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# Getting it right

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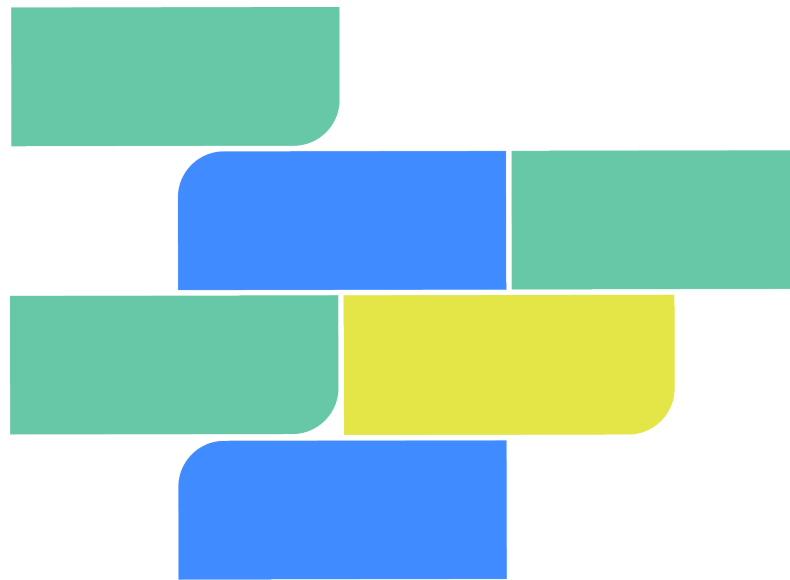
## Introducing and implementing a Community Right to Buy

Josh Westerling

August 2024

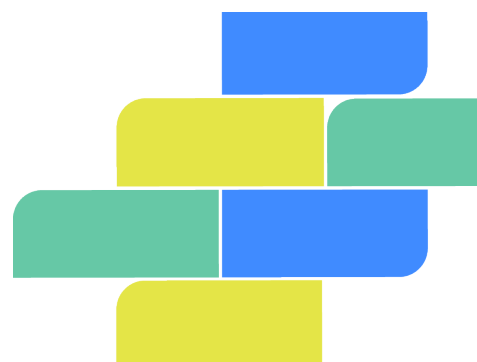
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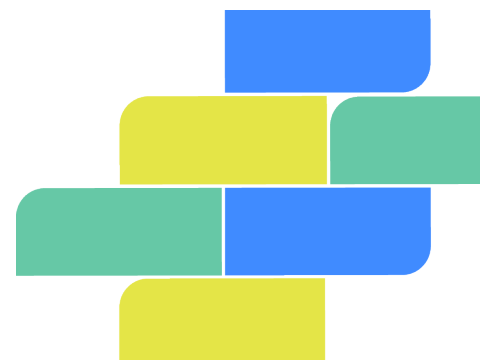


# About Power to Change

Power to Change is the think-do tank that backs community business.

We back community business from the ground up. We turn bold ideas into action so communities have the power to change what matters to them. We know community business works to build stronger communities and better places to live. We've seen people create resilient and prosperous local economies when power is in community hands. We also know the barriers that stand in the way of their success.

We're using our experience to bring partners together to do, test and learn what works. We're shaping the conditions for community business to thrive.



# Acknowledgements

We would like to thank for the following people who we interviewed for this paper, or who kindly offered feedback on an earlier draft, as well as those who we interviewed for this paper but wished not to be named.

## Interviewees

Anaïs Bozetine, Owned By Oxford	Andrea Glaspell, Wigan Council
Anne Lythgoe, Greater Manchester Combined Authority	Barry Quirk
Brian Dawe, Safe Regeneration	Cathryn Chrimes, GMCVO
Donna Hall	Ed Whitelaw, Real Ideas Organisation
Hannah Sloggett, Nudge Community Builders	Immy Kaur, CIVIC SQUARE
Ion Fletcher, British Property Federation	Jo Cooper, Back on the Map
Jo Kibble, Local Government Association	Jonathan Lowe, Wigan Council
Josh Doble, Community Land Scotland	Julie Cornwell, Cambridge City Council
Linda Gillespie, Development Trusts Association Scotland	Lindsay Chalmers, Community Land Scotland
Lorne MacLeod, Scottish Land Commission	Mandi Cresswell, North East Combined Authority
Marie Osborne, Future Wolverton	Mark Gregory



Matthew Bolton, Citizens UK	Neil Ritch, The National Lottery Community Fund Scotland
Nicola Rigby, Wigan Council	Peter Cragg, Friends of the Joiners Arms
Phil Prentice, formerly Scotland's Towns Partnership	Richard Harries
Robert Pollock, Cambridge City Council	Sado Jirde, Black South West Network
Scott Mackay, Planning and Development Consultant	Sian Rogers, Calderdale Council
Simon Grove-White, Oxford City Council	Sona Mahtani
Stephen Rolph, Locality	Steve Wylor
Toby Lloyd	Guy Shrubsole

## Reviewers

Anne Lythegoe, GMCA	Charlotte Hollins, Fordhall Farm
Ed Wallis, Locality	Elizabeth Sharratt, GMCA
John Dawson, Co-operatives UK	Simon Kaye, Reform
William Clarke, GMCA	Chris Cowcher, Plunkett Foundation

A special thank you goes to Annoushka Deighton. Conversations with her made clear why a paper that considered future challenges, as well as those within the current legislation, was necessary.



# Summary of recommendations

## 1. Amend the Localism Act 2011

Government should introduce legislation that amends the Localism Act 2011 so a local authority “receives from a community interest group a written request (however expressed) for the group to be treated as a potential **buyer** in relation to the land”. Legislation should also amend subsection 6 of section 95 in the Localism Act 2011 to extend the “full moratorium period” from six to 12 months. This would require amending Regulation 12 of the Assets of Community Value (England) Regulations 2012 to reflect changes to the Act.

A provision should also be introduced that allows for the purchase of ACVs on behalf of a community group, with their consent and when the community group meets the appropriate criteria in legislation, to access capital at pace and transfer the asset to community ownership on a timeline that works for that community group.

## 2. Update the definition of Assets of Community Value

Government should change the definition of an Asset of Community Value (ACV) in the Localism Act 2011 to the following: a building or other land is an ACV if its main use is currently, or has recently been, to further the social, economic, or environmental wellbeing and/or interests of the local community and/or it could do so in the future.<sup>1</sup>

## 3. Independently value assets

Government should establish or appoint an independent body to ensure an independent valuation of assets when a Community Right to Buy is pursued and to act as a source of appeal in cases of disputed valuation. This would still allow scope for negotiated purchase at an agreed price between the buyer and seller of the asset outside of triggering the Community Right to Buy.



