

BASSETLAW DISTRICT COUNCIL

DRAFT CABINET REPORT

4 SEPTEMBER 2012

REPORT OF THE DIRECTOR OF CORPORATE SERVICES

COMMUNITY RIGHT TO CHALLENGE

Cabinet Member: Policy and Community
Engagement

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1. Public Interest Test

The author of this report has determined in preparing this report that this matter is not confidential.

2. Purpose of the Report

2.1 To provide Members with an update on the Community Right to Challenge provisions of the Localism Act.

2.2 To seek agreement from Members on an approach to effectively respond to these new provisions.

3. Background and Discussion

3.1 The Localism Act was enacted on 15 November 2011. The Act is driving a shift in power away from Whitehall and handing it back to communities, giving them more opportunities to take control locally.

3.2 There are several community rights contained within the Localism Act for example rights to bid for local assets of community value, community-led development using the community right to build and opportunities to adopt a neighbourhood plan, but this report deals specifically with the community right to challenge.

3.3 The Community Right to Challenge is now in force and the Council must ensure that it can respond positively to this part of the Localism Act. Some information and a point of contact for interested parties is currently posted on the Council's website.

3.4 What is the Community Right to Challenge?

Relevant authorities and Relevant bodies

3.4.1 The Community Right to Challenge refers to two sets of bodies. Relevant authorities are: -

- A county council
- A district council
- A London borough council
- Any other person or body carrying out a function of a public nature
- Certain fire and rescue authorities

Relevant authorities must consider expressions of interest from relevant bodies to run a service or part of a service. If they accept an expression of interest they must carry out a procurement exercise for the service or parts of service to which the expression of interest relates.

- 3.4.2 The Community Right to Challenge gives the following Relevant Bodies the right to submit an expression of interest to a Relevant Authority to run a service

Relevant bodies

- Voluntary (not for profit – investing surpluses in the community)
- Community bodies (primarily for the benefit of the community)
- Organisations set up solely for charitable purposes
- Parish Councils and
- 2 or more employees
- Any other body specified by the Secretary of State

- 3.4.3 Also the organisations and individuals listed above at 3.4.1 could join forces and submit a partnership expression of interest in order to strengthen their case to run a Council service. They could also join forces with other organisations not listed above. This could significantly strengthen an organisation's(s) case that it is capable of providing the service.

- 3.4.4 More formal joint ventures could also submit an expression of interest but they must either have at least one organisation that meets the definition of a relevant body or be able to fulfil set criteria expected of a relevant authority within that joint venture organisation.

Relevant services

- 3.4.5 The right applies to any service provided by – or on behalf of a local authority in the exercise of its functions, unless specifically excluded by the regulations.

- 3.4.6 Although the Community Right to Challenge may result in services being delivered by organisations other than the local authority the responsibility for the function always remains with the authority.

- 3.4.7 Excluded services

Under the regulations a number of health and children's services are excluded from the Community Right to Challenge. These services are generally delivered by upper tier authorities.

3.4.8 Expressions of Interest

Expressions of interest must be in writing and fulfil other criteria which will provide sufficient detail to allow reasonable decisions to be made about the suitability of the applicants and the viability of the applicants running a service e.g. financial information, details of which service the organisation(s) is/are seeking to deliver, outcomes to be achieved, etc.

We can determine when we receive expressions of interest and the period between acceptance and the start of the procurement exercise. Alternatively we could receive expressions of interest at any time.

This flexibility allows us to make decisions about how we manage the process based on: -

- The time required to prepare for a procurement process
- The complexity of the service in question
- The authority's commissioning and decision making cycles

The Authority must establish a timetable for making its decisions and notify those concerned. The timetable must be provided within 30 days of the close of the period specified for submissions of expressions of interest. The Authority may determine a reasonable period of time to make decisions to include time to seek modifications to expressions of interest, make suitable checks on the information provided and to account for the Council's commissioning and decision making processes.

Expressions of interest should demonstrate the promotion of social, economic or environmental outcomes. There will be a challenge to reconcile achievement of these outcomes and other very practical outcomes in respect of the delivery of the service.

