

NORTH LINCOLNSHIRE COUNCIL

CABINET

LOCALISM BILL

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To provide an outline on the key provisions proposed in the Localism Bill presented to Parliament on 13 December 2010.
- 1.2 The Bill includes implementation of some provisions previously outlined in the Local Government White Paper, Strong and Prosperous Communities, the Local Government and Public Involvement in Health Act 2007 and the subsequent White Paper Communities in Control: Real People, Real Power
- 1.3 The Bill also includes a series of reforms that the Government intends to introduce to devolve more power to communities and individuals including devolving power to localities for local planning and housing decisions and giving greater opportunity to own and run local services.
- 1.4 The proposals could represent a significant change for local councils in the following areas:
 - 1.4.1 Constitutional arrangements including standards
 - 1.4.2 Planning
 - 1.4.3 Housing
 - 1.4.4 Council Tax and Business Rates
 - 1.4.5 Running of local services
- 1.5 The report identifies where more detailed reports are required.

2 BACKGROUND INFORMATION

- 2.1 The Local Government and Public Involvement in Health Act received Royal Assent in October 2007. Cabinet considered the main aspects of the Act in November 2007 and April 2008.
- 2.2 In September 2008 a further update was provided which included details of the White Paper Communities in Control: Real People, Real Power

- 2.3 The Localism Bill, presented to Parliament on 13 December 2010, contains details of implementation, or amendment, of the above as well as including new provisions proposed by the Coalition Government.
- 2.4 The Bill should be seen in the policy context of the six strands of the Government's decentralisation agenda. Wider reforms are also being introduced in line with this agenda in other public service areas. The six strands are:
- Lifting the burden of bureaucracy
 - Empower communities to do things their way
 - Increase local control of public finance
 - Diversify the supply of public services
 - Open up Government to public scrutiny
 - Strengthen accountability to local people.
- 2.5 This paper outlines the main requirements of the Bill and identifies areas where changes will be required once the Bill receives Royal Assent.

3. OPTIONS FOR CONSIDERATION

- 3.1 The provisions relating to councils include:
- Giving councils a general power of competence
 - Allowing councils to choose to return to the committee system of governance and allowing for referendums for elected mayors in upper tier authorities
 - Abolishing the Standards Board regime and the model code of conduct, and introducing local accountability and a criminal offence of deliberate failure to declare a personal interest in a matter
 - Giving residents the power to instigate local referendums on any local issue and where council tax increases are calculated, using a nationally prescribed formula, to be excessive.
 - Allowing councils more discretion over business rate relief
 - Providing new powers to help save local facilities and services threatened with closure
 - Giving voluntary and community groups the right to challenge local authorities over their services.
- 3.2 The housing provisions will:
- Abolish the requirement to have a Home Improvement Pack
 - Reform the Housing Revenue Account system
 - Provide for a new form of flexible tenure for social housing tenants
 - Allow local authorities to discharge their duties to homeless people by using private rented accommodation
 - Give local authorities the power to limit who can apply for social housing within their areas

- Abolish the Tenant Services Authority and provides for a transfer of functions to the Homes and Communities Agency
- Amend the way in which a social tenant can make a complaint about their landlord
- Improve the ability of social tenants to move to different areas.

3.3 The planning and regeneration provisions will:

- Abolish Regional Spatial Strategies
- Abolish the Infrastructure Planning Commission and return to a position where the Secretary of State takes the final decision on major infrastructure proposals of national importance
- Amend the Community Infrastructure Levy, which allows councils to charge developers to pay for infrastructure. Some of the revenue will be available for the local community
- Provide for neighbourhood plans, which would be approved if they received 50% of the votes cast in a referendum
- Provide for neighbourhood development orders to allow communities to approve development without requiring normal planning consent

3.4 A summary of each chapter is outlined in appendix 1 together with recommendations for further action.

3.5 The proposals could represent a significant change for local councils in the following areas:

- 3.5.1 Constitutional arrangements including standards
- 3.5.2 Planning
- 3.5.3 Housing
- 3.5.4 Council Tax and Business Rates
- 3.5.5 Running of local services

3.6 The Local Government Association has issued a response to the Bill. It welcomes some areas of the Bill including general power of competence and freeing councils from Central Government bureaucracy. They have however expressed significant concern about “142 increased powers for Central Government to lay down regulations, guidance and direction on how localism will work”. They are seeking amendments to remove the Government’s role in setting council tax and directing how income from Community Infrastructure Levies should be spent. They are also seeking amendments to reduce Government influence over neighbourhood planning, rules governing who can buy local assets and which bodies have the right to bid to deliver local public services. They have also stated that they oppose any moves to order English councils to contribute to EU fines imposed on the UK Government and are urging councils to lobby MPs on this issue.

