

Sherwood Lodge
Bolsover
Derbyshire
S44 6NF

Date: 12th October 2012

Dear Sir or Madam,

You are hereby summoned to attend a meeting of the Executive of Bolsover District Council to be held in Committee Room One, Sherwood Lodge, Bolsover, on **MONDAY 22ND OCTOBER 2012 AT 1000 HOURS.**

Register of Members' Interest - Members are reminded that a Member must within 28 days of becoming aware of any changes to their Disclosable Pecuniary Interests provide written notification to the Authority's Monitoring Officer.

You will find the contents of the agenda itemised on page 2.


Yours faithfully,



Chief Executive Officer
To: Chairman & Members of the Executive

ACCESS FOR ALL

If you need help understanding this document or require a larger print on translation, please contact us on the following telephone number:-

 **01246 242435**
Minicom: 01246 242450

Democratic Services
Fax: 01246 242423



EXECUTIVE AGENDA

Monday 22nd October 2012 at 1000 hours
Committee Room One

Item No.		Page No.(s)
	PART 1 – OPEN ITEMS	
1.	<u>Apologies for absence</u>	
2.	<u>Urgent Items of Business</u> To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4(b) of the Local Government Act 1972.	
3.	<u>Declarations of Interest</u> Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of: a) any business on the agenda b) any urgent additional items to be considered c) any matters arising out of those items and if appropriate, withdraw from the meeting at the relevant time.	
4.	<u>Minutes</u> To approve the Minutes of a meeting of the Executive held on 24 th September 2012.	Previously circulated
5. *	National Offender Management Services (NOMS) funding opportunity to create a social enterprise <i>Recommendation on page 5.</i>	3 to 5
6.	Community Right to Challenge	To Follow
	PART 2 – EXEMPT ITEMS Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 <u>Exempt – Paragraph 3</u>	
7. *	Shirebrook Model Village Sports Ground – disposal of changing pavilion and lease of facility to local sports clubs.	To Follow

*** Denotes Key Decision**

EXECUTIVE

Minutes of a meeting of the Executive of Bolsover District Council held in Committee Room One, Sherwood Lodge, Bolsover, on Monday 24th September 2012 at 1000 hours.

PRESENT:-

Members:-

Councillor E. Watts - Chair

Councillors K. Bowman, D. Kelly, D. McGregor, B.R. Murray-Carr, A.M. Syrett and A.F. Tomlinson.

Officers:-

W. Lumley (Chief Executive Officer), B. Mason (Director of Corporate Resources), S. Tomlinson (Director of Neighbourhoods), S.E.A. Sternberg (Solicitor to the Council), B. Truswell (Head of Shared Procurement) and R. Leadbeater (Democratic Services Officer).

423. APOLOGIES

There were no apologies for absence.

424. URGENT ITEMS OF BUSINESS

The Chairman had consented to the report 'Tender Evaluation Outcome – Replacement Boiler, Alder House, Shirebrook', being considered as an urgent item of business. The decision could not reasonably be delayed due to a health and safety risk to residents. The agreement of the three Scrutiny Chairs had been obtained that the item was urgent and should be considered in the exempt part of the meeting.

425. DECLARATIONS OF INTEREST

There were no declarations of interest submitted.

EXECUTIVE

426. MINUTES – 28TH AUGUST 2012

Moved by Councillor D. McGregor, seconded by Councillor B.R. Murray-Carr
RESOLVED that the minutes of a meeting of the Executive held on 28th August 2012 be approved as a true record.

427. RECORD OF DECISION NOTICES FROM THE JOINT BOARD MEETING HELD ON 10TH SEPTEMBER 2012

Moved by Councillor K. Bowman, seconded by Councillor D. McGregor
RESOLVED that the Decision Notices from the meeting of the Joint Board held on 10th September 2012 be noted.

Questions were raised with regard to the budget position of BCN Consultancy (Building Control). The Portfolio Holder for Regeneration advised that activity had decreased due lack of new construction in the area as an effect of the current economic climate. However steps had been taken by BCN to reduce the budget deficit including a move to cheaper premises and a reduction in staff working time. The Chair added that BCN staff should be commended for their efforts in addressing their financial situation.