## 4. Require Community Asset Transfer strategies at the local level

Government should introduce a new requirement on local authorities to have a Community Asset Strategy or to integrate this into an existing Asset Management Strategy. Currently only 45% of local authorities have dedicated Community Asset Transfer strategies.<sup>2</sup> With the introduction of a Community Right to Buy, this should be expanded to cover community assets more broadly, including those assets which have entered community ownership via the Community Asset Transfer (CAT) process, others which have done so via the use of Community Right to Buy, or where the local authority incorporates community involvement, and/or management short of ownership itself. These should be developed with the community sector and identify local outcomes for community ownership within a more supportive national policy framework where central government is encouraging greater community ownership, either through transfer or sale.<sup>3</sup>

## 5. Establish local Community Asset Taskforces

Local or combined authorities (where applicable) should establish a Community Asset Taskforce with oversight of the Community Asset Strategies to bring together teams from across the local/combined authority with stakes in community assets, such as the property and estates team or the communities team. These teams will likely have different incentives and interests and can bring their own diverse expertise to the table.

## 6. Create a national framework to protect community assets

Following the recommendation of the Community Ownership Commission, government should create a national framework that establishes the minimum set of facilities (including both land and buildings) a community should expect for their social, environmental, and economic benefit. Assets nominated as ACVs that are within such a framework should be presumptively accepted. Assets that do not appear on this list are not ineligible but should be reviewed by the local authority. This should be issued in new guidance from central government.



## 7. Budget for local government to support community ownership

Government should ensure the local government financial settlement includes a budget for its role in supporting community ownership. This should include processing ACV applications, promoting opportunities to community groups (through CAT or the ACV regime), and convening community groups. A pooled budget should be formed at a national level – or regional level as single settlements are rolled out – which local authorities can draw on to cover legal costs resulting from appeals to ACV listings.

## 8. Increase transparency at the local level

Local authorities should be required to inform community groups that ACVs are leaving the register at the end of the five-year period, so they can be relisted if appropriate.

## 9. Establish a national policy framework

Government should introduce a comprehensive policy framework that sits around a Community Right to Buy. Our recommendations for this framework are introduced in figure 1 below.





**Figure 1. Community Right to Buy national policy framework**

<b>Community Right to Buy</b>	
<p>Legislation extends the moratorium period on ACVs to 12 months and introduces a right of first refusal for community groups.</p>	
<b>Funding</b>	<b>Support</b>
<p>The remaining £50m of the final round of the Community Ownership Fund is allocated to successful bids. Following this, a new fund for community ownership should be established that learns from the drawbacks of the existing COF.</p> <p>To fill the gap for capital that can move at pace, particularly in a high street context, a British High Street Investment Vehicle should be established that leverages commercial and social investment against £100m of government grant. This would be able to move at the speed of private capital to purchase strategically important high street assets – including those that are ACVs – on behalf of communities and to transfer them into community ownership over time.</p>	<p>Government should resource trusted infrastructure organisations to deliver a specialist support package. This should include pre-feasibility and feasibility development support. Alongside this, the expertise of community organisations that have experience of community ownership of assets should be brought into a support package.</p> <p>This could take the form of a peer support group for community organisations pursuing community ownership, either through the Community Right to Buy or through other means. The peer support group should bring in groups that have successfully engaged with a Community Right to Buy, as and when that happens.</p> <p>As part of a support package communities should have access to the appropriate legal expertise and surveyors pre-purchase in order to ensure the building is appropriate for community ownership.</p>



## 10. Pilot community ownership in key areas

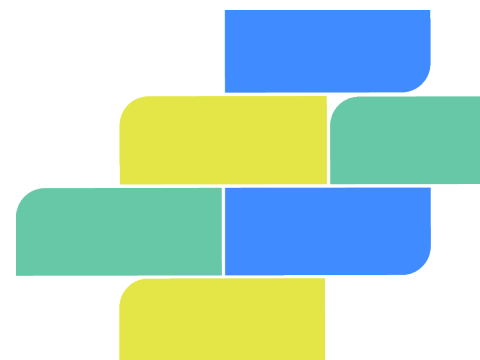
The Government should steer funding and support to three to five trailblazer areas in England to accelerate the use of the new power and to promote community ownership more widely. In selecting these areas, the levels of deprivation and its geographic setting (e.g. urban) should be considered.

## 11. Work with community organisations to spread awareness

Government should launch a communications campaign when the power is operational, to spread awareness of its function and ensure it is accessible. This should utilise trusted organisations and individuals with reach in community sectors across the country and put them at the heart of the communications campaign, rather than government or Ministers.

## 12. Learn from what's worked in Scotland

Government should establish a bi-national learning group, to facilitate the sharing of expertise between interested parties in Scotland and England to inform future government policy and iterative policy changes. This could be expanded if Community Right to Buy is adopted by other nations with devolved powers.



# Introduction

It has been over a decade since the Localism Act 2011 established a Community Right to Bid in England. It was introduced as part of the broader 'Big Society' agenda, the Conservative response to what they saw as an overgrown and overbearing government that had emerged during the successive 1997-2010 Labour governments. Re-empowering communities was an important part of addressing this.

However, the financial crisis and the resulting austerity agenda introduced tension with the Big Society agenda. As a result, the focus shifted from re-stitching the societal fabric to instead passing the burden of services to civil society.<sup>4</sup> The Community Right to Bid is a microcosm of the Big Society agenda's failure to live up to its promise. The weaknesses of this right – such as the 6-month moratorium and no provisions for a preferential bidder – have meant that the conversion rate for assets of community value (ACV) into community ownership has been extremely low; available evidence suggests fewer than 2% of assets listed as an ACV have been converted into community ownership.<sup>5</sup>

But the Big Society was onto something. Our politics today highlights the power of the slogan 'Take back control', while Windrush, Horizon, and the Infected Blood scandals exemplify and highlight the grotesque failure of the state. The Big Society had deep flaws, yet the need to decentralise power to put it in the hands of communities, remains.

