
COMMUNITY RIGHT TO CHALLENGE

Committee: Finance and Governance Committee

Date: Monday 26th November 2012

Author: Julie Cornwell, Partnerships Officer

[M168]

1.0 ISSUE

1.1 On 27 June 2012, a new duty was placed on local authorities to consider and either accept, accept with modifications, or reject expressions of interest from “Relevant Bodies” who wish to run a Council service. If the expressions of interest to run Council services meet certain criteria laid down in the Localism Act 2011 (LA 2011) and subsequent Regulations, the Local Authority must accept the expression of interest and run a procurement exercise. This is known as the “Community Right to Challenge” (CRtC).

2.0 RECOMMENDATION(S)

2.1 That Finance and Governance Committee approves the Council’s Community Right to Challenge Protocol and Appendices.

3.0 BACKGROUND

3.1 The Delegated Services Protocol

Last year the Council developed a Delegated Services Protocol for the delegation of Council-run services to Parish Councils, which means the Council is well placed to respond to the requirements of the CRtC. A total of 3 formal ‘Expressions of Interest’ were received under the Delegated Services Protocol, although none of these progressed to formal Business Cases. As part of the Delegated Services Protocol, ‘Asset Registers’ were provided to applicants, these detailed the level of service currently provided by the Council in terms of activities carried out / time spent / cost / equipment / service standards etc. The Asset Registers helped Applicants make informed decisions about whether they wanted to continue to the Business Case stage were resource intensive for the Council to produce but were a helpful tool in enabling Parish Councils to establish how realistic it was to run a District Council service.

3.2 The CRtC will require a different process and specific timescales to be followed and will broaden who is able to apply for service delegation. Therefore, although we can apply lessons learnt from the Delegated Services Protocol, in effect a new CRtC Protocol is required to replace the Delegated Services Protocol.

3.3 How the Community Right to Challenge works

“A Relevant Body” includes voluntary and community bodies; charitable bodies; parish councils; and 2 or more Council employees, all of which can submit a written expression of interest (EoI) to the Council to run all or part of a Council service. The

Council must contact the group and let them know within 30 days of receipt of an expression of interest (or within 30 days following the end date of the window opportunity) when a final decision will be made. The Council must specify the minimum and maximum period that it will elapse between the Council's decision to accept an expression of interest and the date on which a procurement exercise will begin.

- 3.4 The Council must consider the expression of interest and, if it is accepted, should begin a procurement exercise. If it is rejected, the Council must provide the community group written reasons for the decision and publish the notification on the website. If the Council believes that the expression of interest could be accepted with some modifications, the group will be contacted to discuss whether those modifications are acceptable. A modification can only be made if the community group agrees to the modification.
- 3.5 If a service is already run under contract by a third party, an expression of interest can still be submitted by a community group. If a "window to submit expression of interests" has been agreed then expressions of interest can only be submitted within the window time period (see paragraph 4).
- 3.6 Guidance is provided in the Regulations and detailed in the Council's Community Right to Challenge Protocol with respect to the validity of the expression of interest and potential grounds for rejection. Certain functions are excluded such as the determination of planning applications, although the processing of such applications could be included in the Community Right to Challenge. There is no provision for an appeal against the Council's decision to reject an expression of interest within the LA 2011 or the Regulations the only route to challenge a decision would be way of judicial review.
- 3.7 Consulting on the Draft CRtC Protocol
The Council consulted with Parish Councils and key Community organisations on the draft CRtC Protocol and also published the consultation on the Council's website. A summary of the responses as follows:
- 5 Parish Councils and Cambridgeshire ACRE responded.
 - The Protocol in general terms was accepted.
 - The proposed asset register was felt as important by all - but it was suggested that the name should be changed to 'service specification' to avoid confusion with another community right contained within the LA2011 known as the Community Right to Bid / Assets of Community Value. It was also proposed that the costs of training to take over a service should be included. It was also felt by the City of Ely Council that the asset register should be available prior to an expression of interest being prepared.
 - ACRE felt that the window of opportunity may be inadequate and suggested two windows per year. The City of Ely Council felt that the proposed timescale was too tight and want an early conversation stage built into the Protocol prior to the expression of interest.
 - ACRE questioned whether the District Council would be offering advice to assist potential applicants. They also felt it would be helpful if we could provide examples of what 'social, environmental or economic benefits' might be.

