

AGENDA ITEM:

<b>REPORT TO:</b>	<b>MERSEYSIDE FIRE &amp; RESCUE AUTHORITY</b>
<b>DATE:</b>	<b>4<sup>TH</sup> OCTOBER 2012</b>
<b>REPORT NO.</b>	<b>CFO/141/12</b>
<b>REPORTING OFFICER:</b>	<b>CLERK TO THE AUTHORITY</b>
<b>CONTACT OFFICER:</b>	<b>RIA GROVES, TRAINEE SOLICITOR 4123</b>
<b>OFFICERS CONSULTED:</b>	<b>SMG; SHARON MATTHEWS HEAD OF PROCUREMENT</b>
<b>SUBJECT:</b>	<b>COMMUNITY RIGHT TO CHALLENGE</b>

**THERE ARE APPENDICES TO THIS REPORT**

<b>APPENDIX</b>	<b>A</b>	<b>TITLE</b>	<b>How does the Process Work</b>
	<b>B</b>		<b>Guidance for completing MFRA's</b>
	<b>C</b>		<b>Expression of Interest Form</b>
			<b>Expression of Interest Form</b>
	<b>D</b>		<b>Draft Report Community Right to Challenge</b>

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**ATTACHED – HARD COPY**

Purpose of Report

1. To ask Members to approve the recommendations of this report relating to the Community Right to Challenge brought into force under the Localism Act 2011 and consider the effects on Merseyside Fire and Rescue Authority,

Recommendation

2. That Members;
  - a) Note the report and attached draft documents and their implications and;
  - b) Approve the draft documents and their publication on the Authority's website

Introduction & Background

3. Members will recall that the Clerk to this Authority reported on 3<sup>rd</sup> July 2012 that the Localism Act 2011 was granted Royal Assent in November 2011 and this legislation included the "Community Right to Challenge".
4. Members will also recall the Clerk confirming the Community Right to Challenge had been extended to include Metropolitan Fire and Rescue

Authorities and Combined Fire Authorities and that the finalised Regulations were to be published on 27<sup>th</sup> June 2012.

5. As these Regulations are now in force and the related statutory guidance has been published the Authority must consider the Community's Right to Challenge and how those who are eligible to make an expression of interest to provide services on behalf of the Authority are able to do so.
6. The following documents have been drafted; Process Information (Appendix A) 'Right to Challenge-Expression of Interest Form' (Appendix C) and 'Guidance for completing MFRA's Expression of Interest Form' (Appendix B) to address how those who are eligible to make an expression of interest can do so and how the Authority will process those applications. Applications will be considered by the Social Growth and Localism Sub Committee
7. 'The Right to Challenge-Expression of Interest Form' (Appendix C) provides an overview of the process for the Community Right to Challenge and contains the form which any relevant body or persons who are eligible to make an expression of interest must complete and submit to the Authority.
8. 'The Draft Guidance for completing the Expressions of Interest Form' (Appendix B) details all the necessary information needed to answer each question on the Expression of Interest form.
9. All those who are eligible to make an expression of interest to run a service on behalf of the Authority are detailed in Document Community Right to Challenge CFO/ 095/12 (Appendix D) which Members will recall was reported by the Clerk to the Authority on 3<sup>rd</sup> July 2012 .

#### Equality & Diversity Implications

10. An Equality Impact Assessment on the Community Right to Challenge was undertaken by the Department for Communities and Local Government (CLG)

#### Staff Implications

11. There are evident staff implications particularly if an expression of interest is accepted, another provider will be running a service and this could potentially result in staff redundancies or a possibility staff may transfer to a different entity and TUPE Regulations may apply.

#### Legal Implications

12. The Community Right to Challenge is a legal requirement under the Localism Act 2011 the implications of which are fully addressed in the Report Community Right to Challenge (Appendix C). Legal implications regarding employment are also relevant due to the potential staff implications raised above.

### Financial Implications & Value for Money

13. There are financial implications for any expressions of interests accepted under the Community Right to Challenge although they cannot be quantified at this time. If services are outsourced there might be a potential saving in terms of the cost the Authority was previously incurring to deliver that service. However the Authority will remain bound to provide such services if the entity it was outsourced to fails to deliver the service adequately and this will come at a cost. There are also potential costs from any Judicial Review undertaken resulting from an expression of an interest. Costs for any service open to an expression of interest will need to be developed.

### Risk Management, Health & Safety, and Environmental Implications

14. It is important any potential new provider of a service complies with all the relevant legislation, regulations and amendments thereto as well as any other duties the Authority would be bound to provide when delivering that service for Health and Safety and Environmental purposes. As well as the financial risks raised above, there will also be a reputational risk for the Authority regarding those services outsourced.

### Contribution to Our Mission – To Achieve; Safer Stronger Communities – Safe Effective Firefighters”

15. The Community Right to Challenge will allow the Authority to review any expressions of interest and ensure the Community receives a service delivered to the highest standard available and as a result the Authority will need to ensure any potential provide delivers the service in accordance with the Authority’s Mission.

## **BACKGROUND PAPERS**

Draft Report Community Right to Challenge CFO/095/12

### **\*Glossary of Terms**

TUPE : The Transfer of Undertakings (Protection of Employment) Regulations 2006