

## PLYMOUTH CITY COUNCIL

**Subject:** Community Right to Challenge  
**Committee:** Cabinet  
**Date:** 16 October 2012  
**Cabinet Member:** Councillor Penberthy  
**CMT Member:** Adam Broome (Director for Corporate Services)  
**Author:** Tim Howes, Assistant Director for Democracy and Governance  
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**Ref:**  
**Key Decision:** No  
**Part:** I

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### **Purpose of the report:**

To recommend the detailed process for the administration of expressions of interest under the community right to challenge.

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### **Corporate Plan 2012 – 2015:**

The community right to challenge provides a mechanistic approach to forcing services to be tendered. It does not mean that those expressing an interest will win the tender. The statutory process indirectly supports the aim of the Council to ‘create a strong sense of togetherness and ownership of council supported services, amenities and assets, so that they can be more effectively and efficiently used and support the delivery of the city’s vision and growth agenda.’

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### **Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land**

The costs of administering the process will be absorbed within current resources. Additional resources will be required to undertake any procurement exercise resulting from the acceptance of an expression of interest.

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### **Other Implications: e.g. Child Poverty, Community Safety, Health and Safety, Risk Management and Equality, Diversity and Community Cohesion:**

None specifically at this stage.

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### **Recommendations & Reasons for recommended action:**

In considering expressions of interest under the community right to challenge it is recommended:

1. The Council receives expressions of interest for any service twice a year (in the months of February and August).
2. The expressions of interest are approved, rejected or amended by the Monitoring Officer in consultation with the Cabinet member for Cooperatives and Community Development. Where the expression of interest has a particular impact on a specific ward, then the ward councillors should also be consulted.

3. The expression of interest should include the following additional requests for information:
  - a. Explain how a local (city based) workforce would be maintained and guaranteed?
  - b. Identify what are the positive impacts to be brought to the local economy.
  - c. State where the contract would be managed from.
  - d. How would your bid ensure compliance with the Public Services (Social Value) Act 2012?
  - e. Please explain how you would support the Council's corporate plan and vision for the City.
  
4. The maximum response time for responding to expressions of interest will be 30 days from the end of February/August.
  
5. In setting the time for the commencement of the procurement exercise, the Council follow our current procurement rules which are appropriate for the particular expression of interest.

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**Alternative options considered and reasons for recommended action:**

A variety of options were considered as described in the supplemental report to the overview and Scrutiny Management Board and are set in later in this report.

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**Background papers:**

None

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**Sign off:**

Fin	mc1 213. 012	Leg	TH 0057	HR		Corp Prop		IT		Strat Proc	CP 296 14/9/12
Originating SMT Member Tim Howes											
Have you consulted the Cabinet Member(s) named on the report? Yes											

## **1.0 Introduction**

The Council's corporate plan says:

The Council has made an overriding commitment to become a Co-operative Council. This is about putting people in control of their own communities and the services they receive, as well as council staff having a stronger stake in delivery. It is about working together co-operatively.

The aim of the Council is to create a strong sense of togetherness and ownership of council supported services, amenities and assets, so that they can be more effectively and efficiently used and support the delivery of the city's vision and growth agenda. It is a concept that will involve residents, service users, staff, partners and members with a strong focus on people's personal development and having a greater say over service delivery and how money is spent.

Whilst it had been hoped that the community right to challenge might support these Council objectives. In fact, the right to challenge is a mechanistic process to put services out to tender with no guarantee that the community might gain from the process. Indeed the process is open for use as a 'stalking horse' by large companies and bypassing the community.

This report and the work of the Overview and Scrutiny Management Board have attempted to align this prescribed process as far as possible with the ethos of a co-operative council.

Cabinet will recall that the community right to challenge is a provision under the Localism Act 2011, which gives community and voluntary sector organisations and groups of council staff the right to challenge local authorities by putting forward an expression of interest in running Council services.

Cabinet first considered the community right to challenge on the 14<sup>th</sup> August 2012 where it was agreed:

- (i) An initial timetable to be published for the receipt of expressions of interest
- (ii) That any expressions of interest under the community right to challenge are not accepted until after the 5<sup>th</sup> November 2012

It was also agreed that the community right to challenge process would be subject to pre-decision scrutiny. That process was undertaken at the Overview and Scrutiny Management Board on the 5 September 2012 where Cllr Penberthy and Officers outlined a number of options for managing the community right to challenge process.

The report sets out the detailed administrative processes which were recommended by the Overview and Scrutiny Management Board for adoption by Cabinet.

## **2.0 The Process**

The Overview and Scrutiny Management Board looked at five specific areas, which are set out below.

## 1. The timetable for the receipt of expressions of interest

There are a number of options for a timetable:

- Have no timetable and take expressions for any service at any time
- Set specific dates for an expression of interest for any service
- Set specific dates for different services

Recommended the Council set specific dates for an expression of interest for any service

Some authorities have a single period (generally 3 months) once a year; others have two periods (of a month each) a year.

Recommended the Council set two one month periods a year in February and August for the Expression of interest in all services.

## 2. The Evaluation of expressions of interest

It is common practice for administrative processes to be undertaken by officers, for example, the evaluation of tenders. The evaluation of expressions of interests is a similar exercise but a political input would be helpful as a means of challenge.

Recommended, that the evaluation of expressions of interest (including their approval, rejection and amendment) is undertaken by the Monitoring Officer in consultation with the Cabinet member for Cooperatives and Community Development.

Where the expression of interest has a particular impact on a specific ward, then the ward councillors should also be consulted.

The Monitoring Officer would also seek advice from other officers including representatives from Finance, HR, Procurement, Property and others as appropriate to the particular expression of interest.

## 3. Does the Council want request additional information to be included in an expression of interest?

It is open to the Council to additional information, although under the law, the person or body submitting an expression of interest is not obliged to respond to them.

One area for further questioning surrounds the promotion of the social, economic or environmental well-being and how an expression of interest would comply with the Council's corporate plan and vision for the City.

Recommended that the following additional information is requested:

- Explain how a local (city based) workforce be maintained and guaranteed?
- Identify what are the positive impacts to be brought to the local economy
- State where the contract would be managed from
- How would your bid ensure compliance with the Public Services (Social value) Act 2012?
- Please explain how you would support the Council's corporate plan and vision for the City

4. Setting the maximum time for responding to an expression of interest

In the absence of additional resources to respond to any expressions of interest and officers will need the maximum time to respond. The maximum allowed time is, 30 days from the closing of the period for submissions of expressions of interest.

Recommended that the maximum time be allowed for a response which is currently 30 days.

5. What is the time period between accepting an expression of interest and the starting of the procurement exercise?

The time period before commencing a procurement exercise will depend on the type and complexity of the service involved, how it is packaged and what procurement regimes apply (e.g. do the EU rules apply?)

Recommended those submitting expressions of interest are informed that the Council will follow our current procurement rules which are appropriate for the particular expression of interest.