

## Beware the UK's 'community rights': the latest mutation of privatisation

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*Cutting through the coalition government's rhetoric of localism and 'community rights', Dexter Whitfield exposes a strategy to further destabilise and fracture public provision, accelerating marketisation and privatisation.*



The UK Coalition reckons the average annual economic benefit of the Community Right to Build is £67 million, of which a staggering £60 million is credited to private developers no longer having to submit a planning application or appeal planning permissions<sup>[1]</sup> So, despite the rhetoric of community 'empowerment', who are the beneficiaries of these new rights?

The government has a raft of new 'community rights' to bid, buy, build, challenge and provide enshrined in the Localism Act 2011<sup>[2]</sup>. In addition, the government is extending existing individual rights for tenants to buy social housing and personal budgets for health and social care.

There are five categories of new 'community rights':

*Provision of services:* Right to Provide via social enterprise spin-outs from the public sector, the Community Right to Challenge to take over local state-run services, and the Right to Manage social housing.

*Ownership:* Community Right to Bid for property for community facilities, the Right to Buy council housing, and the Right to Transfer council housing to social landlords.

*Development:* Community Right to Build small-scale developments in neighbourhoods and rural areas, and the Right to Reclaim Derelict Land.

*User choice:* Right to Choice in public services, the Right to Direct Payments and Personal Budgets for health and social care, and the Right to Control (personal budgets for disabled people).

*Taxation:* Right to Limit Council Tax Increases (local property tax).

The government is committed to spending nearly £100 million per annum over the next three years, divided between central and local government implementation costs and contracts to provide support and advice to community organisations<sup>[3]</sup>. The annual £46 million expenditure on support and advice coincides with deep cuts in community and voluntary sector budgets and reflects the increasing centralisation of the localism agenda.

Government impact assessments for the right to challenge, bid, build and to buy were flawed in the way they forecast take-up, public costs and social and economic benefits. For example, the government estimated that 330 services (mainly local authority) would be challenged per annum nationally, with 60 per cent leading to a procurement process. But take-up could be significantly larger if Conservative Party and business interests organise concerted campaigns, under the guise of corporate social responsibility and alliances with national voluntary organisations, to challenge in-house delivery of public services[4].

Many of the claimed benefits are not credible. For example, the right to challenge assumes 20 per cent savings despite government-funded UK research over the last twenty years consistently finding average savings of between 6-8 per cent[5]. Community Right to Bid value the benefits of volunteers at between £28.0 million and £40.5 million per annum[6]. These sums are achieved by estimating the number of additional volunteers involved in 'community right' to bid projects and assuming they were paid the minimum wage (then £5.80 per hour) to value the volunteering activity. The employment impact is tiny, only 1.3 per cent of volunteers are assumed to move into employment.

Social and economic benefits from tenants' right to buy sales were estimated to be £1.8 billion over the next three years, but this does not take account of tenants' right to discounts on the value of the property (35 per cent for houses, 50 per cent for flats plus one additional discount for each year of tenure after the five-year qualifying period). The value of discounts could be at least £1 billion if the three-year 33,500 sales forecast is achieved. Nor were the £50 million administrative costs taken into account, or the wider social and economic costs of privatising publicly owned housing[7].

Similarly, the potential for legal challenges and disputes between community organisations, local authorities, private contractors, developers and land owners has not been taken into account and could increase costs considerably.

User choice rights, together with the right to buy social housing, are exercised individually, whereas other rights require collective action by community or voluntary organisations. With the exception of the right to bid, build and to challenge, few of the rights can be used in combination, because they provide specific access to services or acquisition of public assets. But they have a dual role. They are designed to provide additional leverage for community/voluntary/non-profit organisations to have more influence over local services, facilities and development. Equally important, they are also designed to destabilise and fracture public provision to pave the way for further marketisation and privatisation.

The UK has increasingly moved towards a neoliberal model of privatised state assets, the development of Public Private Partnerships (PPPs) and the marketisation of public services. 'Community rights' and personal budgets could be the next export. In the context of David Harvey's analysis of the importance of the connection between urbanisation and surplus production and use, the new rights ultimately empower private and quasi-private interests control of the right to the city[8].

Privatisation has mutated, with the creation of new pathways to outsource, transfer and marketise services and functions[9]. The commissioning of services, requiring the separation of client and contractor functions, together with a mixed market of public, private and non-profit/voluntary sector providers to compete for contracts, wider use of payment-by-results in service delivery contracts and the growth of a social investment market to finance service delivery are being used to form new pathways[10].

Each pathway comprises companies, non-profit and voluntary organisations, subcontractors and supply chains of goods and equipment, an array of advisers, technical and management consultants, auditors, lawyers and financial and trade organisations to represent new types of contractors and consultants that lobby to protect and expand contracting opportunities and embed corporate welfare[11].