428. IRRECOVERABLE ARREARS OVER £1,000

The Director of Corporate Resources presented the report to seek Members' approval to write off irrecoverable debts.

The schedule of debtors was included in the report for Members' consideration.

Members were advised that the irrecoverable debts continued at an established level of the past 2 to 3 years.

Questions were raised with regard to recovery procedures and vetting of potential tenants' financial history, to which the Director of Corporate Resources responded. Specific queries were raised by Members with regard to persons detailed on the schedule, which the Director of Corporate Resources agreed to respond to once further enquiries had been made.

Moved by Councillor E. Watts, seconded by Councillor D. Kelly
RESOLVED that approval be given to write off the irrecoverable items including costs, amounting to £49,713.22, with the proviso that should any of the debts become collectable the amounts be re-debited.

EXECUTIVE

REASON FOR DECISION: **In order that outstanding debts can be written off.**

(Director of Corporate Resources)

429. THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Moved by Councillor D. McGregor, seconded by Councillor E. Watts

RESOLVED that under Section 100(A)(4) of the Local Government Act 1972 (as amended), the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in the stated Paragraph of Part 1 of Schedule 12A of the Act and it is not in the public interest for that to be revealed.

430. IRRECOVERABLE ARREARS OVER £1,000 EXEMPT – PARAGRAPH 3

The Director of Corporate Resources presented the report to seek Members' approval to write off irrecoverable arrears.

The schedule of outstanding debts was detailed in the report for Members' consideration. These were in respect of businesses that had ceased to trade and deceased persons whose estates held no assets.

Moved by Councillor E. Watts, seconded by Councillor D. McGregor

RESOLVED that approval be given to write off the irrecoverable items including costs, amounting to £9,428.38 with the proviso that should any of the debts become collectable the amounts be re-debited.

REASON FOR DECISION: **In order that outstanding debts can be written off.**

(Director of Corporate Resources)

EXECUTIVE

431. TENDER EVALUATION OUTCOME – REPLACEMENT BOILER, ALDER HOUSE, SHIREBROOK EXEMPT – PARAGRAPH 3

The Head of Shared Procurement presented the report to advise Members of a tender evaluation exercise for a replacement boiler at Alder House, Shirebrook which had recently been condemned. The tender had requested costs for replacing a like for like gas boiler and also for a bio mass boiler which was expected to provide a more economical long term solution.

Of the six companies invited to tender only one tender was received by the deadline. Following evaluation, this submission was considered not fit for purpose. The Head of Shared Procurement advised that due to time restrictions a further tender exercise for a replacement gas boiler would be undertaken as soon as possible.

Moved by Councillor K. Bowman, seconded by Councillor D. McGregor
RESOLVED that (1) the tender process be terminated and no bids accepted;

(2) the Council returns to market for a gas only replacement solution to be installed before the winter weather. This would be run as a Request for Quotation rather than a formal tender.

(3) the Council continues to engage with bio mass boiler suppliers with a view to asking them to quote for future boiler replacements in other sheltered housing complexes.

REASON FOR DECISION: **To secure best value for the Council.**

(Head of Shared Procurement)

The meeting concluded at 1028 hours.

Committee:	Executive	Agenda Item No.:	5.
Date:	22 nd October 2012	Status	Open
Category	2. Decision within the functions of Executive		
Subject:	National Offender Management Services (NOMS) funding opportunity to create a social enterprise		
Report by:	Partnership Consultant Programme Manager		
Other Officers Involved	Chief Executive's and Partnership Manager Partnership Research, Funding and Appraisals Officer		
Director	Chief Executive Officer		
Relevant Portfolio Holder	Councillor E. Watts, Leader of the Council Councillor A. F. Tomlinson, Deputy Leader and Cabinet Member for Regeneration.		

