



Localism Act 2011

2011 CHAPTER 20

PART 5

COMMUNITY EMPOWERMENT

CHAPTER 2

COMMUNITY RIGHT TO CHALLENGE

81 Duty to consider expression of interest

- (1) A relevant authority must consider an expression of interest in accordance with this Chapter if—
 - (a) it is submitted to the authority by a relevant body, and
 - (b) it is made in writing and complies with such other requirements for expressions of interest as the Secretary of State may specify by regulations.This is subject to section 82 (timing of expressions of interest).
- (2) In this Chapter “relevant authority” means—
 - (a) a county council in England,
 - (b) a district council,
 - (c) a London borough council, or
 - (d) such other person or body carrying on functions of a public nature as the Secretary of State may specify by regulations.
- (3) The persons or bodies who may be specified by regulations under subsection (2)(d) include a Minister of the Crown or a government department.
- (4) In this Chapter “expression of interest”, in relation to a relevant authority, means an expression of interest in providing or assisting in providing a relevant service on behalf of the authority.

Status: This is the original version (as it was originally enacted).

- (5) In this Chapter “relevant service”, in relation to a relevant authority, means a service provided by or on behalf of that authority in the exercise of any of its functions in relation to England, other than a service of a kind specified in regulations made by the Secretary of State.
- (6) In this Chapter “relevant body” means—
- (a) a voluntary or community body,
 - (b) a body of persons or a trust which is established for charitable purposes only,
 - (c) a parish council,
 - (d) in relation to a relevant authority, two or more employees of that authority, or
 - (e) such other person or body as may be specified by the Secretary of State by regulations.
- (7) For the purposes of subsection (6) “voluntary body” means a body, other than a public or local authority, the activities of which are not carried on for profit.
- (8) The fact that a body’s activities generate a surplus does not prevent it from being a voluntary body for the purposes of subsection (6) so long as that surplus is used for the purposes of those activities or invested in the community.
- (9) For the purposes of subsection (6) “community body” means a body, other than a public or local authority, that carries on activities primarily for the benefit of the community.
- (10) The Secretary of State may by regulations—
- (a) amend or repeal any of paragraphs (a) to (d) of subsection (6);
 - (b) amend or repeal any of subsections (7) to (9);
 - (c) make other amendments to this Chapter (including amendments to any power to make regulations) in consequence of provision made under subsection (2) (d) or (6)(e) or paragraph (a) or (b) of this subsection.

82 Timing of expressions of interest

- (1) Subject as follows, a relevant body may submit an expression of interest to a relevant authority at any time.
- (2) A relevant authority may specify periods during which expressions of interest, or expressions of interest in respect of a particular relevant service, may be submitted to the authority.
- (3) The relevant authority must publish details of each specification under subsection (2) in such manner as it thinks fit (which must include publication on the authority’s website).
- (4) The relevant authority may refuse to consider an expression of interest submitted outside a period specified under subsection (2).

83 Consideration of expression of interest

- (1) The relevant authority must—
 - (a) accept the expression of interest, or
 - (b) reject the expression of interest.

This is subject to section 84(1) (modification of expression of interest).

Status: This is the original version (as it was originally enacted).

- (2) If the relevant authority accepts the expression of interest it must carry out a procurement exercise relating to the provision on behalf of the authority of the relevant service to which the expression of interest relates.
- (3) The exercise required by subsection (2) must be such as is appropriate having regard to the value and nature of the contract that may be awarded as a result of the exercise.
- (4) A relevant authority must specify—
 - (a) the minimum period that will elapse between—
 - (i) the date of the relevant authority’s decision to accept an expression of interest, and
 - (ii) the date on which it will begin the procurement exercise required by subsection (2) as a result of that acceptance, and
 - (b) the maximum period that will elapse between those dates.
- (5) The relevant authority may specify different periods for different cases.
- (6) The relevant authority must publish details of a specification under subsection (4) in such manner as it thinks fit (which must include publication on the authority’s website).
- (7) The relevant authority must comply with a specification under subsection (4).
- (8) A relevant authority must, in considering an expression of interest, consider whether acceptance of the expression of interest would promote or improve the social, economic or environmental well-being of the authority’s area.
- (9) A relevant authority must, in carrying out the exercise referred to in subsection (2), consider how it might promote or improve the social, economic or environmental well-being of the authority’s area by means of that exercise.
- (10) Subsection (9) applies only so far as is consistent with the law applying to the awarding of contracts for the provision on behalf of the authority of the relevant service in question.
- (11) The relevant authority may reject the expression of interest only on one or more grounds specified by the Secretary of State by regulations.