3.7 The council is required to implement the Bill once it receives Local Royal Assent.

4 RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 4.1 This new direction involves a greater emphasis on local decision making with a more enabling role and less direct delivery role for Local Government. As such it will inevitably have an impact on the nature and size of the council and its staff.
- 4.2 Some of the constitutional changes including proposals for referendums are likely to have additional resource implications for the council.

5. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)

- 5.1 The Bill once it receives Local Royal Assent will become a statutory requirement and the council will need to ensure that it implements it.
- 5.2 A full equality impact assessment is to be published by Government
- 5.3 Impact Assessment Screening will need to be undertaken for all new and existing policies changes as a result of any new requirements once the Bill becomes an Act.

6. OUTCOMES OF CONSULTATION

- 6.1 Most previous Bills that have affected Local Government follow on from a White Paper which include consultation provisions. This is not the case with this Bill therefore any feedback on the Bill will need to be done using Parliamentary channels. This can take the form of representation and questions from MPs or by submitting written evidence.
- 6.2 The Localism Bill was presented to Parliament on 13 December 2010. As this is the First Reading and there was no debate on the Bill. The Bill had its Second Reading debate on 17 January 2011. The Bill has now been sent to a Public Bill Committee for scrutiny and there is a call for written evidence. The council can now submit views in writing to the House of Commons Public Bill Committee.
- 6.3 The Local Government Association has issued a response as outlined in para 3.6..

7. RECOMMENDATIONS

It is recommended that:

- 7.1 The recommendations in Appendix 1 be approved and further reports are submitted on key areas of implementation.

CHIEF EXECUTIVE

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Background Papers used in the preparation of this report

Report to Cabinet April 2008 entitled "Local Government White Paper, Local Government and Public Involvement in Health Act 2007 - Communities in Control: Real People, Real Power"
Decentralisation and Localism Bill – An essential Guide HM Government

Key Provisions	Recommendations
PART 1 - LOCAL GOVERNMENT	
<p>Chapter 1 – General Powers to Local Authorities</p> <ul style="list-style-type: none"> • General Power of Competence The general power of competence will provide local authorities (including certain parish councils) with the provisions to do anything apart from that which is specifically prohibited. <p>This measure will mean that local councils will have freedoms to act on behalf of their communities and to act in their own interest to generate efficiencies and savings. It will provide more freedom for councils to innovate and work together with others to drive down costs. It will give them increased confidence to set up banks, develop property, run new services and own assets.</p> <p>It allows for charging of services and doing things for a commercial purpose except for some limitations for statutory services</p> 	<p>Cabinet note the proposed general power</p>
<p>Chapter 2 – Provisions for Fire and Rescue – not summarised</p>	
<p>Chapter 3 – Governance These measures will allow councils, regardless of their size to return to the committee system of governance</p> <p>Also see volume 2 chapter 2 which covers in more detail</p> <ul style="list-style-type: none"> • executive functions • discharge of functions by area committees • discharge of functions by other local authorities • overview and scrutiny functions including the designation of an officer to discharge the function 	<p>The Service Director Legal and Democratic prepare a more detailed report on the implications for the council's constitutional arrangements</p>
<p>Chapter 4 – Predetermination The Bill will give councillors the assurance that they can campaign, discuss and vote on issues with confidence.</p>	<p>The Service Director Legal and Democratic prepare a more detailed report on the implications for the council's constitutional arrangements</p>
<p>Chapter 5 – Standards Significant changes to the standards regime including:</p> <ul style="list-style-type: none"> • Duty to promote and maintain high standards. • Adoption of voluntary code of conduct • Disclosure and registration of interests • Provisions for co-opted members <p>Also note - The Government is still committed to the highest standards of conduct by councillors, meaning that while the Standards Board regime is being abolished, they are legislating to make it a criminal offence to deliberately withhold or misrepresent a personal interest. This means that serious misconduct that can at present lead to censure by a local authority standards committee and having to make an apology will instead possibly result in a criminal conviction.</p>	<p>The Service Director Legal and Democratic prepare a more detailed report to the Standards Committee on the implications.</p>

