



Somerset County Council Community Right to Challenge

Guidance and Summary Information

This document provides outline guidance only. Links to the legislative framework, the statutory guidance and other useful documents are found in section 10.

1. Background

The **Localism Act** 2011 gives a number of new rights and powers for individuals and communities, one of which is the Community Right to Challenge (**CRTC**). This allows a variety of relevant bodies the right to submit an expression of interest to deliver relevant services on behalf of relevant authorities.

Somerset County Council (**SCC**) would welcome informal approaches from groups or organisations to discuss options around taking on services, so that wherever possible, the formal invocation of the CRTC should be the last resort. This includes informal approaches from staff to run services and interested staff should in the first instance speak to the relevant Strategic Manager or Director / Lead Commissioner to discuss their proposal.

The following are relevant bodies eligible to submit an Expression of Interest (**EOI**) under the CRTC:

- a voluntary or community body
- charities
- parish councils
- 2 or more local authority employees of the relevant authority
- any other person or body specified by the Secretary of State by regulations.

2. Submission of an EOI?

On submission of an EOI by a relevant body, SCC will decide whether to accept the EOI, accept it with some modifications or reject it. Within 30 days of the close of any specified period for the receipt of EOIs or, if no period has been specified, within 30 days of receipt of the EOI, SCC will give written notification to the relevant body of the timescale within which it will notify the relevant body its decision. A number of factors will determine the timescale.

An EOI can only be rejected by a relevant authority on certain grounds (see section 9).

EOIs should be emailed to: communities@somerset.gov.uk

Or mailed to: Community Right to Challenge, Customers and Communities, (B3 East, Post Point 6), County Hall, Somerset County Council, Taunton, TA1 4DY.

3. Timescales for the submission of an EOI

SCC may from time to time specify periods for the submission of EOIs for particular services. SCC will reject EOIs received outside of any specified time periods.

If a service is already the subject of a procurement exercise or currently under contract then the relevant body will have to wait until the expiry of the contract to participate in the re-tendering / re-procurement process. For further information on existing contract and commissioning arrangements contact our Commercial Procurement Team (strategicprocurement@somerset.gov.uk).

4. What happens next?

If SCC accepts an EOI for a relevant service, SCC will undertake an appropriate procurement exercise for the service having regard to the nature and value of the contract that may be awarded and in accordance with its policies and procedures regarding the procurement of services. The procurement exercise will involve other potential providers, not just the relevant body that submitted the original EOI.

If SCC decides to modify or reject an EOI, SCC will notify the relevant body of the decision, giving reasons for it. The notification will also be published on SCC's website.

5. Before submitting an EOI:

CRTC is just one way you can put your ideas to us. SCC would welcome informal approaches from groups or organisations to discuss options around taking on services, so that wherever possible, the formal invocation of the CRTC should be the last resort. If you would like an informal discussion you can contact the service directly or alternatively e-mail us at: communities@somerset.gov.uk

6. Have you considered?

- To participate in a procurement exercise and run a relevant service effectively you will need to think about all the issues related to delivering that service, and the detail of how you are going to get there. The CRTC is effectively a step to running a sustainable and financially viable public service as a business. It does not allow for a service to be run for a trial period.
- Running a service is very complex and requires relevant experience and skills. When deciding who is suitable to provide services through a procurement exercise, we will need to consider factors like:
 - your organisation's experience in the sector;
 - whether the size and infrastructure of your organisation is appropriate to provide the service;
 - the technical and professional ability of your organisation;
 - the financial viability of your organisation.
- Procurement processes can take some time to complete. Do you have resources and financial flexibility to continue engaging throughout the process? How will you finance the running of the service and the capital assets required?
- Can you prove or provide evidence as to your track record and capability to provide the service?
- What size of service can you deliver i.e. for the whole county or a specific part of the county?
- What kind of legal entity does your organisation need to become in order to compete in a procurement exercise and deliver the service, for example a social enterprise or a charity? What kind of legal structure would best suit the services and deliver your objectives?
- How will your proposal be more successful than other potential providers?
- Do you want to join with another organisation(s) to deliver the service?
- What staff will you need to employ and on what terms and conditions? Have you thought about the implications of whether The Transfer of Undertakings (Protection of Employment) Regulations 2006 applies to the relevant service?

- How will you deal with pension requirements?
- How will your proposal benefit service users and meet their needs?
- How will your proposal benefit the local community more widely e.g. creating jobs, promoting volunteering or improving skills?

