



research and campaigns

Localism and Decentralisation Bill

The views of APSE members on the proposed 'Community Right to Challenge'



Briefing number 11-21, E-publication: The views of APSE members on the 'community right to challenge' April 2011.

About the survey and facilitated round table events

During late February and March 2011 APSE surveyed members using an online system. Although the Decentralisation and Localism Bill, in the context of the 'Community Right to Challenge', applies only to English local authorities we extended the survey to ensure opinions and experience could be gathered from across the UK. A total of 140 responses were received.

Whilst respondents were predominantly based within English authorities representing 78.6% of all respondents 12.9% of respondents were based within Scottish local authorities, 5.0% in Wales and 2.9% within Northern Ireland.

There was an even spread of respondents across different service areas within local government, averaging around a 15% response rate for service areas across refuse collection, leisure services, housing, building maintenance, community and civic venues and soft facilities management. The lowest sector specific response came from within social care at 3.6% and the highest sector group was parks and public realm at 20.7%.

During the survey APSE also facilitated a range of discussions at round table events organised through the APSE advisory group networks and at a regional events. These additional opportunities for discussion have provided APSE with an opportunity to gain a more detailed understanding of the core issues. These issues have been used to inform this paper in reporting the views of APSE members and informing the debate on the 'community right to challenge' and the use of the third sector in the delivery of public services.

The results of the survey and the roundtable events, will in addition to this paper, be used to inform APSE's response to the current Government consultation on the 'Community Right to Challenge'.

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Executive summary

The key findings of the APSE 'Community Right to Challenge' and the Localism Bill roundtable events are summarised below.

- There is a strong perception amongst APSE members that whilst localism should be about greater local autonomy in decision making the policy agenda is being set centrally, therefore undermining localist principles. This is evidenced by the introduction of the Community Right to Challenge and Community Right to Buy. These mechanisms will be reliant on further statutory guidance by the Secretary of State rather than locally determined responses.
- The third sector is a valuable addition to public services, particularly in specialist or niche areas of work. However there are genuine concerns about the maturity of the third sector market. This is further hindered by lack of evidence of service delivery outcomes particularly in relation to staff mutuals or cooperative options. Concerns include financial capacity and long term sustainability.
- The third sector should not be treated more leniently than any other contractor simply by virtue of the third sector 'label'. Service delivery and outcomes for service users need to be safeguarded as should public funds spent in providing services through the third sector. Contracts and proportionate procurement arrangements should be in place to safeguard the public sector purchaser and the third sector provider. Procurement practices should not create unnecessary barriers to the involvement of third sector providers.
- Core capacity to deliver services should be retained within the public sector. There is a need to minimise risk and put in place contractual safeguards in the event of contract failure. Fragmented service delivery may end up increasing costs to the public purse or having an impact on what services can be offered. Consideration should be given to the impact on service delivery planning processes.

- Mutual and cooperative delivery options would still need to provide commercially viable arrangements. They share some of the characteristics of charitable organisations including questions over financial viability and sustainability and future service delivery risk. Governance and democratic accountability may be undermined as with any form of outsourced contract arrangements. Future 'sell offs' are a concern and there is a need to ensure these models are not merely used as means to transfer staff and assets outside of the public sector.
- Engagement with the third sector, coops and mutuals in a framework of budget reductions will be a significant hindrance to development. 'Seed funding' would be potentially necessary to get schemes off the ground.
- In developing responses and considering 'Community Right to Challenge' proposals local elected members should have broad powers to determine local responses, driven by value for money considerations for local tax payers, as well as the ability of would-be providers to demonstrate service improvements.
- Collaborative arrangements with third sector providers have provided valuable outcomes allowing the level and types of services to be determined between the parties (public sector 'purchaser', service users or customers and the third sector provider). Collaboration is a more assured route to develop effective service delivery than unforgiving procurement arrangements.
- The 'Community Right to Challenge' should not herald a return to some form of Compulsory Competitive Tendering approach to public services and local public service delivery

Section 1

Introduction

The Community Right to Challenge is set out in Decentralisation and Localism Bill which is currently before Parliament. APSE will be responding to the Committee Stage of the Bill using information from our members to inform our response. This paper summarises the findings from APSE consultation with our members, through a short survey, and from discussions at a series of roundtable events.