It is unsurprising then, that a Community Right to Buy is being looked at again. The new Labour Government announced in its first King's Speech that it would be "empowering local communities with a strong new 'right to buy' for valued community assets, such as empty shops, pubs, and community spaces. This will help to revamp high streets and end the blight of empty premises."<sup>6</sup> This was first announced in 2022 by Lisa Nandy – then Shadow Levelling Up Secretary – where she said:

*"The right to bid for assets of community value...will be replaced by a powerful new Community Right to Buy. First refusal on assets of community value, and long-term vacant high street property too, and the right to buy them without competition. With the right to force a sale of land or buildings in a state of significant disrepair. They will have longer to raise the money – 12 months rather than six."<sup>7</sup>*

The interest in this policy can be seen through three prisms. The first is focused on empowering communities; this has been a feature of much of Labour's rhetoric which has continued as they formed the new Government. Alongside the Local Power Plan, the Community Right to Buy is one



of the few areas where policy meets this rhetoric. The second is a focus on revitalising our high streets. In policy documents, the Community Right to Buy is often included in sections on high street renewal as a means to tackle vacancy and prevent community assets being sold off.<sup>8</sup> The third prism to view community ownership through is as a step towards greater community ownership in the economy. As mentioned before, other elements of the policy programme, such as the Local Power Plan, do this - and a Community Right to Buy could be the beginning of a wider conversation about who owns land and buildings in England, with the funding and support to tip the scales.

**Table 1 Key terms**

<b>Localism Act 2011</b>	A piece of legislation that includes measures to provide rights and powers for communities. It establishes Assets of Community Value and the Community Right to Bid.
<b>Assets of Community Value (ACV)</b>	A building or other land is an asset of community value if its main use has recently been or is presently used to further the social wellbeing or social interests of the local community and could do so in the future. The Localism Act states that ‘social interests’ include cultural, recreational, and sporting interests. <sup>9</sup>
<b>Community Right to Bid</b>	The Community Right to Bid allows communities and parish councils to nominate buildings or land for listing by the local authority as an ACV. If that asset then comes to market, a moratorium period of up to six months is triggered whereby communities can raise finance and develop a business plan to bid for that asset.
<b>Community Right to Buy</b>	This would amend the Community Right to Bid by extending the moratorium period to 12 months and introducing a ‘right of first refusal’, allowing community groups and parish councils to purchase the asset without competition.

Each lens is important in its own way, and it is telling that the high streets section is where Community Right to Buy tends to land in existing policies. But through whatever prism a Community Right to Buy is viewed, some common challenges remain. It is important to get the legislation right, as the current weaknesses of the Community Right to Bid teach us. And we know that legislation on its own is rarely effective, whether that’s in terms of community empowerment, high street renewal, or promoting community ownership. The implementation and the wider policy

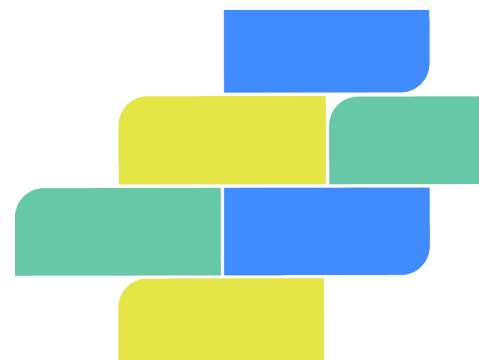


framework around it are equally important for making legislation exercisable in an equitable and impactful way.

**Table 2. Benefits of community ownership**

Economic	Social
<ul style="list-style-type: none"> <li>Community-owned assets contribute an estimated £220m to the economy each year and 56p of every £1 they spend stays in the local area, compared to just 40p for larger private sector firms.<sup>10</sup></li> <li>Community ownership creates destination spaces on high streets that helps drive footfall and boosts spending in other high street businesses.<sup>11</sup></li> <li>High street assets in community ownership are less likely to be vacant than those owned by pension funds or investment management schemes.<sup>12</sup></li> <li>Every £1 generated by asset-owning community organisations creates approximately £2.50 for the local economy.<sup>13</sup></li> <li>Asset-owning community organisations make a significant “enabled contribution”<sup>14</sup> to local economies, with significant gross value added and job creation.</li> </ul>	<ul style="list-style-type: none"> <li>Community hubs widen people’s social networks, strengthens social cohesion by bringing together different social or generational groups, increase social capital, and build trust.<sup>15</sup></li> <li>Access to community spaces can be critical for longer term health outcomes, reducing loneliness and therefore lessening the pressures on social care.<sup>16</sup></li> <li>Much of the extraordinary response by communities to Covid-19 was made possible through the availability of local spaces and services that have provided crucial capacity and resources.<sup>17</sup></li> <li>Community ownership builds capacity in the community sector and strengthens partnerships with local authorities.<sup>18</sup></li> </ul>

This report begins with an overview of the current landscape, bringing together existing work on a Community Right to Buy in England and looking to the Scottish example, where the right has been in place since 2003. While not exhaustive, it intends to provide a clear overview of where things



stand, work needed to move things forward, and lessons from existing evidence and evidence elsewhere.

It then builds on this by analysing a series of interviews conducted with community businesses, professionals from a local and combined authority backgrounds, and policy experts in both England and Scotland. These have added to the existing evidence to identify potential challenges to successfully implementing a Community Right to Buy from a range of perspectives. From that, we make a series of recommendations to the Government on how to make a Community Right to Buy a success.



# The political and historical context

## England's historical roots in community ownership

While it would be fair to say that community ownership does not have the same cultural resonance in England as it does in Scotland, community ownership has historical roots in both nations.

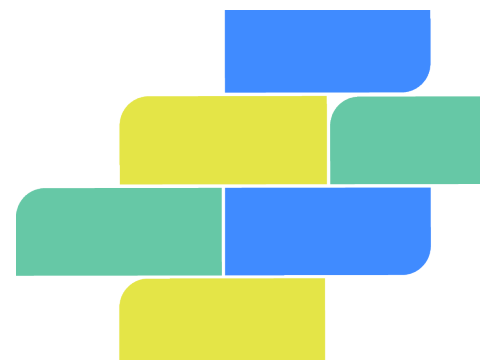
Stretching far back into English history, the desire for land and buildings to be in the control of local communities, rather than private landowners or the state, can be traced such that it permeates into political traditions that place value on the Common Good.<sup>19</sup> Whether it is Wat Tyler calling for the land and buildings of the church to be returned to the people, Thomas More's *Utopia*, with its repudiation of land enclosures and demands that property be held in common, or the True Levellers – or Diggers – who sought at St George's to “lay the Foundation of making the Earth a Common Treasury for All”<sup>20</sup>, the historical roots are there - though we may not remember them so much now.

