Community Right to Challenge

Expression of interest form - guidance notes

Thank you for your interest in providing or assisting in providing a relevant service.

We welcome interest from groups considering taking over the running of council services at any time and would encourage you to speak to us in the first instance to find out more. If you want to have a chat about any potential services that you want to take over the running of, then please contact us using the contact details below.

The information requested on this form represents the information required for an expression of interest as contained in Schedule 1 to The Community Right to Challenge (Expressions of Interest and Excluded Services) (England) Regulations 2012 (“the Regulations”) and the additional information which will enable the Council to evaluate your expression of interest.

Throughout this form where you, as the relevant body(defined as a voluntary or community body; a body of persons or a trust which is established for charitable purposes only; a parish council; or two or more employees of the local authority.), propose to deliver the relevant service or any part of the relevant service as part of a consortium or to use a sub-contractor for delivery of the relevant service or any part of the relevant service, then the information and evidence requested in the form below **must be given in respect of each member of the consortium and each sub-contractor.** Please ensure that you provide this information when submitting your expression of interest form as this will help to prevent any resulting delay caused by the need to request further information from you in order to assess your expression of interest.

Please be aware that there are clear guidelines stipulating who can and who cannot submit an expression of interest, and which services are relevant services or are otherwise excluded services. Lancashire County Council reserves the right to reject your expression of interest if

1. it determines that you are not a ‘relevant body’ as defined in the legislation;
2. if the Services in which you express an interest are not relevant services or are other excluded services pursuant to the legislation;
3. if the service in which you express an interest is currently under an existing contract. In this case, your expression of interest will be rejected and you will be provided with a date to reapply;
4. on any of the permitted grounds for rejection of an expression of interest. (see annex 1)

Lancashire County Council will aim to acknowledge all Expression of Interest within 14 days. We will then notify you as soon as possible if any further information is required to support and for us to evaluate your expression of interest. Your expression of interest will then be considered and responded to within 90 days from the day it is first received.

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| Please send completed expressions of interest to:  [communityrighttochallenge@Lancashire.gov.uk](mailto:communityrighttochallenge@essex.gov.uk)  Or alternatively to:  The Corporate Policy and Performance Team  Lancashire County Council  Room A43 County Hall  Preston  PR1 8XJ | For further information about completing this form please contact Lancashire County Council by email at:  [communityrighttochallenge@Lancashire.gov.uk](mailto:communityrighttochallenge@essex.gov.uk)  or telephone 01772 533414  OR  0845 053 0000  (calls to 0845 numbers will be charged via a call setup charge of 3p (including VAT) and a charge of 4.032 pence per minute based on the standard BT tariff. Mobile and other providers - costs may vary considerably. |

**Section 1 – Information about your Organisation**

1. **Relevant body type**

What type of ‘relevant body’ is your organisation?

|  |  |
| --- | --- |
| **(a)** A voluntary or community body | YES/NO |
| **(b)** A body of persons or a trust which is established for charitable purposes only | YES/NO |
| **(c)** A parish council | YES/NO |
| **(d)** Two or more employees of the Council (the relevant authority) | YES/NO |

If you answer ‘Yes’ above to options (a), (b) or (d) , or a combination of these options, then please answer question 2 below about your legal status (or that of each of your consortium members) before proceeding to question 3. If you are a Parish Council expressing an interest as a relevant body on your own then please skip question 2 and go to question 3.

**2. Legal Status of your organisation (“the Relevant Body”)**

Where you are expressing an interest as a consortium please answer this question about every member of your consortium and make it clear which answers given apply to which individual consortium members.

