

The Community Right to Challenge



Guidance for relevant bodies: completing the East Sussex County Council expression of interest form

Date: April 2013

Document summary

Guidance for relevant bodies on completing a Community Right to Challenge expression of interest form.

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When to express an interest

The Community Right to Challenge is just one way you can tell East Sussex County Council (ESCC) about any ideas you may have about running our services. You can also contact the service directly, speak to your local councillor, or contact us using the details below.

If you have an idea for an expression of interest, please contact us to confirm when you should submit your challenge: righttochallenge@eastsussex.gov.uk

This will vary from case to case as existing contracts may be in place for the relevant service which will determine when ESCC are able to consider your expression of interest. The advice we give you will be based on the following processes:

Services not already the subject of a contract with a third party

Where services are not already delivered to the Council by a third party under a contract or other legally binding arrangement, any expression of interest will need to fit in to the agreed annual cycle of possible challenge, response and procurement:

- The scheme is open for you to submit expressions of interest in April and May each year.
- We have a maximum of six months (including the two month submission window, up to the end of September) to decide whether to accept, modify or reject your expression of interest. We will notify you of our decision within 10 working days.
- If we accept your expression of interest, we will start a procurement process where you can make a formal bid to run the service. The period between our decision and the start of the procurement process will be between three and six months (if the decision is made at the end of September, the earliest start date of the procurement process is January, the latest is April). The timescales will depend on each individual case.

Services already the subject of a contract with a third party

Where any services are already delivered to the Council by a third party under a contract or other legally binding arrangement:

- The scheme is open for you to submit expressions of interest between 24 and 21 months prior to the expiry date of that contract, to reflect the Council's contractual obligations. Where any contract is shown as having an extension period, the expiry date will automatically be the extended expiry date if the Council exercises any such extension. If any expression of interest is submitted in respect of services, some of which are covered by an existing contract or other legally binding arrangement and some of which are not, the relevant submission time period will be that governing the services covered by a contract or other legally binding arrangement. If more than one contract or legally binding arrangement is involved, the relevant period shall be established by reference to the latest applicable expiry date.
- We have a maximum of seven months (including the three month submission window) to decide whether to accept, modify or reject your expression of interest. We will notify you of our decision within 10 working days.

- If we accept your expression of interest, we will start a procurement process where you can make a formal bid to run the service. The period between our decision and the start of the procurement process will depend on the complexity of the service involved and our existing contractual obligations, in relation to each individual case.

Completing your expression of interest

- This document provides important information about the ESCC process for dealing with expressions of interest and a step by step guide (pages 4 to 10) to support relevant bodies completing the form.
- Before completing the form, please ensure you understand what is required by reading this document and using other supporting information available on the ESCC website (including definitions of a relevant body and information about excluded services): www.eastsussex.gov.uk/righttochallenge
- If you have any problems completing the form, or need the form in an alternative format, please let us know using the contact details on page 4.

Sending us your completed form

- Register with our secure email system - due to the potentially sensitive nature of information included in the form/attachments please use our special secure email system to protect confidential information. The first time you use the system you will be asked to register your mailbox on our system with a password, so only you can use it to correspond securely with us. For details about how to use the system, use the guidance document available on the ESCC website: www.eastsussex.gov.uk/contactus/secureemail
- Send the completed form to us at righttochallenge@eastsussex.gov.uk.
- Once we receive your form, ESCC will send you a notification (a maximum of 30 days after the close of our specified window for expressions of interest) which will outline the period during which we will consider your expression of interest and when you will be notified of the decision. The notification will be sent to the email address of the preferred contact which you provide in the Contact Details section of the form (see details below).

What happens next: considering your expression of interest

After receiving your expression of interest, ESCC:

- Will consider whether to accept, accept with modification or reject your proposal (see timescales for this on page 2). We are only allowed to base our decision on the information you are required to provide on the form. The questions set out in the form are based on Statutory Guidance for the Community Right to Challenge (pages 15-17). Any non-mandatory or additional supporting information submitted with the form cannot be used as grounds to reject the expression of interest. **We refer to the statutory guidance throughout this document, you can download it from the GOV.UK website:** <https://www.gov.uk/government/publications/community-right-to-challenge-statutory-guidance>

- Will notify you of the outcome of the decision within 10 working days of the decision being taken.
- May ask you to consider modifying your proposal. We will only do this if your proposal would be rejected without the suggested modification. For further information on modifying expressions of interest, see the Statutory Guidance (page 24).