4.0 ARGUMENTS/CONCLUSIONS

- 4.1 The Regulations and Statutory Guidance make no reference to the production of an asset register / service specification (as in ECDC's current Delegated Services Protocol). Although the asset registers do take Officer time to compile, they provide prospective applicants of the current service standards/costs that would have to be met if the service was taken over. This has meant in some cases that, once the asset register was provided, some Parish Councils withdrew their expression of interest.
- 4.2 As a result of consultation feedback on the draft Protocol, the name 'Asset Register' has been changed to 'Service Specification' to avoid confusion with the terminology around Assets of Community Value. However, given the large amount of work involved in developing a Service Specification, it would not be cost effective to undertake this work prior to an expression of interest being submitted. It is likely that there would be lack of clarity prior to an expression of interest being submitted that may mean the Service Specification would be inaccurate and would require re-writing upon receipt of the expression of interest.
- 4.3 The proposed approach set out in the CRtC Protocol is therefore to have an 'Expression of Interest' form listing the requirements set out within the Act, but then allow time within the process for the Council to produce a Service Specification. The Service Specification would be sent with a covering letter asking that the relevant body (i.e. the applicant) confirms their wish for ECDC to formally consider their EoI based upon the information they have received in the Service Specification.
- 4.4 Given that an expression of interest may proceed to a procurement exercise, there could be issues of bias and pre-determination if an Officer has effectively helped them to prepare the bid by providing advice and guidance. Therefore, there is no proposed pre-expression of interest 'discussion stage' in the CRtC Protocol.
- 4.5 'Windows of opportunity' to submit an Expression of Interest:
It is proposed that a window to receive expressions of interest should be set to allow the Council to manage workloads and build any delegations/contract arrangements into the service planning process (see Appendix B of Protocol). On the basis detailed within Appendix B, the Council would be open for EoI submission in September 2013 with, in theory, any successful challenge and procurement exercise leading to change of delivery in April 2014 (this assumes that the maximum timescales are utilised). It is proposed that the Council sets a two month period for the expression of interest to be received.
- 4.6 By necessity the process must fit in with the Council's budget setting process, with any significant changes in service delivery being managed accordingly. Thus the procurement exercise must be complete and the new arrangements in place ready for the start of a new financial year.
- 4.7 This timetable would form the basis of an annual cycle of possible expressions of interest submitted, responses and procurement exercises. As the use of this power

evolves around the country and in light of any local challenges the Council may need to amend the protocol in the future.

- 4.8 Examples of what is meant by “social, economic and environmental benefits” are included within the Statutory Guidance at section 4 and have been included within the Council’s Protocol on p4 and included within the expression of interest form at section 2a.
- 4.9 Services contracted out
For services where a contract with a third party organisation is already in place, the Council must still consider an expression of interest. If the expression of interest meets the requirements and is accepted, the contract must be re-tendered.
- 4.10 There may be a financial penalty for ending an existing contract early and re-tendering is likely to incur significant officer resources. This will need to be taken into consideration when assessing how an expression of interest “will promote or improve the social, **economic** or environmental well-being of the area”.
- 4.11 Section 6.15 of the Statutory Guidance (published in June 2012) states that the Local Authority will have to comply with its best value duty when procuring services. This duty will be given due consideration if a contract is only just beginning or is mid-way through a long tender period. A refusal on this basis has not been tested.
- 4.12 Services already subject of a procurement exercise
If the relevant service is already the subject of a procurement exercise, the Council can refuse the expression of interest. This is a specific ground for refusal within the Regulations.
- 4.13 Procedure for handling expressions of interest
It is proposed that expressions of interests are received and checked against the basic requirements (i.e. that it’s from a Relevant Body and is in writing and was received within the window timeframe) set out in section 81(1) LA 2011 by the Deputy Chief Executive. If the expression of interest meets these requirements, further checks and consideration will be made by the Deputy Chief Executive and the appropriate Head of Service. A report will be prepared with a recommendation for approval (with or without modifications)/refusal going to Scrutiny Committee, followed by a report to Finance and Governance Committee.
- 4.14 This approach would comply with the Part 4, Section 5 of the Councils Constitution which specifies that major service contracts should be considered by Scrutiny Committee, and takes this further, requiring that all contracts awarded as a result of the Community Right to Challenge would be scrutinised regardless of the value of the contract.
- 4.15 There is an option to take the expression of interest to the Committee to which the service area would normally report, although this would add additional delay in decision making. However, this may be preferable particularly if the expression of interest is for a large service, the delegation of which would be critical for the continuation of a department currently running the service.
- 4.16 Advertising for tenders and quotations

Part 4, Section 5, 6.1, of the Council's Constitution 'Contract Procedure Rules', states that Open Tenders and Quotations with an aggregate value of £50,001 and above to EU threshold "notice can be given in one or more newspapers and/or in an appropriate trade journal and must be placed on the Council's website. The notice shall state the nature and purpose of the contract, where further information and documentation can be obtained, and state the closing date for the process".

Given the CRtC is seeking to encourage greater diversity of service provision and greater community involvement in the delivery of services, *all* tenders and quotations being invited as a result of CRtC will be advertised on the Councils website.

5.0 FINANCIAL IMPLICATIONS

5.1 The receipt and assessment of a small number of expressions of interest could be managed within existing staff resources, based on the experience of dealing with requests resulting from the Service Delegation Protocol. If more expressions of interest are received, there may be a need for increased staff resource in the future.

5.2 If an expression of interest triggers a procurement exercise, there will be costs to the Council of running the procurement exercise, although these may be offset to some extent by savings in the running of the service. At this stage, it is difficult to make cost estimates without knowing the extent to which the right is likely to be used.

5.3 An Equality Impact Assessment (INRA) is attached at Appendix 2.

6.0 APPENDICES

6.1 Appendix 1 - Delegated Service Protocol and Appendices.

6.2 Appendix 2 - INRA

Background Documents

S81 – 86 Localism Act 2011

Community Right to
Challenge Statutory Guidance
June 2012

The Community Right to
Challenge (Fire and Rescue
Authorities and Rejection of
Expressions of Interest)
(England) Regulations 2012
(2012/1647)

The Community Right to
Challenge (Expressions of
Interest and Excluded
Services) (England)
Regulations 2012
(2012/1313)

Location

Room FF115
The Annexe
ECDC

Contact Officer

Julie Cornwell
Partnerships Officer
(01353) 616352
E-mail: julie.cornwell@eastcambs.gov.uk



Community Right to Challenge Protocol

1. Introduction

The Localism Act 2011 introduces 'The Community Right to Challenge' which enables relevant bodies¹ (see paragraph 3 definition) to express an interest in running a local authority service². This protocol outlines the process for those relevant bodies to exercise the Community Right to Challenge by submitting an expression of interest (EoI) in providing or assisting in providing a service on behalf of East Cambridgeshire District Council (ECDC).