|  |  |  |
| --- | --- | --- |
| **(a) If your organisation is a Voluntary or Community Body is it:** | | |
|  | A community benefit society (an industrial and provident society that conducts business for the benefit of their community)? | Yes/No |
|  | A co-operative society whose activities are primarily for the benefit of the community? | Yes/No |
|  | A mutual society whose activities are primarily for the benefit of the community? | Yes/No |
|  | A community interest company? | Yes/No |
|  | A company limited by guarantee or shares? | Yes/No |
|  | A charitable incorporated organisation? | Yes/No |
|  | An unincorporated organisation? | Yes/No |
|  | Other (please specify): | Yes/No |
| **(b) If your organisation is a body of persons or a trust which is established for charitable purposes only is it:** | |  |
| An unincorporated association (group of people) established for charitable purposes only? Please explain how it is constituted/ governed. | | Yes/No |
| A trust established for charitable purposes? Please explain how it is constituted/ governed. | | Yes/No |
| Other (please specify and explain how it is constituted): | | Yes/No |
| ***(c) If your organisation is a Town or Parish Council please go to section 3.*** | | --------- |
| **(d) If your organisation consists of two or more existing employees of Lancashire County Council please advise the number of employees forming part of your relevant body, supply their names and current job titles.**  **Please also advise what form of legal entity you intend to establish as part of your proposal.** | |  |

1. **Relevant body details (where you are a consortium please provide this information for each consortium member)**

|  |  |
| --- | --- |
| **Name of relevant body** |  |
| **Address** |  |
| **Web address** |  |
| **Correspondence address** (if different from above) |  |
| **Telephone** |  |
| **Email** |  |
| **Details of person completing this form** | |
| **Name** |  |
| **Position** |  |
| **Telephone number** |  |
| **Email** |  |

**4. Partnerships and Consortia**

|  |  |  |
| --- | --- | --- |
| **If your organisation is expressing an interest in providing the relevant service:** | | |
|  | As part of a partnership please identify the members of the partnership and clearly indicate if there is a lead partner. | Partnership?  Yes/No |
|  | As part of a consortium please identify the members of the consortium and clearly indicate if there is a lead member. | Consortium?  Yes/No |
| **If yes to any of the above, please ensure that each member of the partnership/ consortium is provided with a copy of this Expression of Interest Form and completes the additional Financial Resources question 7 in Section 2 below.** | | |

**Section 2 – Capability and Financial Resources**

**5. Capability**

This information must be provided pursuant to paragraph 3 of Schedule 1 to the Regulations.

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| **Please provide evidence to demonstrate that by the time of any procurement exercise your organisation (relevant body) will be capable of providing or assisting in providing the relevant service e.g. by reference to relevant experience and plans you have to develop your organisation in readiness for any potential procurement exercise should your expression of interest be accepted** (max 500 words). |
|  |

**6. Financial Resources**

This information must be provided pursuant to paragraph 2 of Schedule 1 to the Regulations.

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| --- | --- |
| **Please attach evidence to demonstrate that by the time of any procurement exercise you will have sufficient financial resources to provide or assist in providing the service.**  This may include audited/approved accounts for the last financial year; evidence of a grant, bond or guarantee; or other sufficient evidence that in the opinion of the County Treasurer demonstrates that adequate financial resources are or will be in place. | |
| Have you attached accounts or suitable alternative documentation? | Yes/No |
| **If your organisation is an existing organisation, please provide details of the published figures for the previous financial year for:** | |
| Relevant body’s turnover | £ |
| Turnover specific to the relevant service | £ |
| **The Council may obtain a credit report in order to confirm information provided about your organisation’s financial resources.** | |
| Do you agree to a credit check being obtained if necessary? | Yes/No |
| Are there any outstanding claims or litigation against the relevant body(ies) that might impact on your financial resources? | Yes/No |

**7. Financial Resources (to be completed by Partnership or Consortia organisations only)**

|  |  |
| --- | --- |
| **Please attach evidence to demonstrate that by the time of any procurement exercise the partnership or consortium organisations will have sufficient financial resources to provide or assist in providing the service.**  This may include for each consortium member or partnership partner the audited/approved accounts for the last financial year; evidence of a grant, bond or guarantee; or other sufficient evidence that in the opinion of the County Treasurer demonstrates that adequate financial resources are or will be in place. | |
| Have you attached accounts or suitable alternative documentation? | Yes/No |
| **If the partner organisation or consortium is an existing organisation, please provide details of the published figures for the previous financial year for each partner or member:** | |
| Partner/member organisation’s turnover | £ |
| Turnover specific to the relevant service | £ |
| **The Council may obtain a credit report in order to confirm information provided on the relevant body’s(ies) financial resources.** | |
| Do you agree to a credit check being obtained if necessary? | Yes/No |
| Are there any outstanding claims or litigation against the relevant body(ies) that might impact on your financial resources? | Yes/No |

**Section 3 – Questions about the Relevant Service**

**8. Service Details**

This information must be provided pursuant to paragraph 4 of Schedule 1 to the Regulations.