Government policy towards third sector involvement in public service delivery

As part of the initial Coalition Agreement reached between the Conservatives and Liberal Democrats a 'Big Society' paper '*Building the Big Society*' was launched in May 2010. The paper outlined the Government's programme of policies in support of the Big Society. It also set out the Governments' approach to enhance and expand the role of charities, community groups, social enterprise sector and cooperatives and mutuals (herein after referred to as the 'Third Sector') in the delivery of public services. Whilst the 'Big Society' was often referred to in a campaigning or conceptual sense it was unclear how the concept of a 'Big Society' would be embedded in public policy and subsequent Government action.

A significant message as to how this might be taken forward in public policy terms came in an interview with the Daily Telegraph on the 20 February 2011 when Prime Minister David Cameron said that there would be a new "presumption" that private companies, charities and voluntary groups could run public services and a "complete change" was needed to boost standards and end the "state's monopoly" over public services.

In his interview, Mr Cameron said he was committed to release public services from the "grip of state control" as part of his Big Society agenda and the PM said that he wanted an automatic right for private sector bodies, charities and voluntary groups to bid for public work.

Mr Cameron wrote: "We will create a new presumption - backed up by new rights for public service users and a new system of independent adjudication - that public services should be open to a range of providers competing to offer a better service."

A new White Paper setting out reform to public services was due to be published in March 2011 but this has now been delayed. However the Decentralisation and Localism Bill was issued **before** the White Paper on public service reform. This Bill sets out a range of processes that clearly link with the Government's intention of opening up public service markets. One such area is that of the 'Community Right to Challenge' contained within the Bill.

The Decentralisation and Localism Bill: The community right to challenge

The Decentralisation and Localism Bill currently before Parliament will give communities a right of challenge to run local authority services. The Government believes that this means local communities will be able to get *'more involved in the delivery of public services and shape them in a way that will meet local preferences'*. The Bill sets out a process whereby a 'relevant body' can submit an expression of interest in providing or assisting in providing a service on behalf of the local authority, referred to as the 'relevant authority'.

A relevant body is specified as

- 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

In considering the expression of interest the relevant authority (the council) must take into consideration how this might promote or improve the social economic or environmental well being of the authority's area.

The relevant authority (the council) may modify the expression of interest. If the relevant body (the charity or third sector body or employee mutual) accepts the expression of interest the relevant authority (the council) must carry out a **procurement exercise** relating to the provision for that service to which the expression of interest relates.

More generally the Bill would not alter the usual procurement rules that would apply to councils seeking services on an external basis. There is and would remain a need to have due regard to local councils own financial standing orders as well as domestic and European rules and regulations. However the process in the Bill states that a 'procurement exercise' must take place (following an expression of interest) which would appear to fetter or create confusion on local discretion in operating collaboratively with the third sector.

The reserve powers to the Secretary of State

It is important to note that these provisions are subject to further regulation and guidance that will from time to time be issued by the Secretary of State. It would appear that this would allow considerable powers for the Secretary of State to direct, in what circumstances, an authority would need to engage in a procurement exercise and how they should respond to expressions of interest. The Secretary of State would not need to go back to Parliament to make these changes.

Therefore it is difficult for local councils to judge just how far the new regulations will go. For example will this signal a return to some form of compulsory competitive tendering

(CCT) of local council services or a very wide remit to accept, or reject, an expression of interest in running a service put forward under the 'Community Right to Challenge'? How will such reserve powers to the Secretary of State operate in the context of the localism agenda? The localism agenda purports to put power to a local level and yet the Bill allows the Secretary of State to direct how councils should respond to a 'community right to challenge' and potentially forces procurement rather than a **collaboration** approach.