RELEVANT CORPORATE AIMS

REGENERATION – Developing healthy, prosperous and sustainable communities by supporting disadvantaged groups

SOCIAL INCLUSION – Promoting fairness, equality and lifelong learning providing opportunities for people with disabilities to access employment and training opportunities

ENVIRONMENT – promoting a clean and sustainable environment by exploring opportunities to achieve environmental/social objectives through working with disadvantaged groups

COMMUNITY SAFETY – ensuring communities are safe and secure by working with ex-offenders to improve their chances of accessing employment opportunities

TARGETS

NOT APPLICABLE

VALUE FOR MONEY

Value for money is achieved via a bidding process to obtain funding to set up a social enterprise to address the above corporate aims

THE REPORT

Background

The National Offender Management Service (NOMS) called for proposals to increase the number of social enterprises able to offer offenders the opportunity to gain skills and employment (and in doing so support environmental and social objectives). In response to this call for proposals, Bolsover District Council submitted an expression of interest to secure £50,000 to develop a legally constituted partnership to deliver employment related support to disadvantaged people residing within Bolsover, Chesterfield and North East Derbyshire.

Bolsover District Council has been successful in passing the first stage of the application process and is now required to submit a more detailed proposal by the end of October 2012. Between the first and second stage, NOMS are expecting a significant amount of work to be undertaken to further develop the proposal. This has involved attending a dialogue with NOMS on 13th September, accessing Technical Support on legal structures, business planning, governance etc, and hosting a workshop on 25th September 2012 with partners to consult on the proposed delivery model.

Social Enterprise Role

The role of the social enterprise will be to perform a support function to increase funding flowing into the area that can be used by partners to deliver support to the target client groups (those facing the greatest barriers to accessing employment). The NOMS funding of £50,000 would be used to create the social enterprise during 2013 as well as to secure revenue funding from 2014 onwards. The proposed social enterprise will formalise the Help to Work Partnership (established by Bolsover Partnership and Disability Dynamics Ltd, and formally known as the Bolsover Disability Partnership) which secured EU PARES funding earlier this year to continue partnership activities and extend into Chesterfield.

The social enterprise will have five main functions:

- Secure funding from various sources by bidding and making applications
- Undertake contract management where appropriate
- Undertake partnership development, extension and capacity building
- Provide a communications hub for partners
- Undertake evaluation and research in order to support bids, partner activities and influence decision makers

Recent discussions with Derbyshire Probation Trust have identified gaps in provision for offenders particularly around volunteering, self employment, in-work support and young offenders. The new social enterprise will aim to address these gaps, amongst others, by capitalising on available funding streams and opportunities to access resources.

Although NOMS would provide the revenue to cover start-up costs (if the Council's bid is successful), they do not anticipate the social enterprise being created solely to assist ex-offenders back into employment. The proposed social enterprise is intended therefore to support all disadvantaged clients back into work and so will include offenders but will also cover other groups including people with disabilities.

ISSUES/OPTIONS FOR CONSIDERATION

The contents of the report.

IMPLICATIONS

Financial: Although there are no direct financial implications for the Council, members of the Chief Executives and Partnership Team would be involved in developing the social enterprise and therefore contributing officer time in kind, as well as using office equipment, i.e. computers, telephone etc.

Legal: Bolsover District Council would be the accountable funding for the NOMS grant in the first instance if the bid is successful. It is anticipated that responsibilities for managing the funding will transfer to the social enterprise once established.

Human Resources: The Partnership Consultant Programme Manager and the Partnership Research Funding and Appraisals Officer shall lead on the development of the social enterprise, working with Disability Dynamics Ltd.

RECOMMENDATIONS that

1. Executive notes and supports the proposal to seek funding from the National Offender Management Service to create a social enterprise which will support local disadvantaged people residing within Bolsover, Chesterfield and North East Derbyshire to gain employment.
2. A reporting mechanism is implemented to keep Members/Officers abreast of developments regarding the social enterprise should the application for funding to NOMS be successful.

REASON FOR DECISION TO BE GIVEN IN ACCORDANCE WITH THE CONSTITUTION

Supporting positive outcomes for disadvantaged groups by increasing access to funding opportunities.