3.4.9 Grounds to refuse an Expression of Interest include:

- Failure to comply with the statutory requirements
- A material inadequacy or inaccuracy in the information provided
- Unsuitability of the organisation or any of its partners or sub-contractors
- Where a decision to stop providing the service has already been made
- A procurement exercise is already underway
- Negotiations to provide the service are already underway, in writing, with a third party
- Notice has already been given that the Authority is considering a proposal for the service from its employees
- The expression of interest is frivolous or vexatious
- Acceptance is likely to breach another legal obligation
- Please note that the grounds to reject an Expression of Interest solely on the basis that a contract is still running is removed (although other grounds could be invoked). It is therefore advisable to identify contracts that are running and that are currently excluded from the Community Right to Challenge and publicise this on our website and in relevant public places.

3.4.10 Records of the commissioning and procurement processes and decisions made must be published.

3.4.11 Complying with other legislation

Local authorities will have to comply with other duties when carrying out this function`e.g. the best value duty (September 2011) and the Social Value Act 2012. Equalities obligations will also apply. The guidance encourages the use of social clauses in contracts subject to European rules.

3.5 Our Proposal to deal with the Community Right to Challenge

- Advertise on our website that the Community Right to Challenge exists and how organisation(s), staff members can exercise this right (there is a presence on the website at the moment but we can add to this).
- Set a limited time frame to accept expressions of interest – Jan – March each year.
- A user friendly guide to be posted on the internet (and potentially in key information points in hard copy to explain the Community Right to Challenge) see draft at Appendix 1. The Council's guide on 'How to Do Business with the Council' – see Appendix 2 also provides general procurement advice. This was produced by the Finance and Property Service.
- An Expression of Interest form to be posted on the internet (again and at key information points) – see draft for Members approval at Appendix 3.
- Expressions of interest to be receipted and summarised by the Council's Procurement Team for consideration by M/T and the Leader and Deputy Leader in the first instance to accept or reject.
- Any expressions of interest accepted by Leadership/M/T to go forward to the relevant HofS/Senior Manager and the Principal Procurement Manager for further consideration to determine the nature of any procurement exercise and to carry out further checks about the suitability of the organisation/applicants submitting the expression of interest.
- Applicants should be advised of the timescales for considering and making decisions on expressions of interest. This will take place 30 days after the close of the specified period for the acceptance of Expressions of Interest.
- April – August each year carry out procurement exercises as required.
- Report outcomes of procurement exercises to September Cabinet each year with any budgetary/staffing implications in time for autumn budget setting process.
- Decisions about procurement processes would be fed back to applicants in writing no more than 30 days after the September Cabinet meeting where decisions based on procurement exercises would be made.

4. Implications

a) For service users

Any changes to the way services are delivered should sustain the level and quality of services.

b) Strategic & Policy

This fits with objectives within our Corporate Plan about how we engage and work with the third sector.

c) Financial - Ref: 13/54

The proposals set out at 3.5 can be contained within existing budgets.

- d) Legal Ref: 206/09/12

The report addresses our statutory responsibilities as set out within the Localism Act 2011, Communities and Local Government Community Right to Challenge Statutory Guidance and Statutory Instrument 2012 Number 1313 Local Government, England, The Community Right to Challenge (Expressions of Interest and Excluded Services) (England) Regulations 2012.

- e) Human Resources

If an organisation or a group of Bassetlaw District Council employees apply to run a service they may want to recruit their own employees to do this. However they may be required to transfer existing Bassetlaw District Council employees to their own organisation under existing TUPE legislation. Whether or not TUPE applies is a matter of law and is not at the discretion of the parties, and covers situations where an economic entity transfers or there is a service provision change. This will need to be assessed on a case by case basis.

In the event that TUPE legislation does not apply a successful challenge may result in the need to restructure and put existing staff at risk of redundancy.

- f) Community Safety, Equalities, Environmental

The Community Right to Challenge must take account of Equalities legislation.

- g) Whether this is a key decision, and if so the reference number.

Yes, Key Decision No. 342.

5. Options, Risks and Reasons for Recommendations

- 5.1 The Council has a statutory duty to respond to the Community Right to Challenge.

