

CA 06

Ymgynghoriad ar asedau cymunedol

Consultation on community assets

Ymateb gan: Cytûn – Eglwysi ynghyd yng Nghymru

Response from: Cytûn – Churches Together in Wales

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Inquiry into community assets: Response on behalf of Cytûn (Churches together in Wales)

We are grateful to the committee for the opportunity to submit a response to this inquiry. Cytûn represents 19 of the Christian denominations in Wales, which between them have some 150,000 adult members and meaningful contact with many more children, young people and adults in every community of Wales. A full list of member churches and affiliated organisations can be found here - <https://www.cytun.co.uk/hafan/en/who-we-are/> (A 19th member church was admitted to membership at our recent AGM and is not yet included on this list).

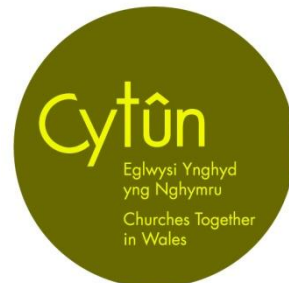
This response has been put together following consultation with the property officers, church and society officers and equivalents of our member churches. We would be happy to expand on the content if the committee so wishes.

- **Whether the current statutory and policy framework empowers communities in Wales to develop community assets;**
- **The extent the Community Asset Transfer scheme promotes and supports effective development of community assets;**

Only rarely are Christian churches involved in the direct acquisition of community assets previously owned by others, although churches are often involved in community partnerships which do so. We do not therefore have direct evidence to submit regarding these two questions.

- **To explore barriers and challenges faced by communities in taking ownership of public or privately owned assets, including finance and support services;**

We would regard our local church buildings and ancillary halls and facilities as assets to the communities in which they are set. They enable the community to worship God and to mark civic, national and international events in prayer. They are the setting for marking important life events by families within each community – notably through baptisms or infant dedications, weddings and funerals (in many cases including burial in the church cemetery).



They are home to many community activities, both run by the church as such and by other community organisations. From pre-school playgroups to women's groups, from men's sheds to dementia clubs, and everything in between, churches provide venues for a huge variety of community activities.

very few churches (and none in membership of Cytûn) would regard religious adherence as a matter to be kept private, and would always wish to open religious and wider activities to the local community. However, churches are in the context of this question "privately owned assets" – that is, they are not owned by the public sector, but rather by a charitable trust for specific charitable purposes, usually primarily the promotion of the Christian religion.

This can lead to misunderstanding when the need arises to sell a place of worship or church hall or similar asset. In most cases, charity law and the Acts of Parliament (reserved to Westminster) which underpin the historic Christian denominations of Wales require that the trustees should seek in the sale to continue to promote their charitable purposes. This may be achieved by transfer or sale to a charity with similar purposes (that is, to sell to another Christian community), or by selling on the open market to raise revenue for the promotion of those purposes by other means – often through developing the work of a neighbouring place of worship or the work of the denomination more broadly. Some church charitable trusts provide scope for transferring or selling at below market value to other charities with different but overlapping purposes, such as a social housing provider or community group; many others, however, would permit that only if the transfer was at open market value. Altering these trusts at the time of sale is often time-consuming and onerous; altering the Acts of Parliament which govern many of our member churches is virtually impossible.

A number of our member churches have experience of seeking to facilitate purchase of church-owned assets by community groups for community purposes. Often these are groups which may have used the church premises or worked in partnership with the congregation for many years. However, the potential purchasers often underestimate the challenges in maintaining and modernising the premises, especially the place of worship itself, which will have been designed for one specific purpose (the worship of God) and may not be easily adaptable for other uses without significant expense. The age of many church premises also makes their upkeep costly. Community groups therefore often find it difficult to raise the purchase price, and more difficult to maintain the building once initial enthusiasm wanes – replicating the experience of the church community which had originally offered the premises for sale.

This situation is exacerbated in the case of listed places of worship. We have recently held conversations with Cadw regarding the possibility of encouraging greater flexibility with regard to applications to alter church buildings to improve their use as community assets and to improve their environmental impact. While individual applications are matters for local authority determination, Cadw has indicated that it is not minded to encourage any reduction of protection for listed places of worship. Sadly, it is our view that this increases the likelihood of the building becoming derelict when it closes, as it is unlikely to be of

interest to anyone other than a worshipping Christian community if its architectural features must remain intact. Many such properties therefore fall into the hands of private businesses or owners at much reduced prices, leading to loss of income for the selling church and the loss of an important asset to the community. Any assistance the committee can offer in solving this conundrum would be greatly welcomed.

