

**BEDFORD BOROUGH COUNCIL**  
**COMMUNITY RIGHT TO CHALLENGE POLICY: JUNE 2012**

**Introduction**

1. This policy has been developed as a response to the Localism Act 2011 and in particular the Community Right to Challenge. It incorporates the requirements of the Community Right to Challenge (Expressions of Interest and Excluded Services) Regulations 2012 which will take priority in the event of ambiguity.
2. This policy sets out the circumstances and conditions by which Bedford Borough Council will consider expressions of interest in running Council services under the Community Right to Challenge.
3. This policy outlines the nature of organisations that the Council will consider expressions from and the criteria by which applications will be determined. It establishes a clear process by which expressions will be considered. The policy will be reviewed on a regular basis and at least annually.

**Eligible Organisations**

4. The Council can only consider expressions of interest from certain bodies, namely: voluntary / community bodies; charitable trusts; parish councils; or groups of two or more Council employees (referred to as a 'mutual'). The Localism Act calls these types of organisations 'relevant bodies'.

**Basis for Considering Expressions of Interest**

5. This section sets out how the Council will respond to, assess and determine expressions of interest it receives. The government has issued statutory guidance to assist with the consideration of applications which includes worked examples.<sup>1</sup> It is recommended that applicants refer to this document before submitting an expression of interest.
6. All requests should be in writing and initially submitted to the Head of Corporate Policy who will forward to the senior officer (e.g. Chief Executive or Director) responsible for the service concerned. No formal application form will be provided, however each application will be

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<sup>1</sup> Communities and Local Government, Community Right to Challenge: Statutory Guidance (June 2012), see:  
<http://www.communities.gov.uk/communities/communityrights/righttochallenge/>

considered on its merits and should contain sufficient information to allow a proper judgement to be made.

7. Applications that do not meet the criteria set within the legislation (as outlined in section 8) will be advised within 30 days of receipt, with details of why this decision has been reached.

### **Determining Applications**

8. The senior officer in conjunction with an officer working team (e.g. containing officers from finance, legal and human resources), will review the application having regard to the following matters, along with any other that are considered relevant in respect of the application:
  - Is the application from a relevant body?
  - Was the application received within any published deadline?
  - Does the application relate to a relevant Council service? [N.B. Some services are expressly excluded from this policy. This includes (until 1 April 2014) services commissioned with and by the NHS; provision of services for people with complex individual health or social care needs].
  - Does the application contain a material inadequacy or inaccuracy in the information provided?
9. If the application passes the above questions, consideration will be given to whether the Council has already decided to stop providing the service; has entered into formal negotiations with another organisation to provide the service; whether the service is an integrated package and its continuation is vital to a person's wellbeing, or; has published a decision to consider a staff mutual. All of these elements will need to be demonstrated by published decisions of the Executive or Council.
10. Should the application pass all of the above tests, the Head of Corporate Policy, following advice of the appropriate senior officer, will advise the 'relevant body' when consideration of the application is likely to be concluded.
11. In terms of the details contained within the application the following factors will be considered:
  - Does the applicant have sufficient financial resources and skills to provide the service?

*(NB If a relevant body proposes to deliver the service as part of a consortium or to use a sub-contractor financial information will be required from all parties of the consortium or sub-contractors)*

- Is sufficient detail given of the outcomes the applicant is seeking to achieve?
- How will the provision of the service promote or improve the social, economic or environmental well-being of the area?
- How will the needs of the services users be met?
- If the application is from employees of the Council, how the applicants propose to engage with other employees affected by the proposal?
- Is the expression of interest frivolous or vexatious?
- Would acceptance of the expression breach any legislation?

If information is lacking, the senior officer can contact the applicant to request that the expression of interest be modified.

12. Following consideration by the nominated team, the senior officer will prepare and submit a report to the Mayor / Executive for consideration. The report, in line with Council's established decision-making protocol, will contain full consideration of all key implications (Legal, Policy, Resources, Risk, Environmental and Equalities).
13. Should Mayor / Executive approval be obtained this will trigger a formal procurement exercise. This exercise will be conducted within the Public Contracts Regulations 2006 and the Council's established procurement practices.