In more recent history, the settlements founded by Oxford and Cambridge colleges in the 1880s – Oxford House in Bethnal Green, Toynbee Hall in Whitechapel – emerged as a focal point for community action, and the settlement movement (a reformist social movement) proved a breeding ground for radical social reformers like William Beveridge and Clement Atlee. Out of the settlement movement grew the first development trust movement that critiqued state-led welfarism and regeneration, united by a determination that change should be community-led.<sup>21</sup>

### The modern road to a Community Right to Buy

These historical roots can provide a thread to modern political interest in Community Right to Buy which, like many good ideas, is not new. That this historical lineage has not had the same cultural resonance as it has in Scotland – perhaps due to the trend towards centralisation in England and the dominance of market or state-based ideology in English politics – may explain the decade long lag in policy with regards to a Community Right to Buy.

As far back as 2005, David Miliband – then a local government minister – was calling for community groups to be given a right to buy disused or derelict land, taking inspiration from Scotland.<sup>22</sup> This



support for community ownership of assets was then reiterated by Miliband in a 2006 speech to the National Council for Voluntary Organisations (NCVO) where he supported Community Right to Buy on public and private assets in principle.<sup>23</sup>

This was not limited to Miliband. In 2006, Ruth Kelly, as Secretary of State for Communities and Local Government, asked the then Chief Executive of Lewisham Council Barry Quirk to carry out a review that focused on how to optimise the community benefit of publicly owned assets by considering options for greater transfer of asset ownership and management to community groups. The 2007 so-called Quirk review stopped short of recommending the introduction of a Community Right to Buy, though was open to it being revisited in the future, stating difficulties related to destabilising the property market and introducing delays, the complexities of defining a community, and navigating how competition between community groups for the same asset would be managed.<sup>24</sup>

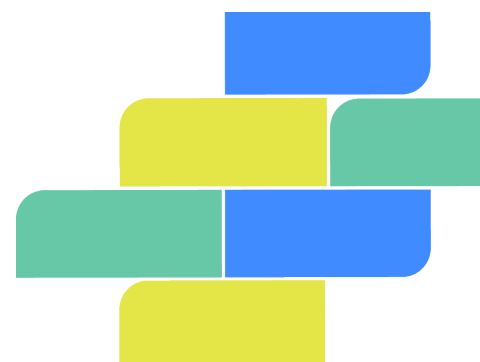
Towards the tail end of the New Labour years, with Hazel Blears as Secretary of State for Communities and Local Government, the Communities in Control white paper was introduced. It continued the vision set out by Quirk, that more public assets would be in management or ownership by community organisations, promising to establish an Asset Transfer Unit to provide information and expertise on the transfer of assets into community management or ownership.<sup>25</sup>

Labour's interest in community ownership was borne out of a reassertion of the role of community in relation to the state and the market. It was something that animated the Conservatives too, forming the basis of the Big Society agenda mentioned above.<sup>26</sup> Community empowerment formed one of the three strands of the Big Society, alongside social action and public service reform.<sup>27</sup>

## Scotland's long history of community ownership

Land reform and community ownership in Scotland have deep historic roots with cultural resonance. It is these roots that led to a Community Right to Buy. In particular, the history of crofting tenure (a form of landholding unique to Scotland) and the reason behind the concentration of land ownership in the Highlands and Islands are important.

The demise of the clan system sowed the seed for where we are today. From a system that was principally familial, cultural and legal developments replaced these relationships with a landlord-tenant relationship. Culturally, more time away from home meant clan chiefs behaved more like absentee landlords. Legally, the military underpinning of clan society was eliminated by Parliament following the Jacobite rebellion, taking away all the powers of clans aside from that of collecting rent. At the same time, those who sided with the Jacobites had land taken away whilst others sold their land.<sup>28</sup>





The later rise of sheep farming meant that large swathes of land were needed, hence interest in the Highlands grew. It was easier to collect rent from a few sheep ranches than from numerous subsistence farmers. Later, the desire to depopulate the Highlands led to the 'Clearances'. This initially involved forcing people from inland communities to work in new industries along the seafront, but it was soon followed by forced emigration. The remaining population formed today's crofting communities.<sup>29</sup>

In the late 1800s, the land was primarily used for grouse and deer shooting but the poor conditions facing the local population, consisting of crofters and cottars, remained. This was a sticky problem that endured despite various attempts to address it, such as the Napier Commission, the Crofters Act, and investment in those areas. This combination of concentrated land ownership in parallel to rural poverty and anger led to calls for land reform in Scotland. Yet only with devolution was this translated into genuine policy change.<sup>30</sup>

## **The establishment of a Community Right to Buy in Scotland**

Early developments post-devolution saw the abolition of feudal tenure, the introduction of the Scottish Land Fund, and then – in 2003 – the Land Reform Act which established a Community Right to Buy. The original Community Right to Buy provides a pre-emptive right to buy for community bodies that have successfully registered a community interest in a site when it comes to market. The value of the asset is assessed by an independent valuer that is appointed by the Scottish Government or where there is agreement between the owner and the community body. Nine months is provided in which to submit an application, then the timescale depends on when the owner decides to sell. Registered interest remains for five years. If no sale has taken place at the end of the five years and interest remains, this must be re-registered.<sup>31</sup>

Subsequent legislation extended the Community Right to Buy. The Community Empowerment Act 2015 extended the original right to urban areas and established the Community Right to Buy 'Abandoned, Neglected and Detrimental' land. This is a compulsory purchase right for land that is 'wholly or mainly' abandoned, detrimental, neglected, or causing harm to the environmental wellbeing of the community. The market value is assessed by an independent valuer and the process takes approximately 22 months. If the owner addresses the issues, the application is void. The Land Reform Act 2016 introduces a similar compulsory purchase right that applies to purchasing land for the purpose of furthering sustainable development. In both cases the owner can appeal the valuation which extends the timescale significantly.<sup>32</sup>



# The current political context

## The Localism Act 2011

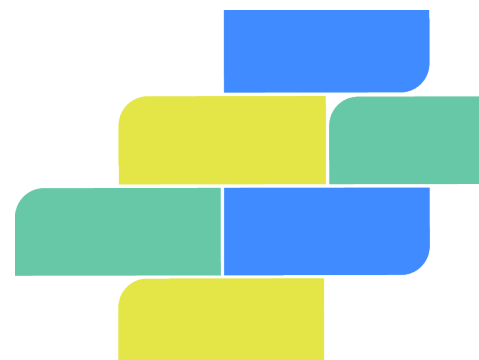
The legislative expression of the Big Society emerged in the Localism Act 2011 through a statutory framework outlined in part 4, chapter 4. It was here that the Community Right to Buy was closest to being realised. After this was published, a consultation was launched by the Department for Communities and Local Government to examine the detail that would underpin this in regulation. As set out in the Bill, this would not include a right of first refusal; terming it a 'Community Right to Buy' was therefore a misnomer, and the consultation responses made the point that this provision should be introduced.<sup>33</sup>