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| **Please provide details of the relevant service(s) to which the expression of interest relates, including the geographical area(s) to which the expression of interest relates.**  *(Where known please include full name and address of service)* |
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**9. Lancashire County Council Resources**

|  |  |  |
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| **Do you intend utilising existing council assets/resources in order to provide or assist in providing the relevant service(s)?** *(If ‘yes’ please give specific details. If ‘no’ then please continue to next question)* | | |
| **Council assets** | **Required**  *(please tick)* | **Details of what is required** |
| Council owned computer or telecoms equipment |  |  |
| Council owned office equipment |  |  |
| Existing council buildings |  |  |
| Council employees |  |  |
| Other |  |  |

**10. Outcomes**

This information must be provided pursuant to paragraph 5 of Schedule 1 to the Regulations.

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| **Please provide details of the outcomes you propose to achieve in providing or assisting in the provision of the relevant service or any part of a relevant service to which your expression of interest relates.**  (We must consider the social value of expressions of interest, and in the procurement exercise it may trigger. This is required in the rules for Community Right to Challenge. It is a duty contained in the Public Services (Social Value) Act 2012. There is also a duty for us to consider best value, which includes economic, environmental and social value, as set out in the Best Value Guidance 2011.)  *In particular please indicate how your proposal and the provision of or assistance with providing the relevant service will positively impact on one or more of the following:* |
| **(a) promoting the social wellbeing of the relevant authority’s area?** (max 250 words) |
|  |
| **(b) promoting the economic wellbeing of the relevant authority’s area?** (max 250 words) |
|  |
| **(c) promoting the environmental wellbeing of the relevant authority’s area?** (max 250 words) |
|  |
| **(d) meeting the needs of the users of the relevant service?** (max 400 words) |
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**11. Performance**

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| **What are the key target outputs which you as the relevant body will need to achieve in order for your proposal to succeed in achieving the outcomes identified by you at question 10 above?** (max 400 words) |
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**12. Value for money**

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| **How will your proposal achieve and remain good value for money ?** *(Please include indicative costings based on how you intend running the relevant service(s)* |
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**13. Public Sector Equality Duty**

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| **How will you assist Lancashire County Council in meeting its general duties under the Public Sector Equality Duty?** (Information on the general duties under the Equality Duty can be found on the [Equality and Human Rights Commissions' website](http://www.equalityhumanrights.com/advice-and-guidance/service-providers-guidance/)) |
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**13. Implications for Lancashire County Council staff**

*Please note where an expression of interest affects existing staff engaged in the delivery of the relevant service then the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) are likely to apply. You should seek your own independent legal advice about the likely application and impact of the TUPE regulations on your expression of interest.*

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| **Where known, does your expression of interest impact upon existing Lancashire County Council staff?** (*If yes, please give details of anticipated impact)* |
|  |
| **If you are two or more Council employees expressing an interest as a relevant body then please provide details of how you propose to engage with existing Lancashire County Council employees who would be affected by your expression of interest.**  This information must be provided pursuant to paragraph 6 of Schedule 1 to the Regulations. |
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**Section 4 – Declaration**

**14. Declaration**

**This must be completed in full and signed by a duly authorised representative of each consortium member or partnership member before being submitted.**