6. Recommendations

- 6.1 That Cabinet approve the processes as set out at 3.5 of this report so that Bassetlaw District Council can meet its statutory responsibilities in respect of the Community Right to Challenge.

- 6.2 That this approach be approved and adopted by full Council in September 2012.

Background Papers

CLG Statutory Guidance on the
Community Right to Challenge
Localism Act 2011

Location

**Community Engagement and
Performance**



Community Right to Challenge



BASSETLAW
DISTRICT COUNCIL
NORTH NOTTINGHAMSHIRE

What is the Community Right to Challenge?

The Community Right to Challenge was introduced by the Localism Act 2011. The Act and supporting regulations and guidance can be found on the Council's website www.bassetlaw.gov.uk on the procurement pages. The Act gives various groups and organisations the right to challenge to take over a local service run by the Council.

The Community Right to Challenge will let communities challenge to take over local council services that they think they could run differently and perhaps with more benefits for their communities.

What kind of services does this apply to?

The Community Right to Challenge could be used to run a wide range of local council services.

Examples can be found on <http://communityrights.communities.gov.uk>

Who can use this new Community Right?

To make use of the Community Right to Challenge you must be a 'relevant body'. Relevant bodies are: -

- Voluntary and community groups
- Parish Councils
- Groups of two or more employees from a 'relevant authority' (local councils and fire and rescue authorities)
- Organisations set up for charitable purposes

How does it work?

Step 1- Express an interest

If you want to take over the running of a local service, the first thing to do is submit a proposal to the Council. This is called an Expression of Interest. An Expression of Interest Form can be found on the District Council's website – www.bassetlaw.gov.uk on the procurement pages.

Ideally forms should be completed on line but you can download a hard copy and send this in to the Council's Procurement Team.

The form requires enough detail for us to know that you are capable of delivering the service or the part of service you are interested in and that standards of service will be maintained or even improved. We are also interested in the wider benefits you may be able to offer that the Council can't. Some people call this "social value" but all this really means is that your service users

and your community will benefit from a relevant body delivering the service. The information required within the Expression of Interest will include: -

Details of your group or organisation

The service or part of service you want to challenge

Other information that will demonstrate you have the finance, skills and expertise to deliver the service

Time periods when we will receive Expressions of Interest

We will receive Expressions of Interest annually between January and March.

We strongly encourage anyone thinking of using this Community Right to Challenge to have an informal discussion about their ideas as early as possible – even though it may be outside of this period when the Council will receive Expressions of Interest.

For an informal discussion please speak to a member of the Procurement Team on 01909 533449 or 01909 533256. Alternatively you can email your query to the Procurement Team at procurement@bassetlaw.gov.uk

Step 2 - The Council Considers your Proposal

The Council will consider your Expression of Interest . It can then: -

- Accept it
- Reject it
- Ask you to provide additional information before accepting it

If the Council **accepts your proposal** it must start a procurement exercise. This means inviting interested bodies to bid for the contract to run the service.

If the Council **rejects your proposal** it must publish the reasons why. The Council can only reject the Expression of Interest on grounds specified in law e.g.:-

- Failure to comply with the statutory requirements
- Inaccurate or inadequate information provided
- Unsuitability of the organisation or any of its partners or sub-contractors
- A decision to stop providing the service has already been made
- A procurement exercise is already underway
- Negotiations to provide the service are already underway, in writing, with a third party

- Notice has already been given that the Council is considering a proposal for the service from its employees
- The expressions of interest is not serious – it is frivolous or vexatious
- Acceptance by the Council of the Expression of Interest would mean the Council breaks another legal commitment

Step 3 - The Council holds a procurement exercise

If your expression of interest is accepted, the Council must carry out a procurement exercise. This will allow you and other interested parties to bid for the contact to run the service.

Any procurement process will have to follow procurement rules set out in national and European Community Procurement Legislation.

Step 4 - Results of the Procurement Exercise

If your bid is successful, your group will become responsible for delivering the service.

You will agree with the Council exactly when and how you will take over the service.

