



## **Decentralisation and Localism Bill Briefing on the consultation paper:**

### ***Community Right to Challenge***

March 2011

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## 1. Introduction

1.1 *The Decentralisation and Localism Bill*<sup>1</sup> (the Bill) published in December 2010 included new powers to enable communities to help them save local assets, both buildings and land (the Community Right to Buy) and to express an interest in running local services (the Community Right to Challenge). The idea behind these powers is that communities would be able to have sufficient time to put together a bid to save their local pub or village shop, and that if a group feels that they could run a public service better than they get a fair chance to put forward their proposal.

1.2 While the Bill sets out the statutory framework, the paper *Proposals to introduce a Community Right to Challenge*<sup>2</sup> invites views on how it will actually work in practice. The outcome of the consultation will form the basis of Regulations which will accompany the Bill and determine what communities will need to do to use the right. The Government is seeking views from county and district local authorities, voluntary and community bodies, charities, and other interested parties.

1.3 NCVO will be responding to this consultation paper. The community right to challenge is intended to enable communities to be more involved in their local area and it is important that the regulations best encourage and allow communities to take up and use these rights. This briefing highlights key questions that are of most relevance to organisations and puts forward our initial response. We would very much like to hear your views on these proposals to develop our answers and ensure that our members' views are best represented to government.

1.4 You can find out more about the Decentralisation and Localism Bill in our briefing<sup>3</sup> which highlights potential opportunities and implications of the legislation for the voluntary and community sector. This paper outlines the proposals as set out in the consultation and includes:

- a summary of the proposals;
- issues for consultation; and
- our initial response to these.

1.5 To contribute your thoughts to our response please contact [Daniel.fluskey@ncvo-vol.org.uk](mailto:Daniel.fluskey@ncvo-vol.org.uk) or phone 020 7520 2433.

1.6 Responses to the consultation can be sent directly through to Department for Communities and Local Government to [crtchallenge@communities.gsi.gov.uk](mailto:crtchallenge@communities.gsi.gov.uk). There is also a template form available from DCLG<sup>4</sup> which can be used to submit your response. The deadline for responses is 5pm on 3 May 2011

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<sup>1</sup> <http://www.publications.parliament.uk/pa/cm201011/cmbills/126/11126.i-v.html>

<sup>2</sup> <http://www.communities.gov.uk/publications/localgovernment/righttochallengeconsultation>

<sup>3</sup> <http://www.ncvo-vol.org.uk/networking-discussions/blogs/18452/11/01/11/briefing-decentralisation-localism-bill>

<sup>4</sup> <http://www.communities.gov.uk/documents/localgovernment/doc/18362961.doc>

## **2. Community Right to Challenge**

The Community Right to Challenge is designed to enable charities, social enterprises, and other groups to express an interest in running a service that is either being provided by, or on behalf of, the local authority. The idea behind this right is giving more power to local people and enabling them to play a bigger role in designing and delivering local services. This could be very wide ranging, including managing a park, running a transport service, or providing social care.

The Bill will allow a community to put forward a proposal to the local authority which challenges the way a service is currently run and sets out how they could run it better. If the expression of interest is accepted, a procurement exercise will be triggered, meaning that the local authority will accept tenders and bids for the future running of the service. It is important to note that although a group may submit an expression of interest, there is no guarantee that their bid will be successful. Therefore, the organisation that ends up delivering the service may be completely different from the one who originally made the challenge.

### **3 Which services should not be subject to challenge?**

The Bill restricts the right to challenge to services provided by a 'relevant authority' such as a County Council, District Councils, and London Borough Councils. This means that if the service is provided by another public body, for example the NHS, the right to challenge would not apply.

The right to challenge will apply to services that the local authority delivers itself, as well as services that are being delivered on its behalf by an outside organisation or company. If a VCO is delivering a service on behalf of a local authority under a contract, the running of that service could be subject to a challenge, but it is expected that the existing contract will be honoured.

### **Should specific services be exempt from the Community Right to Challenge? If so, which ones and why?**

### **4 When will an Expression of Interest be considered?**

In order to make the process as smooth and manageable as possible, the Bill enables local authorities to specify periods during which expressions of interest may be submitted. This is designed to limit the burden on local authorities, so that rather than potentially receiving an expression of interest at any time they could set out certain periods during which they will consider expressions of interest.

Regulations could also set out a minimum time period for when expressions of interest could be submitted – for example a six week period during which groups could put forward their challenge.

NCVO believes that minimum periods should allow sufficient time for organisations to be able to put together viable expressions of interest in running the service. It is also important that advance notice is given so that communities and organisations are

aware of the period within which an expression of interest can be submitted and have time to prepare accordingly. It is hoped that where limits are imposed for when an expression of interest will be considered, this is joined up intelligently to form part of the commissioning cycles for the service.

### **Should regulations set a minimum period for authorities to consider Expressions of Interest? What should this be?**

#### 5 What information should be included in an Expression of Interest?

It is proposed that expressions of interest should include sufficient information to allow an authority to be able to make a decision on its merits. This would include details of the service; financial information on the organisation proposing to deliver the service; and details of the 'social value' of a proposal, for example whether it promoted or improved the social, economic or environmental well-being of the relevant authority's area.

NCVO believes the social value that can be gained through a voluntary or community body or a charity delivering a service should be at the heart of the decision-making process for determining whether the expression of interest should succeed or not.

### **What information should be included in an Expression of Interest?**

#### 6 When can Expression of Interest may be modified or rejected?

Where appropriate, the local authority may try to work with the VCO to modify their expression of interest before accepting it. Where this is not possible or appropriate, the consultation proposes a number of reasons for rejecting an expression of interest. This might be because the expression of interest does not include all the required information, or that the organisation is not deemed capable of providing or being involved in providing the service.

NCVO believes that authorities should be looking to modify expressions of interest and work with groups to improve them rather than treating the proposed reasons for rejection as a tick box exercise which must be passed. Regulations must ensure that the right framework is set which encourages communities and groups to put forward innovative ideas on new ways that services could be delivered. In deciding whether a body is capable of providing the service, the level of risk and assessment should not be set so high that communities are excluded. Instead, a discussion should take place between the organisation and the authority to discuss the capacity required and whether the body can provide this.

### **Do you agree that expressions of interest should be able to be modified?**

#### 7 Overall questions

Considering the proposals set out in this consultation, do you think overall it provides the right framework to enable communities and groups to be able to challenge the running of the service?

If not, what else would you want to see included in the regulations to make this right to challenge a success?

What support would be most helpful to give VCOs the opportunity to use this right?