ATTACHMENTS: N
FILE REFERENCE:
SOURCE DOCUMENT:

Committee:	Executive	Agenda Item No.:	6.
Date:	22 nd October 2012	Status	Open
Category	Decision within the functions of Executive		
Subject:	Community Right to Challenge		
Report by:	Solicitor to the Council and Monitoring Officer		
Other Officers Involved	Deputy Monitoring Officer		
Director	Chief Executive Officer		
Relevant Portfolio Holder	N/A		

RELEVANT CORPORATE AIMS

COMMUNITY SAFETY – Ensuring that communities are safe and secure
CUSTOMER FOCUSED SERVICES – Providing excellent customer focused services
ENVIRONMENT – Promoting and enhancing a clear and sustainable environment
REGENERATION – Developing healthy, prosperous and sustainable communities
SOCIAL INCLUSION – Promoting fairness, equality and lifelong learning.
STRATEGIC ORGANISATIONAL DEVELOPMENT – Continually improving our organisation.

This community right relates to all services provided by the Council and therefore relates to all the Council's aims.

TARGETS

The subject matter does not directly relate to any targets specified in any approved plans.

VALUE FOR MONEY

There are no direct value for money issues from the report, however should a service be subject to a successful community right to challenge this would be an issue at the procurement stage.

THE REPORT

This report sets out provisions contained within the Localism Act, known as the Community Right to Challenge, to enable relevant bodies to take over the running of Council services. The report contains details of relevant bodies that can submit an expression of interest to run a service, those services

exempt from the Right, grounds on which expressions of interest may be declined and the process for dealing with expressions of interest and subsequent procurement exercises.

The Council's Strategic Alliance Management Team has already suggested the Monitoring Officer as the proper officer for the Community Right to Challenge.

The Community Right to Challenge is different from the Community Right to Bid which allows people to bid to take over assets that are of value to their local community such as a village shop, pub, community centre or library (also known as Assets of Community Value) and the Community Right to Build which is linked to neighbourhood planning.

ISSUES/OPTIONS FOR CONSIDERATION

The Localism Act 2011 introduced a right for "relevant bodies" to submit an expression of interest to take over the provision of a service on behalf of the Authority. Where a valid expression of interest is received, the Authority is required to undertake a procurement exercise for that service, which may lead to the Authority awarding a contract for the provision of that service.

"Relevant bodies" are defined in the Act as –

- A parish council;
- A voluntary body;
- A community body;
- A body or trust established for charitable purposes;
- Two or more employees of the authority, whether or not they have formed themselves into a body for this purpose, or
- Such other persons or bodies as may be specified by the Secretary of State by regulations.

There is no requirement for a voluntary or community body to have any local connection and any of the above bodies can submit an expression of interest in partnership with any other organisation, including a commercial organisation, or propose to sub-contract the work to a commercial organisation. Providing that this is done, there is no requirement for the relevant body to undertake the majority of, or any particular share of, the work.

The expression of interest must relate to the provision of, or assisting in the provision of, a "relevant service" which means any service which is currently provided by or on behalf of the Authority. Services provided in partnership with North East Derbyshire District Council as part of the Strategic Alliance

would also count as relevant services. However, the following services are “excluded services” which cannot be the subject of an expression of interest –

- Services provided in partnership with NHS bodies, or by an NHS body on behalf of the Authority;
- A service provided to a named person with complex individual health or social care needs; or
- A service which includes the exercise of a statutory power which cannot be delegated. So, the setting of Council Tax or the determination of a planning application is not legally capable of being undertaken by anyone other than the local authority and so cannot be the subject of an expression of interest.

An expression of interest can relate to services such as management and maintenance of playing fields or parks, refuse collection and re-cycling, running a branch library or a leisure centre or operation of off-street car parks. Equally, a team of Council staff might consider taking on a back office activity.

The Act provides that an authority may define services and set periods during which expressions of interest may be submitted for those services, and may then refuse to consider an expression of interest which is submitted at the wrong time.

The expression of interest must be in writing and meet certain requirements. These include the provision of –

- a) Information about the financial resources of the relevant body which is submitting the expression of interest;
- b) Evidence that demonstrates that by the time of any procurement exercise the relevant body submitting the expression of interest will be capable of providing or assisting in providing the relevant service;
- c) Information about the relevant service sufficient to identify it and the geographical area to which the expression of interest relates;
- d) Information about the outcomes to be achieved by the relevant body or, where appropriate, the consortium of which it is a part, in providing or assisting in the provision of the relevant service, in particular –
 - how the provision or assistance will promote or improve the social, economic or environmental well-being of the relevant authority’s area; and
 - how it will meet the needs of the users of the relevant service.