We urge caution on the Committee in recommending the introduction of registration of privately-owned community assets, or a local 'right to bid' for such assets. The process of selling church property, especially places of worship, is often highly complex and drawn out, and buildings often deteriorate (to the detriment of the local community) during that process. This is especially true in the case of listed buildings or those granted protected status by a local authority planning decision. The additional complications of inclusion on a community assets register or a 'right to bid' and prevent sale to others could ultimately be to the detriment of local communities in many cases.

It is our view also that, in any proposed form of which we are aware, a 'community right to buy' (as opposed to a 'right to bid' for) an asset owned by a charity or charitable trust would infringe charity law, which the Senedd has no power to amend. If charitable trustees were obliged under charity law to sell at best value, but under a Welsh community assets law to sell at below best value to a local community bidder, the conflict of legal duties could only be resolved by litigation. This would be expensive, and the scenario of one local community group taking another to court would be deeply damaging to community cohesion.

- **To discover what lessons can be learnt from beyond the Welsh border.**

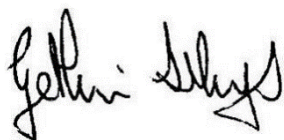
1. Our sister churches in England have found that the provisions contained in the Localism Act have raised serious questions of definition. For example, a First Tier Tribunal judgement in 2015 found that a specific place of worship could not be regarded as a "community asset" within the meaning of the Act - *General Conference of the New Church v Bristol City Council (Localism Act 2011)* [2015] UKFTT CR 2014 0013 (GRC).
2. The Localism Act can be used deliberately by a community group seeking to preserve its community in aspic to prevent (for example) affordable housing or some other project of benefit to the wider community. We have been made aware of an instance in Ambleside where an anti-development community group bought land to stop a Housing Association development that was supported by the majority of the community. We would urge the Committee to consider the possibility of unintended consequences whereby different sectors of the community would be divided, rather than brought together, by a right to bid or right to buy community assets.
3. Consultation with our partners in England indicates that actual purchases under the Localism Act are so far few in number, mainly because it takes time for Assets of Community Value to come onto the market, and when they do, there's no guarantee that the community will be able to compete in the market place to purchase, even with the 6 month moratorium providing a window of opportunity to do so. The UK Government has recently introduced the Community Ownership Fund:
<https://www.gov.uk/government/publications/community-ownership-fund->

[prospectus/community-ownership-fund-prospectus--2](#) This UK wide fund aims to give communities a better ability to compete in the market place to purchase and to refurbish properties (including heritage properties) to be used by the community for communities, and that this fund can be used for community assets that are not necessarily designated as Assets of Community Value. It is clearly too early to tell how effective this will be, but we urge the Committee to ensure that any proposals for Wales cohere with this existing fund rather than competing against it.

4. Even if the moratorium on sale under the Localism Act were extended to 9 months or longer, as many have suggested, there is still a danger that this legally defined route becomes the default approach, communities cannot mobilise quickly enough to react, and owners proceed with open sale with impunity as soon as the statutory periods end. We would far rather see a voluntary approach where a willing seller of an existing asset (such as a church) and a willing buyer (in the form of another community group) can explore options freely together rather than being constrained by a legal framework. Churches have many examples of such processes taking some years to complete, but the resulting community engagement being much more effective and placing the asset on a sounder long-term footing than can be achieved by legal compulsion alone.
5. We would welcome exploration as to whether a Registered Social Landlord could be regarded as a relevant community group to express an interest in a site. They could provide affordable housing for local people alongside community services and may be in a position to maintain the community value of the asset. This would build on the existing successful programme, Faith in Affordable Housing, managed by Housing Justice Cymru – see <https://housingjustice.org.uk/cymru/fiah>

We would be pleased to be pleased to provide further written or oral evidence to the Committee.

Yours sincerely



Gethin Rhys (Revd), Policy Officer, Cytûn