Key Terms:

- LA 2011 means Localism Act 2011
- Open Public Services White Paper means Community Right to Challenge, Department for Communities and Local Government, September 11 found at <http://files.openpublicservices.cabinetoffice.gov.uk/OpenPublicServices-WhitePaper.pdf>
- Statutory Guidance means Community Right to Challenge Statutory Guidance June 2012 paragraph 1.5-1.8 found at <http://www.communities.gov.uk/documents/localgovernment/pdf/2168126.pdf>
- EoI Regulations means The Community Right to Challenge (Expressions of Interest and Excluded Services)(England) Regulations 2012
- Rejection Regulations means The Community Right to Challenge (Fire and Rescue Authorities and Rejection of Expressions of Interest) (England) Regulations 2012

2. Purpose of delegating services

The Government sets out the core principles of opening up the commissioning process and decentralisation in the Open Public Services White Paper³. A key objective is to break down barriers which prevent Councils, charities, social enterprises and voluntary groups working together and sharing responsibilities and budgets for the overall benefits of the community. The provisions in the LA 2011 are designed to encourage new ways of providing or transforming public services that are more effective and cost less to run.

ECDC acknowledges that parish councils are the grass-roots level of local government. They offer a means of decentralising the provision of certain services and of revitalising local communities. Similarly, the voluntary and community sector already play a vital role in identifying needs and delivering services for the benefit of the local community.

3. Who can ask to run or help to run services

Any relevant body can approach ECDC to run or help to run a service it provides. A "relevant body" are those bodies entitled to submit an EoI to ECDC and include:

- a) a voluntary or community body,
- b) a body of persons or a trust which is established for charitable purposes only,
- c) a parish council,

¹ Section 81(6)(a)-(e) LA 2011

² Open Public Services White Paper.

³ Open Public Services White Paper

APPENDIX 1

- d) in relation to a relevant authority, two or more employees of that authority, or
- e) such other person or body as may be specified by the Secretary of State by regulations.

A **voluntary body**⁴ means a body, other than a public or local authority, the activities of which are not carried on for profit. However, the making of a surplus does not in itself preclude a body from applying, so long as that surplus is used for the purpose of those activities or invested in the community. This therefore includes organisations such as industrial and provident societies (co-operatives and community benefit companies) and community interest companies⁵.

A **community body**⁶ means a body, other than a public or local authority, that carries on activities primarily for the benefit of the community.

Section 86(4) also allows for former employees in addition to a body formed wholly or partly by **employees of the relevant authority** to provide a relevant service on the authority's behalf. Employees are expected to form an employee-led structure to take on the running of services but are not expected to have finalised all of their arrangements before submitting an EoI⁷.

The term **Parish Council** includes town councils.

Relevant bodies may submit an EoI in partnership with other relevant bodies and non-relevant bodies. Incorporated joint ventures (the joint venture is a body in its own right) will need to meet the definition of a relevant body to submit an EoI. In the case of a contractual joint venture (co-operative arrangements between two parties that keep their separate identities), one or more bodies must meet the definition of a relevant body.

There is no requirement for a relevant body to have a local connection.

4.0 Services eligible for delegation under this Protocol

ECDC will consider a request to run or help run any 'relevant service', which it currently delivers (or is delivered by another party on its behalf) alone or in partnership with other relevant authorities. A "relevant service"⁸ is a service provided by or on behalf of that authority in the exercise of any of its functions in relation to England, other than a service of a kind specified in regulations made by the Secretary of State.

The right only applies to the provision of services. It does not provide for delegation of the functions of ECDC. For example Section 70(1) of the Town and Country Planning Act 1990 gives powers to local planning authorities to grant or refuse planning permission where a planning application is made to the authority. The right does not allow for the function of determining planning applications to be provided by a third party, but it would allow for the processing of the application (not the decision) to be carried out by a third party.

If any services that are currently shared, jointly commissioned or jointly provided by ECDC and other relevant authorities, ECDC will agree with its partners the timescales and arrangements for considering and responding to an EoI and carrying out a procurement exercise for services. These details will be provided in writing upon receipt of an EoI, and may necessarily be longer than the timescales outlined in the process chart.

⁴ Section 81(7) and (8) LA 2011

⁵ Statutory Guidance paragraph 1.5-1.8

⁶ Section 81(9) LA 2011

⁷ Statutory Guidance paragraph 1.12

⁸ Section 81(5) LA 2011

APPENDIX 1

5.0 Excluded services

Until 1st April 2014 services commissioned in conjunction with one or more health services or a relevant service commissioned by a NHS body on behalf of District Council are excluded⁹.

A relevant service commissioned or provided by a relevant authority in respect of a named person with complex individual or social care needs are also excluded. This includes direct payments where services are commissioned and managed by the individuals in receipt of the care¹⁰.

