

Community Right to Challenge

1. Introduction

The community right to challenge provisions are contained in Part 5 of the Localism Act 2011 (“the Act”). The provisions give the right to certain prescribed bodies, namely voluntary and community groups, charities, parish councils and two or more existing employees of the authority (together referred to as “Relevant Bodies”) to submit an expression of interest (EOI) to the authority to provide, or assist in providing, a service that is currently provided either by or on behalf of the authority.

This right applies to services that are currently provided by the Council either directly or on its behalf in exercise of its functions.

The following services are excluded from the right:-

- A service commissioned in conjunction with one or more health services by the Council or by a NHS body under a partnership arrangement or acting jointly (these services are only excluded from the right until 1st April 2014);
- A service commissioned by an NHS body on behalf of the Council (these services are only excluded from the right until 1st April 2014);
- A service commissioned or provided by the Council in respect of a named person with complex individual health or social care needs.

If the EOI is accepted by the Council then a competitive procurement process will be undertaken for the relevant service.

2. Expressions of Interest – Time Period for Submission

Under Section 82 (2) of the Act, the Council is entitled to specify the periods of time during which EOI may be submitted.

The period of time for the submission of all EOI to the Council is **1st June to 31st July** during each financial year.

The Council will be entitled to reject any EOI that is submitted and/or received outside this specified period of time.

3. Expression of Interest – Submission Requirements

All EOI must be in writing and must comply with the requirements of the Act and the associated regulations.

In particular, all EOI must include the following:-

- Information about the financial resources of the Relevant Body submitting the EOI (together with each member of any proposed consortium and each proposed sub-contractor);
- Evidence to demonstrate that at the time of any future procurement process, the Relevant Body (together with each member of any proposed consortium and each proposed sub-contractor) will be capable of providing or assisting in providing the relevant service;
- Sufficient information about the relevant service to which the EOI relates to enable the Council to identify the service and the geographical area to which it relates;
- Information about the outcomes to be achieved by the Relevant Body in providing or assisting in the provision of the relevant service, including:-
 - (a) How the provision of the service by the Relevant Body would promote or improve the social, economic or environmental well-being of the City of Sunderland area; and
 - (b) How it would meet the needs of users of the service.
- Where the Relevant Body comprises existing employees of the Council, details of how the Body proposes to engage other employees of the Council who would be affected by the EOI.

4. Expression of Interest – Consideration

Following receipt of an EOI, the Council will on a case by case basis notify the Relevant Body within 30 days (from the end of the period specified in Section 2 above) of both the expected and maximum period of time for consideration and determination of the EOI.

On receipt of an EOI, the Council will initially check:-

- (a) whether or not the EOI has been submitted within the specified period of time; and
- (b) whether or not the EOI complies with the requirements of the Act and the regulations.

If the EOI does not comply with (a) and (b)), the Council is entitled to immediately reject the EOI.

The Council will then consider any valid EOI in accordance with the provisions of the Act, the regulations and the statutory guidance. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5990/2168126.pdf

In particular, the Council will consider whether acceptance of the EOI would promote or improve the social, economic or environmental well-being of the city of Sunderland area.

The Council will either accept or reject the EOI.

5. Acceptance of a an EOI- The Procurement Process

If the Council accepts an EOI then it will carry out a public procurement process in respect of a contract for the service to which the EOI relates. However, there may be legitimate reasons as to why other services not covered in the EOI also need to form part of this same contract.

This procurement process will be carried out in accordance with the procedures set out in the Council's Procurement Procedure Rules and the Public Contracts Regulations 2006 (if applicable).

The timing of the procurement process will be determined by the Council and will depend upon the duration of any existing third party contracts for the service, the nature, scale and complexity of the procurement, the need for relevant approvals and the need to ensure the Relevant Body and other bodies have a fair and reasonable opportunity to prepare to participate in the process.

6. EOI enquires

All EOI must be submitted in writing to the Corporate Procurement Team via the following email address;

Procurement@sunderland.gov.uk