

# Winchester City Council

## Community Right to Challenge Policy and Procedure

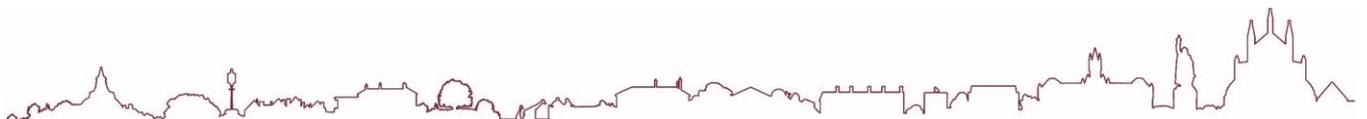
### Document Control

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<b>Author(s):</b>	Anna Bodman Simon Howson	<b>Policy Owner:</b>	Policy Team

### Document History

Version	Dated	Author	Description
1.0	Feb 2024	AB	First draft produced to clarify roles, responsibilities and timeline.
1.1	March 2024	Various	Updated with comments from procurement team and Service Lead: Communities.

If you need this policy translated or in another format like Large Print, please contact the Policy Team on [policy@winchester.gov.uk](mailto:policy@winchester.gov.uk) or via the Customer Service Centre.



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## **Introduction**

The Localism Act (2011) introduced the Community Right to Challenge to give certain groups the right to express their interest in running services on behalf of local authorities. It aims to provide communities with more opportunities to shape and run local public services where they believe they can do so differently, better, more efficiently, or cheaper.

This policy has been written to clarify the approach Winchester City Council takes to responding to community rights to challenge. It aims to maximise the opportunities of the right to challenge scheme for both the council and its communities.

## **Legal background**

This section of the policy provides a brief summary of the right to challenge legislation. It is not intended to be a comprehensive guide. More information on the statutory right to challenge is available at [www.gov.uk/community-right-to-challenge](http://www.gov.uk/community-right-to-challenge).

### **Who can submit a challenge?**

The following groups can submit an expression of interest. Please refer to the full legislation and statutory guidance for exact definitions of these groups:

- A voluntary or community body
- An organisation or trust formed for charitable purposes
- A parish or town council
- Two or more employees of the relevant authority

Whilst only these bodies are eligible to submit an expression of interest, they may do so in partnership with another body, regardless of whether they meet these requirements. The form in the appendix can be adjusted to accommodate this.

## What services can be challenged?

An expression of interest can be made regarding any service that is provided by us as a local authority. This includes everything that is **not** a function. Functions are things we are required to do (such as making planning decisions) whereas services are provided in order to fulfil these functions.

There are some specific services that are excluded from the CRTC. These are laid out in the full legislation and mainly consist around health and social care.

If the council currently has a contract or commercial arrangement in place to deliver the service, we will be unable to accept an EOI until just before the arrangement expires. If you wish to submit an EOI on such a service, you must submit an EOI at the minimum 12 months before it expires to allow enough time to factor this information into the procurement process.

## **Expression of Interest (EOI)**

The community right to challenge can be expressed by submitting an Expression of Interest, or EOI. This is a formal process that requires the submission of specific supporting information and evidence.

Appendix 1 is a copy of Winchester City Council's EOI form. Organisations can complete this online on the council's website.

The council will reply in writing confirming the receipt of each expression of interest received and will state clearly in this communication when the organisation can expect to hear on the decision. We have a maximum of three months to decide whether to accept, modify, or reject each proposal.

The council welcomes new ideas and challenges where they have the potential to improve service outcomes and value for money for our residents. We will give full consideration to all expressions of interest received where they provide all the necessary information.

## **Time restrictions**

To ensure community right to challenge is a fair, efficient, and effective process, it is necessary to restrict the time during which an expression of interest can be submitted. For services we deliver, you can submit an expression of interest between April and September. This will help us align this process to our budget setting timetable.

## **Decisions on community right to challenge**

The council will decide either to accept, accept with modifications, or deny each expression of interest received.

- Accept:** A proposal will be accepted where we are satisfied that a change in the method of service delivery will benefit the residents and offer value for money.
- Modify:** The council may seek to agree to an expression of interest being modified if we would otherwise reject it. This would need to be agreed by the organisation requesting the challenge.
- Reject:** The council can only decline a challenge if it meets one of the following requirements established in law:

- It does not comply with the requirements of the Act.
- The information provided is inadequate or inaccurate.
- We believe the requesting organisation is not suitable to provide the service.
- We believe the request is frivolous or vexatious.
- We have already decided to stop providing the service in question.
- We have already entered into written negotiations with a third party.
- We have already published our intention to consider mutualising the service.
- The service in question is already subject to a procurement exercise.
- The proposal is likely to lead to a contravention of law or statutory duty.
- We are not satisfied that a change in the method of service delivery will benefit our residents or offer value for money.

The council will always write to the relevant body explaining why the decision has been made.

### **Procurement**

Following a successful community right to challenge, the council will launch a procurement exercise as required by our Contract Procedure Rules and the Public Contract Regulations 2015 (PCR2015) or any superseding legislation. Having an EOI accepted will not guarantee that you will be successful in this exercise, but the relevant body will be invited to be included in any subsequent procurement process.

A procurement exercise will be undertaken in a minimum of three months from deciding to accept the EOI or prior to expiry of a contract/commercial arrangement.

### **Policy governance**

This policy is available on the council's website. It will be reviewed annually each year by the Policy Team.

Any questions should be directed to [policy@winchester.gov.uk](mailto:policy@winchester.gov.uk).