



Committee and Date

CABINET

Wednesday 8th February

Community Right to Challenge: Expressions of Interests for the future delivery of a library service in Church Stretton

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1. Summary

This report outlines the approach that Shropshire Council is taking in the redesign and commissioning of the library service in Church Stretton and the progress to date.

Cabinet approval for valid expressions of interests submitted under the Community Right to Challenge legislation is requested which will therefore enable the commencement of a procurement process to secure a new provider of a library service in Church Stretton.

2. Recommendations

- A** That Cabinet confirms and accepts the valid expressions of interest under the Community Right to Challenge legislation in relation to the redesign of Shropshire Council's library services in Church Stretton.
- B** That all future decisions on this area of work are delegated to the Director of Place and Enterprise in consultation with the Portfolio Holder for Leisure and Culture to ensure the recommended approach is delivered.

REPORT

3. Risk Assessment and Opportunities Appraisal

Work has commenced on developing a draft opportunity risk register and this will be reviewed quarterly. The main risks are in relation to implementation of the Community Right to Challenge legislation and any subsequent procurement exercise.

The main opportunity in relation to this report is the potential to improve the sustainability of a library service in Church Stretton.

4. Financial Implications

The net controllable running costs of Church Stretton Library are currently approximately £35,000-£40,000 per annum. Although Shropshire Council is able to continue to fund the

full costs of the library in the short-term, it is unlikely that the current level of funding could be sustained over the medium to long term.

During the procurement stage of the commissioning of Church Stretton Library, potential providers will be asked to outline the financial support that they require from the council in the future. Organisations should ensure that they have explored all funding options available to them and that any request for funding from Shropshire Council that is included within their proposals is kept to a sustainable level and provides good value for money.

5. Background

The Council is projected to have a funding shortfall of £27m by 2019/20, resulting in discretionary services such as leisure, libraries, museums, public open spaces and support for youth activities facing potential significant cutbacks or in the worst-case scenario cessation of funding and possible closure.

The adoption of a locality approach to commissioning is a key strand of Shropshire Council's commissioning strategy. Engagement with the voluntary sector, town and parish councils, community groups and other partners to support and retain the local delivery of a range of services and activities is a vital component of this work. There are a number of examples now across the county where this has already taken place successfully.

The Council's vision for the delivery of library services in Shropshire is to provide and support inspiring library services for learning, information and enjoyment, impacting positively on the lives of people.

Following over two years of work in the local community, the Community Right to Challenge process is the approach being taken to deliver the continuation of a library service for the town.

Community Right to Challenge

The Community Right to Challenge came into being through the Localism Act 2011 (the 'Act') and associated Regulations and gives 'relevant bodies', i.e. groups of citizens, community groups, parish councils and our employees the right to submit expressions of interest ('EOI') in taking over and running a 'relevant service', in which they must explain how they intend to run the service in a better and more efficient way. Statutory Guidance issued by the Department for Communities and Local Government sets out the information which must be provided within an EOI and the circumstances under which the Council must accept, request modification of, or reject the EOI. The Council must consider any EOI submitted to it, which is in writing and meets the criteria set out in the Guidance. If one or more EOI are accepted this means that, the Council must carry out a procurement exercise for that service.

The Statutory Guidance defines a 'relevant body' as voluntary or community body; a body of persons or a trust which is established for charitable purposes only; a parish council; or two or more employees of the 'relevant authority' (i.e. the Council). A 'relevant service' is a service provided by or on behalf of a relevant authority in the exercise of its functions in relation to England, except services which are excluded from the right in secondary legislation. The Community Right to Challenge only applies to the provision of services and does not provide for the delegation of functions of the 'relevant authority'.

