentage of those against the proposals be considered, instead of just those in favour?

It is DTAS view that to balance the lower thresholds of community support there should be a mechanism to consider opposition against a proposed project, to ensure the democratic and community-led aspect of CRtB remains strong. In the Community Asset Transfer process section ***9.14. Regulations 6 and 7 of the Procedure Regulations***[7] there is an opportunity for community members to object to an asset transfer and these objections are taken into consideration during decision making. These objections must be made as soon as practicable after the validation date. We refer to this process as a suitable mechanism for accounting for community opposition.

Question 6:

What level of community support should be required for a late application to be accepted? The legislation requires it to be "significantly greater" than the 10% required for a timeous application. In practice, this has been taken to be 15%.

It is DTAS view that aforementioned issues with the petition and ballot system must be addressed, as outlined in our response to questions 5a, b, and c, in order for communities to meet the current requirements for both a timeous and late application.

Question 7:

Should late applications only be accepted from community groups that can demonstrate that they are compliant with the Right to Buy provisions, prior to the owner taking steps to transfer (and should we define what is a step to transfer)?

[7] https://www.gov.scot/publications/asset-transfer-under-community-empowerment-scotland-act-2015-guidance-relevant-9781786527493/pages/9/

DTAS does not believe that late applications should only be accepted from groups that are already compliant with the Right to Buy provisions. At present, only those groups holding a compliance letter from the Scottish Government can apply, which prevents genuine late applications unless a community was already preparing a timeous one. This defeats the very purpose of the late application process, which is to allow communities to respond to unexpected sales.

DTAS is currently seeing this issue with church sales which often have long-standing community value but are sold suddenly and with little warning, or in the case of assets which have not changed hands for decades or centuries such as large estates. Communities cannot reasonably be expected to have prepared full compliance paperwork for assets that had not previously been available for purchase.

A more balanced approach would be to require community bodies to demonstrate the basic principles of community control, such as open membership, a two-tier structure, and majority control by ordinary members, in line with DTAS membership requirements. However, it should not be necessary for groups to have completed every compliance point or to hold a Scottish Government compliance letter at the point of application.

Question 8:

Should late applications still require a community group to demonstrate that they had taken steps towards acquiring the land before the owner has taken steps to dispose of it? Further details will be developed on what those steps should be as part of the review.

Late applications should not be required to demonstrate that the community had taken steps to acquire the land before the owner began steps to dispose of it. This requirement is unrealistic and sets the bar far too high. In many cases, the assets concerned have not changed hands for decades, sometimes centuries, and the community can't reasonably be expected to have prepared in advance.

The aim of the late applications provision is to ensure that communities can respond when assets with significant community value are up for sale. Communities should be required to evidence demonstrable community interest in the asset, instead of having taken formal steps to acquire it.

Tests of 'demonstrable community interest' can include: if the asset has been identified in a local place plan, featured in a community action plan, or been discussed in engagement sessions. In some cases, evidence that the community has developed a business plan for a similar asset could also be accepted as relevant.

Question 9:

Should it be a requirement of a late application that a detailed business plan for the asset be included, and should we define how much detail is required?

It should not be a requirement that a detailed business plan is submitted with a late application. The preparation of a detailed plan would present too great a burden at what is already a difficult and time-sensitive point in the process. An outline business plan should be sufficient, especially where there is other evidence of demonstrable community interest, as outlined in our response to question 8.

The current process already places additional burdens on communities making late applications. Introducing yet another barrier would make the right unworkable in practice. Instead, what is needed is a more balanced approach that recognises the urgency of these situations while still ensuring that communities have a realistic plan. Timescales should also be clarified, with, for example, a 12-month moratorium on the sale once an application is submitted.

Question 10:

If a late application is approved, should the owner be prohibited from removing the asset from sale (given that they were already in the process of selling it)?

If a late application is approved, the owner should be prohibited from removing the asset from sale. Removing the asset from sale would undermine the integrity of the process. If an owner has already signalled intent to sell by placing the asset on the market, in the case of a late application, they should not be able to withdraw it from the market to frustrate a community bid.

Question 11:

Should third party purchasers remain an option under the compulsory rights to buy?

DTAS believes that third party purchasers should remain an option. Although it has not been widely used, it remains a valuable tool in certain circumstances.

For example, in the Govan Lyceum case, the community planned to create a smaller organisation with a tight boundary to undertake the CRtB, and then nominate the Lyceum as the third-party purchaser. In North Queensferry, The Albert also considered using this route. In both cases, the option of a third-party purchaser provided flexibility and potential solutions that would otherwise not have been available.

Question 12:

If third party purchasers remain an option, should requirements be placed on the structure of the third-party purchaser for it to be eligible, for example in line with the compliance requirements placed on community group applicants?

Yes. We have fully responded to this question in our answer to question 11.

Question 13:

Should the third-party purchaser be required to have an agreement in place with the community body that shows the future relationship between the two and any business plan in place for the asset, as part of the application?

