

COMMUNITY RIGHT TO CHALLENGE
(Report by the Overview and Scrutiny Panel (Economic Well-Being))

1. INTRODUCTION

- 1.1 At its meeting held on 4 October 2012, the Overview and Scrutiny Panel (Economic Well-Being) considered the report by the Head of Legal and Democratic Services outlining proposed arrangements to operate the new Community Right to Challenge. The Right to Challenge has been created by the Localism Act and introduces a right for defined organisations and persons to submit an expression of interest in taking over the provision of a service on behalf of the Council. The following paragraphs contain a summary of the Panel's discussions on the report.

2. THE PANEL'S DISCUSSIONS

- 2.1 In considering the content of the report, Members have raised a number of questions about the proposed process. In so doing, they have enquired whether there is a test for reasonableness which can be applied to an expression of interest and have been informed that there are no prescribed limits within the legislation. On the face of it the right to challenge could be a time consuming and resource intensive process. Members have also noted that in the case of an internal application being submitted in competition with an expression of interest from elsewhere, these will be judged independently against the criteria which has been defined as part of the procurement process.
- 2.2 In response to a question about the national situation and specifically whether other Authorities have been receiving a significant number of expressions of interest, Members have been informed that this does not appear to be the case at this stage.
- 2.3 In considering the grounds upon which the Council may reject a valid expression of interest, Members have queried whether the Council should specify the terms on which any interest may be considered vexatious or trivial. The Head of Legal and Democratic Services has explained that this reflects the wording of the Statutory Instrument and that there has been no Government guidance on the matter to-date. It will be a matter for the Council to interpret at the appropriate time and the view has been expressed that it is better to be less prescriptive in this case.
- 2.4 In view of the additional costs which may be incurred by the Council in dealing with the Community Right to Challenge', Members have questioned whether there is any funding currently included within the Council's Medium Term Plan for this purpose. There is currently no provision made. The need for additional resource will only become apparent in the light of experience. The comment has been made that this is a further example of Central Government passing down additional responsibilities without providing additional necessary funding.

- 2.2 In considering the recommendation within the report, Members have asked that the matters that are to be delegated and the process leading to a decision to be clarified for the Cabinet meeting.

3. CONCLUSION

- 3.1 Having concluded their discussions and noted that the procurement exercise has the potential to be a time consuming and costly exercise for the Council, the Panel has endorsed the recommendation that this matter be delegated to the Managing Directors.
- 3.2 The Cabinet is invited to consider the discussions of the Overview and Scrutiny Panel (Economic Well-Being) as part of their deliberations on this item.

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Background Documents

Report and Minutes of the meeting of the Overview and Scrutiny Panel (Economic Well-Being) held on 4th October 2012.