In this context APSE has engaged in a wide consultation with its members through both an online survey a series of roundtable discussions through the APSE advisory group network. A total of 140 responses were received to the survey and from the round table discussion a further 20 more detailed responses were gathered.

The remainder of this paper summarises and comments on the survey findings and roundtable discussions.

Section 2

Findings from the APSE survey and roundtable discussions

1. Defining 'right to challenge groups'

APSE questioned whether respondents agreed with the broad definition of groups to which the 'right to challenge' would apply. 61.9% agreed or strongly agreed with the community right to challenge applying to a voluntary or community group. With a slightly higher number (72.3%) agreeing with charities being included within the definition of those who should have a 'right to challenge'. However less than 49% agree with the right applying to 2 or more employees of the authority (staff mutual).

Many respondents' commented on the need for the groups to be more closely defined and the need for the definition of a group to go beyond a simple title, arguing that the groups needed to be further defined by core values or principles. Concerns have also been expressed about service continuity.

Key comments were:

'There would need to be safeguards that bodies were non-discriminatory in membership and democratic in operation for me to accept them as having the right to challenge a democratically elected council'.

'The 'relevant bodies' do not possess the necessary Governance control or 'political accountability' to deliver high quality services uniformly in the way a Local Authority can. The 'RBs' do not have the guaranteed durability as they may dissolve at any time, leaving service dependants void of their critical services'

2. In what services or functions should the right to challenge apply?

Over 70.7% of respondents did not believe that the community right to challenge should apply universally to all council services. Many argued for exceptions based on whether a function was statutory or non-statutory. Typically one commentator said the right to challenge should apply only to *'discretionary services not those designed to satisfy a legal duty'*. This typified many of the responses received.

There were also a number of suggestions as to alternatives to a universal 'right to challenge. One respondent stated

'In principle the idea for collaboration with the community we serve is good. However, how is the performance of a community group or charity going to be monitored or measured? Community groups are particularly fragile bodies. It would seem better if these [services] areas were able to request a Service Level Agreement for the services in their area to drive standards up while maintaining one body (i.e. the council) as the service provider.'

There were also a number of concerns expressed about the ability of certain groups to 'cherry pick' parts of services leading to a more difficult council role in delivering the services that remained as part of the core service offering.

'Organisations should not be able to 'cherry pick' profitable parts of services leaving the Council with the more difficult expensive and complex areas.'

3. What services or functions should be exempted

56% of respondents believe that adult social services should be exempt from the right to challenge with 52.7% believing a similar exemption should apply to children's services (including child protection). A further 45% believe highways and street lighting should be exempted with 42% believing that winter maintenance and gritting services should be exempt. Concerns were also raised about the impact of the community right to challenge on waste and recycling services, particularly as these services have commanded new investment in technology and assets to develop new ways to deal with waste and recyclates, with 37.4% believing that waste management (refuse collection, waste disposal and recycling) should be exempt.

Reasons for exemptions consistently related to service quality and continuity issues and financial viability of fragmented services. This is further evidenced by the relatively low number of respondents (3.6% of all respondents from social care services) despite these services scoring the highest levels in terms of what services should be exempt from the right to challenge. Comments from respondents included: -

'Any services [should be exempt] that deal with the more vulnerable members of our community where there is a pressing need to ensure adherence to equalities, human rights, dignity, etc. I am worried that the standards might drop and that it will become too difficult to inspect and regulate particularly if these sorts of services become fragmented.'

'Public health - too risky to be outsourced. Building control / planning development and control - open to corruption'

'Any service which requires absolute impartiality, for example housing or planning advice.'

'The cost of administering contracts, tenders etc, would outweigh any savings. What we need is Community focused efficient effective services.'

'Whilst there is potential for most services to be 'challenged' I think the government should consider why this is being done i.e. services ran at a local level or a return to CCT? There should also be restrictions that eliminate time wasting by having to consider expressions of interest from non-viable bodies'

4. Should the right to challenge be extended?

In its formal consultation process the Department for Communities and Local Government asked whether or not the 'right to challenge' should be expanded to fire and rescue services and other bodies carrying out functions of a public nature. 84.2 % of respondents do not agree that the 'right to challenge' should be expanded to fire and - rescue services but 52.4% agree that the community right to challenge – if introduced should be expanded to cover other bodies carrying out a function of a public nature.