- e) Where the relevant body consists of employees, details of how that relevant body proposes to engage other employees of the relevant authority who are affected by the expression of interest.

The first stage comprises the validation and acceptance or rejection of the expression of interest.

When an expression of interest is received, the Authority needs to check that it is submitted by a “relevant body” for a “relevant service” which is not an “excluded service”. If it fails to meet these requirements, the Authority notifies the person who submitted the expression of interest that it is not a valid expression of interest, but need take no further action.

Once an expression of interest has been validated, the Council will acknowledge it within a set time period and advise the relevant body of the timescales in which a decision on whether to accept or reject it will be made. The Authority must set and publish the maximum period which will elapse between receipt of an expression of interest and the Authority notifying the body which submitted the expression of interest of its acceptance or rejection of that expression of interest, but the Council may set different maximum periods for different cases.

It will then be necessary for the proper officer to conduct a review of the expression of interest to determine whether it should be accepted. This will involve collecting information from the relevant Assistant Director currently responsible for the running of the service. Where an expression of interest falls within one of the grounds for rejection, the Council may still decide to accept it.

Following the outcome of this review it is proposed that the proper officer take a report to Executive at the earliest opportunity for members to decide whether or not to accept or reject the expression of interest. Decisions to reject an expression of interest must be supported by at least one of the statutory grounds for rejection set out below. The Council must then notify the persons or body who submitted the expression of interest of its decision and of the reasons for that decision.

There are 10 grounds on which an authority may reject an expression of interest –

- The expression of interest does not meet the statutory requirements, because it is not from a relevant body or is not for a relevant service;
- The supporting information is inadequate or incorrect;
- Any member of the body making the bid, or of their consortium, is not suitable to provide the service. This would cover absence of a necessary qualification or past conduct;

- The authority has already taken a formal decision to cease to provide the service. So an expression of interest cannot be used as a means to challenge an authority's decision to close a facility or cease a service;
- Taking this service in isolation would result in a loss of integration with NHS services to the detriment of users of the integrated service.
- The service is already the subject of a procurement exercise.
- The authority is already in negotiations in writing with a third party for the provision of the service;
- The authority has already published its intention to consider the provision of the service by a body to be set up by two or more employees;
- The expression of interest is vexatious or trivial; and
- The acceptance of the expression of interest is likely to lead to a breach of law or statutory duty. This would cover an expression of interest which would require delegation of statutory powers which cannot be delegated or where it would lead to a breach of the authority's duty to secure best value, for example by causing greater cost by the break-up of shared service arrangements.

The Act also requires the Authority, in considering an expression of interest, to consider whether the acceptance of the expression of interest would promote or improve the social, economic or environmental well-being of the area, but this does not form a ground for rejecting an expression of interest.

If the Authority acts unreasonably in rejecting an expression of interest, that decision would be open to judicial review.

Where a valid expression of interest is accepted, the Authority moves into procurement mode and must conduct an appropriate procurement exercise. The scale of the procurement exercise will be dictated by the nature and value of the service concerned. So, for a Part A service which exceeds the procurement thresholds (currently £173,934), the Public Contracts Regulations will require a formal Official Journal of the European Union procurement. For Part B services, the Regulations still apply but prescribe lower levels of formality.

The range of the service (in terms of the service and the geographical area) to be subject to a procurement exercise will be set by the expression of interest. The Authority may only vary the range of services with the agreement of the body or persons who submitted the expression of interest. However, the specification to which the service is to be provided, the contract terms and

conditions, and the criteria for evaluation of tenders are for the Authority to determine.

Although an expression of interest may be submitted by a genuine community or voluntary organisation and the Authority may wish to encourage such community involvement in service provision, once the Authority goes out to open tender, it cannot prevent tenders being submitted by private commercial organisations and will be required to evaluate all tenders received on the same evaluation criteria.