If ESCC accepts your expression of interest:

- As the relevant body, you will be invited to compete in an open procurement exercise, during which your organisation (and any other organisation who wishes to compete in the procurement exercise) will be required to provide information. The information submitted by potential providers during the procurement exercise will be the basis on which ESCC awards the contract.

Withdrawing your expression of interest:

- You may withdraw your expression of interest after submitting it to us (either before or after a decision has been made by us whether to accept or reject your expression of interest). In this instance, ESCC will seek written confirmation of this decision. ESCC may choose to proceed with a procurement exercise if it is considered appropriate.

Contact

If you have any questions about completing the form, please contact:

Community Right to Challenge

C6E,

County Hall,

St Anne's Crescent,

Lewes,

East Sussex BN7 1UE

Phone: 01273 335828

Email: RightToChallenge@eastsussex.gov.uk

Completing the form – step by step guide

- Please complete all questions marked as mandatory.
- A number of additional questions are also included on the form – these are not mandatory, however the answers will help us to understand your proposal.
- Supporting information can be submitted to provide evidence for any of the information requested on the form. You will find reminders suggesting where supporting information may be appropriate throughout the form; however this is for advice only.
- The information below is laid out in sections that correspond to the form. The numbering indicates which question the guidance relates to.

About your organisation

The kinds of bodies who are eligible to use the Community Right to Challenge are known as '**relevant bodies**'. Information about relevant bodies and definitions of different types of relevant bodies are provided in the Statutory Guidance (pages 6 – 9). This includes information on how an incorporated joint venture could be a relevant body.

- 1) Provide the name of the relevant body submitting the expression of interest. If you are submitting an expression of interest as two or more employees of ESCC, please provide your names as the 'organisation' name.
- 2) Provide the address of the relevant body. If this organisation does not have an address (e.g. if the relevant body is a new organisation or you are submitting an expression of interest as two or more employees of ESCC) please provide a contact address.
- 3) Indicate which type of relevant body your organisation is (based on definitions in the Statutory Guidance, pages (6 - 9)).
- 4) Relevant bodies are asked to prove that they meet the definition of a relevant body (Statutory Guidance, (page 15)). Please provide evidence in this section. Evidence that your organisation meets the definition of relevant body could include:
 - Charity Number
 - Articles of association
 - Registration with Companies House
 - Registration with the Financial Services Authority
 - For a group of two or more ESCC staff, confirmation of Personnel Numbers (found on payslips) for each member of staff

These examples are given for advice only - the information that each organisation decides to provide may vary.

You will be able to attach additional documents to support this answer.

- 5) Provide a brief history and information about the guiding mission of your organisation. You do not need to answer this question, but the information will help us to understand your proposal.
- 6) Relevant bodies are required to provide information about the financial resources of the relevant body.

The Statutory Guidance does not specify the type of financial information to be provided. We suggest that you provide information that proves that your organisation is financially sustainable. Proof of financial sustainability might include:

- Most recent audited accounts (suggested minimum of 2 years')
- Your Business Plan
- Any guarantees, for example from a parent organisation if applicable

These examples are given for advice only - the information that each organisation decides to provide may vary.

You will be able to attach additional documents to support this answer.

Consortiums

- 7) Relevant bodies are allowed to submit an expression of interest in partnership with one of more other organisations. These other organisations are not required to meet the definition of a relevant body Statutory Guidance (pages 8 – 9).
- a. If you are submitting the expression of interest as a consortium, you are required to provide information about all members of the consortium or partnership. Select 'Yes' and complete questions 7b to 7d.

If you are not submitting your expression of interest as a consortium, select 'No' and go to question 8.

- b. Provide the name of the consortium member organisation(s).
- c. Information about the financial resources of the proposed consortium member(s) is required. The Statutory Guidance does not specify the type of financial information to be provided.
See guidance at question 6 (above) for advice on information that could be provided here.

You will be able to attach additional documents to support this answer.

- d. Describe how you propose you will work together as a consortium and what role each organisation will play.
You do not need to answer this question, but the information will help us to understand your proposal.

Sub-contractors

- 8) Relevant bodies can propose to use a sub-contractor(s) to deliver any part of the relevant service.

- a. If you propose to use a sub-contractor(s) to deliver the service, you are required to provide information about the sub-contractor organisation(s) as set out in the Statutory Guidance (page 15). Select 'Yes' and complete questions 8b to 8d.

If you do not propose to use a sub-contractor, select 'No' and go to question 9.