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| --- |
| I/We declare that the details submitted in this Expression of Interest are accurate, correct and complete.  I/We confirm that I/We have not before the submission of this expression of interest and shall not in future perform one of the Prohibited Acts.  For the purposes of this expression of interest the Prohibited Acts are any one or more of the following:   1. offering, giving or agreeing to give to any servant of the Council or any advisor to the Council any gift or consideration of any kind as an inducement or reward:    1. for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of a Contract or any other agreement with the Council; or    2. for showing or not showing favour or disfavour to any person in relation to a Contract or any other agreement with the Council;    3. for doing or not doing (or for having done or not having done) any act in relation to obtaining the acceptance or modification of this expression of interest by the Council; or    4. for showing or not showing favour or disfavour to the relevant body or any person in relation to this expression of interest by the Council; 2. entering into a Contract or any other contract with the Council in connection with which commission has been paid or has been agreed to be paid by the relevant body or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Council; 3. committing any offence:    1. under the Bribery Act 2010;    2. under Legislation creating offences in respect of fraudulent acts; or    3. at common law in respect of fraudulent acts in relation to any Contract or any other agreement with the Council; or d    4. defrauding or attempting to defraud or conspiring to defraud the Council;    5. pursuant to the Prevention of Corruption Acts 1889 to 1916 or of section 117 of the Local Government Act 1972; 4. canvassing, communicating with or contacting any servant of the Council (including members and officers, agents and contractors, both directly and not directly involved in the evaluation of the expression of interest or in the contract commissioning and management of any Contract pursuant to which the relevant services are already provided or are intended to be provided) or any person (member, officer, agent or contractor or subcontractor) to who the Council is entitled to release information to in relation to this expression of interest about any aspect of this expression of interest without obtaining the Council’s prior written consent; 5. offering any inducement, fee or reward to any member or officer of Lancashire County Council or any person acting as an adviser to Lancashire County Council in connection with this Expression of Interest; 6. contacted any officer or member of Lancashire County Council about the determination of the evaluation of this expression of interest and about any aspect of this expression of interest in contravention of any one or more of the Prohibited Acts set out above (including without limitation contact for the purposes of discussing the possible transfer to the employment of the relevant body of any such member or officer).   I/We also understand that it is a criminal offence, punishable by imprisonment, to give or offer to give any gift or consideration whatsoever as an inducement or reward to any servant of the public authority in connection with this expression of interest.  I/We also acknowledge that the commission of any one of the Prohibited Acts shall entitle the Council to terminate any contract subsequently awarded to the relevant body if the relevant body is successful in being awarded any contract as a result of the outcome of the procurement process that is run as a result of the Council accepting this expression of interest or modifying and then accepting it. |
| I/We can confirm that the following information has been included:   * The last years’ audited/approved accounts (where a partnership or consortium, these have been submitted for each legal entity which is part of the partnership or consortium) * Appropriate responses to Sections 1, 2 and 3 |
| I/We understand that the information disclosed in this Expression of Interest will be used in the evaluation process to assess our organisation’s financial resources and capability to provide or assist in providing the service(s) and for the Council to determine whether to accept, reject or modify the expression of interest in accordance with the legislation and statutory guidance.  I/We also understand that Lancashire County Council as the relevant authority may reject this expression of interest on any grounds provided with the legislation and the statutory guidance. |
| **Signed:**  **Name:**  **Position:**  **Date:**  Note: This form must be signed by a director or other senior representative of the relevant body and where the relevant bodies consists of more than one legal entity it should be signed by an authorised representative of each entity. |

**Annex 1**

An EoI can only be rejected on the grounds specified in the Statutory Guidance.

1. The expression of interest does not comply with any of the requirements specified in the Act[[1]](#footnote-1) or in the regulations.[[2]](#footnote-2)
2. The relevant body provides information in the expression of interest which in the opinion of Lancashire County Council (LCC, is in a material particular inadequate or inaccurate. It should be noted that a judgement on the adequacy and accuracy of information supplied by a relevant body must be based only on the information that LCC may require (see section on information required on an expression of interest and paragraph 6.3 of the Statutory Guidance). If a decision is taken that the information is inadequate or inaccurate consideration should be given to asking the relevant body for more information prior to rejecting the expression of interest.
3. LCC considers, **based on the information in the expression of interest**, that the relevant body or, where applicable –
   1. Any member of the consortium of which it is a part, or
   2. Any sub-contractor referred to in the expression of interest is not suitable to provide or assist in providing the relevant service.