7. The following services are currently excluded from the CRTC either for a limited period or permanently:

- Relevant health services commissioned either by the local authority or PCT or NHS Trust until 1 April 2014
- A relevant service commissioned or provided by the local authority in respect of a named person with complex individual health or social care needs.
- Sure Start Children's Centre services commissioned jointly by a local authority and NHS body or by the NHS on behalf of the local authority until April 2014.
- Services commissioned and managed by individuals or their representatives using direct payments, for example under The Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2009

* Learning Disability Services is an example of a jointly commissioned and funded service by Health and SCC and so is currently exempt from the CRTC.

8. Information required in an EOI:

1. SCC must consider an EOI submitted by a relevant body which is in writing and meets the other requirements set out in the legislative framework.
2. Where the relevant body submitting the EOI proposes to deliver the relevant service as part of a consortium or to use a sub-contractor for delivery of any part of the relevant service, the information in paragraphs 3 and 4 below must be given in respect of each member of the consortium and each sub-contractor as appropriate.
3. Information about the financial resources of the relevant body submitting the EOI.
4. Evidence that demonstrates that by the time of any procurement exercise the relevant body submitting the EOI will be capable of providing or assisting in providing the relevant service.
5. Information about the relevant service sufficient to identify it and the geographical area to which the EOI relates.
6. Information about the outcomes to be achieved by the relevant body or, where appropriate, the consortium of which it is a part, in providing or assisting in the provision of the relevant service, in particular:
 - a. How the provision or assistance will promote or improve the social, economic or environmental well being of the relevant authority's area; and
 - b. How it will meet the needs of the users of the relevant service.
7. Where the relevant body consists of employees of the relevant authority, details of how that relevant body proposes to engage other employees of the relevant authority who are affected by the EOI.

9. Grounds whereby an EOI may be rejected:

1. The EOI does not comply with any of the requirements specified in Section 81(1) of the Localism Act 2011 or in Regulation 3 and Schedule 1 to The Community Right to Challenge (Expressions of Interest and Excluded Services) (England) Regulations 2012..
2. The relevant body provides information in the EOI which in the opinion of the relevant authority, is in a material particular inadequate or inaccurate.
3. The relevant authority considers, based on the information in the EOI, that the relevant body or, where applicable-
 - a. any member of the consortium of which it is a part, or
 - b. any sub-contractor referred to in the EOI is not suitable to provide or assist in providing the relevant service.
4. The EOI relates to a relevant service where a decision, evidenced in writing, has been taken by the relevant authority to stop providing that service.
5. The EOI relates to a relevant service -
 - a. provided, in whole or in part, by or on behalf of the relevant authority to persons who are also in receipt of a service provided or arranged by an NHS body which is integrated with the relevant service; and
 - b. the continued integration of such services is, in the opinion of the relevant authority, critical to the well-being of those persons.
6. The relevant service is already the subject of a procurement exercise.
7. The relevant authority and a third party have entered into negotiations for provision of the service, which negotiations are at least in part conducted in writing.
8. The relevant authority has published its intention to consider the provision of the relevant service by a body that 2 or more specified employees of that authority propose to establish.
9. The relevant authority considers that the EOI is frivolous or vexatious.
10. The relevant authority considers that acceptance of the EOI is likely to lead to contravention of an enactment or other rule of law or a breach of statutory duty.

10. Further Information:

Somerset County Council is now using the [Supplying the South West](#) e tender portal to advertise its contract opportunities. Prospective Suppliers can register on the site. Registration is free and will enable you to search for opportunities and to receive alerts related to your areas of interest

Further advice and support for staff members interested in forming a staff mutual is available from the Cabinet Office [Mutuals Information Service](#).

11. Useful Links:

- The Localism Act 2011:
<http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>
- The Community Right to Challenge (Expressions of Interest and Excluded Services) (England) Regulations 2012 (SI 2012/1313)
<http://legislation.data.gov.uk/uksi/2012/1313/made/data.htm?wrap=true>
- The Community Right to Challenge (Fire and Rescue Authorities and Rejection of Expressions of Interest) (England) Regulations 2012 (SI 2012/1647)
<http://www.legislation.gov.uk/uksi/2012/1647/contents/made>
- The Department for Communities and Local Government Statutory Guidance:
<https://www.gov.uk/government/publications/community-right-to-challenge-statutory-guidance>
- My Community Rights Website:
<http://mycommunityrights.org.uk/community-right-to-challenge/>
- Locality website:
<http://locality.org.uk/projects/community-contracting-unit/community-challenge-support-programme/>

12. Somerset County Council Community Right to Challenge Overview