80.4% do not agree with the Secretary of State having wide reserve powers to issue further regulation without the need to go back to Parliament viewing this as a means to control and expand the impact of the 'community right to challenge'. Many commented that this was a centralist control mechanism albeit brought into place through a Bill named as 'Decentralisation and Localism'. Concerns were also raised about the content of further guidance to be issued should the Bill be passed.

During roundtable discussions the scope of the impact on the 'right to challenge' was also muted. Questions were raised as the position where there are existing contracts in place or possibly arrangements and contracts in place with wholly owned local authority companies, carrying out work on behalf of the parent local authority.

5. Will the 'right to challenge' engage the third sector or present new barriers to engagement?

81.7% of respondents believe that the third sector are more likely to be put off being involved in service delivery if they have to tender with 77.7% believing that a route of collaboration with the third / voluntary sector will be more helpful than a procurement route.

The APSE roundtable events supported this finding with evidence from the APSE civic cultural and community venues working group. They argued strongly that the third sector were able to flourish where council support was evident in an ongoing basis. For example allowing for service level agreements with groups rather than enforcing asset management arrangements and transferring risk onto groups with covenants to repair and maintain buildings.

Many respondents, with experience of working with community groups, felt from their own experience that the skills that groups might possess within 'niche services' were not transferred into other skills needed. For example being able to comply with tender documentation and 'bidding' for work. Whilst many groups had experience of bidding for funds this did not extend to more complex procurement processes or complying, for example, with contractual obligations, insurance, risk liabilities and so forth. For many the cash cost and the time involved in a procurement process would of itself act as a barrier.

A further 85.6% of respondents believe that a procurement route would open up contracts to the private sector because the third / voluntary sector will not be able to cope with having to tender for services leaving the way open to tenders from 'for profit' companies. There was a recognition that it would be difficult for councils to manage this risk given domestic and European procurement rules meaning services would be opened up to a much more commercial market than originally intended. Just under a quarter of respondents felt that procurement was the best way to secure a good service. The vast majority 77.7% favoured a collaborative approach to engaging with the third sector.

6. What should be included in future guidance to councils on accepting or rejecting a 'right to challenge'?

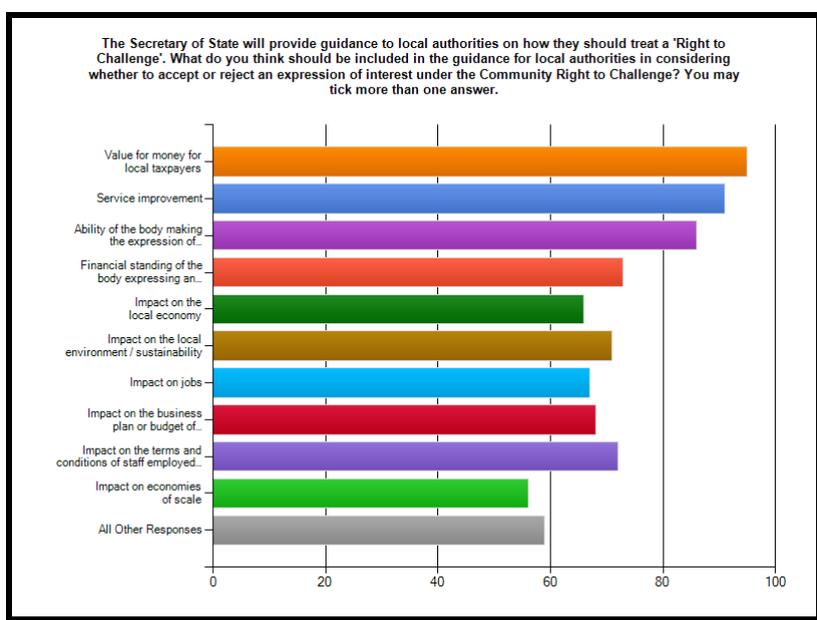
Respondents were questioned as to what factors should be considered in determining whether a council should accept or reject an expression of interest in running a service. The Secretary of State will have the ability to issue guidance from time to time on how councils should respond to expressions of interest received in relation to the 'right to challenge'.

