

# **POLICY & RESOURCES COMMITTEE**

**Date:** 14 January 2013

**Venue:** East Northamptonshire House, Cedar Drive, Thrapston

**Time:** 7.30 pm

**Present:** Councillors:-

<b>Richard Lewis</b>	<b>(Chairman)</b>
<b>Glenvil Greenwood-Smith</b>	<b>(Vice-Chairman)</b>
<b>Steven North</b>	<b>(Leader of the Council)</b>

<b>Peter Baden</b>	<b>Marika Hillson</b>
<b>David Brackenbury</b>	<b>Dudley Hughes JP</b>
<b>Wendy Brackenbury</b>	<b>Andy Mercer</b>
<b>John Farrar</b>	

## **344. MINUTES**

The minutes of the meeting held on 3 December 2012 were approved and signed by the Chairman.

## **345. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors Roger Glithero, Glenn Harwood MBE, Sue Homer, Rupert Reichhold and Jeremy Taylor

## **346. DECLARATIONS OF INTEREST**

No declarations of interest were made by those present

## **347. QUESTIONS BY MEMBERS UNDER COUNCIL PROCEDURE RULE 10.3**

There were no questions received.

## **348. MINUTES OF SUB-COMMITTEES & WORKING PARTIES**

### **(a) Welfare Reform Sub-Committee**

The minutes of the meeting held on 11 December 2012 were received and approved. (See pages 474 to 476).

It was noted that the resolve to recommend items had been approved by Council on 7 January 2013.

### **349. COMMUNITY RIGHT TO CHALLENGE**

The committee considered a report from the Policy and Performance Manager which sought to put in place a policy and procedures for handling requests under the Right to Challenge introduced by the Localism Act. Such a request could trigger a procurement exercise for many of the services offered by the council, regardless of current delivery.

It was noted that the majority of the necessary processes were prescribed by the Act and associated regulations. Members however expressed concern that the definition of relevant bodies did not specify any connection to the locality and that not having a link to the locality was not a reason to reject a bid. They asked that this point be raised with DCLG with a view to including in the local policy if possible.

Members also asked:

- for clarification about the conditions which would need to apply for a group of persons which were not a charitable trust to be eligible to submit a request
- that the wording of Section 4.17 of the policy be expanded to specifically state that internal bids from the council were acceptable as part of the procurement process.
- officers to consider what processes might be appropriate to ensure appropriate data confidentiality in the case of a request by employees or a latter internal bid.

### **R.10 RESOLVED TO RECOMMEND**

1. to approve the Community Right to Challenge Policy (as per appendix on pages 477 to 486) subject to the changes noted above
2. to delegate to the Chief Finance Officer, in consultation with the Chairman or Vice Chairman of the Finance Sub-Committee, authority to accept or reject Expressions of Interest in accordance with statutory regulations and the Council's policy.

*(Reason: to ensure compliance with the Localism Act 2011)*

### **350. HOUSING STRATEGY 2012-2017**

The Committee was presented with a report outlining proposed changes to the Housing Strategy following consultation.

The Strategy represented best practice in assessing and meeting housing need and includes the statutory Homelessness Strategy. The Strategy had been put together by the Housing Policy Working Party and approved for consultation in September 2012.

The key changes were:

- The insertion of additional information about the Local Plan process
- Clarification re rural housing development and the potential provision on rural exception sites
- Removal of references to the Home Owners Support Scheme which is no longer offered by government

Members considered the revised Strategy and proposed a further amendment to reference the changing context for empty properties, including a new council tax policy on empty

homes. Members also noted the need for the evidence base for future housing needs, including not just overall numbers but also types and tenures would need to be updated.

## **RESOLVED**

That the Housing Strategy 2012-2017 be adopted, subject to agreement of the amendments noted above with the Chairman of the Policy and Resources Committee.

*(Reason: to enable the Council to have an up-to-date Housing Strategy in place)*

### **351. HOUSING ALLOCATION POLICY 2013**

The Committee was presented with a report from the Housing Strategy Manager which sought to meet the requirements of the Localism Act for a housing allocation policy, setting out how social housing properties in the area would be allocated.

The Strategy had been put together by the Housing Policy Working Party and approved for consultation in July 2012.