IMPORTANT

Please be clear that a Community Right to Challenge is not an automatic right to deliver a service. As you can see the process ensures that only groups and organisations that have the skills, finance, resources and expertise will be in a position to run a Council service. This is important so that we protect service users.

Support and advice

National Government has made funding available to support groups and organisations that want to bid for and potentially take over Council run services.

This can involve help to write an Expression of Interest, Compete in a Procurement Exercise, to help to get the delivery of a service started.

To access this support use the website mycommunityrights.org.uk





Bassetlaw District Council

Doing Business with the Council

A Guide for Suppliers and Contractors

Contents

	Page
About this Guide	3
About the Council	4
Opportunities to supply the Council	5
How to find out about supply opportunities	6
Applying to advertised contracts	7
Applying for inclusion on an approved list of contractors	9
Procurement Rules and Regulations	12

About this guide

This guide has been produced to assist suppliers and contractors who wish to supply the Council with goods, materials, services or works. It is intended to help in the following ways:

- It outlines the rules that the Council must follow.
- It alerts potential suppliers to the opportunities that exist for supplying the Council.
- It explains how you should bid for Council work.
- It advises of the other contacts within the Council that companies may wish to consider.

The guide supplements the Council's standard procedures and is aimed at achieving value for the public money for which we have a responsibility.

Bassetlaw District Council encourages competition and welcomes expressions of interest from both new and established suppliers.

Contracts are awarded on the basis of their value for money and whilst the Council cannot discriminate in favour of locality, we are committed to supporting and encouraging local firms to compete for contracts.

What benefits can suppliers expect from working with Bassetlaw District Council? We are:

- Fair
- Non-discriminatory
- Professional
- A long established organisation (30 + years)
- Prompt to pay our bills

Any potential supplier interested in pursuing business opportunities with the Council should respond as requested to an advertisement or contact the officer responsible for that area of business (see the list of contacts at Appendix 1).

About the Council

Bassetlaw is the most northerly district in Nottinghamshire, and the largest in terms of geographical area. The Council serves a population of approximately 109,400 across a district that covers 63,688 hectares. The district contains a mixture of traditional market towns, country villages and the 'Dukeries' estates and is close to major cities such as Sheffield and Nottingham. The main towns in the District are Worksop to the west and Retford to the east. More than a third of the population live in rural areas.

Bassetlaw borders South Yorkshire to the north, Lincolnshire to the east and

Derbyshire to the west. There are excellent road and rail links. With the A1 and East Coast Mainline running through the District and the M1 within easy reach. The new Robin Hood Doncaster Sheffield Airport, just outside the District on the former Finningley RAF base, will further enhance the District's communications links.

The Council deals with contracts of varying types from one-off purchases to major contracts for supplies, services or works. These contracts will operate for a specific period of time before coming up for renewal.

Opportunities to supply the Council

This section is to provide a breakdown of the core services of the Council for Procurement purposes. A brief description is to be provided of the key procurement opportunities that are available in each service area.

This listing does not have to mirror the Council's services – indeed it may be advantageous to consider groups of common procurement areas that cut cross services of the Council.

How to find out about supply opportunities

A detailed contact list covering relevant services responsible for the Council's procurement activities is provided at Appendix 1. This list is not intended to be exhaustive and will change from time to time.

The Council proposes to publish a forward prospectus of forthcoming contracts which will be updated and available on the Council's website, www.bassetlaw.gov.uk.

Higher value contracts will be included in the Council's Forward Plan. This sets out the key decisions to be taken by the Council's Cabinet in the four month period from the date of the plan. This will be available to be viewed at: www.bassetlaw.gov.uk.

Contracts for goods and services with an estimated value in excess of £153,376 and contracts for works over an estimated value of £3,834,411 are advertised in the Official Journal of the European Union (OJEU). These

contracts can be viewed at www.ted.eur-op.eu.int or www.euroguide.org

Contracts and invitations to companies to be considered for inclusion on a select list may also be advertised in the local press or specific trade publications.

Works related contracts below the OJEU financial limits but in excess of £50,000 will generally be awarded following an Invitation to Tender. Contractors included on the Council's approved list where such a list exists, will be invited to apply for the contract. Where no approved list exists, the Council will administer the Tendering procedure, which will begin with the advertising for expressions of interest from potential suppliers. Details of how to apply to be considered for inclusion on an approved list are given on page 9.

