

Subject: Localism Bill - update
Date of Meeting: 26 July 2011
Report of: Strategic Director, Resources
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Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Localism Bill was considered by Governance Committee on 1st February 2011 and has since completed its passage in the House of Commons and passed to the House of Lords..
- 1.2 This report updates Governance Committee on the progress of the Localism Bill, highlighting the key amendments that have been made to the Bill.

2. RECOMMENDATIONS:

- 2.1 That Governance Committee notes the report and requests further updates as the Bill progresses, including proposals for implementation for Brighton & Hove.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Localism Bill was published on 13th December 2010. A report setting out the key provisions and impact of the Bill was considered by Governance Committee on 1st February 2011. A copy of the report is attached at Appendix One for reference. Governance Committee requested further reports on the progress of the Bill and this report highlights amendments that have been made to the Bill since February 2011.
- 3.2 The Bill has now passed through the House of Commons, had its second reading in the House of Lords, and is currently being debated line by line in Committee by the Lords. The Bill will then return to the Commons for consideration of Lords amendments. The Government is aiming to achieve Royal Assent in November 2011. The provisions of the Bill will then be brought into force in stages after Royal Assent.

House of Commons Amendments

- 3.3 Despite a great deal of debate, the Bill passed through the Commons with relatively few amendments. The main changes are set out below.

General Power of Competence

- 3.4 The general power of competence provides a discretionary power for local authorities to undertake wide-ranging activities (a “power to do anything that individuals generally may do”). The Bill also enables the Secretary of State to remove any constraints in existing legislation that he thinks would restrict authorities from using the new power.
- 3.5 A new clause has introduced a set of conditions that the Secretary of State must comply with in considering whether any particular piece of legislation should be varied or repealed. There were concerns that the scope for the Secretary of State to amend or repeal legislation was too wide. The new conditions are intended to address that, requiring a balancing of public interest and the interests of individuals and that there should be no removal of necessary protections or constitutionally significant provisions.

Standards

- 3.6 The only change made in relation to the provisions relating to standards has been to require that if a local authority chooses to adopt a voluntary code of conduct, or revises or withdraws its code, then the authority must (rather than may) publicise it.

Local Referendums

- 3.7 One change was made in the Commons to remove the power for the Secretary of State to rule that an issue should not be treated as a “local matter” (and therefore not be eligible to be the subject of a local referendum). Further amendments on referendums are considered below following the House of Lords debate.

Advice and Assistance

- 3.8 Four new clauses have been introduced authorising the Secretary of State to provide advice and assistance (including financial assistance) in relation to:-

- The community right to challenge
- Assets of community value
- Neighbourhood planning

- 3.9 The aim is to help community groups with the practicalities of exercising these new rights. The advice and assistance includes training or education. Financial assistance can be by any means including a loan, guarantee or indemnity.

Neighbourhood Forums

- 3.10 Under the Bill, areas that do not have a parish council can form a neighbourhood forum to decide on local planning issues. The requirements for neighbourhood forums have been changed so that now they must be established either to further the social, economic or environmental wellbeing of individuals living in the area,

or to promote the carrying on of trades, professions or other businesses in the area (this latter part is new).

- 3.11 Membership of neighbourhood forums has also been amended to broaden the criteria to include individuals who work (as well as live) in the area and elected members. Membership must now include at least 21 individuals (it was originally 3), who must all either live, work or be an elected member for the neighbourhood area concerned.
- 3.12 In deciding whether to designate a body as a neighbourhood forum, the local planning authority must look at the membership and consider whether there is a representative from each of the categories of member (resident, worker, elected member) and whether the membership is drawn from different sections of the community in that area. The local planning authority must also have regard to whether the purpose of the proposed neighbourhood forum reflects (in general terms) the character of the area. These are welcome amendments which should work to improve the legitimacy of neighbourhood forums.

Planning permissions – local finance considerations

- 3.13 One of the most controversial amendments to the Bill in the Commons was to include “any local finance considerations” (such as the New Homes Bonus and Community Infrastructure Levy) to the list of considerations to which the local planning authority is required to have regard when considering an application for planning permission.
- 3.14 There has been widespread opposition to this requirement to have regard to local finance considerations as it is seen as a fundamental threat to the planning system and several groups, including the Royal Town and Planning Institute have called for it to be removed.