84 Consideration of expression of interest: further provisions

- (1) A relevant authority that is considering an expression of interest from a relevant body may modify the expression of interest.
- (2) A relevant authority may exercise the power in subsection (1) only if—
 - (a) the authority thinks that the expression of interest would not otherwise be capable of acceptance, and
 - (b) the relevant body agrees to the modification.
- (3) A relevant authority must specify the maximum period that will elapse between—
 - (a) the date on which it receives an expression of interest submitted by a relevant body, and
 - (b) the date on which it notifies the relevant body of its decision in respect of the expression of interest.
- (4) The relevant authority may specify different periods for different cases.

Status: This is the original version (as it was originally enacted).

- (5) The relevant authority must publish details of a specification under subsection (3) in such manner as it thinks fit (which must include publication on the authority's website).
- (6) A relevant authority that receives an expression of interest from a relevant body in accordance with this Chapter must notify the relevant body in writing of the period within which it expects to notify the relevant body of its decision in respect of the expression of interest.
- (7) The relevant authority must give the notification under subsection (6) —
 - (a) where the expression of interest is one to which a specification under section 82(2) relates and is made within a period so specified, within the period of 30 days beginning immediately after the end of the period so specified, or
 - (b) otherwise, within the period of 30 days beginning with the day on which the relevant authority receives the expression of interest.
- (8) The relevant authority must—
 - (a) notify the relevant body in writing of its decision in respect of the expression of interest within the period specified by it under subsection (3), and
 - (b) if the authority's decision is to modify or reject the expression of interest, give reasons for that decision in the notification.
- (9) The relevant authority must publish the notification in such manner as it thinks fit (which must include publication on the authority's website).
- (10) A relevant body may withdraw an expression of interest after submitting it to a relevant authority (whether before or after a decision has been made by the authority in respect of the expression of interest).
- (11) The withdrawal of an expression of interest, or the refusal of a relevant body to agree to modification of an expression of interest, does not prevent the relevant authority from proceeding as described in section 83(2) if the relevant authority thinks that it is appropriate to do so.

85 Supplementary

- (1) The Secretary of State may by regulations make further provision about the consideration by a relevant authority of an expression of interest submitted by a relevant body.
- (2) A relevant authority must, in exercising its functions under or by virtue of this Chapter, have regard to guidance issued by the Secretary of State.

86 Provision of advice and assistance

- (1) The Secretary of State may do anything that the Secretary of State considers appropriate for the purpose of giving advice or assistance to a relevant body in relation to—
 - (a) the preparation of an expression of interest for submission to a relevant authority and its submission to a relevant authority,
 - (b) participation in a procurement exercise carried out by a relevant authority in response to an expression of interest, or

Status: This is the original version (as it was originally enacted).

- (c) the provision of a relevant service on behalf of a relevant authority following such a procurement exercise.
- (2) The Secretary of State may do anything that the Secretary of State considers appropriate for the purpose of giving advice or assistance about the operation of this Chapter to a body or person other than a relevant body.
- (3) The things that the Secretary of State may do under this section include, in particular—
- (a) the provision of financial assistance to a relevant body;
 - (b) the making of arrangements with a body or person (whether or not a relevant body), including arrangements for things that may be done by the Secretary of State under this section to be done by that body or person;
 - (c) the provision of financial assistance to a body or person other than a relevant body in connection with arrangements under paragraph (b).
- (4) In this section references to a relevant body include a body that the Secretary of State considers was formed wholly or partly by employees or former employees of the relevant authority for the purposes of, or for purposes including—
- (a) participating in a procurement exercise carried out by the authority, or
 - (b) providing a relevant service on the authority's behalf.
- (5) In this section—
- (a) the reference to giving advice or assistance includes providing training or education, and
 - (b) any reference to the provision of financial assistance is to the provision of financial assistance by any means (including the making of a loan and the giving of a guarantee or indemnity).