



Community Right to Challenge

Consultation response form

We are seeking your views on the following questions on the Government's proposals to introduce a Community Right to Challenge.¹ **If possible, we would be grateful if you could please respond by email.**

Please email: crtchallenge@communities.gsi.gov.uk

Alternatively, we would be happy to receive responses by post. Please write to:

Community Right to Challenge Consultation Team
Department for Communities and Local Government
5/A3 Eland House
Bressenden Place
London SW1E 5DU

The deadline for submissions is 5pm on Tuesday 3 May 2011.

(a) About you

(i) Your details

Name:	Daniel Fluskey
Position:	Policy Officer
Name of organisation (if applicable):	National Council for Voluntary Organisations
Address:	Regent's Wharf, 8 All Saints Street, London N1 9RL
Email:	daniel.fluskey@ncvo-vol.org.uk
Telephone number:	020 7520 2460

¹ DCLG (2011) Proposals to introduce a Community Right to Challenge: Consultation paper. see: www.communities.gov.uk/corporate/publications/consultations

(ii) Are the views expressed on this consultation an official response from the organisation you represent or your own personal views?

Organisational response	<input checked="" type="checkbox"/>
Personal views	<input type="checkbox"/>

(iii) Please tick the *one* box which best describes you or your organisation:

Voluntary sector or charitable organisation	<input checked="" type="checkbox"/>	
Relevant authority (i.e. district, London borough, county council)	<input type="checkbox"/>	
Parish council	<input type="checkbox"/>	
Business	<input type="checkbox"/>	
Other public body (please state)	<input type="checkbox"/>	
Other (please state)	<input type="checkbox"/>	

(iv) Do your views or experiences mainly relate to a particular type of geographical location?

City	<input type="checkbox"/>	
London	<input type="checkbox"/>	
Urban	<input type="checkbox"/>	
Suburban	<input type="checkbox"/>	
Rural	<input type="checkbox"/>	
Other (please comment)	<input checked="" type="checkbox"/>	All

(vi) Would you be happy for us to contact you again in relation to this consultation?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

(b) Consultation questions

Section 2 – Which services should not be subject to challenge?

Q1. Are there specific services that should be exempted from the Community Right to Challenge?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If Yes, why?

Q2. Are there any general principles that should apply in considering which services should be exempt?

Explanation/comment:

Caution should be given to exempting services from being subject to the right to challenge. Government recognises the unique role that community and voluntary groups can play in designing and delivering local services and providing value for money. For services to be exempted from the right to challenge means that a judgment has been made that these services can never be challenged by its community - this is a very high test to meet and should be subject to future review where accepted.

Section 3 - Relevant bodies and relevant authorities

Q3. We are minded to extend the Community Right to Challenge to apply to all Fire and Rescue Authorities. Do you agree?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

Explanation/comment:

Q4. Should the current definition of relevant authority under the Community Right to Challenge be enlarged in future to apply to other bodies carrying out a function of a public nature? If yes, which bodies?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

Explanation/comment:

The definition of a relevant authority should be enlarged where appropriate in the future so that other bodies carrying out public functions are included. The purpose of the Bill is to allow communities to have the initiative to be able to challenge the running of services and put forward ideas on how they could be run better - therefore the right should be include other bodies carrying out a public function so that these services can also be challenged.

Section 4 - When a relevant authority will consider Expressions of Interest

Q5. Should regulations specify a minimum period during which relevant authorities must consider Expressions of Interest?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

Explanation/comment:

A specified minimum period 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 and all the necessary information should be made available in advance by the local authority. 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.

Q6. If a minimum period is to be specified, what should this be?

Explanation/comment:

A minimum period of between 1 month and 6 weeks would seem to be appropriate. We would urge local authorities to very much consider these as minimum benchmarks and not standard practice. In each case discretion should be given to what is appropriate and reasonable in the circumstances considering factors such as: the size and scale of the service, the capacity of groups to be likely to respond to a procurement exercise, and whether advance notice of the opportunity to submit an expression of interest has been given.

Section 5 - Information to be included in an Expression of Interest

Q7. Do you agree with the proposed information to be included in Expressions of Interest?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

Explanation/comment:

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. Consideration should also be given to the voice of service users within the expression of interest.

