

MAIDSTONE BOROUGH COUNCIL
RECORD OF DECISION OF THE CABINET

Decision Made: 12 September 2012

THE COMMUNITY RIGHT TO CHALLENGE

Issue for Decision

To set out the possible approaches the Council wishes to take in implementing these new powers.

Decision Made

1. That a proactive approach to the Community Right to Challenge be agreed.
2. That the windows of opportunity when the Council will accept expressions of interest for services from suitable bodies, as set out in the draft programme attached at Appendix A to the report of the Assistant Director of Environment and Regulatory Services, be agreed.
3. That the Cabinet Member for Corporate Services be appointed to champion the strategic development of the agreed approach with the appropriate Head(s) of Service and consult with other Cabinet Members affected by any particular challenges.

Reasons for Decision

Background

The Community Empowerment chapters of the Localism Act offer new opportunities for local people and groups to bid to run services they feel are important to their communities. The Act is a central plank of the Government's drive for decentralisation.

The report of the Assistant Director of Environment and Regulatory Services focused on Part Five of the Localism Act – Community Empowerment, in particular the Community Right to Challenge, a summary of which was attached as Appendix B to the report of the Assistant Director of Environment and Regulatory Services.

The Community Right to Challenge gives voluntary or community groups, charitable bodies, parish councils or employees of the local authority the right to submit an expression of interest in running a service currently provided by the local authority. The local authority must consider and respond to the challenge. It can be rejected on specified grounds or, if

accepted, will trigger a procurement exercise which will be open to the challenging body as well as other bodies, including private companies.

By determining the Council's approach to implementing the provisions of the Act, Cabinet can aid these initiatives and ensure residents and groups are clear as to what is available and the associated processes.

Possible Approaches

Whilst there are certain obligations within the Act with which the Council must comply, it could decide to take the lead and put in place various structures and frameworks that would help to make the process clearer and more efficient for itself and parish councils, community and voluntary groups and other eligible bodies.

There are three possible approaches to how the Council could address the legislation:

- Reactive
- Proactive
- Very active

Reactive

A reactive approach to Community Right to Challenge would see the Council choosing only to respond to challenges as they are received, with each application being considered on its merits.

Without a managed programme and a clear framework in which to operate, this approach could result in significant amounts of officer and member time in assessing and discussing the merits or otherwise of each challenge. There would be no control over which challenges came forward, and this could have adverse implications for the Council's own procurement programme.

Whilst this approach might enable bolder and more ambitious challenges to come forward, should the challenges be repeatedly rejected due to cost, feasibility, risk etc eligible bodies may become disillusioned.

Proactive

A proactive approach to the Community Right to Challenge would see the Council publishing a comprehensive list of its services which it is willing to consider for challenge, when the window of opportunity will be open, and guidance on how to apply.

Such a list would help eligible bodies to prepare for and submit challenges with a more realistic prospect of being successful. A managed approach with clear processes and operating frameworks would reduce officer and member time assessing challenges.

The Council's existing partnerships and other contractual commitments will need to be recognised with this approach, as the various services already being delivered in partnership, such as licensing, revenues and

benefits, legal services and internal audit, have already increased efficiency and delivered savings.

Devolving or disaggregating elements of partnerships could be time consuming and costly, with no guarantee of improved service or lower cost to the Council. However, the programme for inviting expressions of interest for services will include those covered by existing contracts and partnerships in accordance with their contractual end dates.

Publication of such a programme will not affect the implementation of the parish service scheme.

A proactive approach to the Right to Challenge appears to be the emerging preference for Councils and was the recommended option.

A draft programme of services to be published inviting expressions of interest was attached as Appendix A to the report of the Assistant Director of Environment and Regulatory Services.

Very Active

This approach to the Community Right to Challenge would see the Council taking the proactive approach up to the next level whereby it would actively devolve to community groups and seek out potentially interested groups and invite challenges from them, increasingly leaving a commissioning core at the Council. This would need to be additional to the publication of a programme of services referred to above, in order to retain some of the benefits of that approach.

This approach could lead to problems arising from managing an extensive range and quantity of services including deterioration and variation in quality and higher overall costs.

Alternatives considered and why rejected

The alternative actions are included above. Taking no action is not an option.

Background Papers

None

Should you be concerned about this decision and wish to call it in, please submit a call in form signed by any two Non-Executive Members to the Head of Change and Scrutiny by: 21 September 2012
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