6.0 Eol requirements

ECDC will accept an Eol under the Community Right to Challenge annually between 1st September and 30th November, commencing on 1 September 2013.

Whilst ECDC will aim to avoid a disproportionate burden on relevant bodies, a sufficient level of information is required to ensure that an Eol complies with the requirements specified in section 81 (1) of the LA and Schedule 1 of the Eol regulations¹¹.

ECDC will request additional information if it feels there is not enough detail provided to enable it to make a decision. The provision of the additional information is **optional** and if not provided does not mean the Eol will not be considered. In this case ECDC will consider the Eol on the information provided. It should be noted that ECDC has a right to refuse applications where it considers the Eol "is in a material particular inadequate or inaccurate"¹².

An Eol must be submitted in writing¹³ and ECDC requires the Eol to be submitted on the 'Eol' form provided (at Appendix A).

The Eol must contain¹⁴:-

- 1. Where the relevant body proposes to deliver the relevant service as part of a consortium or to use a sub-contractor for delivery of any part of the relevant service, the information in paragraphs 2 and 3 must be given in respect of each member of the consortium and each sub-contractor as appropriate.**
- 2. Information about the financial resources of the relevant body submitting the expression of interest.**
- 3. 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.**
- 4. Information about the relevant service sufficient to identify it and the geographical area to which the expression of interest relates.**

⁹ Expressions of Interest Regulations 2012 Schedule 2 paragraph 2 and 3

¹⁰ Statutory Guidance paragraph 2.11

¹¹ Expressions of Interest Regulations 2012 Schedule 1

¹² Rejection Regulations 2012 Schedule Paragraph 2

¹³ Section 81(1)(b) LA 2011

¹⁴ Expressions of Interest Regulations 2012 Schedule 1

APPENDIX 1

5. 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:

- (a) How the provision or assistance will promote or improve the social, economic or environmental well-being of the relevant authority's area¹⁵; and**
- (b) How it will meet the needs of the users of the relevant service.**

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

The ECDC 'Eol' form covers all of these points and requires the signature of the Chair or the Authorised person of the relevant body on a copy of the minutes of the meeting at which the decision was taken to submit an Eol.

7.0 Consideration of an Eol

When ECDC receives an Eol for service delegation from a relevant body it will be acknowledged and then:

- a) accept the Eol, or
- b) reject the Eol, or
- c) modify the Eol if it is felt that it would not otherwise be capable of acceptance and the relevant body agrees to the modification.

Determination of the Eol will under normal circumstances take no more than ten months and will be considered in the first instance by the Council's Scrutiny Committee, then to the Committee to which the service reports, and then to the Finance & Governance Committee for decision, following the process outlined in Appendix B.

If ECDC believes an Eol has the potential to be accepted (i.e. it meets all of the requirements and none of the grounds to be rejected), the relevant body will be provided with a 'Service Specification' for the service under consideration. This could include details such as current staffing levels, the service standards and the cost of providing the service.

Upon receipt of the 'Service Specification', the relevant body has 6 weeks to consider whether they still wish their Eol to be considered. During this time the relevant body may wish to contact the Council for further clarification regarding the Eol for example, whether TUPE legislation applies and/ or any pension implications of transfer.

By the end of the 6 weeks the relevant body must confirm in writing, their continued interest in exercising their Community Right to Challenge. Failure to do so will be regarded as a withdrawal of the Eol. Any future Eol submissions will then be considered during the next window of opportunity (i.e. the following September - November).

If the relevant body wishes to continue with the application, the District Council may consult with service users and the wider community. This is to ensure that the potential changes to service provision would have the support of those most likely to be affected and to assess the level of impact that the changes could have on differential groups, as per the Equality

¹⁵ The Statutory Guidance gives examples such as creating local jobs / improving local skills and volunteering opportunities / or improving environmental conditions.

APPENDIX 1

Act 2010 and the Equality Standard for Local Government. Any consultation process would be expected to take no more than 6 weeks.

ECDC will notify the applicant of the period of time it will take to make a decision on the EoI in writing within 30 days after the close of the period within which EoI applications are invited (i.e. before 31st December), as detailed at Appendix B. If the decision is to refuse the application, ECDC will specify the reasons for the decision and publish the decision on the Councils website¹⁶.

If ECDC accepts the EoI it will carry out a procurement exercise relating to the provision of that service in accordance with the Council's Constitution and Contract Procedure Rules. The body expressing the interest is not guaranteed to take over the service and whilst only "not for profit" bodies can be the lead body to submit an EoI, any subsequent procurement process is open to anyone, including private companies and/ or existing contractors.

The procurement process resulting from the acceptance of any expression will start no sooner than three months and no later than six months following acceptance of the EoI. The length of this period reflects the varying nature, scale and complexity of the services that may be procured and aims to allow relevant bodies the time they need to prepare to compete in the procurement exercise.

ECDC will have to consider:

- whether the EoI meets the requirements at 6.0 above.
- Whether there are grounds for an EoI to be rejected as detailed at 8.0 below.