<p>Chapter 6 - Pay Introduced a requirement to prepare a formally approved senior officer pay policy statement for financial year 2012-13. Includes details of what must be included. Functions are not to be responsibility of the Executive.</p>	<p>Cabinet note the proposed requirement</p>
<p>Chapter 7 – miscellaneous</p> <ul style="list-style-type: none"> • Repeal of Duty to Promote Democracy • Repeal of Ch2 P1 of Local democracy, Economic Development and Construction Act 2009 relating to petitions • Repeal of Climate Change Act provisions relating to encouraging waste reduction by payment and charges 	<p>Service Directors note the proposed changes</p>
<p>PART 2 - EU FINES</p>	
<p>Provisions relating to EU fines and power to require public authorities to make payments in cases of EU sanctions</p>	<p>Service Directors note the proposed changes and the implications this will have for European funded projects</p>
<p>PART3 - NON DOMESTIC RATES</p>	
<ul style="list-style-type: none"> • Introduced provisions to ballot for imposition and variation of certain business rate supplements. • Changes some parts of section 47 of the LG Finance Act in relation to non domestic rates and discretionary relief • Changes some parts of section 43 of the LG Finance Act in relation to small business • Added to section 49 of the LG Finance Act in relation to cancellation of backdated liabilities for 2005-2010 	<p>Service Director Finance note the proposed changes</p>
<p>PART 4 – COMMUNITY EMPOWERMENT</p>	
<p>Chapter 1 – local referendums Introduces a duty to hold a referendum if petitioned to do so. It sets out the requirements that the petition must have including a requirement of 5% of signatures, duties to determine the appropriateness of a referendum, grounds on which you can determine it is not appropriate, process for referendums, action to be taken after including action to be taken and reason for decision.</p>	<p>The Service Director Legal and Democratic prepare a more detailed report on the implications for the council's constitutional arrangements</p>
<p>Chapter 2 – Council tax Changes to council tax requirements including determining whether the basic rate of council tax is excessive using a prescribed calculation. If it is then the provisions include a duty to hold a referendum. Details of how referendums should be run are included. The chapter also includes various changes to the calculation of council tax requirements.</p>	<p>Cabinet note the proposed requirement</p>
<p>Chapter 3 - Community Right to challenge Introduces a right for voluntary and community groups, social enterprises, parish councils and local authority employees delivering a service, to challenge a local authority, by expressing an interest in running any service for which they are responsible. It includes provisions in terms of how it must be considered and responded to including any reasons for rejection and where it accepts the requirement to carry out a procurement exercise</p>	<p>Cabinet note the proposed requirement</p>
<p>Chapter 4 – Assets of community value Introduces a requirement for local authorities to maintain and publish a list of public or private assets including land of community value. It also provides a procedure on community nominations including publication, how to review decisions relating to what to include on the list and disposal of listed land.</p>	<p>Service Director Asset management and Culture and Service Director Finance note the proposed requirement</p>

<p>Miscellaneous</p> <ul style="list-style-type: none"> • Local land charge relating to assets of community value • Minor changes relating to enforcement 	<p>Service Directors note the proposed changes</p>
PART 5 – PLANNING	
<p>Chapter 1 – plans and strategies Changes to plans and strategies including:</p> <ul style="list-style-type: none"> • Abolition of regional spatial strategies • Duty to cooperate in relation to planning of sustainable development • Amendment to section 15 of Planning and compulsory purchase act 2004 in relation to local development schemes, adoption and withdrawal of development plan documents and monitoring reports - removing the ability of the Planning Inspectorate to re-write local plans - and by removing procedures on timetabling and monitoring. (Planning inspectors will continue to assess local plans at a public examination, and authorities will only be able to adopt plans judged 'sound' by the inspector, but inspectors will only be able to suggest changes at the request of the local authority. Local authorities will be able to suggest changes during the examination and withdraw development plan documents before their adoption, without seeking clearance from central Government. Local authorities will also have to publish up to date information direct to the public on what planning documents they are preparing, while central government powers to direct changes will be more limited.) 	<p>A more detailed report on the planning proposals be prepared for the relevant Cabinet Member</p>
<p>Chapter 2 – Commodity infrastructure levy Includes 3 changes to the Community Infrastructure Levy :</p> <ul style="list-style-type: none"> • provisions to make regulations requiring some of these funds to be passed to neighbourhoods where the development has taken place • Clarity about allowing funds can be spent on the ongoing costs of infrastructure, as well as the initial costs of new infrastructure • it gives local authorities greater control over setting their charging levels 	<p>A more detailed report on the planning proposals be prepared for the relevant Cabinet Member</p>
<p>Chapter 3 Neighbourhood Planning (see also schedule 9) Introduces a new right for communities to permit development on basis of neighbourhood plans - in full or in outline – without the need for planning applications. It also has provisions in relation to charges for neighbourhood planning , collection and enforcement and financial assistance. This measure will give local communities the power to take forward development in their area without the need to apply for planning permission, subject to meeting certain safeguards and securing 50 per cent support of the community through a referendum. It will be for communities to identify suitable land, sources of finance and secure support for their proposals, but we will put in place arrangements to provide help and guidance.</p>	<p>A more detailed report on the planning proposals be prepared for the relevant Cabinet Member</p>
<p>Chapter 4 – Planning consultation To strengthen the role of local communities in planning, the Bill will introduce a new requirement for prospective developers to consult local communities before submitting planning applications for very large developments. Provisions include requirements to consult and respond to planning applications</p>	<p>A more detailed report on the planning proposals be prepared for the relevant Cabinet Member</p>
<p>Chapter5 – Planning Enforcement Provisions relating to retrospective planning permission, time limits for breaches, procedures for enforcement and rights of appeal</p>	<p>A more detailed report on the planning proposals be prepared for the relevant Cabinet Member</p>
<p>Chapter 6 – Nationally significant infrastructure Provisions include: Abolition of the Infrastructure Planning Commission and replace with new system to fast-track process for major infrastructure projects with decisions being taken by ministers. Provisions include the transitional arrangements for this. It also requires Parliamentary approval of National Policy Statements (National Policy Statements) before they can be designated</p>	<p>A more detailed report on the planning proposals be prepared for the relevant Cabinet Member</p>