It was noted that this Policy had attracted a significantly higher level of consultation responses than the previous item. The key changes proposed from the previous draft as a result of the consultation were:

- Local connection criteria to be expanded to include those who are employed on fixed term contracts of one year or more.
- Additional wording to emphasis the importance of financial checks prior to property allocation.
- Intentionally homeless applicants to remain in Band 4 for 6 months.
- Some minor wording and procedural amendments.

Members suggested that clarifications be made to the report in respect of the following areas:

- The point in the fostering/adoption process at which additional bedroom requirements would be considered (following advice from Northamptonshire County Council)
- Clarification in section 30 that owners of residential property would not be eligible to join the waiting list.

It was noted that both the Housing Strategy and Housing Allocation Policy had been drawn up in a rapidly changing context and that further revisions may be necessary to reflect this. In addition it was noted that these documents needed to persuade providers and that their board support in consultation was therefore to be welcomed. Members commended the work of officers in producing these documents.

## **RESOLVED**

That the Housing Allocation Policy be adopted subject to agreement of the amendments noted above with the Chairman of the Policy and Resources Committee.

*(Reason: to enable officers to meet the legislative requirement to have an adopted housing allocation policy)*

**352. EXCLUSION OF PRESS AND PUBLIC**

**RESOLVED:**

That the public and press be excluded from the meeting during consideration of the following item of business because exempt information, as defined under paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, may be disclosed.

**353. MINUTES OF SUB-COMMITTEES & WORKING PARTIES**

**(a) Leisure Contracts Working Group**

The minutes of the meeting held on 18 December 2012 were received and approved. It was noted that the resolve to recommend items had been approved by Council on 7 January.

**Chairman**

## Welfare Reform Sub-Committee

Minutes of a meeting held on Tuesday 11 December 2012 at 2.00pm, CHG2, East Northamptonshire House, Thrapston

### Present:

Councillors:           Andy Mercer (Chairman)  
                              Richard Lewis  
                              Steven North  
                              Jeremy Taylor

Officers:                Lisa Hyde (LJH)  
                              Kelly Watson (KW)  
                              Lucy Hogston (LH)  
                              Glenn Hammonds (GH)  
                              Richard Hadden (RH)  
                              David Pope (DP)

### 1.0    **MINUTES**

1.1    The minutes of the meeting held on 8 November 2012 were approved as a correct record and signed by the Chairman.

### 2.0    **APOLOGIES**

2.1    Councillors John Farrar and Glenvil Greenwood-Smith gave their apologies.

### 3.0    **DISCLOSURES OF INTEREST**

3.1    There were no disclosures of interest.

### 4.0    **LOCAL COUNCIL TAX SUPPORT SCHEME FOR EAST NORTHAMPTONSHIRE**

4.1    Members considered a report which sought to inform them of the outcome of the consultation on the local Council Tax Support Scheme proposals for East Northamptonshire. The report also requested members recommend a scheme for approval by Council on 7 January 2013.

4.2    LH reminded members that the consultation regarding options for the Council Tax Support Scheme had closed on 23 November 2012 and the results had been collated and supplied to members as Appendix 1 to the officer report.

4.3    Members noted that although the number of respondents appeared low, the final figure of 142 was comparatively higher than that received by neighbouring authorities during their consultation periods.

- 4.4 Members heard that since the last meeting of the sub-committee, the figure for the DCLG Transition Grant had been confirmed as being £109,654. GH was able to provide members with information regarding the division of this money amongst major precepting authorities, with £79,000 going to Northamptonshire County Council, and amounts of £15,000 to both ENC and the police. It was noted that no information was yet available regarding division of the grant amongst Town and Parish Councils.
- 4.5 LJH advised the sub-committee that respondents to the consultation had broadly shown a preference for the maximisation of income from Council Tax empty property Discounts and Exemptions. Savings based on reducing Council Tax Support to a maximum of either 85%, 80% or 75% was noted as sharing a similar level of preference amongst respondents.
- 4.6 LJH outlined the amount of additional Council Tax that could be raised should ENC implement the amendments to Council Tax Discounts and Exemptions listed in the report. Members noted that there was currently no legislation in place regarding charges on repossessed properties and as such a levy of 100% Council Tax payment may not be possible. Based on a prudent collection rate of 70%, ENC could expect to collect up to £548,289 in additional Council Tax.
- 4.7 Figures were provided to the meeting to indicate the minimum weekly or monthly amounts that residents of the district would be required to pay before entitlement to Local Council Tax Support would be applied. These figures illustrated amounts for both 85% and 91.5% of Council Tax liability. Again, a prudent collection rate of 70% had been used to calculate estimated collection figures of £259,547 and £148,000 respectively.
- 4.8 Removal of Second Adult Rebate was discussed and a potential saving of £9,675 was noted, affected 42 residents across the district.
- 4.9 Members were provided with the two options as follows:

#### **Option 1**

- i) ENC would increase income by removing Council Tax and Empty Property Discounts and Exemptions.
- ii) ENC would adopt existing Council Tax Benefit regulations, with the scheme being based on 85% of annual Council Tax liability with removal of Second Adult Rebate.

#### **Option 2**

- i) ENC would increase income by removing Council Tax and Empty Property Discounts and Exemptions.
- ii) ENC would adopt existing Council Tax Benefit regulations, with the scheme being based on 91.5% of annual Council Tax liability with removal of Second Adult Rebate.
- iii) ENC would accept the DCLG Transition Grant form 2013/14 of £109,654.

- 4.10 The financial implications of both Option 1 and Option 2 were provided to the meeting, with members noting a difference in overall total collection of just £1,893 in favour of Option 1. Option 1; at a 70% collection rate, would see a collection of £814,608, with Option 2 a collection of £812,715.

- 4.11 Members heard that Option 2 would provide greater flexibility over ENC's Medium Term Financial Strategy period, should the Government announce a similar transition grant in future years. However, a need to revert to proposals in Option 1 to achieve financial sustainability would be required should there be no further grant.
- 4.12 Members were provided with a verbal update on proposed schemes for neighbouring authorities in Northamptonshire and Leicestershire, where all but one authority had agreed to take the DCLG Transition Grant.
- 4.13 Members thanked the officers for guiding members through a very complex process and distilling a sensitive and complicated issue into a workable subject before it was

**RESOLVED TO RECOMMEND:**

1. ENC increase income by removing Council Tax empty property Discounts and Exemptions, and
2. The Local Council Tax Support Scheme for East Northamptonshire adopts the existing CTB Regulations with the following amendments:-
  - i) that the scheme is based on 91.5% of the annual Council Tax liability
  - ii) ENC remove the scheme known as Second Adult Rebate
  - iii) ENC accept the DCLG Transition grant for 2013/14.

It was also

**RESOLVED:**

1. That the sub-committee gave due regard to the consultation responses received.
2. That the sub-committee gave due regard to the Equality Impact Assessment.
3. Resolved to review the scheme during 2013/14 to ensure that a financially sustainable scheme would be in place for 2014/15.
4. Commit to communicate to all key parties and stakeholders details of the local scheme.

**5.0 QUESTIONS BY MEMBERS UNDER COUNCIL PROCEDURE RULE 10.3**

- 5.1 No questions had been received from members.



East  
Northamptonshire  
Council

## Community Right to Challenge Policy

**Contract**



East  
Northamptonshire  
Council

January 2013

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## Change History

Issue	Date	Comments
1.0	23 January 2013	Amended from version that went to Policy & Resources Committee on 14 January 2013 to incorporate comments made

*NB: Draft versions 0.1 - final published versions 1.0*

## Consultees

Internal	External
e.g. Individual(s) / Group / Section	e.g. Stakeholders / Partners / Organisation(s)

## Distribution List

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## Links to other documents

Document	Link
Community Right to Challenge: Statutory Guidance	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5990/2168126.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5990/2168126.pdf</a>