Applying to advertised contracts

The contract notice or advertisement will invite companies to submit an expression of interest for a contract. The advertisement will detail the procedure and what information is required. It is important that companies supply all of the requested information and respond by the due date. Details of the tendering process for council contracts are included on page 9.

The general information requested of companies is that they :

- Provide the Council with basic details about the organisation,
- Verify that the organisation can be identified as a legitimate, discrete trading organisation (address of office, registration number and company group information),
- Promote good practices in areas of equal opportunities, environmental protection and health and safety issues.

The areas of companies that are assessed can be summarised as follows:

Financial Information

In this section companies will be asked for certain financial information relating to each of the last three years. (It may require only the last two years for some contracts). Private Limited Companies and Public Limited Companies must submit fully audited accounts as registered with Companies House. Other applicants should forward copies of financial statements, business plans or a certified statement of turnover. This information is used to assess the financial position of the company in relation to the size of the contract. Information is also required to check that a company is registered (if appropriate) for tax and complies with the Council's insurance requirements.

In high-risk contracts where non-performance could result in significant financial loss or where operational performance is crucial, companies may be required to submit a Parent Company Guarantee or a Performance Bond.

Experience and Technical ability

Further information requested seeks to assess whether a company has the relevant experience and technical ability to carry out the categories of work or to provide the quality of service required.

If an application relates to a specific contract, it will be necessary to provide references.

Some further questions may be asked that will be tailored to the needs of the individual contract and the responses and supporting evidence will be used to assess whether a company has the required level of skills and abilities to tender.

Health and Safety

Depending on the nature of the goods / service / works, organisations may be required to submit their Health and Safety Policy

Subject to compliance with European Procurement Rules and Regulations other information may also be requested from Companies such as:

Equal Opportunities

The Council strongly supports equal opportunities, equal access and positive outcomes for all sections of the community. The Council aims to ensure that organisations that provide services on behalf of the Council comply with equal opportunities legislation and promote equality of opportunity. It also aims to encourage

those organisations and individuals with which it does business to observe and adhere to the principles contained within the Council's Equal Opportunities Policy. Questions may be asked about how racial equality issues are included in a company's employment practices. Copies of the Council's Equal Opportunities Policy can be obtained from the Head of Policy and Performance, Queen's Buildings, Potter Street, Worksop S80 2AH or by e-mail to procurement@bassetlaw.gov.uk

Environment

Bassetlaw District Council is committed to protecting our local environment and ensuring a better quality of life for everyone – now and for future generations. In order to promote this the Council has agreed a sustainability strategy to improve its environmental performance (Local Agenda 21). The council expects its contractors to meet similar levels of environmental care and commitment. A copy of the Council's Local Agenda 21 Strategy can be obtained from the Head of Policy and Performance, Queen's Buildings, Potter Street, Worksop S80 2AH or by e-mail to procurement@bassetlaw.gov.uk This sets out the Council's environmental policies and assists contractors to understand the criteria for assessing environmental performance.

Quality Assurance

For certain contracts including work contracts, organisations may be required to demonstrate that they have a suitable quality assurance system in place. This may be demonstrated by certification from an approved assessment company or by our review and acceptance of the organisation's quality manual.

Freedom of Information

Bassetlaw District Council will undertake its responsibilities with regard to the Freedom of Information Act (FOI) that will come into force with effect from 1 January 2005. The FOI Act obliges the Council to provide information that it holds if requested. This requirement will include information supplied to us by potential suppliers. As part of our response to the FOI Act we will attempt to ensure that we only ask potential suppliers for information that we need to enable us to make a procurement decision. In the same manner we will ensure that information supplied by suppliers that is found to be no longer needed by the Council will be destroyed. The Council will comply with the spirit of openness required by the Act and so will only consider confidentiality agreements with potential suppliers where this is absolutely necessary.