Yes. A third-party purchaser should be required to have an agreement in place with the community body, setting out the relationship between them and the intended use of the asset. This provides security for the community and ensures that the asset will be managed in line with the community's intentions.

Question 14

Should the existence of option agreements (although not their details) be something that an asset owner must make known to community groups that have applied for a right to buy the asset?

Yes. The community should be informed of the existence of an option agreement, but this should not serve as a barrier to them registering a CRtB. Options agreements are often time limited or dependent on planning permissions, therefore if these fall away or the given time elapses there should be a mechanism to ensure the community does not lose the pre-emptive right to buy.

We echo Community Land Scotland's response here:

It is important the communities are aware of options agreements before starting a lengthy process of pursuing CRtB. Some details should be provided such as length of the options agreement so communities can make well informed decisions about how to proceed. This will prevent a waste of time and energy on behalf of the community and support further transparency.

As much transparency as possible in these kinds of transactions, in line with the transparency protocol set out by the Scottish Land Commission.

A register of options agreements should also be provided so that communities can check whether land/buildings they might be interested in are on the register.

Question 15

Rather than automatically requiring that an application is declined, should an application for a right to buy proceed through assessment, and then, if approved, take second place to the option agreement, meaning that if the option is not taken up, then the community body right to buy will apply?

Yes. Once again, we fully support Community Land Scotland's response here and reflect that it would be a waste of time for communities if their application is automatically declined. Having the CRtB take second place would also allow for a backstop and precent options agreements being used by landowners to prevent CRtB.

Question 16

Should there be a limitation on the types of option agreement that cause an application to be declined? For example, should they only be relevant if not between members of the same family, or companies within the same group?

Yes – We fully support Community Land Scotland's response when they state that "Any loopholes associated with options agreements should be closed and only legitimate options agreement should be able to prevent CRtB being actioned. Options agreements between people or companies connected through the Register of persons holding a controlled interest in land, or Companies House, or related for example should be excluded."

Question 17

Should the period allowed to submit an appeal be extended to allow both parties to make a more informed decision on whether to appeal?

Yes.

If so, how long should it be, given that the asset is free to be sold if the application is rejected?

Yes, the period allowed to submit an appeal should be extended. The current window of 28 days is far too short and has been a significant deterrent to communities. In the case of the London Road Church in Edinburgh, the community was effectively put off from appealing due to lack of time and access to legal support.

Extending the period to 56 days would be more appropriate and allow communities to seek proper advice and make an informed decision on whether to appeal. While we recognise that this must be balanced against the risk of sale proceeding in the meantime, the current 28-day period is inadequate and undermines the core purpose of the legislation.

Question 18:

Should the registration period be extended from the current five-year period?

It is DTAS view that the current registration period of 5 years is feasible for communities and that the re-registration process is not overly complex. However, we consider that for some cases a longer registration period may be beneficial, especially given the level of work that goes into applications. What must be addressed is the complexity of registering an interest in the first place, simplifying the process significantly.

Question 19:

Do you wish to make any other comments in relation to the matters raised by this consultation and which you feel have not been covered by any of the earlier questions?

The survey conducted by DTAS highlights a number of important issues that are not fully captured in the consultation questions. Many groups expressed that while CRtB

has potential as a mechanism for addressing neglect and decline of community assets, tackling the closure of local services, and strengthening community control, in practice the process is often experienced as overly complex, bureaucratic, and inaccessible. A recurring theme is that the balance of timescales is currently weighted against communities: groups face short deadlines for petitions, ballots, appeals, while timescales for decisions can take months. Respondents were clear that these timescales need to be rebalanced to be realistic for volunteer-led groups, without overwhelming capacity at an early stage.

Alongside this, there were consistent calls for simplification and alignment across CRtB and other processes such as Community Asset Transfer, more accessible guidance at the outset, and stronger long-term support beyond the point of acquisition. The need for funded staff time, clearer early-stage advice, was mentioned several times. Funding for the process, and the upfront costs involved with parts of the process such as the independent ballotter, present a barrier for communities.

In addition, the question of how “community” is defined remains a barrier, with many groups finding that rigid geographical boundaries do not reflect how people actually live, use assets, or identify. There was strong support for a more flexible and inclusive definition.

Concern was also raised regarding the length of time it has taken to secure a CRtB-compliant model for groups seeking to adopt a Community Benefit Society (CBS) structure. A CBS is, at its core, a member-led organisation and possesses the unique capacity to raise vital finance through community shares and bonds. These characteristics make it a highly suitable structure for CRtB, provided that standard mechanisms are in place to ensure ongoing community control. CBS' are governed by a different act (Cooperative and Community Benefit Societies Act 2014) to companies and charities and consideration needs to be given to ensuring that it is possible for CBS' in their model rules to comply with both acts.

Finally, there is a broader concern that unless these barriers are addressed, communities will continue to default to simpler routes such as negotiated sales or Community Asset Transfer where available, and CRtB will remain an underused mechanism. Addressing issues of bureaucracy, timescales, and support will therefore be essential if the legislation is to achieve its aim of making community ownership genuinely accessible across Scotland.

Read the full survey report on DTAS website.