The judgement of suitability must be based on the requirements for information to be included (see section on information required on an expression of interest). For example, we may judge that a relevant body does not have the financial resources to undertake the service, or does not demonstrate that it will be able to partake in a procurement exercise. The judgement on suitability must not be based on information other than that which LCC may require under the Regulations.

1. The expression of interest relates to a relevant service where a decision, **evidenced** **in writing**, has been taken by LCC to stop providing that service. The community right to challenge is not a mechanism to require LCC to provide services that we have stopped providing or already taken a decision to stop providing. A decision to stop providing a service is considered to have been taken once it has been approved or endorsed by LCC. The regulations state clearly that this ground for rejection does **not** allow an expression of interest to be rejected before the decision is made to stop the service and goes on further to state that the situation where consideration is being given to the possibility of stopping a service is just the sort of circumstance when an expression of interest in providing that service from a relevant body may be critical.
2. The expression of interest relates to a relevant service –
   1. provided, in whole or in part, by or on behalf of LCC 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
   2. the continued integration of such service is, in the opinion of LCC, critical to the well-being of those persons.

This may affect health, health-related and social care services, such as services for frail and older people, and those with issues relating to mental health, dementia, learning and physical disabilities.

However, not all integrated services are subject to this ground for rejection. The guidance gives the following examples to illustrate how this may be assessed for day centres for adults with a learning disability.

**Example 1: Integration critical to the well-being of persons**

A day centre for individuals with complex needs. The health and social care staff work side by side to deliver personal care support and medical treatment to individuals who require considerable monitoring and individual care.

**Example 2: Integration not critical to the well-being of persons**

A day centre for individuals with mild to moderate needs where they gain support with daily tasks, undertake a range of activities, including for example activities which may help them find employment, and also receive health advice.

It is recommended that if an expression of interest is received for a service where this ground for rejection applies that advice is sought from the NHS body in assessing it. As a minimum, the NHS body should be informed that an expression of interest has been submitted and is being considered.

1. The relevant service is already the subject of a procurement exercise.
2. LCC and a third party have entered into negotiations for provision of the service, which negotiations are at least in part conducted in writing. This ground for rejection seeks to achieve a balance between giving groups the opportunity to submit expressions of interest and allowing processes, such as negotiations for a grant agreement, that are sufficiently progressed to be concluded. If LCC are merely considering options for a third party to provide the service, this ground for rejection could not be applied.
3. LCC has published its intention to consider the provision of the relevant service by a body that 2 or more specified LCC employees propose to establish. Under the Government’s [public service mutuals policy](http://www.mutuals.cabinetoffice.gov.uk/) employees proposing to establish a public service mutual are encouraged to do so in a way that gives employees a high degree of control. This ground for rejection also seeks to achieve a similar balance to that relating to negotiations with a third party (section g). LCC must be able to evidence that they have published their intentions in order to be able to reject an expression of interest on this ground. [we need to develop this mutuals policy]
4. LCC considers that the expression of interest is frivolous or vexatious. To be considered vexatious a request would be likely to cause distress or irritation without justification, or if it is aimed at disrupting the work of an authority or harassing individuals in it. A request could be considered frivolous if it is apparent that it is not a genuine offer to provide a service and lacks any serious purpose. This will allow LCC to reject expressions of interest where, for example, a relevant body wishes to make a complaint about a service rather than wishing to compete to deliver it.
5. LCC 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. The authority has to comply with its best value duty when procuring services, which requires it to make arrangements to secure continuous improvement in the way in which its functions are exercised, having a regard to a combination of economy, efficiency and effectiveness. Guidance on the best value duty can be found [here.](http://www.communities.gov.uk/documents/localgovernment/pdf/1976926.pdf)

1. Section 81(1) of the Localism Act [↑](#footnote-ref-1)
2. Made by the Secretary of State under section 81(1)(b)(duty to consider expression of interest) [↑](#footnote-ref-2)