

**Report of the Director of Resources**

**Report to Executive Board**

**Date: 17 October 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 checked="" type="checkbox"/> Yes	<input 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. Executive Board resolved on 7 March 2012 that a further report on the Community Right to Challenge be submitted to Executive Board detailing the regulations once they are published.
2. The Right to Challenge is part of the Localism Act 2011, regulations have been published and the provisions were implemented on 27 June 2012. This allows voluntary or community bodies, parish councils and employees to express an interest in running a council service. If accepted, the council must undertake a procurement exercise for the service in accordance with normal procurement rules.
3. The opportunity to further strengthen engagement with voluntary and community organisations is key to the council's approach to the Community Right to Challenge and the voluntary and community sector have been engaged in the council's approach to implementing the legislation. The council 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 promotes civic enterprise - enterprising councils; civic businesses and engaged citizens.

**Recommendations**

1. To note publication of the regulations.

2. To endorse the proposed approach to decisions on Community Right to Challenge expressions as follows:
  - i. Public Private Partnerships Unit/Procurement Unit (PPPU/PU) and directorates jointly consider any expression
  - ii. relevant members are consulted and the Executive Board Member who is responsible for the service area that is being considered in the expression of interest may refer the expression to the Executive Board for a decision
  - iii. liaison is undertaken with Area Leadership
  - iv. a report is provided jointly by the PPPU/PU lead and the directorate, taking account of feedback
  - v. the Chief Officer PPPU and Procurement approves the report
  - vi. the relevant Director makes a decision on an expression, except where it is referred to Executive Board.
3. To note that the schemes of delegation will need to be amended to reflect the recommendation in 2 above.
4. To support the proposed approach of engagement.

## **1 Purpose of this report**

- 1.1 To provide an update on the Community Right to Challenge and to provide an opportunity to debate the way that the council implements the legislation.

## **2 Background information**

- 2.1 At the Executive Board meeting held on 7 March 2012 it was resolved that a further report on the Community Right to Challenge be submitted to Executive Board detailing the regulations once they are published.
- 2.2 The Localism Act 2011 regulations, relevant to the Community Right to Challenge, have been published and the measures were implemented on 27 June 2012. This introduces a new measure that allows voluntary or community bodies, parish councils and employees to challenge the provision of a local council service. The council must consider whether the expression would promote or improve the social, economic or environmental well-being of the area. Certain services are excluded from the legislation and an expression of interest can be rejected on certain grounds. 'Rejection criteria' include situations where a decision has been made in writing to decommission a service; where an applicant is not suitable to provide or assist in providing the service and where a service is already the subject of a procurement exercise. Links to the full rejection grounds are available on the council's intranet and internet. If an expression of interest is accepted then the council must undertake a procurement exercise for the service in accordance with normal procurement rules.
- 2.3 Active engagement with potential applicants (including voluntary and community organisations) is an important part of the local approach and engagement will build upon good practice that is already in place.
- 2.4 The Community Asset Transfer Policy and Framework has been approved at Executive Board on 5 September 2012 and this policy is separate to the

Community Right to Challenge. Where relevant, the implications of decisions in relation to the two processes will be considered as a whole.

### **3 Main issues**

- 3.1 The regulations have been published and provide the criteria of the requirements for an expression of interest, excluded services and rejection criteria. Links to the regulations are available on the council's intranet and internet.
- 3.2 On 23 July 2012 Scrutiny Board (Resources and Council Services) resolved that the views of the Board be incorporated into the Executive Board report, namely that of the Executive Board being the decision making body at the pre-procurement stage rather than the Director of Resources. Corporate Leadership Team considered the Community Right to Challenge proposed processes on 31 July 2012. Arrangements have been revised and are detailed in the recommendations of this report and at appendix A. These arrangements take into account the views of the Scrutiny Board and Corporate Leadership Team.
- 3.3 An important aspect of the Leeds City Council approach is engagement. To ensure that this aspect runs seamlessly through the process we have ensured that there is:
- A single point of contact for interested organisations. As a first point of call, organisations are directed to make contact on the Community Right to Challenge through a central telephone, email, postal address or text telephone at PPPU/PU. Information about the contact point is available on the internet and intranet sites and links to relevant guidance is included.
  - An opportunity for discussion and links to the relevant directorate where general enquiries on the Community Right to Challenge are made.
  - A user-friendly form made available on the council's intranet and internet.
- 3.4 Additional areas of engagement with voluntary and community organisations in developing the approach to the Community Right to Challenge include the following activities:
- the project team have engaged with voluntary and community organisations in the development of the council's processes
  - the Transforming Procurement Programme is engaging with the third sector in how the council delivers commissioning and procurement. Good practice such as third sector 'consultee panels' on procurements and close working with third sector infrastructure organisations on procurement 'open days' is being embraced
  - a mapping exercise has been completed from the locality perspective to better inform options on how engagement can be provided to local groups
  - the importance of engagement is emphasised in the Commission on the Future of Local Government report which promotes civic enterprise - enterprising councils; civic businesses and engaged citizens.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

4.1.1 A project team, which has included PPPU/PU, Area Support and Customer Access and Performance officers has been working on the requirements of the Community Right to Challenge. The team has linked with a range of stakeholders including third sector organisations; Third Sector Partnership Board; directorate commissioners; senior directorate management teams; service managers and members through consideration at Scrutiny Board (Resources and Council Services) and relevant briefings.

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 An Equality, Diversity, Cohesion and Integration Impact Assessment screening has been undertaken and it has been determined that a full Equality, Diversity, Cohesion and Integration Impact Assessment is not required. The screening assessment is attached at appendix B to this report.

### **4.3 Council policies and City Priorities**

4.3.1 Successful implementation of the Localism Act 2011 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**

4.4.1 There will be resource implications for the council in administering the scheme. The extent of this will be largely dependent on the interest in the scheme.

### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 The process outlined in this report complies with the Community Right to Challenge provisions in the Localism Act 2011.

4.5.2 The decision is subject to call-in.

4.5.3 There are no access to information implications.

### **4.6 Risk Management**

4.6.1 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 has been implemented and details of the legislation, regulations and an expression of interest form are available on the council's intranet and internet websites.

5.2 Members, Area Leadership, PPPU/PU and directorates will be engaged in any Community Right to Challenge decision.

- 5.3 Community Right to Challenge decisions on expressions of interest will be made by the Executive Board where the relevant Executive Board Member refers the decision.
- 5.4 For all other Community Right to Challenge decisions, Directors will be authorised to carry into effect decisions, subject to consultation with the Chief Officer PPPU and Procurement.
- 5.5 Engagement is key to the council's approach and we have focused on ensuring that those interested in service development and improvement can easily take forward discussions with us.

## **6 Recommendations**

- 6.1 To note publication of the regulations.
- 6.2 To endorse the proposed approach to decisions on Community Right to Challenge expressions as follows:
- i. PPPU/PU and directorates jointly consider any expression
  - ii. relevant members are consulted and the Executive Board Member who is responsible for the service area that is being considered in the expression of interest may refer the expression to Executive Board for a decision
  - iii. liaison is undertaken with Area Leadership
  - iv. a report is provided jointly by the PPPU/PU lead and the directorate, taking account of feedback
  - v. the Chief Officer PPPU and Procurement approves the report
  - vi. the relevant Director makes a decision on an expression, except where referred to Executive Board.
- 6.3 To note that the schemes of delegation will need to be amended to reflect the proposals in 6.2 above.
- 6.4 To support the proposed approach of engagement as referred to at paragraph 3.3 above.

## **7 Background documents<sup>1</sup>**

- 7.1 None

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.