Information, which must be provided in an EOI in accordance with the Statutory Guidance, is:

1. Where the relevant body proposes to deliver the relevant service as part of a consortium or to use a sub-contractor for delivery of any part of the relevant service, the information in points 2 and 3 below must be given in respect of each member of the consortium and each sub-contractor as appropriate.
2. Information about the financial resources of the relevant body submitting the expression of interest.
3. Evidence that demonstrates that by the time of any procurement exercise the relevant body submitting the expression of interest will be capable of providing or assisting in providing the relevant service.
4. Information about the relevant service sufficient to identify it and the geographical area to which the expression of interest relates.
5. Information 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, in particular:
 - (a) How the provision or assistance will promote or improve the social, economic or environmental well-being of the relevant authority's area; and
 - (b) How it will meet the needs of the users of the relevant service.
6. Where the relevant body consists of employees of the relevant authority, details of how that relevant body proposes to engage other employees of the relevant authority who are affected by the expression of interest.

The Statutory Guidance also sets out the grounds under which an EOI can be rejected. These are:

1. The expression of interest does not comply with any of the requirements specified in the Localism Act or in regulations
2. The relevant body provides information in the expression of interest, which in the opinion of the relevant authority, is in a material particular inadequate or inaccurate.
3. The relevant authority considers, based on the information in the expression of interest, that the relevant body or, where applicable-
 - a. any member of the consortium of which it is a part, or
 - b. any sub-contractor referred to in the expression of interestis not suitable to provide or assist in providing the relevant service.
4. The expression of interest relates to a relevant service where a decision, evidenced in writing, has been taken by the relevant authority to stop providing that service.
5. The expression of interest relates to a relevant service -
 - a. provided, in whole or in part, by or on behalf of the relevant authority to persons who are also in receipt of a service provided or arranged by an NHS body which is integrated with the relevant service; and
 - b. the continued integration of such services is, in the opinion of the relevant authority, critical to the well-being of those persons.
6. The relevant service is already the subject of a procurement exercise.
7. The relevant authority and a third party have entered into negotiations for provision of the service, which negotiations are at least in part conducted in writing.
8. The relevant authority has published its intention to consider the provision of the relevant service by a body that two or more specified employees of that authority propose to establish.

9. The relevant authority considers that the expression of interest is frivolous or vexatious.
10. The relevant authority considers that acceptance of the expression of interest is likely to lead to contravention of an enactment or other rule of law or a breach of statutory duty.

Shropshire Council has developed and published a procedure for dealing with EOIs submitted under the Community Right to Challenge. This meets the requirements and timescales set out in the Statutory Guidance and provides for recommendations to Cabinet on whether to accept or reject an EOI based on the criteria set out above.

In accordance with the provisions of the Act, the Council can specify a defined period within which expressions of interest are invited for a particular service. The period for submitting expressions of interest to run Church Stretton Library was opened on 13th September 2016 and closed on 16th January 2017, after which no further expressions of interest may be accepted, and a formal response from the Council is required back to the applicant within 30 days. The paperwork in relation to this window of opportunity is included in **Appendix 1**.

- Shropshire Council has received two expressions of interest to run the library service in Church Stretton.
- Both expressions of interest have been reviewed and considered by Council officers to establish whether they meet the criteria for acceptance. Clarifications on certain aspects of each expression of interest have been sought and responses received. Both expressions of interest meet the criteria for acceptance.
- Shropshire Council must now run a procurement exercise in which any organisation can bid to take over the operation of the service.
- All information included in this process must be kept confidential and only for the recipient's knowledge. No information in discussions connected to this process may be disclosed to any other party without prior written authorisation.

List of Background Papers

Shropshire Council Community Right to Challenge Guidance

<https://www.shropshire.gov.uk/doing-business-with-shropshire-council/community-right-to-challenge/>

Government Community Right to Challenge Guidance:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5990/2168126.pdf

Cabinet Member (Portfolio Holder)

Councillor Stuart West, Portfolio holder for Leisure and Culture

Local Members

Councillor Lee Chapman and Councillor David Evans

Appendices

Appendix 1 – Shropshire Council Community Right to Challenge Expression of Interest documentation