The rights and choice mechanisms are intended to widen the market of service providers and ensure that a larger proportion of services are subjected to a procurement process with service delivery dictated by contract. But increasing reliance on competition and market forces will reduce the opportunities for community/voluntary/non-profit organisations to deliver services, because as

contracts increase in size and scope, large companies will inevitably win most contracts.

The government assumes that 'state managed competition' will be able to monitor and regulate markets to ensure performance standards are met alongside rights entitlements. However, the exercise of choice relies on the existence of surplus capacity, yet most public services suffer from under-capacity to meet public demand and severe financial constraints. Meanwhile, the systemic failure of financial regulatory regimes plus the poor track record of public bodies to properly monitor contractor performance, indicate that more competition and contracting will have negative consequences for rights and choice.

Furthermore, the collective impact of individuals exercising their rights could have negative local consequences if they choose providers in other cities. Inherent in the right of choice is the right to impose consequences on others.

The supremacy of 'choice' will reinforce individualism and wider use of direct payments and personal budgets in the design and delivery of services. It is premised on users being able to travel much longer distances to access hospitals and schools of their choice with staff similarly switching between employers, contracts and their place of work.

Choice, with collective empowerment exercised in collaboration with other users, would be a much more powerful and meaningful than individual market-based choice.

Meanwhile, hard-won rights are being eroded by stealth.

The Coalition government has already withdrawn guidance to reduce the emergence of two-tier workforces and weakened equality impact assessments. The right to health and education, right to a job, a living wage, and a pension and to strike have all been reduced, or made more difficult to achieve in the past decade.

None of the 'community rights' are directed at improving in-house public provision or apply to outsourced services that are 'contractually non-compliant'. There is no right to dissolve PPPs, the wealth machines that have reaped vast rewards for the few by building privately financed hospitals, schools and public buildings.

The 'anyone can be a contractor' attitude runs the risk of grossly under-estimating the complexity and cost of delivering quality public services and the scope of employer responsibilities. The 'perfect contract' and the 'perfect service at low cost' are illusory. Running a post office or community centre is demanding enough, but providing operational public services requires different capabilities with greater risks and financial liabilities.

'Community rights' amount to the latest corrosive mutation of privatisation. The rhetoric of 'rights' and 'localism' is only cover for the accelerated transfer of power from the state to capital, from employees to employers and from service users to commercial contractors. We must rigorously scrutinise how these rights are implemented as part of industrial, civil and community action, intervene in the transformation and procurement processes, and challenge the vested interests of business and their political allies.

## References

[1] Department for Communities and Local Government (2011) Localism Bill: neighbourhood plans and community right to build, Impact assessment, January, London,  
<http://www.communities.gov.uk/documents/localgovernment/pdf/1829678.pdf>

[2] The Mutation of Privatisation: A critical assessment of new community and individual rights, Dexter Whitfield, European Services Strategy Unit - Research Report No.5, <http://www.european-services-strategy.org.uk/news/2012/the-mutation-of-privatisation-a-critical-asses/>

[3]<http://www.european-services-strategy.org.uk/news/2012/the-mutation-of-privatisation-a-critical-asses/>

[4] Department for Communities and Local Government (2011) Localism Bill: community right to challenge, Impact assessment, January, London,

<http://www.communities.gov.uk/documents/localgovernment/pdf/1829777.pdf>

[5] Whitfield, D. (2012) *In Place of Austerity: Reconstruction of the state, economy and public services*, Spokesman Books, Nottingham.

[6] Department for Communities and Local Government (2012) *Community Right to Bid: Impact Assessment*, June, London.

<http://www.communities.gov.uk/documents/communities/pdf/2168557.pdf>

[7] Department for Communities and Local Government (2012) *Reinvigorating Right to Buy and One for One Replacement: Impact Assessment*, March, London. <http://www.communities.gov.uk/documents/housing/pdf/2102753.pdf>

[8] David Harvey, *The Right to the City*, <http://archive.wikiwix.com/opendemocracy?url=http://newleftreview.org/?view=2740&title=New%20Left%20Review%20-%20David%20Harvey:%20The%20Right%20to%20the%20City>

[9] Whitfield, D. (2012) *In Place of Austerity: Reconstruction of the state, economy and public services*, Spokesman Books, Nottingham.

[10] Whitfield, D. (2012) *The Payments-by-Results Road to Marketisation*, in *Critical Reflections: social and criminal justice in the first year of Coalition government*, Centre for Crime and Justice Studies, March, pp22-23.

<http://www.crimeandjustice.org.uk>

[11] <http://www.european-services-strategy.org.uk/news/2012/the-mutation-of-privatisation-a-critical-asses/>



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