

**TO: OVERVIEW AND SCRUTINY COMMISSION  
22 NOVEMBER 2012**

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**Community Right to Challenge  
Director of Corporate Services: Borough Solicitor**

**1 INTRODUCTION**

- 1.1 This report advises the Commission of the steps being taken to respond to the requirements of the Community Right to Challenge ("the Right"), discusses some implications for our procurement timetables and proposes a means of complying with those requirements while affording relevant bodies a proper opportunity to make Expressions of Interest in running services for the Council.

**2. RECOMMENDATION**

**That the Commission considers the proposals made in paragraph 3.5 of this report and expresses any views it has on those proposals**

**3 SUPPORTING INFORMATION**

- 3.1 The Commission received a report on the Right on 12<sup>th</sup> July. It was advised that the Right was created by the Localism Act 2011, and that a "relevant body", which is defined broadly as a voluntary or community body (and not for profit), a charitable trust, a Parish Council or an employee-led organisation led by two or more Council employees could submit an expression of interest to the Council, a relevant authority for the purposes of this part of the Act, to deliver relevant services on behalf of the Council. The Council is bound to consider an expression of interest, and if it decides to accept it must run a procurement exercise, open to other providers, for the provision of the service. The Council may only reject an expression on one of the limited grounds permitted by the Act.
- 3.2 The Council is permitted to set specified periods, or windows, during which it is willing to receive such expressions of interest for specified services. These windows can be timed to co-ordinate with existing procurement cycles. Specified periods must be published on the Council's website. If an expression of interest is made to the Council during a specified period, it must decide whether to accept or reject the expression and notify the body accordingly (the guidance makes provision for the Council to assist a relevant body to modify the expression so that it becomes acceptable). If an expression of interest is made to the Council outside of the specified period the Council may reject it on that basis (although it may wish to accept the expression, or suggest that the expression is made at a more suitable time).
- 3.3 The Council has taken some steps to enable it to comply with the spirit and requirements of the legislation. Our anticipated contract renewals up to 2018 have been identified and listed. A briefing about the right has been given by the Borough Solicitor to the Senior Leadership Group at a recent away day. A web page providing essential information about the right has been added to the Council's web site and contact details are provided to enable a relevant body either to make an expression of interest to the Council, or to engage with officers to hold informal discussions, and the author of this report has agreed to be a single point of contact to facilitate communication with those bodies.

## Unrestricted

- 3.4 If expressions of interest are not aligned with the Council's procurement and commissioning plans there is a risk to both the Council and the relevant bodies wishing to exercise the Right of wasting time and resources dealing with expressions which are inappropriate or inopportune. The Council must deliver value for money for taxpayers and residents as well as meeting its obligations under the legislation and affording genuine opportunities to relevant bodies for involvement in service delivery.
- 3.5 It is proposed to set out a timetable of the windows in which the Council will be prepared to consider expressions of interest and to align the window with planned procurements for the following year for services which are not currently outsourced or provided externally. We anticipate having a three month window commencing on 1<sup>st</sup> January and ending on 31<sup>st</sup> March each year. We also intend to publish the timetable of future contact renewals on the web site giving a similar window for a period of three months, ending one year before the renewal date of the contract to be renewed. This is to give sufficient time for all the procedural requirements of procurement to be undertaken, in the knowledge that a local community or voluntary organisation may wish to bid for a service. By these means we hope to ensure that the procurement resources available within the Council can accommodate all requirements without the necessity of engaging external resources to assist.
- 3.6 The detailed policy and procedures for compliance with the legislation remain to be fully developed, and the Commission is asked to give its views on the approach outlined above

## **4 EQUALITIES IMPACT ASSESSMENT**

- 4.1 Not needed for the purposes of this report

## **5 STRATEGIC RISK MANAGEMENT ISSUES**

- 5.1 None arise from this report

### Background Papers

Previous report to the Commission 12 July 2012

### Contact for further information

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