## Additional Comments to note

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- 1.0 Introduction
- 1.1 This policy sets out the procedure the Council will follow when dealing with the Community Right to Challenge (CRtC) which was introduced by the Localism Act 2011 (the Act).
- 2.0 Scope
- 2.1 The policy covers relevant services, defined by the *Community Right to Challenge: Statutory Guidance* as a service provided by or on behalf of a relevant authority (which in this case is East Northamptonshire Council) in the exercise of its functions (i.e. the things that relevant authorities are required to do or may do).
- 2.2 The Right only applies to the provision of services (i.e. what it is necessary to provide in order for the Council to carry out its functions). It does not provide for delegation of the functions of East Northamptonshire Council, and the responsibility for the function remains with this Council. Certain exclusions apply; these are set out in the statutory guidance.
- 2.3 The Council will consider expressions of interest from relevant bodies. The Act lists the following as relevant bodies:
- A voluntary or community body;
  - A body of persons or a trust which is established for charitable purposes only;
  - A parish council;
  - Two or more employees of the relevant authority (which in this case is East Northamptonshire Council)
  - Any other person or body specified by the Secretary of State by regulations.
- 2.4 Further information about the scope of the CRtC and other Community Rights established under the Localism Act is available from <http://communityrights.communities.gov.uk/> and <http://mycommunityrights.org.uk/>
- 3.0 Policy outcomes
- 3.1 The outcomes to be delivered by this policy are:

Community Right to Challenge Policy outcomes	Links to corporate outcomes
<ul style="list-style-type: none"> <li>• The Council meets its duties under the Localism Act 2011</li> <li>• Community groups are aware of the process to follow when they would like to challenge to run local services</li> <li>• The Council's processes are transparent</li> </ul>	<ul style="list-style-type: none"> <li>• Council services which provide good value for money</li> <li>• High quality service delivery</li> <li>• Effective partnership working</li> <li>• Effective management</li> </ul>

- 4.0 Community Right to Challenge Policy
- 4.1 The Community Right to Challenge (CRtC) gives people the right to challenge to take over local services that they think they can run differently and better.
- 4.2 Relevant bodies (as listed in paragraph 2.3) may submit an expression of interest (EOI) to run a particular service. The Council must consider each expression of interest received, and where this meets criteria in the statutory guidance and is accepted, the Council must then carry out a procurement exercise for the service.
- 4.3 For services currently delivered by East Northamptonshire Council, the scheme is open for expressions of interest during the month of April each year, starting in April 2013.
- 4.4 For council services that are currently delivered by another organisation through a contract with the Council, the scheme is open for expressions of interest during the period of three months starting 15 months and ending 12 months before the contract expiry date. For example, if a contract expires on 31 December 2014, expressions of interest would be received between 1 October and 31 December 2013.
- 4.5 It is likely that any expressions of interest made outside the relevant timeframe will not be considered.

#### **4.6 Submitting an expression of interest**

- 4.7 Any expression of interest should include the following information:
- Information about the financial resources of the relevant body submitting the expression of interest
  - 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
  - Information about the relevant service sufficient to identify it and the geographical area to which the expression of interest relates
  - 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:
    - How the provision or assistance will promote or improve the social, economic or environmental well-being of East Northamptonshire; and
    - How it will meet the needs of the users of the relevant service
  - Where the relevant body consists of employees of East Northamptonshire Council, details of how that relevant body proposes to engage other employees affected by the expression of interest

Where the relevant body proposes to deliver the service as part of a consortium or to use a subcontractor to deliver part of the service, the above information should also be provided in respect of each consortium member and subcontractor.

- 4.8 It would help if an expression of interest also contained the following information, although this is not mandatory:

- Details of any consultation that has taken place with potential users of the proposed service and any other groups or communities with a legitimate stake in the service, and the outcomes of that consultation
- An explanation of how the service in question will be improved in quality by its transfer to an alternative provider. This could include comparison with either the current service standards or with proposed new service standards if the service in question is being reduced or reconfigured as part of the Council's budget process
- Details of how the proposed alternative provision will operate within the current budget of the existing service or within any reduced level of budget that is being considered

4.9 When an expression of interest is received, we will inform in writing the relevant body that submitted the expression of interest of the timetable for deciding whether it has been accepted or rejected within 30 days of receiving it. As a guide, the timescale for determining an expression of interest will be between six and 26 weeks depending on the size and complexity of the service it refers to.

4.10 The Council may ask the relevant body to modify an expression of interest if otherwise the EOI would be rejected, for example if it does not provide sufficient information.

4.11 If employees of East Northamptonshire Council choose to use the Right to submit an EOI, the guidance states that they will probably need to form a separate legal entity in order to bid in a procurement exercise, so that future and other relationships are clear and that appropriate data protection issues can be put in place.