- b. Provide the name of the sub-contractor organisation(s).
- c. Information about the financial resources of the proposed sub-contractor(s) is required. The Statutory Guidance does not specify the type of financial information to be provided.
See guidance at question 6 (above) for advice on information that could be provided here.

You will be able to attach additional documents to support this answer.

- d. Describe how you propose you will work together with your sub-contractor(s) and what role each sub-contractor will play.
You do not need to answer this question, but the information will help us to understand your proposal.

Your challenge

The Community Right to Challenge applies to all '**relevant services**'. For information about relevant services and excluded services, please see the Statutory Guidance (pages 10 – 13).

- 9) Provide any information necessary to help us to understand the ESCC service you are interested in running.
- 10) Identify the relevant geographical area.
 - a. Select which geographical area your expression of interest relates to.
 - b. If you selected 'A specific area of East Sussex' or 'Other area' for question 10a, please provide further details to explain the proposed geographical area.
For example, you may wish to refer to a part of the county like 'north area of East Sussex', a Borough/District area (Eastbourne, Hastings, Lewes, Rother or Wealden) or a smaller area(s).

Outcomes

- 11) Information is required 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.

- a. Demonstrate how your provision of the service would promote or improve the social, economic or environmental wellbeing of the area including anything over and above the provision of the service.

This could include creating local jobs, improving local skills, increasing local volunteering opportunities, or improving environmental conditions. The Statutory Guidance (pages 15 – 16) provides further information and provides examples of social value.

You will be able to attach additional documents to support this answer.

Please note: During any subsequent procurement exercise which results from an accepted expression of interest, we will be required to balance the consideration of Social Value with procurement law applying to the award of contracts.

- b. It is important that proposals meet the needs of service users. In order to demonstrate how your proposal would deliver outcomes that meet the needs of users of the relevant service, you may refer to evidence such as needs assessments prepared by ESCC or other sources. This could also include a survey of service users conducted by your body.

You will be able to attach additional documents to support this answer.

- c. Please add any other information you would like us to consider about outcomes to be achieved in providing the service.
You do not need to answer this question, but the information will help us to understand your proposal.

You will be able to attach additional documents to support this answer.

Capability to provide the service

- 12) Provide evidence which demonstrates that the relevant body (and/or consortium/sub-contractor where appropriate) will have the capability to provide the relevant service by the time of any procurement exercise that may result from this expression of interest.

The Statutory Guidance does not specify the type of information needed to prove your capability to provide the service. We suggest that you provide information that proves that by the time any procurement exercise starts, your organisation, sub-contractor(s) or consortium will be in a suitable position to deliver a contract on behalf of ESCC. Information about capability might include:

- How you will become incorporated (if relevant). See Statutory Guidance (page 8-9)

- Information about your organisation's objectives
- How you will ensure that you have in place any necessary insurances such as public liability insurance
- How you will meet any specific requirements relating to the service you are interested in providing, for example accreditation to governing bodies
- Information about the experience and skills of your organisation that are relevant in providing or assisting in providing the service
- If you have applied for or have been awarded any funding in relation to this challenge

Employees using the Right are not expected to have finalised all of their arrangements before submitting an expression of interest but should form a separate legal entity in order to bid in any subsequent procurement exercise (so that management and contractual relationships are clear) (Statutory Guidance, page 8). The period between an expression of interest being accepted and a procurement exercise being carried out (Statutory Guidance, pages 25-27) will help here.

These examples are given for advice only - the information that each organisation decides to provide may vary.

You will be able to attach additional documents to support this answer.

Staff engagement

This section should only be completed if your relevant body is a group of two or more ESCC staff.

- 13) Provide details of how you propose to engage other employees of ESCC who are affected by the expression of interest.

The way in which employees are engaged can be decided locally and that existing staff engagement and governance channels can play a part. The Statutory Guidance (page 17) provides examples of engagement methods (face-to-face meetings, intranet updates and staff clinics), but also sets out an expectation that the engagement of staff is appropriate and proportionate to the size and nature of the service and the number of employees directly affected by the expression of interest. There is no requirement for a ballot to demonstrate support for a proposal.

You will be able to attach additional documents to support this answer.

Supporting material

Attach any additional documentation to the email that you have referenced when completing the form, and any other documents you would like to add to support your expression of interest.

Contact details

Please provide contact details so that we can get in touch with you about your expression of interest and notify you of our decision. The representative(s) whose details are given should have good knowledge of the expression of interest and be able to make decisions on behalf of the relevant body.

Once you have submitted the form, a notification will be sent to the email address that you provided.