8.0 Grounds whereby an EoI may be rejected

ECDC can reject an EoI if any of the following grounds apply:¹⁷

- 1. The EoI is not submitted by a relevant body and is not in writing.**
- 2. The relevant body provides information in the EoI, which in the opinion of ECDC, is in a material particular inadequate or inaccurate.**
- 3. ECDC considers, based on the information in the EoI, that the relevant body or, where applicable-**
 - (a) any member of the consortium of which it is a part, or**
 - (b) any sub-contractor referred to in the EoI,****is not suitable to provide or assist in providing the relevant service.**
- 4. The expression of interest relates to a relevant service where a decision, evidenced in writing, has been taken by the relevant authority to stop providing that service.**
- 5. The EoI relates to a relevant service -**
 - (a) provided, in whole or in part, by or on behalf of the relevant authority to persons who are also in receipt of a service provided or arranged by an NHS body which is integrated with the relevant service; and**
 - (b) the continued integration of such services is, in the opinion of the relevant authority, critical to the well-being of those persons.**

¹⁶ Section 6, Statutory Guidance

¹⁷ Rejection Regulations 2012.

APPENDIX 1

6. The relevant service is already the subject of a procurement exercise.
7. ECDC and a third party have entered into negotiations for provision of the service, which negotiations are at least in part conducted in writing.
8. ECDC has published its intention to consider the provision of the relevant service by a body that 2 or more specified employees of that authority propose to establish.
9. ECDC considers that the expression of interest is frivolous or vexatious.
10. ECDC considers that acceptance of the expression of interest is likely to lead to contravention of an enactment or other rule of law or a breach of statutory duty.

9.0 Modifying an Eol

If ECDC believes it would otherwise reject an Eol, the Council may seek instead to agree to it being modified. If an agreement cannot be reached, the Eol may be rejected.

10.0 The Procurement exercise

If ECDC accepts an Eol it will carry out a procurement exercise for the service. This exercise will have regard to the value and nature of the contract that may be awarded. ECDC will need to comply with procurement law and the exercise will be carried out in accordance with Part 4, Section 5 of the Councils Constitution 'Contract Procedure Rules'.

Eols for services already the subject of a procurement exercise can be refused.

Eol's will be considered where ECDC already has a contract with a third party to provide that service. However, it should be noted that the Council has an obligation to consider whether it would be 'best value' to re-tender for a service that is mid-way through a contract. This is because ending the contract early may incur financial penalties in addition to the considerable resource required to run a tender exercise.

The economic benefits of re-tendering a service or going out to tender for the first time must be considered by ECDC. The Council has an obligation to consider whether both expressions of interest and procurement exercises would promote or improve the economic, social or environmental well-being¹⁸ of the District.

ECDC will seek to assess this through specific questions within the Eol and may also include social clauses in contracts, provided they comply with the law applying to the awarding of contracts.

ECDC publishes details of all upcoming tenders and contracts awarded on the Council's website <http://www.eastcamb.gov.uk/east-camb-district-council/contract-opportunities>. This will include all of those procurement exercises carried out as a result of an Eol being accepted.

ECDC will follow the Contract Procedure Rules set out in Part 4, Section 5 of the Constitution with regards to advertising for tenders and quotations. Where the law allows,

¹⁸ Under the Public Service (Social Value) Act 2012 which received Royal Assent on 12/02/2012, the Council will, once enacted, have to consider this as part of the procurement process and how the area will be improved by the procurement of a service and how the authority might act to secure that improvement.

APPENDIX 1

the tender and contract details will be circulated to the voluntary and community sector so that they are aware of the opportunities to participate in the procurement process.



Right to Challenge Expression of Interest

The purpose of this form is to assist you in submitting an Expression of Interest (EOI) under Part 5, Chapter 2 of the Localism Act 2011, and The Community Right to Challenge (Expressions of Interest and Excluded Services)(England) Regulations 2012.

You may attach or include other relevant documents to support your application.

Please return this form to:

Andrew Killington
Deputy Chief Executive
East Cambridgeshire District Council
The Grange
Nutholt Lane
Ely
Cambs
CB7 4EE

E-mail: andrew.killington@eastcambs.gov.uk

Please note:

The Freedom of Information Act 2000 (FOIA) applies to East Cambridgeshire District Council and therefore information provided by you may have to be disclosed by us in response to a request unless it is decided that a statutory exemption applies.

If the service you have expressed an interest in is currently contracted out to another provider the Council may have to disclose information to enable an accurate Service Specification to be compiled.

PART A: About Your Organisation

This Part A establishes basic facts about you and your organisation. **Please complete this section for each member of your consortium and / or any sub contractors.**

A1. Your Organisation

Name of the organisation in whose name the EOI is submitted:		
Contact name for enquiries about this EOI		
Contact position (Job Title):		
Address:		
Post Code:		
Telephone number:		
Fax number:		
E-mail address:		
Registered address if different from the above:		
Post Code:		
Is your organisation: (Please tick one)	i) a voluntary or community body?	
	ii) a body of persons or a trust which is established for charitable purposes only?	
	iii) A parish, town or City Council	
	iv) Two or more employees of East Cambridgeshire District Council?	
If your organisation is a registered charity, please provide a valid, current registration number		
Name of (ultimate) parent company (if this applies):		

A2. Your Partners

If you intend working with other organisations to deliver this service please complete the table below, providing details of each organisation, their role in delivering the service and the intended relationship between you (as the Lead Body) and the other organisation(s) listed.