#### **4.12 Considering an expression of interest**

4.13 Expressions of interest will be considered, with regard to the statutory guidance, by the Chief Finance Officer, in consultation with the Chairman of the Finance Sub-Committee (or the Deputy Chairman in their absence). If the expression of interest meets the criteria, this will trigger an open procurement exercise which must comply with procurement law.

4.14 The Council must, in considering an expression of interest, consider whether acceptance of the EOI would promote or improve the social, economic or environmental wellbeing of East Northamptonshire.

4.15 A relevant body may withdraw an expression of interest after submitting it (whether before or after the EOI has been considered). The withdrawal of an expression of interest, or the refusal of a relevant body to agree to a modification of an EOI, does not prevent the Council from proceeding with a procurement exercise if we think it is appropriate to do so.

#### **4.16 Reasons to reject an expression of interest**

4.17 The Council may only reject an expression of interest on one or more of the following grounds:

- The expression of interest does not comply with any of the requirements specified in the Act or in the regulations
- The relevant body provides information in the expression of interest which in our opinion is inadequate and/or inaccurate

- The Council considers, based on the information in the expression of interest, that the relevant body or, where applicable, any member of the consortium of which it is a part or any sub-contractor referred to in the EOI is not suitable to provide or assist in providing the relevant service
- The expression of interest relates to a relevant service where a decision, evidenced in writing, has been taken by the Council to stop providing that service
- The expression of interest relates to a relevant service:
  - Provided, in whole or in part, by or on behalf of East Northamptonshire Council 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
  - The continued integration of such services is, in our opinion, critical to the wellbeing of those persons
- The relevant service is already the subject of a procurement exercise
- The Council and a third party have already entered into negotiations for provision of the service, which negotiations are at least in part conducted in writing
- The Council has published its intention to consider the provision of the relevant service by a body that two or more specified employees of East Northamptonshire Council propose to establish
- The Council considers that the expression of interest is frivolous or vexatious
- The Council 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

#### **4.18 The procurement exercise**

- 4.19 If the Council accepts an expression of interest for a relevant service, it will trigger an open procurement exercise. This means that the relevant body that triggers the procurement exercise may not eventually be the provider of that service. The procurement exercise must be appropriate having regard to the value and nature of the contract that may be awarded as a result of the exercise, and must comply with procurement law. It is open to the Council to submit a bid during the procurement exercise to continue to run the service itself.
- 4.20 Where the service is of a value or nature to which the Public Contracts Regulations 2006 apply and/or is not listed as an exempt service in Part B of those regulations, the procurement exercise must follow the procedures for advertising, specifying and awarding contracts set out in those regulations.
- 4.21 Where the Public Contracts Regulations do not apply – i.e. where the service is worth less than the threshold value, or is listed in Part B of the 2006 regulations, the Council may decide how to procure the service. This applies in the same way to procurement exercises triggered by the Community Right to Challenge as those which are not. Generally, Part B services are those that the EU has considered would largely be of interest only to bidders located in the Member State where the contract is to be performed.
- 4.22 The Council must consider how expressions of interest and procurement exercises triggered by one or more expressions of interest being accepted would promote or improve the economic, social or environmental well-being of East Northamptonshire. This must be consistent with the law applying to the awarding of contracts.

**4.23 Monitoring of this policy**

4.24 This policy will be reviewed in three years, or sooner if there are legislative changes.

## 5.0 Glossary of terms

Term	Definition
<b>Relevant authority</b>	Public body listed in the Act and the Regulations whose services can be challenged under the Community Right to Challenge. The Act lists district, county and London borough councils as relevant authorities. Certain fire and rescue authorities are added as relevant authorities in the Regulations.
<b>Relevant body</b>	A body listed in the Act which can express an interest in providing a relevant service. The Act lists voluntary and community bodies, bodies of persons or trusts established for charitable purposes only, parish councils and two or more employees of the relevant authority as relevant bodies. Other persons or bodies can be specified as relevant bodies by regulations.
<b>Relevant service</b>	A service provided in the exercise of any relevant authority's functions, either by the relevant authority using its own workforce, or provided on its behalf under a service contract or some other arrangement, unless such a service is excluded from the Community Right to Challenge in the regulations.