That was not to be, however. Instead, the Localism Act 2011 contains a Community Right to Bid and the ACV regime. This establishes that an ACV is:

*“A building or other land is an asset of community value if its main use has recently been or is presently used to further the social wellbeing or social interests of the local community and could do so in the future”.*<sup>34</sup>

Alongside side this, the regulations sets out where land or building are exempted from being considered ACVs, and therefore lose the moratorium, such as homes, hotels, and Church of England land holdings.<sup>35</sup> Community groups with a local connection are eligible to nominate ACVs; this includes parish councils, neighbourhood forums, unincorporated groups of at least 21 members, and not-for-profit organisations like charities.<sup>36</sup> Land or buildings nominated by one of these groups, which meet the definition of an ACV, will then be included by the local authority on its ACV list and remain there for five years. Landowners can request a review of the decision to include an asset on the list, which triggers an appeal to an independent body, a First Tier Tribunal. If a local authority decides an asset does not meet the definition, they must write and explain why to the nominating group and keep a list of unsuccessful nomination for five years.

If an owner of an ACV wants to bring that asset to market, they must inform the local authority. This triggers an interim moratorium period of 6 weeks in which the community organisation that nominated the asset can decide whether they want to be considered a potential bidder. If they do, the community group that nominated the asset can trigger a full moratorium period of six months in which the asset cannot be sold. During this time, the organisation can develop a proposal and raise the capital required for purchase.<sup>37</sup> At the end of this process, the owner is free to sell the assets to whoever they choose.



## Weaknesses of existing legislation

Herein lies the weakness in the Community Right to Bid. As designed, at the end of moratorium period, that discretion to sell to whoever the owner wants to, at whatever price, means that even if community organisations secure the required finance, their success in purchase is not guaranteed. In addition, gathering that finance is difficult within the short six-month moratorium. Evidence of these core weaknesses can be found in a conversion rate of 15 assets making it into community ownership for every 1,000 listed as ACV.<sup>38</sup>

As Toby Lloyd outlines in his paper for Create Streets, there are also technical flaws in the Community Right to Bid, such as specifying that the asset must benefit the social interests of the community, not economic or environmental, which in the case of the former can rule out vacant high street property. Likewise, the stipulation of 'recent past' rules out many assets with potential for community use, including vacant or derelict land or buildings.<sup>39</sup>

## Labour's recent commitments

In England, there has been recent political interest in a Community Right to Buy stemming from the Labour Party. In 2022, Lisa Nandy announced the policy at a speech in Darlington during her time as Shadow Levelling Up Secretary.<sup>40</sup> It was subsequently reiterated by both Angela Rayner MP and Steve Reed MP, and it has been a key feature of Labour's plans to revitalise high streets.<sup>41</sup> As mentioned above, this has also continued into government, with commitments towards a Right to Buy for local communities outlined in the new Labour Government's first King's Speech.

Though the King's Speech primarily spoke of the Right to Buy in the context of high streets, the policy has also been laid out in the party's plans on nature, suggesting that there may be expansion of the ACV regime to account for economic and environmental benefit, beyond social wellbeing as is currently conceived.

Following the first announcement of a Community Right to Buy, the Community Ownership Commission was launched – headed by the former Chief Economist for Ernst and Young, Mark Gregory. The report of the Commission recommends introducing a strong Community Right to Buy, alongside changes to the ACV listing process, reshaping of the Community Ownership Fund, moving to a place-based funding model, and leveraging private funding sources.<sup>42</sup>



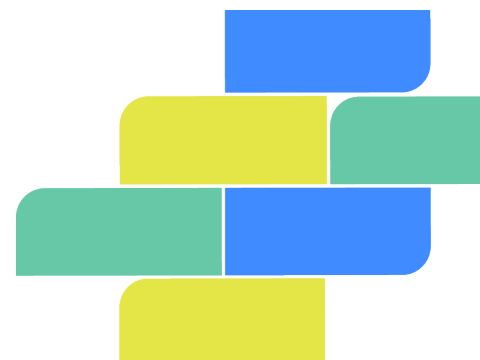
# Themes from expert interviews

Semi-structured interviews were conducted for this report, with subject matter experts in both England and Scotland, from local authority backgrounds and community businesses, as well as political stakeholders. From this, themes emerged exploring the challenges to ensuring a Community Right to Buy is effective and how to overcome them. In this report, 'effective' is taken to mean that a Community Right to Buy leads to more land and buildings entering community ownership.

## Principles and policy purpose

It was striking how reflective interviewees were of the variations in contexts between England and Scotland. In Scotland, the reasons for introducing a Community Right to Buy were more about the principle that communities should be empowered and have ownership over land and buildings in their local area. Whereas in England, more of an emphasis was put on outcomes, primarily when it comes to saving or restoring buildings. This focus on buildings, rather than land in a broader sense, was also a distinguishing factor between Scotland and England, again seemingly linked to the differences in historical cultural resonance in the respective policy agendas.

In England, the relative lack of cultural resonance may also play a role in the low awareness of a potential Community Right to Buy. Awareness of a potential Community Right to Buy and understanding of the consequences of such a scheme was very low amongst the community business leaders interviewed and was thought to be lower in the wider pool of people that they work with. Only the community business leaders most engaged in policy debates had a decent level of awareness and understanding of the right. Even then, this was not true across the board. There was more understanding and awareness amongst interviewees from a local authority background, particularly with those who work in community-oriented teams. Much of this was based on knowledge of the existing Community Right to Bid and ACV, given the work that this entails for local authorities. That being said, there was acknowledgement that this awareness was both uneven within local authorities – for example in different teams – but also between local authorities given that some have less experience of working with the local community to encourage community ownership or receive a low number of ACV listings.



# Barriers to a Community Right to Buy

## Political challenges

Several potential political barriers to a Community Right to Buy were raised by interviewees. Foremost of these was the competing rights between property and landowners on the one hand, and the community on the other, as the introduction of a Community Right to Buy would compromise the rights of the former. It was noted by some interviewees that alignment with other policy areas and a supportive Minister responsible for the policy could help drive it through.

It was acknowledged that a pre-emptive right, similar to the original Community Right to Buy in Scotland, would likely to be less controversial than anything closer to a compulsory purchase right – as in the case of the Abandoned, Neglected and Detrimental right to buy – as it impinges less on the rights of property owners.