Organisation	Intended Role and proportion of the service for which they would be responsible	Relationship to Lead Body

PART B: Financial Resources

The Council will conduct a risk assessment based on your financial standing. At the Council's discretion we may reject your expression of interest if it is considered that you or one of your partners is not suitable to provide this service. **You must provide this information for yourself and for any members of your consortium and/or sub contractors.**

B1	This section asks for some financial figures about your organisation (and the ultimate holding company if there is one). Please provide the figures for the two most recent years (if available).		
B1.1	Is your organisation a formal legal entity?	Yes/no	
B1.2	Please indicate the turnover of the organisation for the past two years. NB: Charities should include their reported Income figure	£ for year ended	
		£ . for year ended	
B1.3	Has your organisation met the terms of its banking facilities and loan agreements (if any) during the past year?	Yes/no	
B1.4	If "no", what were the reasons, and what has been done to put things right?		
B1.5	Has your organisation met all its obligations to pay its creditors and staff during the past year?	Yes/no	
B1.6	If "no", what were the reasons, and what has been done to put things right?		
B1.7	What is the name and branch of your bankers (who could provide a reference)?	Name	
		Branch	
		Contact details	
B1.8	If asked, would you be able to provide at least one of the following?		
	<i>A copy of your most recent audited accounts (for the last two years if this applies).</i>	Yes/no	
	<i>A statement of your turnover, profit and loss account and cash flow for the most recent year of trading.</i>	Yes/no	
	<i>A statement of your cash flow forecast for the current year and a bank letter outlining the current cash and credit position.</i>	Yes/no	

Part C. Your Expression of Interest (EOI)

1. The Service

Please describe here the service for which you are expressing interest. Your description should be as clear and detailed as possible to enable the panel to understand which element(s) you are expressing interest in.

If your expression **does not** seek to provide the service to/for the whole of East Cambridgeshire, please give details of the geographical area that it does apply to.

2. Your service Proposal:

Please detail here your proposal for providing this service. In particular this should cover:-

2a: How your EOI will promote or improve the social, economic or environmental well being of East Cambridgeshire and the people living therein (Section 83(8) of the Localism Act)

(The Statutory Guidance gives examples: creating local jobs / improving local skills and volunteering opportunities / or improving environmental conditions. This is not an exhaustive list)

2b: How you will meet the needs of service users

(The Statutory Guidance gives an example of a survey of service users)

2c: Why you consider you and any members of your consortium or sub-contractors are suitable to provide or assist in providing the service. This could also include:-

- **Your relationship with the service currently**
- **Any relevant experience you have appropriate to service provision**
- **The key stakeholders you have identified and how you intend to manage them**
- **How any partners or consortium members will enable you to deliver the service and the benefits they will bring**

3. Capability to Provide

Please explain here with supporting evidence how you and any members of your consortium or sub-contractors will be capable of providing or assisting in the provision of the service by the time of any procurement exercise.

4. ECDC Employees

If your organisation consists of employees of East Cambridgeshire District Council please describe how you will engage other employees who are affected by your expression of interest.

5. Your Financial Proposal:

Please describe here how you and any members of your consortium or sub-contractors intend to ensure there are sufficient funds to finance service provision and the steps you will take to protect those funds. Please also include how the proposal will support good value for money for the people within East Cambridgeshire.