House of Lords Amendments (as at 12th July 2011)

Elected Mayors

- 3.15 Two significant amendments have been agreed in the Lords in relation to elected Mayors. Firstly, the ability for elected Mayors to combine their role with that of the Chief Executive has been removed from the Bill. Secondly the provisions relating to “shadow mayors” have been removed. These provisions would have required local authority leaders of specified authorities (the 12 largest cities) to be treated as an elected Mayor pending an election of a Mayor.

Pay Accountability

- 3.16 The provisions requiring councils to produce senior pay policy statements have been amended to require pay policy statements. Specifically, a local authority pay policy statement under this amendment must include not only pay policies in relation to Chief Officers, but also must include details of the remuneration of its lowest paid employees. In addition, the relationship between the remuneration of Chief Officers and the remuneration of employees who are not Chief Officers

must be included in the statement. Remuneration is defined widely to include salary, bonuses, allowances and compensation.

- 3.17 These amendments reflect support in the Lords for the findings in Will Hutton's report on fair pay in the public sector (15th March) of the benefits of setting decisions on senior pay in the context of the pay of the rest of a body's workforce.

Referendums

- 3.18 A number of practical issues involved in fielding and managing the proposed referendum scheme were raised in both the Commons and the Lords. The Bill enables local people to petition for a referendum to be held on a subject of local concern. There is also provision for ward councillors to request a referendum and for a referendum to be held on a ward basis.
- 3.19 One of the issues debated has been the cost of holding a referendum – the Government estimates the cost of holding a referendum to be 50p per head if held at the time of an election or £1.50 if held another time.
- 3.20 The amendments agreed in the House of Lords make holding local referendums discretionary in many cases. These include where the cost of holding the referendum would be more than 5% of the council tax requirement for that year, where the issue (or a similar issue) has been the subject of a referendum in the previous four years or where there is an alternative statutory process to make representations with a right of appeal.

Community right to bid for assets of community value

- 3.21 The Lords have agreed an amendment which will require the Local Authority to inform the owner of the land in question that a bid has been received. There has also been an amendment to require local authorities to co-operate where the land of community value straddles more than one local authority area.

Planning and housing matters

- 3.22 At the time of writing this report the Lords had not debated the planning and housing elements of the Bill. Officers will be able to give a verbal update at the meeting.

Work in Brighton & Hove and next steps

- 3.23 The Governance Committee has a particular interest in the governance and community empowerment provisions of the Bill as well as an oversight and co-ordinating brief in respect of the other areas. Further updates can be brought to the Committee as the Bill progresses and secondary legislation is drafted. An update on Planning issues was presented to the Planning, Employment, Economy and Regeneration CMM on 7th July 2011.

- 3.24 Although there have not been significant amendments tabled in relation to the Community Right to Challenge (to run council services) and the Community Right to Bid (to buy assets of community value), the Government is currently consulting on those provisions. The Council has engaged with these consultations and is awaiting the responses, which are likely to shape the secondary legislation where much of the detail in relation to these provisions will need to be fleshed out.
- 3.25 As detailed above, the Bill is on track to receive Royal Assent in November 2011 and particular provisions will come into force in stages after that date.

4. CONSULTATION:

- 4.1 No specific consultation has been undertaken in relation to this report, which is for information. Earlier briefings have been taken to Governance Committee and relevant CMMs.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There are no direct financial implications relating to the recommendations. There are likely to be significant resource implications relating to individual proposals within the Localism Bill as they are taken forward and these will need to be carefully considered, quantified and reported back at a later date

Finance Officer Consulted: Anne Silley Date: 12/07/11

Legal Implications:

- 5.2 These are set out in the body of the report.

Lawyer Consulted: Elizabeth Culbert Date: 12/07/11

Equalities Implications:

- 5.3 Equality Impact Assessments have now been published in relation to the provisions of the Bill.

Sustainability Implications:

- 5.4 There are no direct sustainability implications arising from this report. Any implications in relation to specific proposals for decision locally will need to be reported as proposals are brought forward.

Crime & Disorder Implications:

- 5.5 There are no crime and disorder implications arising from this report.

Risk and Opportunity Management Implications:

- 5.6 None. This report is for information only – any implications in relation to specific issues for decision locally will need to be reported on as proposals are brought forward.

Corporate / Citywide Implications:

- 5.7 These are addressed in the body of the report.

SUPPORTING DOCUMENTATION

Appendices:

1. Report to Governance Committee dated 1st February 2011 with appendices.

Documents In Members' Rooms

None

Background Documents

None