The strength of the expression of interest and the value that it can potentially bring to communities and service users should be the main consideration when assessing an expression of interest to challenge a service. It would be preferable for local authorities not to treat the information to be included as a tick-box exercise and instead give overall consideration to the value of the proposal and the potential to increase the effectiveness of the service and value for the community.

The local authority should be required to provide all relevant information on the service so that organisations and groups can prepare appropriate expressions of interest.

Q8. Is there further information you believe should be provided as part of Expressions of Interest?

Explanation/comment:

Nothing specified - but the relevant authority should not be restricted in being able to consider other relevant information in the expression of interest that is not set out in the prescribed list of information that has to be submitted.

Section 6 - Period for a relevant authority to reach a decision on an Expression of Interest

Q9. Should regulations specify a minimum period during which a relevant authority must reach a decision on an Expression of Interest?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If yes, what should this be?

Q10. Should regulations specify a maximum period during which a relevant authority must reach a decision on an Expression of Interest?

If yes, what should this be?

1 month - 6 weeks.

Section 7 – When an Expression of Interest may be modified or rejected

Q11. Do you agree with the above listed grounds whereby an Expression of Interest may be rejected?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

Explanation/comment:

Greater discretion should be given to be able to modify, in partnership with the submitting body, the expression of interest rather than to reject it out of hand. This should be able to include more than 'minor changes' especially considering the range of organisations and the experience they have of engaging with local authorities.

Q12. Are there any other grounds whereby relevant authorities should be able to reject an Expression of Interest?

Explanation/comment:

No

Section 8 – Period between accepting an Expression of Interest and initiating an exercise for the provision of a contract for that service

Q13. Should minimum periods between an Expression of Interest being accepted and a relevant authority initiating a procurement exercise be specified in regulations?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If yes, what should the minimum period be?

A minimum period of 1 month - 6 weeks should be set to ensure that groups and organisations have sufficient and appropriate time to be able to participate in a procurement exercise. Regardless of what the minimum specified period is, consideration should be given to the organisation submitting the expression of interest and their capacity to be able to take part in a procurement exercise before setting an appropriate timescale.

Q14. Should maximum periods between an Expression of Interest being accepted and a relevant authority initiating a procurement exercise be specified in regulations?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If yes, what should the maximum period be?

3 months would seem to offer enough time for a procurement exercise to be initiated, and to ensure that organisations who submit an expression of interest are able to take part in a procurement exercise.

Section 9 – Support and guidance

Q15. What support would be most helpful?

Explanation/comment:

VCS organisations and communities will need clear advice, support and guidance to be aware of the right to challenge and understand how they can use this right. There are complementary roles to play from both local and central government in providing this advice, sharing good practice, and encouraging communities to be able to exercise this right.

This will include, but not be restricted to:

1. A commitment from local authorities to work with a diverse range of individuals and groups, including those that provide voice to more vulnerable and marginalised members of the community. Opportunities will need to be presented in a clear and accessible way and communicated clearly to community groups in order to enable their participation.
2. Partnerships between government and the VCS to develop productive relationships and following local Compacts is key. While the language of 'right to challenge' may seem to be empowering for communities, often the best services and commissioning processes are those that are worked on collaboratively.
3. Support and guidance that is provided for the community right to challenge should form part of a more comprehensive package which also includes the right to buy and other aspects of community empowerment. Providing information in a joined up way would be more effective and would also encourage best practice and good partnership working to be embedded in the relationship between local government and the VCS.

Q16. Are there issues on which DCLG should provide guidance in relation to the Community Right to Challenge?

Explanation/comment:

DCLG has a role to play in making sure that commissioning processes and general partnership working of local government and the VCS are successful and that community empowerment becomes a part of this.

(c) Additional questions

Do you have any other comments you wish to make?

The success of the community right to challenge is bound up in many areas and issues such as commissioning practices, procurement exercises, and an understanding of social, economic and environmental value. The right to challenge is not something which should sit apart from these general functions of local authorities.

The groups putting forward an expression of interest should have a 'local connection' in the same way that groups have to for assets of community value.

END