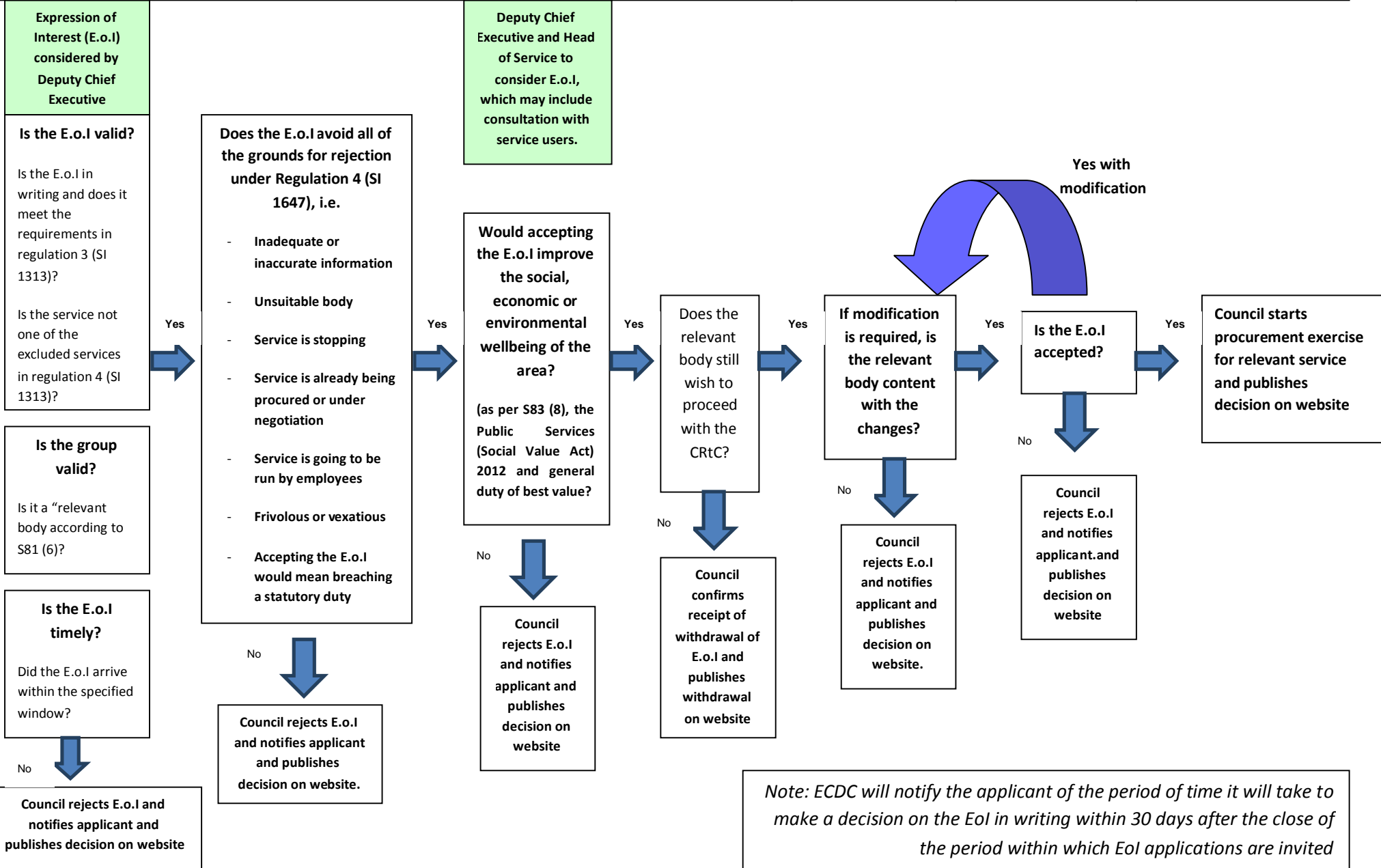
Declaration

- 1) We certify that the information included in this Expression of Interest is true to the best of our knowledge and belief.
- 2) We accept the FOIA conditions set out at the beginning of this EOI.
- 3) We certify that we have not done and undertake that we will not at any time offer or agree to pay or paying or giving any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done any act or omission in relation to this expression of interest.
- 4) We certify that to the best of our knowledge, this expression of interest and any accompanying information supplied, complies with the requirements laid down in respect of Part 5 Chapter 2, the 'Community Right to Challenge' under the Localism Act 2011 and any subsequent Regulations issued by Statutory Instrument or other regulatory method.
- 5) We certify that the decision to submit an EOI was taken at an official meeting of the relevant body and a copy of the minutes of the meeting at which the decision was taken, signed by the Chair or the Authorised person is enclosed.

FORM COMPLETED BY

Name:	
Position (Job Title):	
Date:	
Telephone number:	
Signature:	

Sept – Nov Window for E.o.I to be submitted	Dec – March Consider E.o.I	Dec - March Council aims to provide a Service Specification	Dec - March Modify E.o.I if necessary	April - June E.o.I taken through Committee process	July - April Procurement Exercise
-------------------------------------------------------	--------------------------------------	-----------------------------------------------------------------------	-------------------------------------------------	--------------------------------------------------------------	---------------------------------------------



Note: ECDC will notify the applicant of the period of time it will take to make a decision on the EoI in writing within 30 days after the close of the period within which EoI applications are invited

Impact and Needs/Requirements Assessment (INRA)

Name of Policy:	Community Right to Challenge
Lead Officer (responsible for assessment):	Julie Cornwell, Partnerships Officer
Department:	Community Services
Others Involved in the Assessment (i.e. peer review, external challenge):	Sarah Burns, Legal Services
Date INRA Completed:	31/10/12

‘Policy’ needs to be understood broadly to include all Council policies, strategies, services, functions, activities and decisions.

(a) What is the policy trying to achieve? i.e. What is the aim/purpose of the policy? Is it affected by external drivers for change? What outcomes do we want to achieve from the policy? How will the policy be put into practice?

On 27 June 2012, a new duty was placed on local authorities to consider and either accept, accept with modifications or reject expressions of interest from “Relevant Bodies” who wish to run a Council service. If the expressions of interest to run Council services meet certain criteria laid down in the Localism Act 2011 (LA 2011) and subsequent Regulations, the Local Authority must accept the expression of interest and run a procurement exercise. This is known as the “Community Right to Challenge” (CRtC). The Council has developed a process to meet the requirements set out in the Localism Act. This is called the Community Right to Challenge Protocol.

(b) Who are its main beneficiaries? i.e. who will be affected by the policy?

The main beneficiaries are the relevant bodies as defined in the LA 2011. “A Relevant Body” includes voluntary and community bodies; charitable bodies; parish councils; and 2 or more Council employees, all of which can submit a written expression of interest (Eoi) to the Council to run all or part of a Council service.

Anyone who uses Council services may also be affected by any change in service provision that comes about as a result of the CRtC.

(c) Is the INRA informed by any information or background data (quantitative or qualitative)? i.e. consultations, complaints, applications received, allocations/take-up, satisfaction rates, performance indicators, access audits, census data, benchmarking, workforce profile etc.