An overwhelming 92.2% of respondents believe that **value for money for local tax payers** should be a primary objective in considering an expression of interest. 88.3% believe that being able to demonstrate service improvement would be an appropriate test in accepting or rejecting an expression of interest.

54.4% believe that there should be consideration of economies of scale issues. The chart below shows the full distribution of answers. Respondents were able to answer more than once.

Further considerations were the ability of the body submitting an expression of interest to carry out the work in question, the impact on the local environment and sustainability and the financial standing of the group. There was also strong support to look at the impact on jobs, terms and conditions of staff, the business plan and economies of scale. The chart below outlines the range of responses. (Figure1)

Figure1: What should be included in guidance to local authorities in accepting or rejecting an expression of interest under the community right to challenge?



7. Should councils nurture the third sector?

58.4% of respondents believe that councils will be unable to spend scarce resources supporting the third sector in light of budget cuts. There is a split of opinion on whether or not councils should take on a 'market maker' role where there is an undeveloped third sector; 44% strongly agree that councils should take on this role with 40% believing that councils should not take on this role. 16% of respondents are undecided.

8. What is the experience of councils in dealing with the third sector?

31% of respondents reported a very positive or generally positive experience with third sector involvement in service delivery but 22.3% had experienced an unsatisfactory or poor outcome. The most positive outcome from third sector involvement in public services came from niche support in specialised areas where the public sector lacked skills or knowledge with 46.9% of respondents citing this as a positive outcome.

An example of niche involvement stemming from collaboration with the third sector is one North West authority that has developed a bulky waste collection service. Goods, such as furniture and white goods, are collected from households, refurbished into good working order and then redistributed to families on low incomes for reuse. The work is carried out by the third sector provider who also secure training for local people. The service was developed on a collaborative basis and although the service costs more to run through this route there has been significant returns to the local economy through the value produced through skills, training and the recycling of goods, otherwise destined for landfill, at a cost to the council and the local environment .

Positive comments from the survey were:-

'Increased accessibility for underrepresented groups. Capacity building in the community leading to more sustainable outcomes.'

'The Third Sector can be a useful reference for Councils through effective community consultation to design services/service levels to meet the citizens' needs and expectations'.

'Having worked in the public realm services, previously for 24 years, it has been noted that staff generally increase their out outputs when working alongside the public and both staff and public take greater ownership from joint working'.

'Using collaborative gain to achieve trust and cooperation between groups and testing coproduction research locally to develop a new type of community planning based on developing environmental landscape schemes to make sure outcomes happen. So far this project is showing good results'

However there were also a number of negative comments. One member authority represented at a roundtable event expressed concerns that the operation of the 'right to challenge' would negatively impact on local community or charitable groups; they feared that some of the larger charitable organisations were grouping activity in order to bid at a sub-regional or regional level, allowing them to pool resources which would not be available to local groups. The respondent was concerned that this could have a 'knock-on effect' alienating local charitable enterprises and groups. Concerns were also expressed about third sector groups simply 'throwing the keys back' – walking away from contracts that became financially or otherwise unsustainable. The perception that third sector groups would be able to operate at reduced costs was challenged. Many with experience of dealing with the third sector were concerned that the third sector, were being 'set up to fail' through unrealistic and unfair assumptions that they would deliver services 'on the

cheap' or 'for free'. Many third sector groups needed to be commercially viable and like council services would need to ration services, often on a needs basis.

'Cost savings to the detriment of quality - very task oriented'

'Very unreliable, inconsistent in delivery and always looking for additional funding'.

