

# Community Right to Challenge

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## What is the community right to challenge?

The Community right to challenge is set out in sections 81 - 84 Localism Act 2011 and the Community Right to Challenge (Expressions of Interest and Excluded Services) (England) Regulations 2012 and Community Right to Challenge (Fire and Rescue Authorities and Rejection of Expressions of Interest) (England) Regulations 2012. It became law on 27 June 2012.

The right enables a relevant body to submit an expression of interest (EoI) to a relevant authority, in this case the District Council, to provide or assist in providing a relevant service.

## Who can use it?

To make use of the right you must be a 'relevant body' these include:

- a voluntary or community body
- a body of persons or a trust which is established for charitable purposes
- a parish council
- 2 or more employees of the relevant authority

## What is a relevant authority?

Relevant authority includes the Forest of Dean District Council.

## What sort of services can be challenged?

The legislation states that 'relevant services' are subject to the right. Relevant services are all services provided by the Council other than those specified as exempt in regulations. To date no district council services are exempt.

By law some services have to be carried out by the district council. For example decisions on planning applications. However, whilst the decision must remain with the council as the Local Planning Authority, the processing of the applications could be carried out by someone else.

## Submitting an Expression of Interest

The Council have decided to set windows of time during which it will accept EoI's. The windows are as follows:

- For services currently contracted out e.g. waste collection, street cleaning, etc the 18th month before the expiry of the contract.

- For services currently provided in-house the 1 March - 30 April every other year. The next window opens on 1 March 2017 and closes on 30 April 2018.

Details of current contracts and the relevant expiry dates can be found on the [procurement register](#)

EoI's must be submitted to the Council's Legal Department at:

Forest of Dean District Council  
Legal Department  
Council Offices  
High Street  
Coleford  
Gloucestershire  
GL16 8HG

DX 94102 Coleford

Email: [legal@fdean.gov.uk](mailto:legal@fdean.gov.uk)

All EoI's should be clearly marked with the words "EXPRESSION OF INTEREST TO PROVIDE COUNCIL SERVICES"

### **What needs to be included in an EoI?**

By virtue of the Community Right to Challenge (Expressions of Interest and Excluded Services) (England) Regulations 2012 all EoI's must include the following information:

1. Where the relevant body 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 2 and 3 must be given in respect of each member of the consortium and each sub-contractor as appropriate.
2. Information about the financial resources of the relevant body submitting the expression of interest.
3. Evidence that demonstrates that by the time of any procurement exercise the relevant body submitting the expression of interest will be capable of providing or assisting in providing the relevant service.
4. Information about the relevant service sufficient to identify it and the geographical area to which the expression of interest relates.
5. 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.

6. 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 expression of interest.

### **Notification of decisions regarding Eol's**

Once an Eol is received the Council must consider it.

Assessment of an Eol will take up to 3 months to complete. The relevant body will then be notified within 30 days of completion of the assessment as to whether or not their Eol has been accepted. At this stage, if accepted, the relevant body will also be notified of the timeframe for the procurement process.

Timescales vary dependant upon the size of the procurement but can take anywhere between 3 and 12 months.

### **Rejecting an Eol**

In accordance with the Community Right to Challenge (Fire and Rescue Authorities and Rejection of Expressions of Interest) (England) Regulations 2012 the Council can reject an Eol on any of the following grounds:

1. The expression of interest does not comply with any of the requirements specified in the Act or in regulations.

2. The relevant body provides information in the expression of interest 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 expression of interest, 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 expression of interest is not suitable to provide or assist in providing the relevant service.

4. The expression of interest 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 expression of interest 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 expression of interest is frivolous or vexatious.

10. The relevant authority considers that acceptance of the expression of interest is likely to lead to contravention of an enactment or other rule of law or a breach of statutory duty.

### **Modifying an Eol**

If a relevant authority believes it would otherwise reject an expression of interest, it may seek instead to agree to it being modified. Any modification must be agreed with the relevant body. If an agreement cannot be reached, the relevant authority may reject the expression of interest.

### **Procurement Exercise**

If an Eol is accepted by the Council this does not mean that the relevant body will be able to provide or assist with the service for which they have submitted the Eol.

Acceptance of an Eol will trigger a competitive procurement exercise. The Council will carry out all its procurement in accordance with this strategy, its contract procedure rules and all relevant legislation, including where applicable the Public Contract regulations 2006 and EU tendering requirements.

**For further information on the Community Right to Challenge visit:**

<http://communityrights.communities.gov.uk/what-are-community-rights/community-right-to-challenge/>

You may be able to get some financial assistance in the form of a grant to assist you with the process. Further information on the grants programme can be found here:

<http://mycommunityrights.org.uk/community-right-to-challenge/grants/>