Applying for inclusion on an approved list of contractors

The Council does maintain lists of approved contractors for the provision of certain works that are not undertaken in house. Companies applying to be included on the approved list must complete an application form. The questions on the form are designed to give the council sufficient information to make an assessment as to the suitability of a company for inclusion on the list. In addition to ensuring that the company can demonstrate its ability to undertake the work the Council also wishes to ensure that the company carries out its responsibilities in respect of health and safety and equal opportunities. Details of the different approved lists and who to contact to obtain information are included in Appendix 1.

Tendering for contracts

Companies will either be invited to tender (where an open tendering procedure is being followed) or be sent either a pre-qualification questionnaire or in the case of procurement of ICT systems and solutions, a specification of requirements (SOR) prior to issuing an invitation to tender. The purpose of a pre-qualification questionnaire and SOR is to assess the potential bidders suitability to apply to the Council and their ability to satisfy the contract before tenders are issued. It saves time and effort being unnecessarily spent on completing tenders.

Tender evaluation and contract award

Returned tenders will be evaluated against the pre-determined criteria as specified in the tender documentation. Evaluation will focus on examining how the tender proposals will deliver

the service (quality) and the cost of the service (price). The balance between quality and price will depend on the particular service area. Normally the Council will award the contract on the basis of the economically advantageous tender. The successful tenderer will be notified in writing either by letter or official electronic communication.

Procurement of ICT systems

The Council follows a different procedure for the procurement of ICT systems and solutions and issues a specification of requirements (SOR) prior to the issue of tender. As part of the initial response, the Council will request expressions of interest from potential suppliers, who will be assessed using the criteria specified. The SOR is then issued to all suppliers included on the first shortlist with the requirement that they provide a detailed response. The response is then assessed for compliance with the requirements and a second shortlist produced. Successful suppliers may then be asked to give a scripted demonstration to a number of users, allowing a more detailed assessment of the solution they are proposing to supply. Users are asked to score each of the demonstration's and once these are assessed a final shortlist is produced. At this stage the users may also visit reference sites for the systems included on the final shortlist. The tender document will then be issued to all suppliers who still remain.

Debriefing

Within the limits of commercial confidentiality, the Council will always endeavour to offer unsuccessful tenderers feedback to find out why

their bid has failed. This information can be used to help with any future bids as being unsuccessful in one contract does not mean that a company will be unsuccessful in future bids.

Electronic Trading

The Council has an e-Commerce Strategy which aims to increase the levels of electronic business which over time will include electronic tendering, ordering and invoicing. The aim is to reduce both the Council and suppliers' costs associated with the procurement process and the costs of normal commercial trading. It is recognised that e-commerce can help suppliers by opening up a supplier's products and services to a wider market. The Council will seek to work with suppliers who can help deliver its e-Commerce Strategy.

Contact Performance

Bassetlaw District Council has to monitor its performance as part of its duty under Best Value, and suppliers and contractors to the Council are monitored to assess their compliance with pre-defined performance criteria. Contracts have to perform in accordance with the requirements set out in the contract documentation. Contract conditions will be strictly applied.

The Council is continuously striving to improve its own performance and it expects its contractors to do the same.

Complaints Procedure

The Council will adopt a variety of contract monitoring arrangements appropriate to the value and nature of each contract. Most complaints will be discussed and resolved through these arrangements. However, if any contractor or prospective supplier has a complaint about unfair treatment or discrimination that cannot be resolved through normal commercial contact with the Council, the complaint can be made in writing through the Council's

Corporate Complaints Procedure. This procedure details the Council's policy for dealing with complaints and ensures that the Council acts promptly. Copies of the Corporate Complaints Procedure can be obtained from the Chief Executive's Office, Queen's Buildings, Potter Street, Worksop, Nottinghamshire, S81 7PJ or by e-mail to Procurement@bassetlaw.gov.uk

Anyone who has supplied a tender to the Council under the European Public Procurement rules can take action in the High Court if they have been harmed, or are at risk of harm by the Council breaking these regulations. Anyone who feels they have not been treated fairly can also complain to the European Commission.

Local and Smaller Suppliers

The Council is committed to supporting and encouraging smaller and east midlands based business and to improve their ability to meet the Council's requirements whilst complying with the requirements of the EU regulations, Standing Orders, and best practice guidance.