Loss of democratic governance also proves to be a concern with 61.2% describing 'loss of governance and democratic accountability' as a big negative. 41.2% also reported staff resistance and poorer service quality as an issue. Interestingly one manager commented:

'Full time [permanent] staff feel their trade is being devalued by allowing untrained volunteers to take over. This is particularly true of my cleansing staff when the media is constantly full of suggestions to get all miscreants out litter picking'.

During round table events a number of commentators referenced the perceived wisdom of assuming community groups or charities were representative of all aspects of local communities. The perception is that the 'loudest voices' will prevail to the detriment of other areas. Comments are as follows:

'Previously, pandering to Friends and Community Group has led to a reduction in services / quality elsewhere within the borough and investment in their areas of interest to the detriment of others areas. There is also a question about ensuring that third sector involvement consults users to ensure that services are shaped to deliver services according to need. Without good intelligence and understanding of the market and how to deliver the services, I cannot see how this will work. This will therefore lead to services being outsourced where possibly, the private sector will takeover, and there will be no fallback position. If it is going to be done it has to be done right and I am not sure to what extent it can be.'

'The third sector often "opt" out of service delivery if it becomes more "complicated" than they originally thought.'

Figure 2 overleaf shows the main improvements and outcomes from involving the third sector in service delivery and figure 3 below right shows some of the negative outcomes.

Figure 2: Main outcomes and improvements from third sector involvement in service delivery

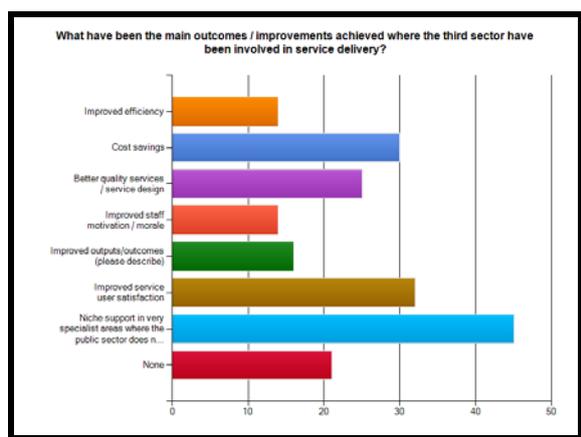
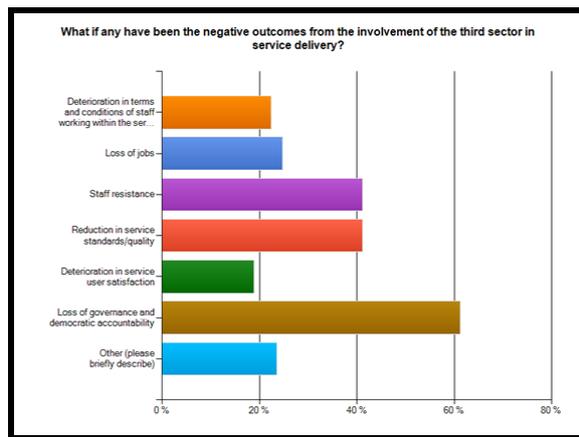


Figure 3: Negative outcomes from third sector involvement in service delivery



9. Staff mutuals and the community right to challenge

On the issue of staff mutuals there were varying concerns as to how these would work in practice. During the roundtable discussions comments focussed on the potential for this route to be used frivolously or in a vexatious way, for example should staff disagree with proposals on service redesign or restructuring. This could it was argued lead to a bureaucratic process which would force councils to give consideration to proposals which did not deserve merit. One elected member present also expressed concerns that this route could be used to undermine political objectives in the way a service was run or organised, undermining democratic decision making.

There was a degree of trepidation about the long term sustainability of staff mutuals in the context of budget reductions. If councils could not afford to run certain services how could this be achieved through a staff mutual unless it was a route to reducing service levels, terms and conditions or overall staff numbers? Funding for capital investment was also a big issue. For services reliant upon the capital investment what would make those services sustainable within a co-operative environment where the ability to generate capital for future investment was an important consideration?