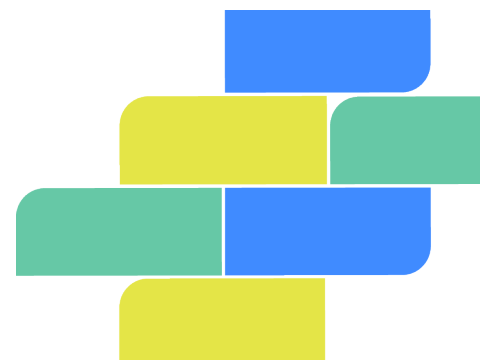
## Defining Assets of Community Value

Assuming these political barriers can be overcome, other challenges emerge. There is an argument that the barrier for what is considered an ACV should be set higher to account for the power being stronger than is currently the case. However, this might mean that the new power is effectively not usable; there is a balance to be struck between accepted ACV listings encompassing a wide enough range of factors (social, environmental, and economic for example), and not being defined too narrowly so as to limit its applicability, whilst ensuring that guidance to local authorities is clear.

## Process as a barrier

Without clear guidance to the local authorities that hold the power to reject or accept a bid, interviewees highlighted that the varying levels of understanding across local authorities, and the potential pressures of legal challenges, means some potentially appropriate assets would lose out on ACV listing.

On the process itself, concerns were raised by some community businesses that 12 months – as is proposed – may not be enough time to raise the required capital, though it is of course better than six. In particular, this might present a problem where the ACV comes to market without any prior discussion between the interested community group and the owner, so that there has not been time to plan beforehand. The prospect of pre-feasibility support was raised as a potential way to address this.



The process also raised concerns from a local authority perspective; one worry was that the ACV regime could be used to halt development even when there is no genuine attempt to bring the asset into community ownership. Though it was noted that there is limited evidence of this happening within the existing regime, it is possible. In addition to this, there was a concern from local authorities about any additional burden a Community Right to Buy, or related change to the ACV regime, would place on their capacity without accompanying resources. In particular, it was emphasised that a Community Right to Buy scheme could become a victim of its own success if it becomes a power that many communities want to exercise and the number of ACV listings increase from their present low levels.

## Time as a barrier

As ever with community ownership, time was raised as a barrier. Not just in terms of the moratorium period itself, but the time within and before that period in which a community would need to prepare a business plan and gather the required funds. This was particularly a concern in more disadvantaged areas which are likely to have less surplus time available to them, adding to potential challenges with regard to capacity and capability. It is also important that time is not just thought of in terms of the process itself, but in terms of the potential future time that would have to be dedicated to the ownership and management of an asset if an acceptable bid was put together. That is as much a barrier as the time spent preparing a bid itself.

This also links to a mental barrier where the opportunity for community ownership might not be visible. This can be true literally, in that a community might not be aware of an asset coming to market or of community ownership as an option, but it is also a mental barrier that community ownership is not seen as 'something for me' or 'for us'. As with time, this is likely to be more present in disadvantaged communities.

## Defining community

Another challenge raised was focused on defining who the community is – and what organisation has a legitimate claim to represent it. There may be competition between local community organisations both when it comes to their claim to be the most closely connected to the community, but also over the potential future use of the asset. In more diverse urban areas, these challenges will be more common as questions of what constitutes the community interact with possible ethnic and geographic divides. Rural settings present their own challenges, like the disparate geography of a community making it difficult to create a geographic border that is practical.



## Funding and support

A clear view throughout the interviews was that even if the above challenges were overcome, the Community Right to Buy would be introduced in vain if it is not accompanied by appropriate funding and support. Funding is not simply about the actual asset price. It should also include funding that is available to develop capability at an early stage and to fund pre-feasibility and feasibility development activity. This would be even more important in more disadvantaged areas. Funding may also be required to support local authorities so that they can actively promote and support the introduction of a Community Right to Buy, particularly if additional responsibilities are placed on local government.

Similarly, support will need to be provided throughout the process to support organisations in terms of pre-feasibility and development, putting together business plans, and in sourcing the required capital. In Scotland, this role is performed by organisations like the Development Trusts Association Scotland (DTAS) so a similar role could be played by sister organisations in England such as Locality, Co-operatives UK, or organisations like Plunkett UK with expertise in a rural context. Outside of established national organisations, a support package might utilise the expertise of organisations with experience of community ownership projects so that other less experienced organisations can benefit from those who both understand their situation and community ownership. In time, this might include groups who have successfully exercised a Community Right to Buy. A risk that was raised is that assets enter community hands without the community fully understanding what they have undertaken, so they should be supported by surveyors and have access to legal advice.

Given the experience within the Scottish context there may be scope for this to be brought to England, particularly at the early stages of introducing a Community Right to Buy. An idea was also raised during interviews of introducing a means by which organisations in Scotland and England could share lessons learned, whether this is between community organisations or the national organisations that support them.

It was clear that funding and support were both seen as integral to an effective a Community Right to Buy - and to community ownership more broadly. Legislation on its own would not be enough, and would also present a challenge of social justice, in that it would likely be primarily exercised by more well-off areas, if not accompanied by appropriate funding and support.



## Risk of failure

There is a risk in not addressing these barriers, that could create a barrier in and of itself. Namely, that if a Community Right to Buy is seen to be a failure, it will be a failure. For instance, inadequate funding and support for the new power could mean that it is not exercised in more disadvantaged areas. It is then even more likely to not be exercised in those areas, exacerbating the psychological barriers mentioned earlier in this paper. Similarly, the failure of projects that have used the Right to Buy may mean that groups or individuals opposed to the policy will feel empowered to push back harder. It may also lead to an argument along the lines of ‘Why should there be a wider support package for this policy if it is not working?’.

While it is unrealistic to expect that any new policy will be failure-proof (indeed, failures may help adjust the policy to be more effective), it is important for there to be proof of concept early on in the introduction of Community Right to Buy so that it is recognised as a power that be exercised in every place and that is supported over the long term.





# Getting it right: Recommendations for the Government

The themes that emerged during the interviews provide insight into how government can make sure a Community Right to Buy is effective. In some cases, the recommendations of this paper echo those of previous work, in others it builds or adds to them.

The Government should focus its energy on introducing a Community Right to Buy that is similar to the original version introduced in Scotland, including a pre-emptive right that allows a right of first refusal for community groups for ACVs and a 12 month moratorium period. Both would follow the path of least political resistance to Right to Buy; at the same time, they would not require new legislation or powers added to those that already exist for similar purposes but are not currently being used. Running the political risk of pursuing a compulsory purchase right is unnecessary when local government possesses powers such as Compulsory Purchase Orders are not being fully utilised.

The new Community Right to Buy has been situated within the English Devolution Bill. The Bill should include a clause that in effect introduces a Community Right to Buy in legislation.