It is recognised that suppliers play an important part in government's core business. Although more than 50% of the UK private sector workforce is employed in small organisations (less than 50 employees) they are finding it increasingly difficult to compete for public sector contracts. In order to assist these organisations the Council's aims are to:

- Publicise opportunities in local newspapers,
- Give guidance as to the processes and making sure that they are kept up to date,
- Keep tender documents simple to understand and jargon free,
- Set realistic timetables,
- Encourage suppliers to adopt supply chain management practices, and
- Encourage suppliers to adopt e-commerce systems that

streamline processes, reduce administration time and enable

the Council to make payment to suppliers more speedily.

Procurement Rules and Regulations

1. As a local authority, there are regulations at a European, National and local level which the Council has to follow when procuring goods, services and works and when establishing approved tender lists.
2. European Rules – all public sector contracts no matter what their value within the European Union are covered by a treaty which incorporates the free movement of goods and services and which prevents discrimination against firms on the grounds of nationality.

The principles of the treaty are backed up by a series of EC Procurement Directives:

- Public Supplies Directive 1993 – 93 / 36 / EEC.
- Public services Directive 1992 – 92 / 50 / EEC.
- Public Works Directive 1993 – 93 / 37 / EEC.
- Amending Directive 1997 – 97 / 52 / EC (amends the three directives above).

These directives are included in UK law as a number of regulations:

- The Public Supply Contracts Regulations 1995 S.I. No. 201.
- The Public Services Contracts Regulations 1993 S.I. No. 3228.
- The Public Works Contracts Regulations 1991 S.I. No. 2680.

The directives and regulations require the Council to follow detailed procedures for all procurements above financial thresholds. The thresholds are revised every two years (for the two year period 1/1/2004 –

31/12/2005 the threshold is £153,376 for Supplies and Services and £3,834,411 for Works).

The Council must follow some basic principles:

- A specific Tender Notice must be placed in the supplement to the Official Journal of the European Union (OJEU) to give all suppliers in the EU an equal opportunity to tender.
- Tenders must be invited in accordance with one of the prescribed procedures (open, restricted, negotiated – there are also two separate urgency procedures). Each procedure imposes minimum time-scales covering the tender activities to ensure that reasonable time to respond to adverts and prepare submissions is given to interested parties.
- A notice of contract award must be placed in OJEU. Unsuccessful contractors must be debriefed if requested.

Further information about the EC Procurement Directives can be viewed at www.simap.eu.int

3. National Rules – Whilst there is no prescription on local authorities to tender out specific services, the Council has a duty under Best Value legislation (introduced in April 2000) as laid down by Part 1 of the Local Government Act 1999 to fundamentally review its services and make arrangements to ensure

continuous improvement having regard to economy, efficiency and effectiveness. Performance indicators and targets for improvement are set and published in an annual Best Value Performance Plan. The Council recognises that effective procurement is at the heart of best Value and that the Best Value Review process will help deliver it's commitment to provide the best possible services for the people of Bassetlaw.

The Council's Best Value Performance Plan can be viewed at <http://www.bassetlaw.gov.uk/bvpp/index.html>

Further information about Best Value can be viewed at www.local-regions.odpm.gov.uk/bestvalue

The Council must also have regard to Part II of the Local Government Act 1988 which prohibits "non commercial considerations" being taken into account when awarding contracts.

4. Local Rules – Procurement activities must also comply with the Constitution of the Council.

Contracts below £15,000 – whilst it is not necessary to obtain quotations for purchases below £15,000 it is necessary to ensure value for money is obtained by periodically testing the market.

Contracts between £15,000 and £50,000 will be subject to competitive quotations being obtained from at least three

contractors, or if this is not possible from all capable contractors.

Contracts over £50,000 will be subject to competitive tenders being obtained:

- From a reasonable number of capable contractors, or
- Following advertisement in at least one local newspaper. A similar advertisement may also be published in a specialist trade or professional journal.

Approved lists – where an approved list of contractors is maintained tenders may be invited from some of the contractors on the list. Contractors are selected from the relevant list on a rotational basis and the company that was successful for the previous job will also be considered. Further information is given in the earlier section of this guide titled Applying for inclusion on an approved list.