54.2% of respondents felt that staff mutuals were a poorly considered idea and would lead to some staff pitching themselves against management decisions. A further 51% agreed with the statement that *'Staff mutuals are not publically owned or accountable bodies and will transfer assets and skills out of the public sector'*. 26% however thought staff mutuals could be the key to providing better public services but 38.5% thought this would only work if funding was not an issue.

The issue of ESOPs (employee stock ownership plans) was also raised within the roundtable events and through the survey, citing past examples of de-regulation of public bus transport operators which led to some short term staff mutual developments. These types of ESOPs were very quickly subject to buy outs by larger private operators, moving from mutual owned status into private ownership.

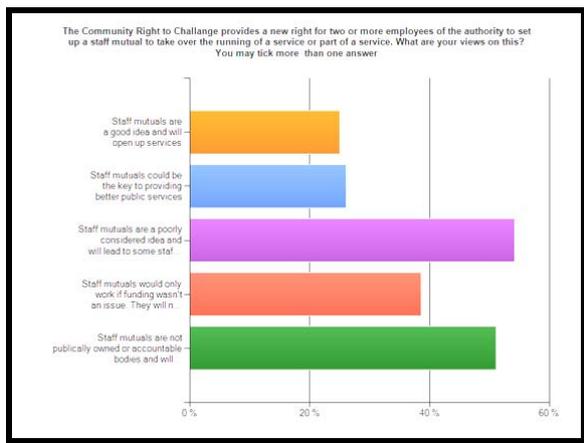
The following comments provide a useful insight into the views of respondents:

'Likely to be transient, and taken over. See examples of municipal bus operators that (almost all) became parts of large groups- whilst they were commercial ESOPs, the same will apply here; the businesses will be weak and vulnerable (or need to be) taken over.'

'Also can lead to managers pitching themselves against democratic Council decisions'

As with any provider the roundtable participants strongly suggested that just because a service provider is described as a 'cooperative' or 'mutual' does not provide a democratically accountable route to service provision. The co-optees are answerable to the co-operative board not the public. Similarly there is little protection on mutual models from future sell-offs or buy outs making some services vulnerable to future changes or 'privatisation' but with few safeguards for future public service provision. Public sector core capacity would need to be maintained but how?

Figure 4: Views on staff mutuals or cooperatives



10. Future service improvement

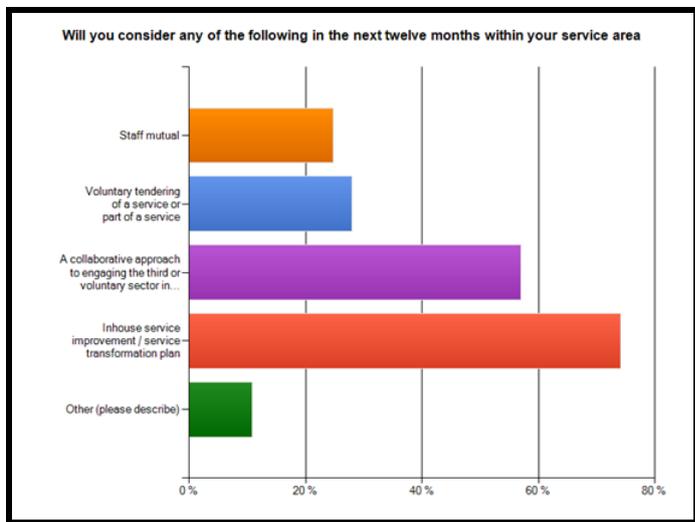
When asked what future service plans they have for service delivery 74.4% cited an inhouse service improvement / service transformation plans. 54% would look to a collaborative approach to involving the third sector but only 28% were considering a voluntary tender of services.

Many respondents cited existing and developing proposals to involve communities in service planning and working with other councils (9.2% of respondents) based on seeking to fill reductions in staffing or services through volunteers and greater involvement of community groups. Some also cited the sale or transfer of land, assets or holdings to the community or voluntary sector as means to 'unburden' the council and make savings:

'Citizens, Community Groups and the voluntary sector will all be involved in shaping our Councils Corporate plan and future strategy. It will be delivered entirely inhouse, but will include specific service improvement/transformational strategies.'