## 1. Amend the Localism Act 2011

Government should introduce legislation that amends the Localism Act 2011 so a local authority “receives from a community interest group a written request (however expressed) for the group to be treated as a potential **buyer** in relation to the land”. Legislation should also amend subsection 6 of section 95 in the Localism Act 2011 to extend the “full moratorium period” from six to 12 months. This would require amending Regulation 12 of the Assets of Community Value (England) Regulations 2012 to reflect changes to the Act.



A provision should also be introduced that allows for the purchase of ACVs on behalf of a community group, with their consent and when the community group meets the appropriate criteria in legislation, to access capital at pace and transfer the asset to community ownership on a timeline that works for that community group.

### Background

In introducing a Community Right to Buy, the legislation defining an ACV should be broadened to bring more properties into scope, including those on the high street, as well as land of environmental interest. Additionally, the criteria for what qualifies as an ACV should be expanded to include assets that could support community wellbeing in the future, not just those that have done so in the past. Following the Community Ownership Commission, this definition should be standardised for eligibility across ACVs, Community Asset Transfer, and community ownership funding. With a Community Right to Buy being introduced, there is a need for the value of the property to be assessed so that the purchase can be made at a rate that is fair both for the owner and for the community looking to purchase the asset.

## 2. Update the definition of Assets of Community Value

Government should change the definition of an Asset of Community Value (ACV) in the Localism Act 2011 to the following: a building or other land is an ACV if its main use is currently, or has recently been, to further the social, economic, or environmental wellbeing and/or interests of the local community and/or it could do so in the future.<sup>43</sup>

## 3. Independently value assets

Government should establish or appoint an independent body to ensure an independent valuation of assets when a Community Right to Buy is pursued and to act as a source of appeal in cases of disputed valuation. This would still allow scope for negotiated purchase at an agreed price between the buyer and seller of the asset outside of triggering the Community Right to Buy.



## Local authorities

Whilst central government should always be conscious of imposing new duties or responsibilities on local authorities, central guidance is sometimes necessary to ensure communities are well supported by their local authority and that there is not too great variation from place to place in application of the legislation or guidance.

The recommendations with a focus on local authorities seek to ensure that there is sufficient support at a local government level to support the implementation of a Community Right to Buy. This involves ensuring that there is consistent promotion of community ownership across local authorities, seeking to ameliorate the internal tensions that can stall community ownership, and to simplify the ACV regime to reduce administrative burdens on local authorities.

## 4. Require Community Asset Transfer strategies at the local level

Government should introduce a new requirement on local authorities to have a Community Asset Strategy or to integrate this into an existing Asset Management Strategy. Currently only 45% of local authorities have dedicated Community Asset Transfer strategies.<sup>44</sup> With the introduction of a Community Right to Buy, this should be expanded to cover community assets more broadly, including those assets which have entered community ownership via the Community Asset Transfer (CAT) process, others which have done so via the use of Community Right to Buy, or where the local authority incorporates community involvement, and/or management short of ownership itself. These should be developed with the community sector and identify local outcomes for community ownership within a more supportive national policy framework where central government is encouraging greater community ownership, either through transfer or sale.<sup>45</sup>



## 5. Establish local Community Asset Taskforces

Local or combined authorities (where applicable) should establish a Community Asset Taskforce with oversight of the Community Asset Strategies to bring together teams from across the local/combined authority with stakes in community assets, such as the property and estates team or the communities team. These teams will likely have different incentives and interests and can bring their own diverse expertise to the table.

## 6. Create a national framework to protect community assets

Following the recommendation of the Community Ownership Commission, government should create a national framework that establishes the minimum set of facilities (including both land and buildings) a community should expect for their social, environmental, and economic benefit. Assets nominated as ACVs that are within such a framework should be presumptively accepted. Assets that do not appear on this list are not ineligible but should be reviewed by the local authority. This should be issued in new guidance from central government.

## 7. Budget for local government to support community ownership

Government should ensure the local government financial settlement includes a budget for its role in supporting community ownership. This should include processing ACV applications, promoting opportunities to community groups (through CAT or the ACV regime), and convening community groups. A pooled budget should be formed at a national level – or regional level as single settlements are rolled out – which local authorities can draw on to cover legal costs resulting from appeals to ACV listings.

## 8. Increase transparency at the local level

Local authorities should be required to inform community groups that ACVs are leaving the register at the end of the five-year period, so they can be relisted if appropriate.



## 9. Establish a national policy framework

Government should introduce a comprehensive policy framework that sits around a Community Right to Buy. Our recommendations for this framework are introduced in figure 1 below.

### A supportive policy framework

Funding and support will need to sit alongside a new Community Right to Buy power in order for it to be accessible and effective to communities across the country. This should seek to address the challenges around raising capital, particularly at pace, as well as the support needs of communities.

### Proof of concept

Whilst a national policy framework should be introduced to support a Community Right to Buy, there is also a need to clearly demonstrate early on that Community Right to Buy is an option for communities and that community ownership more broadly is an opportunity across the country.

This means achieving proof of concept early in the introduction of a Community Right to Buy, particularly in areas that are not traditionally synonymous with community ownership in England. For example, early examples of success in more deprived, urban areas may increase the visibility of opportunity to others in similar areas. This could be achieved through targeted funding and support for trailblazer areas such as those described above, but also areas where there is existing momentum from grassroots campaigning and a supportive combined authority (e.g. Birmingham and West Midlands in the context of council asset sales), clusters of community businesses (e.g. Plymouth or Liverpool), or a supportive combined/local authority with a particular interest in promoting community ownership in the local area, for example due to an interest in community wealth building (e.g. Cambridge City Council).



**Figure 1. Community Right to Buy national policy framework.**

<b>Community Right to Buy</b>	
Legislation extends the moratorium period on ACVs to 12 months and introduces a right of first refusal for community groups.	
<b>Funding</b>	<b>Support</b>
<p>The remaining £50m of the final round of the Community Ownership Fund is allocated to successful bids. Following this, a new fund for community ownership should be established that learns from the drawbacks of the existing COF.</p> <p>To fill the gap for capital that can move at pace, particularly in a high street context, a British High Street Investment Vehicle should be established that leverages commercial and social investment against £100m of government grant. This would be able to move at the speed of private capital to purchase strategically important high street assets – including those that are ACVs – on behalf of communities and to transfer them into community ownership over time.</p>	<p>Government should resource trusted infrastructure organisations to deliver a specialist support package. This should include pre-feasibility and feasibility development support. Alongside this, the expertise of community organisations that have experience of community ownership of assets should be brought into a support package.</p> <p>This could take the form of a peer support group for community organisations pursuing community ownership, either through the Community Right to Buy or through other means. The peer support group should bring in groups that have successfully engaged with a Community Right to Buy, as and when that happens.</p> <p>As part of a support package communities should have access to the appropriate legal expertise and surveyors pre-purchase in order to ensure the building is appropriate for community ownership.</p>



