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| Subject: | Community Right to Challenge Policy | Status: | For Publication |
| Report to: | Policy Scrutiny Committee Cabinet | Date: | 11 th February 2013 13 th February 2013 |
| Report of: | Director for Business | Portfolio Holder: | Finance & Resources |
| Key Decision: | <input checked="" type="checkbox"/> Forward Plan <input checked="" type="checkbox"/> | General Exception <input type="checkbox"/> | Special Urgency <input type="checkbox"/> |
| Equality Impact Assessment: | Required: | Yes/No | Attached: Yes/No |
| Biodiversity Impact Assessment | Required: | Yes/No | Attached: Yes/No |
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| 1. | RECOMMENDATION(S) |
| 1.1 | That Policy Scrutiny consider the content of this report, policy document and supporting appendices in relation to the proposed Community Right to Challenge process and approve for recommendation to Cabinet that this is implemented. |
| 1.2 | That all future minor amendments to the policy to be delegated to the Director for Business in consultation with the Portfolio Holder. |

2. PURPOSE OF REPORT

- 2.1 To consult the Policy Scrutiny Committee on the development of the Community Right to Challenge policy and guidance for approval by Cabinet to implement.

3. CORPORATE PRIORITIES

- 3.1 The matters discussed in this report impact directly on the following corporate priorities:
- **Responsive and value for money local services** – responding to and meeting the different needs of customers and improving the cost effectiveness of services.

4. RISK ASSESSMENT IMPLICATIONS

- 4.1 All the issues raised and the recommendation(s) in this report involve risk considerations as set out below:
- Poor governance of the process and associated reputational risks.
 - Not carrying out local authority responsibilities from the Localism Act 2011.
 - Not providing responsive and value for money local services.
 - Not having a procedure in place to deal with Community Right to Challenge should a challenge or opportunity arise.

5. BACKGROUND AND OPTIONS

5.1 What is Community Right to Challenge?

- 5.2 As part of the government's Localism Act 2011 four new Community Rights were introduced. The Community Right to Challenge is one of these rights. The Right to Challenge gives local groups the opportunity to express their interest in taking over local services where they think they could do it differently or better. Community and voluntary sector organisations and groups of council staff have the right to 'challenge' local authorities by putting forward an expression of interest in running local services. The policy and guidance document in Appendix A sets out the Council's proposed process for the

Community Right to Challenge.

- 5.3 Under the Community Right to Challenge an Expression of Interest (EoI) to take on provision of a council service can be submitted. A successful challenge would result in the Council having to run an open competitive procurement exercise in which the challenger would be able to take part along with other interested organisations. The Act does not give an automatic right to the organisation expressing an interest to deliver the service, nor is it guaranteed the organisation will be successful in any procurement exercise.
- 5.4 The Community Right to Challenge applies to almost all of the Council's services including those which are contracted out to other providers. A small number of services are excluded (until 1st April 2014), these are mainly health and social care needs commissioned in conjunction with the NHS. For full details see the government's [Statutory Guidance - Section 2 Relevant Services](#).
- 5.5 The right only applies to the provision of services. It does not provide for delegation of the functions of a relevant authority. The responsibility for the function itself remains with the relevant authority. In this instance statutory functions refer to the services for which the Council has responsibility for including making decisions about those functions governance and the commissioning of service provision. Full details and examples are set out in the government's [Statutory Guidance - Section 2 Relevant Services](#).
- 5.6 **Dealing with an Expression of Interest (EoI)**
- 5.7 It is proposed that the Director of Business is the designated lead contact for the Community Right to Challenge process and for reviewing expressions of interest submitted.
- 5.8 The lead officer will undertake an initial review based on the [statutory guidance rejection criteria](#), (Section 6) in consultation with the Corporate Team¹, Portfolio Holder, Leader and other relevant officers as determined appropriate based on the nature of the expression of interest.
- 5.9 Those expressions of interest that are considered viable will then be subject to full review by Council as a key decision.
- 5.10 It is intended that delegated authority will be sought from Council for the Director of Business to carry out the designated lead role as outlined above.
- 5.11 A webpage for the Community Right to Challenge will to be set up and managed on the Council's website.

COMMENTS FROM STATUTORY OFFICERS:

6. SECTION 151 OFFICER

- 6.1 The financial implications of Community Right to Challenge are difficult to quantify at this stage, particularly as it would depend on the complexity of the service in question, the expression of interest, the procurement process and the new cost of the service provision. It is assumed that with a better, different or more efficient service that cost savings are generated.

¹ Chief Executive, Director for Business, Director for Customers and Communities, Head of People and Policy, Head of Finance and Property Services.

6.2 The Government has allocated all local authorities a 3 year grant of £8,547 pa (commencing 2012/13) to assist in the administration of this new policy under its new burdens support grants.

7. MONITORING OFFICER

7.1 No additional comments to be made on this report.

8. HEAD OF PEOPLE AND POLICY (ON BEHALF OF THE HEAD OF PAID SERVICE)

8.1 Human Resources implications are detailed in the report and supporting documents.

8.2 The Equality Act 2010 requires the Council to have due regard in the exercising of its functions in relation to the three aims of the Equality Duty, for the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act.
- Advanced equality of opportunity between people who share a relevant protected characteristic and people who do not share it.
- Foster good relations between people who share a relevant protected characteristic and those who do not share it.

8.3 The amount of regard that is “due” is set out in the Act and will depend on the circumstances of the case. Under the general equality duty there is a requirement to engage with people with protected characteristics and to have an adequate evidence base for Council decision-making. The duty to inform, consult or involve requires that the council must involve communities and those directly affected at the most appropriate and proportionate level in ‘routine functions, in addition to one-off decisions.’ Further, under the duty of Best Value the Council is required to consult representatives of a wide range of local people; this should include local voluntary and community organisations and small businesses in such consultation.

9. CONSULTATION CARRIED OUT

9.1 Management Team, Portfolio Holder, Leader, Policy Scrutiny Committee.

10. CONCLUSION

10.1 The Council is required to ensure it has an efficient and effective process in place to deal with expressions of interest under the Community Right to Challenge introduced by the Localism Act 2011. It is proposed that the attached policy and supporting appendices are adopted as the Council’s formal approach to this process.

Background Papers

| Document | Place of Inspection |
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| Localism Act 2011 | https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5959/1896534.pdf http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted |
| Community Right to Challenge Statutory Guidance My Community Rights | https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5990/2168126.pdf http://mycommunityrights.org.uk/community-right-to-challenge/ |