

Report of Chief Officer Private Public Partnerships Unit and Procurement Unit

Report to Scrutiny Board (Resources and Council Services)

Date: 23rd July 2012

Subject: Community Right to Challenge

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The Executive Board report 'Community Right to Challenge' dated 7th March 2012 noted that the Director of Resources would seek the views of Scrutiny Board (Resources and Council Services) on the proposed processes once regulations are available. In addition, the Board resolved that a further report be submitted to Executive Board detailing the regulations once they are published.
2. The opportunity to further strengthen engagement with voluntary and community organisations is key to the authority's approach to the Community Right to Challenge and the voluntary and community sector have been engaged in the authority's response to the Right to Challenge. The authority welcomes dialogue with organisations where they feel services can be improved or re-designed to best meet the needs of service users. The importance of engagement is emphasised in the Commission on the Future of Local Government report which outlines the idea of civic enterprise - enterprising councils; civic businesses and engaged citizens.
3. The 'Right to Challenge' is part of the Localism Act which was implemented on 27th June 2012. It gives local communities the right to challenge the way in which local authorities provide and run services. The right applies to voluntary or community bodies, parish councils and employees of relevant authorities. Such an organisation can make an "expression of interest" (EOI) to a local authority in running a service. The authority must either accept (with or without modification) or refuse the EOI. If the EOI is accepted then the authority must carry out a procurement exercise for the service in accordance with normal procurement rules.

Recommendations

1. That views on the proposed processes as outlined in paragraph 3.1 are sought.
2. That views on the proposed content of the Executive Board report detailed in paragraph 3.2 are sought.

1 Purpose of this report

- 1.1 To seek views on the on the proposed processes at 3.1.
- 1.2 To seek views on the requirements of the Executive Board report at 3.2.

2 Background information

- 2.1 The Executive Board report 'Community Right to Challenge' dated 7th March 2012 noted that the Director of Resources would seek the views of Scrutiny Board (Resources and Council Services) on the proposed processes once regulations are available. The Board resolved that a further report be submitted to Executive Board detailing the regulations once they are published.
- 2.2 The Localism Act regulations relevant to the Community Right to Challenge have been published and the measures were implemented on 27th June 2012. The Right to Challenge introduces a new measure that gives local communities the right to challenge the way in which local authorities provide and run services. The right applies to voluntary or community bodies, parish councils and employees of relevant authorities. Such an organisation can make an "expression of interest" (EOI) to a local authority in running a service. The authority must either accept (with or without modification) or refuse the EOI. If the EOI is accepted then the authority must carry out a procurement exercise for the service in accordance with normal procurement rules. The authority must consider whether acceptance of an EOI would promote or improve the social, economic or environmental well-being of the area. The authority must notify the relevant body of its decision, and if the EOI is accepted with modification or rejected, set out its reasons for doing so. An EOI can only be rejected on certain grounds. Furthermore certain services are excluded from the Community Right to Challenge.
- 2.3 Active engagement with potential applicants (including voluntary and community organisations) is an important part of the local approach to the Right to Challenge. Engagement will build upon the good practice that is in place.

3 Main issues

- 3.1 The key aspect of the Leeds City Council approach to the Right to Challenge is that of engagement. To ensure that this aspect runs seamlessly through the process we have ensured that there is:
 - a) A single point of contact for interested organisations. As a first point of call, organisations are directed to make contact on the Right to Challenge through a single phone, email and postal address at Private Public Partnerships

Unit/Procurement Unit (PPPU/PU). Information is available on the internet and intranet and links to relevant guidance is included.

- b) Where general enquiries on the Right to Challenge are made then the process will be discussed with organisations and links made to the relevant directorate.
- c) Where an expression of interest is made then:
 - a. A user-friendly form will be provided to applicants;
 - b. Engagement in a decision will include:
 - i. PPPU/PU and directorates who will jointly consider the expression;
 - ii. Relevant members will be consulted;
 - iii. Liaison will be undertaken with Area Leadership.
- d) A corporate perspective will be maintained on any interest through regular reports to Corporate Commissioning Group.

3.2 It is proposed that the forthcoming Executive Board report will detail this local approach to the Right to Challenge. It will focus on engagement with those interested in putting forward ways to improve services for the benefit of service users. In particular, the report will outline engagement with voluntary and community organisations through:

- the development of the Right to Challenge processes;
- the Transforming Procurement Programme;
- the locality perspective;
- corporate and directorate engagement approaches; and
- links to the Local Government Commission and civic enterprise.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 A project team, which has included Public Private Partnership Unit, Procurement Unit, Area Support and Customer Access and Performance officers has been working on the requirements of the Right to Challenge. The team has undertaken consultation with a range of stakeholders including directorate commissioners, senior directorate management teams and service managers and councillors through consideration at Area Committee and relevant briefings.

4.1.2 The project team have engaged with voluntary and community organisations through attendance at the Third Sector Leeds Leadership Group and detailed discussion with a representative group from Third Sector Leeds. These discussions included ways of strengthening third sector engagement with the local authority in relation to commissioning and procurement. In addition, an update has been provided to the Third Sector Partnership Board.

4.2 Equality and Diversity / Cohesion and Integration

An Equality Impact Assessment screening has been agreed by the Chief Officer Procurement Unit and Private Public Partnerships Unit on 10th July 2012 .

4.3 Council policies and City Priorities

Successful implementation of the Localism Act will support the council to deliver a number of its strategic objectives, particularly through the Locality Working agenda.

4.4 Resources and value for money

There will be resource implications for Leeds City Council in administering the scheme. The extent of this will be largely dependent on the interest in the scheme, which is very difficult to predict.

4.5 Legal Implications, Access to Information and Call In

The process set up by the Council for dealing with the Right to Challenge is considered to be robust and that there are no legal implications at this stage. However, as this is new legislation it remains untested and challenges may ultimately be brought nationally and the Council's process may have to be adapted to deal with any successful challenges.

The decision is not subject to call-in and there are no Access to Information implications.

4.6 Risk Management

A risk assessment has been undertaken at Corporate Commissioning Group and in Area Support and these will be considered at regular intervals at Corporate Commissioning Group.

5 Conclusions

- 5.1 The Community Right to Challenge legislation has been implemented and the authority has ensured that those interested in service development and improvement have a seamless access to take forward discussions with us.
- 5.2 PPPU/PU, directorates, members and localities will be engaged in any Community Right to Challenge decision.
- 5.3 A report to Executive Board on 5th September 2012 will provide an update on the Right to Challenge.

6 Recommendations

- 6.1 That views on the proposed processes as outlined in paragraph 3.1 are sought.
- 6.2 The views on the proposed content of the Executive Board report detailed in paragraph 3.2 are sought.

7 Background documents¹

- 7.1 Executive Board report 'Community Right to Challenge' dated 7th March 2012.

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.