Many were actively working across boundaries with other authorities and were already engaged in plurality of service provision driven by local decision making.

Figure 5: Future service delivery plans



Section 3

Conclusions and summary of findings

Localism and the conflicts of centrally driven policy direction

Whilst the intention of the Decentralisation and Localism Bill has been muted as a means to drive forward more local control over public services the process driven approach, presented through the 'community right to challenge' appears to generate a further form of central government interference in how local councils deliver local public services. The reserve powers to the Secretary of State could in effect dictate the way in which services are delivered in the future, dependent upon the scope and level of enforcement driven by the reserve powers to the Secretary of State. For many respondents the process driven approach to delivering local public services echoes the now discredited Compulsory Competitive Tendering (CCT) regime.

Procurement or collaboration?

There is evidence that local councils are already heavily engaged with the third sector. These arrangements are varied and very much determined by local decision making and 'best fit' with local needs. Some collaborative arrangements have increased costs of service delivery but have nevertheless added value to the service. Procurement will potentially add an unnecessary layer of bureaucracy which, rather than enhancing third sector involvement in service delivery, could impede this.

The third sector cannot be a substitute for the delivery of public services but it could enhance the role and value of local public services, particularly where there are niche services or expertise.

Democratically accountable and accessible local public services

An emerging theme through various strands of the research was the need to respect the right of local councillors and communities to determine services that meet local needs. Local services will always be rationed by their very nature but service levels, so far as possible, are open to democratic governance and direction, with fairness and accessibility at the core of service delivery.

There are legitimate concerns that any group expressing an interest in running a local public service remains democratically accountable. They should demonstrate that they are able to ensure and safeguard fairness and non-discrimination in service delivery and are competent to deliver the service in a safe manner.

Minimising risk and contractual safeguards

Whilst it is recognised that the third sector will have a role in service delivery this should not be at the future risk to public service delivery. As with any externalised contract arrangements there needs to be a safeguarding of service delivery and public funds.

Whilst a low value contract, with a low impact in the event of contract failure, may need less stringent contract conditions and monitoring there are circumstances where, despite a low monetary value, a contract may nevertheless need strident contract monitoring. For example, a contract dealing with vulnerable children or adults on a specialist basis, which may be of low economic value could equally carry high value social and health outcomes and command careful contract monitoring.

Councils should not be seduced by the third sector 'label' into varying its normal duties to safeguard both public funds and service users. Contracts, capable of enforcement, should be considered part of the normal process unless there is a compelling case to do otherwise. This should however be within a proportionate framework to the risks presented rather than a barrier to third sector participation in service delivery.

Impact of the 'community right to challenge' on frontline services

In an austere financial environment local government is already looking to expand its current innovative ways to deliver local public services. Many view the third sector and community groups as being a valuable part of the local service delivery offering. However the core capacity of the local authority, to ensure its services are able to meet local needs, is still a dominant factor.

Frontline services should, and most often are, sensitive to the impact on local third sector groups of the way in which services can be organised at a local level. Nevertheless this works both ways. There needs to be a commonsense recognition that councils put time, effort and expertise into planning for accessible services. Councils will need to have a sensible basis on which to reject frivolous or 'Trojan horse' expressions of interest put forward under the 'right to challenge' framework, particularly those which would severely jeopardise service quality and / or value for money for local council tax payers. They should not be unduly fettered or subject to abstract statutory guidance that does not reflect local circumstances. Those dealing with future expressions of interest will need to be mindful of the impact on services, which could be detrimental, however well intentioned.

In developing business plans and service development strategies frontline services will need to take cognisance of the 'community right to challenge'. Having available data on service cost, quality and improvement planning will help to inform the decision making processes at a local level. Such service information is likely to be demanded corporately and by elected members in responding to future 'right to challenge' decision making and any subsequent procurement processes. A return to CCT style central dictat will be unhelpful and a regressive approach to frontline service delivery in local government.