## 10. Pilot community ownership in key areas

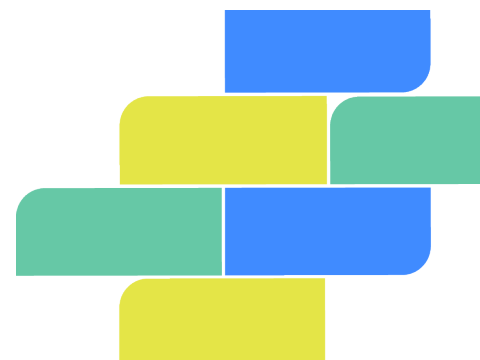
The Government should steer funding and support to 3-5 trailblazer areas in England to accelerate the use of the new power and to promote community ownership more widely. In selecting these areas, the levels of deprivation and its geographic setting (e.g. urban) should be considered.

### **Making it happen, learning as we go**

On its introduction, awareness of a Community Right to Buy is likely to be very low both amongst community organisations and – to varying extents – local authorities. When operational, there will need to be an active effort to promote the new power. There should also be opportunities to learn as the policy is implemented and make alterations as needed, that can be shared with colleagues in Scotland.

## 11. Work with community organisations to spread awareness

Government should launch a communications campaign when the power is operational, to spread awareness of its function and ensure it is accessible. This should utilise trusted organisations and individuals with reach in community sectors across the country and put them at the heart of the communications campaign, rather than government or Ministers.



## 12. Learn from what's worked in Scotland

Government should establish a bi-national learning group, to facilitate the sharing of expertise between interested parties in Scotland and England to inform future government policy and iterative policy changes. This could be expanded if Community Right to Buy is adopted by other nations with devolved powers.

### **Navigating the politics**

Outside of policy recommendations, the political context will be important for a new government to consider, particularly as Community Right to Buy does not have the same cultural resonance in England as it does in Scotland. In Scotland, this has been helpful in creating a more favourable political-media environment through which to push for community ownership. There may be some opposition to a Community Right to Buy in England, in that it would reduce the freedom that property owners have to sell assets to whom they want. However this should not be overstated, given that Labour, the Conservatives, Liberal Democrats, and Greens have all shown some interest in community ownership.

It will be important to frame the policy in such a way that it won't scare property owners or paint them in a bad light. Property owners will be fairly recompensed if they do decide to sell an asset. The policy is necessary because of a minority of owners who give others a bad name, not the majority.

Having a Minister who is responsible for this and motivated to drive it forward will be important so that it does not fall off the agenda. With a significant majority for the current Labour Government, there should be support from the backbenches.





# Conclusion

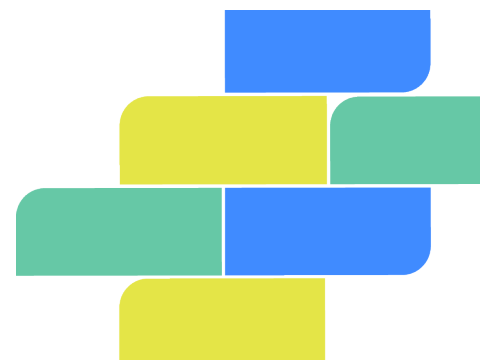
When David Miliband expressed support for a Community Right to Buy, it was borne out of an acknowledgement that community had an important role to play in politics, alongside the market and the state. Almost 20 years later, it is fitting that this thread is being picked up.

The recommendations of this paper should assist the Government in successfully implementing a Community Right to Buy and – at a time when government capacity will be stretched – should ease its introduction.

This must not be done half-heartedly. Legislation on its own will not be enough. So, whilst it is important to get that first step right, government also need to be conscious of the wider policy framework that should sit around a Community Right to Buy.

Introducing a Community Right to Buy could also be a foot in the door to a wider conversation about ownership in our economy as well as the empowerment of communities more generally. Both would be important in a new political economy that finally breaks from the interregnum we have been in since 2008.

In any case, Power to Change will play its role in ensuring the recommendations of this report are taken forward so that the introduction of a Community Right to Buy works for community business. If there are related ideas to be tested, we're ready to play our part.



# Endnotes

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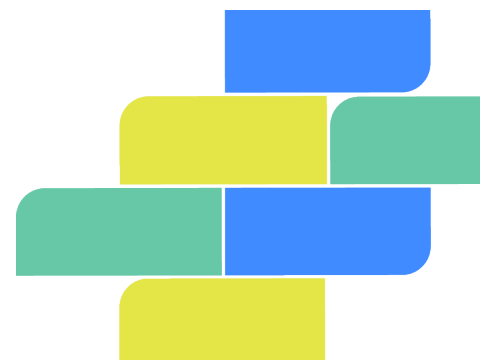
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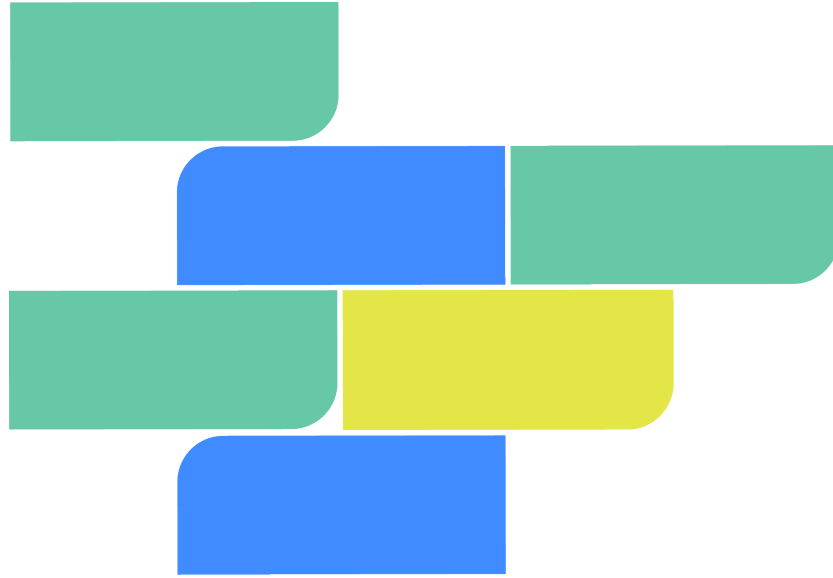
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