PART 6 HOUSING	
<p>Chapter1 - allocations and homeless</p> <p>Housing Allocations reform including:</p> <ul style="list-style-type: none"> • The rules on eligibility will continue to be set centrally and include changes to section 159 and 160 of the housing act in respect of whom housing provisions apply to ensuring they only apply to eligible and qualifying people. • Requirement for council's to have an allocation scheme and procedure for determining priority including guidance on who should be given preference. This also allows for not include applicants have no realistic prospect of ever receiving social housing • Provisions to make it easier for existing social tenants to move within the social sector, by removing transferring tenants who are not in housing need from the scope of the allocation rules (they will no longer have to compete with those on the waiting list in housing need) <p>Homeless changes including :</p> <ul style="list-style-type: none"> • giving local authorities the flexibility to bring the homelessness duty to an end with an offer of suitable accommodation in the private rented sector without requiring the household's agreement. • Safeguards: as now, an offer of private sector housing will only bring the duty to an end if the accommodation is suitable for the whole household. • The private sector tenancy would need to be for a minimum fixed term of 12 months, and the duty would recur if, within 2 years, the applicant becomes homeless again through no fault of his or her own (and continues to be eligible for assistance). 	<p>A more detailed report on the housing proposals be prepared for the Cabinet Member</p>
<p>Chapter2 – Social Housing Tenure</p> <p>Introduce a requirement to publish a strategy including consultation requirements with private providers and social landlords. It also ends the current requirement for social landlords who are normally only able to grant lifetime tenancies and enables local authority landlords to grant tenancies for a fixed length (the minimum length being two years). It also includes provisions for recovery of possession in expiry of the tenancy. The Bill also includes provisions for ensuring that housing association tenants who are also members (e.g. share holders) of their landlord organisation are allowed to take up incentive schemes which facilitate moves out of the social rented sector into owner occupation. Current legislation does not allow this because it precludes the making of any gifts (including such an incentive payment) to tenant members or former members</p>	<p>A more detailed report on the housing proposals be prepared for the Cabinet Member</p>
<p>Chapter 3 Housing Finance</p> <p>Replace the current annual centralised system for subsidising council housing and replace it with a locally run system. Under the new system, councils will keep their rental income and use it locally to maintain their homes. To achieve this, the Bill will enable a one-off payment between Government and each council. Reform of the Housing Revenue Account to give councils full control over a key area of spending and service provision</p>	<p>A more detailed report on the housing proposals be prepared for the Cabinet Member</p>
<p>Chapter4 - Housing Mobility</p> <p>New measures to allow mutual exchange - a swap of accommodation between two or more tenants where each party moves permanently into their exchange partner's property. This would require landlords to participate in web-based mutual exchange services that enable tenants to see a wide range of properties across providers in England.</p>	<p>A more detailed report on the housing proposals be prepared for the Cabinet Member</p>
<p>Chapter5 – Regulation of Social Housing</p> <p>Reforms to the regulatory system for social housing including:</p> <ul style="list-style-type: none"> • abolish the Tenant Services Authority and transfer its remaining functions to the Homes and Communities Agency • make changes to the Ombudsman regime applicable to social housing complaints. 	<p>A more detailed report on the housing proposals be prepared for the Cabinet Member</p>

<p>This will be enacted by making amendments to the Housing and Regeneration Act 2008, the Housing Act 1996 and the Local Government Act 1974.</p> <ul style="list-style-type: none"> • Abolishing the Tenant Services Authority • The system of two separate ombudsmen handling social tenants' complaints will end. A single Ombudsman specialising in complaints about social housing will ensure consistency, and provide a common route of redress for all social housing tenants. <p>There is also a measure to repeal Part 5 of the Housing Act 2004 thereby abolishing Home Information Packs. Energy performance certificates will still be required under separate legislation</p>	
<p>PART 7 PROVISIONS FOR LONDON - Not summarised</p>	
<p>PART 8 – GENERAL PROVISIONS</p>	
<p>Covers powers for Secretary of State to make further amendments by Statutory Instrument</p>	<p>Cabinet note the proposed requirement</p>