The Council consulted with Parish Councils and key Community organisations on the draft CRtC Protocol and also published the consultation on the Council's website. A summary of the responses as follows:

- 5 Parish Councils and Cambridgeshire ACRE responded.
- The Protocol in general terms was accepted.
- The proposed asset register was felt as important by all - but it was suggested that the name should be changed to 'service specification' to avoid confusion with another community right contained within the LA2011 known as the Community Right to Bid / Assets of Community Value. It was also proposed that the costs of training to take over a service should be included. It was also felt by the City of Ely Council that the asset register should be available prior to an expression of interest being prepared.
- ACRE felt that the window of opportunity may be inadequate and suggested two windows per year. The City of Ely Council felt that the proposed timescale was too tight and want an early conversation stage built into the Protocol prior to the expression of interest.
- ACRE questioned whether the District Council would be offering advice to assist potential applicants. They also felt it would be helpful if we could provide examples of what 'social, environmental or economic benefits' might be.

(d) Does this policy have the potential to cause an impact (positive, negative or neutral) on different groups in the community, on the grounds of (please tick all that apply):

Ethnicity
Gender
Disability

Age
Religion and Belief
Sexual Orientation

Please explain any impact identified (positive, negative or neutral): i.e. What do you already know about equality impact or need? Is there any evidence that there is a higher or lower take-up by particular groups? Have there been any demographic changes or trends locally? Are there any barriers to accessing the policy or service?

There will be no differential impact on any of the groups listed above. If a Council service is delivered by a new service provider anyone using the service may be affected – either in a positive or negative way depending on whether the contractor meets its obligations as set out in the contract.

It is unlikely that any group will be able to take on the service and run it as it is currently run as they will need to demonstrate some other social / economic / environmental benefit change to way that they will run the service in order to trigger the right to challenge. However, if an Expression of Interest is accepted and the Council runs a procurement exercise, the new contractor will only have to run the service at a minimum at the standards in which the Council has been running them as they are not obligated to include the changes proposed by the community group who trigger the right to challenge in the first place.

(e) Does the policy have a differential impact on different groups?

YES/NO/Not Applicable
YES/NO/Not Applicable

(f) Is the impact adverse (i.e. less favourable) on one or more groups?

YES/NO/Not Applicable
YES/NO/Not Applicable

(g) Does it have the potential to disadvantage or discriminate unfairly against any of the groups in a way that is unlawful?

YES/NO/Not Applicable

(h) What additional information is needed to provide a clear picture of how the activity is impacting on different communities and how will you collect this information, i.e. expert groups, further research, consultation* etc? Where there are major gaps in information that cannot be addressed immediately, these should be highlighted in your recommendations and objectives at the end of the INRA.

<p>No additional information is needed. The Council is required to follow the regulations and has developed a Protocol to do this that has been out to consultation and considered by many officers internally to try and anticipate any issues that may arise. Until we receive an Expression of Interest and run that through the Protocol it is difficult to identify if any improvements are needed (or indeed possible under the legislation).</p>

* The Consultation Register is available to assist staff in consulting with the Council's stakeholders. If you are consulting on a new or revised policy contact the Principal HR Officer.

(i) Do you envisage any problems with these methods of information collection? i.e. not accessible to all, timescale not long enough to obtain all of the necessary information, translation facilities not available, insufficient resources etc.

<p>N/A</p>

(j) If it has been possible to collect this additional information, summarise the findings of your research and/or consultation (please use a separate sheet if necessary).

N/A

(k) What are the risks associated with the policy in relation to differential impact and unmet needs/requirements? i.e. reputation, financial, breach of legislation, service exclusion, lack of resources, lack of cooperation, insufficient budget etc.

There are no anticipated risks in relation to differential impact and unmet needs/requirements. The Council would be breaching legislation if it did not follow the requirements set out within the LA 2011. There is the potential for service users to benefit from an improved service under the CRtC. However, there is also the potential for service users to receive a worse service if the new service provider does not meet the service standards.

(l) Use the information gathered in the earlier stages of your INRA to make a judgement on whether there is the potential for the policy to result in unlawful discrimination or a less favourable impact on any group in the community, and what changes (if any) need to be made to the policy.

Option 1:	No major changes, the evidence shows no potential for discrimination.	X
Option 2:	Adjust the policy to remove barriers or to better promote equality.	
Option 3:	Continue the policy despite potential for adverse impact or missed opportunity to promote equality.	
Option 4:	Stop and remove the policy – if the policy shows actual or potential unlawful discrimination it must be stopped and removed or changed.	

(m) Where you have identified the potential for adverse impact, what action can be taken to remove or mitigate against the potential for the policy to unlawfully discriminate or impact less favourably on one or more communities in a way that cannot be justified? Include key activities that are likely to have the greatest impact (max. 6). Identified actions should be specified in detail for the first year but there may be further longer term actions which need to be considered. To ensure that your actions are more than just a list of good intentions, include for each: the person responsible for its completion, a timescale for completion, any cost implications and how these will be addressed. It is essential that you incorporate these actions into your service plans.

N/A

This completed INRA will need to be countersigned by your Head of Service. **Please forward completed and signed forms to Nicole Pema, Principal HR Officer.**

All completed INRAs will need to be scrutinised and verified by the Council's Equal Opportunities Working Group (EOWG) and published on the Council's Intranet to demonstrate to local people that the Council is actively engaged in tackling potential discrimination and improving its practices in relation to equalities. Please be aware that you will be asked to attend a half-an-hour session to summarise the findings of the INRA to the EOWG Verification panel.

Signatures:

Completing Officer: _____ **Date:** _____

Head of Service: _____ **Date:** _____