The Authority must set a minimum and a maximum time from the acceptance of an expression of interest to the start of the procurement exercise. This allows time for the preparation of a specification for the service and for the invitation to bidders.

The final phase of the process is essentially a procurement exercise, so it requires the Shared Procurement Unit to run the process with the appropriate Assistant Director taking a leading role in settling the service specification and in the evaluation of tenders, with appropriate legal, financial, HR and other support.

The proper officer would be responsible for managing each procurement exercise, subject to the settlement of the specification for the service and the evaluation of tenders with the appropriate Assistant Director.

In relation to existing contracts with third parties, notification will appear on the Council's website 6 months before the end of the contract on the contracts register on the website. This should be designated as the official period for these contracts.

Other Supporting Information

Guidance on the Community Right to Challenge is available to download at:
<http://www.communities.gov.uk/publications/communities/righttochallenge/gestatguide>

The Government have also set up a dedicated website for community rights including the Community Right to Challenge. This can be found here:
<http://communityrights.communities.gov.uk/what-are-community-rights/community-right-to-challenge/>

IMPLICATIONS

Financial: None, although any procurement exercise which result may provide financial consequences.

Legal: As in the report

Human Resources: As in the report

RECOMMENDATIONS

1. That the Executive designate 1–21 August of each year as the time period during which the Council will receive expressions of interest for Council services other than those provided jointly with other authorities.
2. That the Executive appoint the Monitoring Officer as proper officer for the purposes of the Community Right to Challenge and recommend to Standards Committee the inclusion of this in the Delegation Scheme in the Constitution.
3. That the Executive authorise the Monitoring Officer to acknowledge expressions of interest for Council services other than those provided jointly with other authorities by 31 August of the year in which the expression of interest is made and advise the relevant body that a decision on whether to accept or reject their expression of interest will be made between 1 September and 31 October of the same year.
4. That, once the Monitoring Officer, as proper officer, has undertaken a review of an expression of interest, a report be brought to the Executive at the earliest opportunity for members to decide whether or not to accept or reject the expression of interest. Where the decision is to reject the expression of interest this will include at least one of the statutory grounds for refusal set out in paragraph 3.13 of the original the Executive report. Where the decision is to approve the expression of interest the procurement exercise will commence between 1 and 30 November of the year in which the expression of interest is made.
5. That, for the purposes of the legislation, the minimum period to elapse between the date of the Council's decision to accept an expression of interest and the date on which the procurement exercise will start be two days and the maximum period be 91 days. The maximum period to elapse between the date on which the Council receives an expression of interest submitted by a relevant body and the date on which it notifies the relevant body of its decision in respect of the expression of interest be 92 days.
6. That a report setting out timescales for those Council services currently provided jointly with other authorities be brought back to a future meeting of Executive.
7. That current contracts with third parties be advertised for the purposes of the Community Right to Challenge 6 months before the end of the contract on the Council's website.
8. That the Monitoring Officer be delegated authority to vary the timescales in paragraphs 1 to 5 above, following consultation with the Leader of the Council.

9. That the timescales given in paragraphs 1 to 4 be publicised on the Council's website and be subject to review in 12 months' time.

REASON FOR DECISION TO BE GIVEN IN ACCORDANCE WITH THE CONSTITUTION

This is new legislation which needs to be implemented and a process put in place.

ATTACHMENTS: **N**
FILE REFERENCE: **None**
SOURCE DOCUMENT: The Community Right to Challenge (Expressions of Interest and Excluded Services) (England) Regulations 2012

Sherwood Lodge
Bolsover
Derbyshire
S44 6NF

EXECUTIVE

22nd October 2012

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Notice of Intention to Conduct Business in Private

Notice is hereby given in accordance with Regulation 5 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 that the following item is likely to be considered in private:

SHIREBROOK MODEL VILLAGE SPORTS GROUND – DISPOSAL OF CHANGING PAVILION AND LEASE OF FACILITY TO LOCAL SPORTS CLUBS

The reason that the above item is likely to be considered in private is that it may involve the disclosure of information relating to the financial or business affairs of any particular person (including the authority holding that information).

The Council has received no representations requesting that the item be considered in public.



W. Lumley BSc, FCCA,
Chief Executive Officer