

AGENDA ITEM 5
STANDARDS COMMITTEE – 4TH DECEMBER 2012
RECOMMENDED ITEM FROM EXECUTIVE – 22ND OCTOBER 2012

539. COMMUNITY RIGHT TO CHALLENGE

The Solicitor to the Council presented the report to advise Members of the provisions contained within the Localism Act 2011, known as the Community Right to Challenge, which enabled relevant bodies to submit an expression of interest for the running of Council services. This included most Council provided services.

The relevant bodies permitted to submit an expression of interest were 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.

Members were advised that services provided in partnership with the NHS, those services providing health or social care for complex needs, or statutory powers such as Council Tax setting, were excluded from the Community Right to Challenge.

The Solicitor to the Council advised that there was no requirement for a relevant body to have a local connection and an expression of interest could be submitted in partnership with another organisation, including a commercial organisation or sub-contractor arrangement.

The information and qualifications required for submitting an expression of interest were outlined in the report along with the process that the Council would follow to validate and accept it and carry out a formal tender process. Expressions of Interest would be required to demonstrate best value and promote or improve the social, economic or environmental well-being of the area. Services that were currently provided jointly with other authorities could also be subject to Community Right to Challenge.

Members raised questions in respect of the process and implications of a Community Right to Challenge to which the Solicitor to the Council responded. Concerns were raised in respect of the potential increased costs brought about

by additional procurement exercises and that commercial organisations would be permitted to tender for services through affiliation with permitted relevant bodies.

Moved by Councillor D. McGregor, seconded by Councillor D. Kelly

RESOLVED that (1) 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) 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) 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 has made the submission 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) 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 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) 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) 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) current contracts with third parties be advertised on the Council's website for the purposes of the Community Right to Challenge 6 months before the end of the contract.

(8) the Monitoring Officer be given delegated authority to vary the timescales in paragraphs 1 to 5 above, following consultation with the Leader of the Council.

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

(Solicitor to the Council/Head of Democratic Services)

RECOMMENDATION

That Standards Committee approve that the Monitoring Officer be given delegated authority to vary the timescales in paragraphs 1 to 5 above, following consultation with the Leader of the Council.