

National Forest Land Scheme

Note on ballots

Introduction

1. Community bodies that wish to buy land under the National Forest Land Scheme (NFLS) have to demonstrate community support for their acquisition. The requirements are set out in Criteria 3 of the NFLS guidance (<http://www.forestry.gov.uk/nfls>). Where a community body wishes to buy land, or to lease land for forestry purposes, and the land has a value of more than £50,000 they must ballot their local community. For applicants interested in leasing land for renewable energy schemes a ballot will be required where the scheme has a Gross income of more than £50,000 per year.

2. The ballot should be conducted as prescribed in the Community Right to Buy Guidance (CrtB) (Section 1.15 page 40) (<http://www.scotland.gov.uk/Topics/farmingrural/Rural/rural-land/right-to-buy/Community>) following the Community Right to Buy (Ballot) (Scotland) Regulations 2004 (<http://www.opsi.gov.uk/legislation/scotland/ssi2004/20040228.htm>).

3. The ballot must be held during the 6-month period immediately before the application is made. The requirement for community support will be satisfied if:

- at least half the members of the community (those permanently resident and registered to vote at a local government election) voted in the ballot; and
- the majority of those voting voted in favour of the community buying or leasing the land.

4. Only in exceptional circumstances will the community organisation's application be considered if less than half the members of the community vote in the ballot, even though a majority of those voting vote in favour of the acquisition. The community organisation would have to provide good reasons why the application should be considered and in particular why it is in the public interest.

5. Where the value of the land is £50,000 or less then a ballot is not mandatory but it can be a good way of demonstrating community support for the project.

6. If an applicant has any queries regarding the procedures for holding a community ballot or demonstrating community support, where a ballot is not mandatory, they should contact the NFLS Programme Manager as soon as possible.

7. The remainder of this Note follows the Community Right to Buy procedures on community balloting and should be read in conjunction with the Crtb guidance and CrtB Ballot regulation.

Assistance with conducting the ballot

8. A number of community bodies have conducted ballots as part of community land purchases. Local authorities have often acted as the independent returning officer for ballots, providing advice on the conduct of the ballot, giving access to the electoral roll, receiving the postal votes (if it is a postal ballot), counting them and announcing

the result of the ballot. However, it is up to the local authority as to whether it wishes to assist. You should be aware that local authorities may charge for their time. It is recommended that the community body contact their local authority in the first instance.

Appointing independent assessors

9. The Community Right to Buy Guidance (paragraphs 108 and 109) recommends the appointment of an independent assessor to oversee proceedings if an applicant considers this will help demonstrate the validity of a ballot. The appointment of an assessor is not a mandatory requirement, due to the additional cost and complexity that this may add to the application process. However, we would strongly advise wherever possible, the use of such an authority. Should there be a challenge to the way the ballot was held or its result, this will help to demonstrate that you conducted your ballot fairly and reasonably.

Costs of the ballot

10. There are likely to be costs associated with running the ballot including printing information sheets, ballot papers and postage costs. Forestry Commission Scotland may be able to assist with some of the costs of the ballot¹.

Provision of information

11. Before the ballot takes place the community body should make all eligible voters aware of the upcoming ballot and provide background information on it and the reasons why a ballot is being conducted. Best practice is for the community body to increase awareness of the upcoming ballot and the reasons for it over a number of months. You may consider promoting and discussing it through meetings, newsletters and articles in local newspapers.

12. It is appropriate for the community body to actively promote its proposals. However care must be taken to ensure that the information provided to eligible voters, prior to the ballot, is balanced and factual.

Conduct of Ballot

13. The ballot must be a secret ballot and conducted in a fair and reasonable manner. The community body may be held by voting in person (at a polling booth set up for the purpose), postal, or in certain circumstances by proxy.

14. The community body should ascertain from the full voters roll the number of eligible voters in the community (the CrTB guidance, paragraph 110, describes the process for ensuring that all those members of a defined community who are entitled to vote have the opportunity to do so). The community body is asked to define the community in the NFLS application form based on postcode areas. Only those permanently resident and eligible to vote at a local government election can take part in the ballot.

¹ Contact the NFLS Programme Manager for details of grant assistance available

15. The community must send out the following information to eligible voters not less than ten days before the ballot is due to take place, and preferably at least 21 days beforehand:

- the date and place on which the ballot will be held (for non-postal ballots);
- background information on the reasons for the ballot;
- a description of the relevant area of land the Community Organisation is applying to acquire, preferably including a map;
- the question that will appear on the ballot slip;
- the community body's proposals for the land; and
- where the voter can find further information.

16. The community body should liaise with the programme manager over the content of the information sheet and wording of the ballot question. Examples of ballot questions can be found in the applications already submitted to the NFLS, available at www.forestry.gov.uk/nfls. Alternatively, examples can be found in the Register of Community Interests in Land at <http://rcil.ros.gov.uk/RCIL/default.asp?Category=RCIL&Service=Home>, which refers to applications under the community right to buy provisions of the Land Reform (Scotland) Act 2003.

17. For postal ballots, each eligible voter should be sent a ballot paper with the question on which the vote is to be taken and the date and time on which the paper must be returned. This must be not less than 10 days from the date of posting. Each voter must be provided with a stamped addressed envelope for returning the completed ballot paper.

18. It will be appropriate to encourage eligible voters to vote or return their ballot papers. However, care should be taken not to unduly influence whether voters choose to vote or not, and how they choose to vote.

Proxy Votes

19. In the event of any eligible voter being unable, for good cause, to exercise their right to vote either at the ballot in person or in the postal ballot, the community body may permit a proxy to vote for that person. The community body must retain a record of any proxy authorisation. The proposed use of a proxy must be notified in writing by the eligible voter to the community body prior to the ballot.

Ballot results

20. The community body should provide the following information relating to the ballot in its NFLS application.

- a. Date of ballot.
- b. Question which was put to ballot.
- c. Number of people eligible to vote.
- d. Number of eligible people who voted, including
- e. details of the number of proxy votes.
- f. Percentage of those eligible to vote who voted $(d/c \times 100) = \%$
- g. Number of eligible people who voted in favour of acquiring the land.
- h. Percentage of those voting, that voted in favour $(f/d \times 100) = \%$

21. When submitting their NFLS application, the community body should enclose supporting documents, any information that was sent out or made available to eligible voters prior to the ballot.

22. The community body should inform the community of the outcome of the vote through their local newsletter, article in the local newspaper and/or other appropriate local means of communication where possible within 28 days of the ballot.

Retention of Ballot papers

23. The community body shall retain or arrange for the body conducting the ballot to retain on their behalf:

- a. all completed voting papers;
- b. in the case of a postal ballot evidence of sending the ballot papers; and
- c. any proxy authorisations and notifications of intention to use a proxy

for a period of two years after the date of the ballot, and these papers and evidence shall be available, on request, for inspection by members of the community or Forestry Commission Scotland.

Forestry Commission Scotland
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