Tender lists – tenders can be restricted and invited from some (or all) respondents to an advertisement providing they comply with the selection criteria.

5. The Council's procurement policy is based upon fair, transparent and open competition and the procedures ensure that the process is reasonable as far as it is commercially possible and auditable.

The Community Right to Challenge Expression of Interest Form

The 'Community Right to Challenge' allows an eligible group or organisation, known as a relevant body, to submit an expression of interest to the Council to provide, or assist in providing, one or more of its services. A form must be completed for each expression of interest being submitted for a Bassetlaw District Council service.

Before completing this form, we strongly advise that you read through the information provided on our procurement pages of the website <http://www.bassetlaw.gov.uk> and the statutory guidance published by the Government which is also on our website or can be found at <http://www.communities.gov.uk/documents/localgovernment/pdf/2158126.pdf>.

The information you provide in this form (and any referenced supporting material) will be the basis upon which the Council will accept, ask you to modify, or reject your expression of interest. If you require this form in an alternative format, please email procurement@bassetlaw.gov.uk.

Section 1 - Contact details

Please provide contact details of a representative from the Relevant Body who we can liaise with regarding this expression of interest.

Your name	
email address	
Contact telephone number	
Correspondence address	

Section 2 - The Service

1. Which Bassetlaw District Council service does the expression of interest relate to?

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2. If your expression of interest **does not** seek to provide the service to/for the whole of Bassetlaw please give details of the geographical area that it does apply to?

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Section 3 - About your organisation

3. Name of the relevant body submitting the expression of interest

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4. Which type of relevant body is your group/organisation? See the guidance to check the definition of a relevant body

A voluntary or community body	<input type="checkbox"/>
A body of persons or a trust which is established for charitable purposes only	<input type="checkbox"/>
A parish council	<input type="checkbox"/>
Two or more employees of Bassetlaw District Council - state if you are a constituted body Yes/No (please delete as appropriate)	<input type="checkbox"/>
Any other form of civil society organisation that reflects the characteristic required of a relevant body	<input type="checkbox"/>

5. Please provide information which proves that your organisation is a relevant body e.g. Charity Registration Number, copy of your constitution etc.

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6. If you are seeking to provide the service that this expression of interest relates to in partnership or as part of a consortium, please provide details of all relevant groups or organisations in the box below along with details of their respective roles and details of how you will deliver in partnership.

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Section 4 - Financial Information

7. Please provide information about the financial resources of the relevant body. Financial information is also required for any groups or organisations that you propose to form a partnership/consortium with to deliver the service and/or any sub-contractors you propose to use to deliver the service.

Please also supply a copy of your organisation's(s)audited accounts for the last two years.

Section 5 - Capability to provide the service

8. Please provide evidence which demonstrates that by the time of any procurement exercise resulting from this expression of interest, the relevant body/bodies will be capable of providing or assisting in providing the service to which this expression of interest relates. This information is also required for any groups or organisations that you propose to form a partnership/consortium with to deliver the service and/or any sub-contractors you propose to use to deliver the service. Please provide evidence of your experience and expertise that is relevant to your bid.

Section 6 - Outcomes to be achieved in providing the service

Please provide information about the outcomes to be achieved by the relevant body/bodies or partnership/consortium in providing, or assisting in the provision of, the relevant service.

9. How will the provision of this service/part of a service promote or improve the social, economic or environmental wellbeing of the area?

10. How will the provision of this service/part of a service meet the needs of the users of the service?

11. Please add any other information you would like us to consider about outcomes to be achieved in providing the service?

Section 7 - Staff engagement

You only need to complete this question if you are submitting this form as a group of Bassetlaw District Council employees, as defined in section 3 of this form.

12. Please provide details of how the relevant body proposes to engage other employees of Bassetlaw District Council who are affected by the expression of interest.

Submitting this form

Once completed, please email this form to post to the following address:

'Community Right to Challenge'
Procurement Team
Bassetlaw District Council
Queen's Buildings
Potter Street
Worksop
Notts
S80 2AH