

Community Right to Challenge – Q & As

Q1. What is the Community Right to Challenge?

A. The Localism Act came into force on 15 November 2011 and gives new rights to communities and individuals who want to help shape and run local services. One of these rights is the Community Right to Challenge, which came into force from June 2012. The 'right to challenge' will allow a 'relevant body' to bid to run a local authority service where they believe they can do so differently and better - this may be a whole service or part of a service.

Q2. Who can use the 'right to challenge'?

A. To make use of the Right to Challenge, you must be a 'relevant body'. These are:

- voluntary and community groups
- a body of persons or a trust established for charitable purposes only
- parish councils
- groups of 2 or more staff from a 'relevant authority'

A 'relevant authority' is a district, county or unitary authority, and fire and rescue authorities.

Q3. Which type of services can be challenged?

A. Potentially, any service provided by the Council. But the 'right to challenge' only applies to the provision of *services*, not the delegation of Council *functions* - the responsibility for the function itself remains with the Council. For example, making decisions on planning applications (function) remains with the Council, although the processing of planning applications (service) may be carried out by a 'relevant body'.

Q4. How does a 'relevant body' make a challenge?

- A. A relevant body will have to submit an 'expression of interest' (EOI) and provide details of:
- the nature and structure of their group or organisation
 - their financial standing and capacity to participate in any procurement exercise
 - the Council service they are expressing an interest in running
 - the outcomes that they will achieve in running this service:
 - how they will promote or improve the social, economic or environmental well-being of the area
 - how they will meet the needs of the users of the relevant service

Q5. When can 'expressions of interest' be made?

- A. A relevant body can submit an EOI at any time, unless the Council specifies periods during which EOIs can be submitted in relation to a particular service. Any specified period should take into account:
- the need to give relevant bodies sufficient time to prepare and submit an EOI
 - the nature, scale and complexity of the relevant service
 - the timescale for any existing commissioning cycle or contract, or relevant Council processes – i.e. Cabinet decision or budget setting processes

The Council will not be accepting expressions of interest for any council services before April 2013. The specified period for accepting expressions of interest for relevant services will be from 1 April to 31 May each year, starting on 1 April 2013.

Q6. How does a relevant body submit their expression of interest?

- A. A relevant body will need to complete an Expression of Interest form (this is available on the Council's website) and return it either by e-mail or by post. The relevant contact details will be shown on the form and the Council website.

Q7. What happens when the Council receives an expression of interest?

A. The Council must specify the maximum period it will take to notify the relevant body of its decision. The Council may ask the relevant body to modify its EOI if it needs more information to make its decision – in this case we will notify the relevant body within 30 days. The maximum period that the Council will take to notify a relevant body of its decision is 90 days from the date a complete expression of interest is received, although we will make the decision in a shorter timescale where possible.

Q8. Can an expression of interest be declined?

A. Yes – but only in certain circumstances, such as:

- the relevant body provides inadequate or inaccurate information
- the Council considers the relevant body is not suitable to provide the service
- the Council has stopped or has decided to stop providing the service (written evidence is required)
- the service is already the subject of a procurement exercise
- negotiations to provide the service have already been entered into with a third party
- the EOI is considered frivolous or vexatious

If the EOI is rejected, the Council must publish its reasons.

Q9. What happens if an expression of interest is accepted?

A. If the EOI is accepted, the Council must start a procurement exercise, following its normal procurement rules. The Council will notify the relevant body of when the procurement exercise will start. The minimum period between the date of the Council's decision to accept an expression of interest and the date of the start of the procurement exercise will be three months. The maximum period will be six months. The relevant body that submitted the EOI will be able to bid in competition with any other relevant body or commercial organisation.