

By: Alex King – Deputy Leader
Mike Hill – Cabinet Member for Communities

To: Corporate Policy Overview Scrutiny Committee
31 March 2011

Subject: Potential Impact and Response to the Localism and
Devolution Bill

Summary: This report provides Members with an update on the Localism and Devolution Bill, the provisions of the Bill which if enacted will have a direct impact on the County Council and how the County Council working with partners is already responding to the emerging legislative framework.

Introduction

1. (1) At the last meeting of the Committee on 13 January it was agreed that a further report should be submitted to this meeting setting out the potential impact of the legislation on the County Council and how the Council with its partners is planning to respond to this proposed legislation.

(2) For the purposes of this paper we have concentrated on those aspects of the Bill which address the Government's commitment to localism by devolving greater freedoms to local authorities and communities. This includes introducing a general power of competence for local authorities, a community right to challenge and the right for communities to bid for community assets. The Bill also introduces new rules imposing tax referendums when a council sets an excessive council tax and strengthens rules relating to local referendums for other matters.

(3) Attached as **Appendix 1** is a summary of the Bill.

(4) On publishing the Bill, Eric Pickles Secretary of State for Communities and Local Government noted in a written ministerial statement that:

“The legislation will set the foundations for the Big Society by radically transforming the relationships between central government, local government, communities and individuals. The provisions will devolve greater power and freedoms to councils and neighbourhoods, establish powerful new rights for communities, revolutionise the planning system, and give communities much more control over housing decisions.

”

The Bill will expand councils' freedom to act in the interest of their local communities through a new general power of competence. This long awaited new power will mean that rather than needing to rely on specific powers, councils will have the legal reassurance and confidence to innovate and drive down costs to deliver more efficient services.

Powers for councils will be accompanied by greater powers for local people to hold their local authorities to account and to shape their local area. There will be a new right to challenge to take over services; a new right to bid to buy assets of community value such as libraries, public houses and shops; and a new right to veto excessive council tax rises through a referendum."

General Power of Competence

2 The general power of competence for local authorities is a new power intended to give authorities the ability to act in the best interests of their communities, even if specific legislation does not give them the power to take the action they intend. Therefore, no action (except for raising taxes) will be beyond the power of local government, unless that action is prevented by law.

Community Empowerment

3. (1) The Bill introduces a number of measures designed to empower the local community. These include referendums to approve or reject excessive council tax increases, powers for organisations to challenge local authority service provision, and powers to enable organisations to bid for community assets when they are put up for sale. The Bill repeals some of the existing legislation, including the requirement to promote democracy, to take into account petitions from local people and groups and the wellbeing provisions of the Local Government Act 2000.

Local Referendums

(2) The Bill ensures that a principle local authority must hold a local referendum on a local issue if they are in receipt of a valid petition (the threshold for a valid petition is 5% of local electors for the area although it is anticipated that there will be the ability to increase or decrease this threshold by the Secretary of State) from local people, or a request from one of more members of the Council, or if the Council passes a resolution. In general authorities must allow a referendum but there is a clause which sets out the grounds when it will not be appropriate for a referendum to be held for example when the matter is not a local matter over which the authority (or partner authority) have an influence.

(3) Provision for various types of local referendum already exists in local government legislation. This includes the following:-

- Parish Polls which may be demanded at a parish meeting by a specified number of electors. These may be held on any question arising at the meeting but the result is not binding;

- Advisory referendums which may be held by a local authority on any matter relating to its services or powers of well-being
- Mayoral referendums whose results are binding

Council Tax referendums

(4) There are provisions in the Bill to ensure that excessive council tax increases are presented to the local electorate. Any such increases will have to be defended by the authority, and, if the local electorate disagrees with the Council's arguments, they will have the ability to vote against the increase. If this is the case, the Secretary of State must be informed of any Council setting an excessive council tax. The Council must prepare substitute calculations which are not excessive. This would then be used if the excessive increase is turned down by the local community.

(5) The main intention of these provisions is to increase the local accountability of a council, which will have to defend its decision on council tax to the electorate. It also removes the control previously exercised by the Secretary of State over local authority budgets, by removing the ability to cap those budgets.

Community Right to Challenge

(6) The Bill introduces a number of new elements intended to empower local communities. It introduces a community right to challenge the services run by relevant authorities. The right will apply to voluntary or community bodies, parish councils and employees of relevant authorities. If the expression of interest is accepted the authority must consider how the procurement exercise, would promote or improve the social, economic or environmental well-being of the area. The authority must notify the relevant body of its decision, and if the expression of interest is rejected set out its reasons for doing so; but it can only be rejected on grounds to be specified in regulations by the Secretary of State.

Assets of Community Value

(7) Contained within the Bill are some clauses requiring local authorities to maintain a list of community assets within their area.

(8) The provision is seen as an important step in ensuring that community assets such as libraries and pubs are not closed down just because an authority or other organisation can no longer afford to keep them open.

Response to the Emerging Localism Agenda

Kent Forum/Ambition Boards/Locality Boards

4. (1) Attached as **Appendix 2** is a Kent Forum Architecture Diagram which is part of a report which will be considered by the Kent Forum (which has replaced the Kent Partnership), on 25 March 2011. A verbal update on the Kent Forum discussion will be made at the meeting.

Locality Boards

(2) Members have expressed an interest in the emerging Partnership arrangements in particular the emerging role of the Locality Boards which are an exciting opportunity for all Members of this Council through their role both as an elected Member and collectively as a Member of a Locality Board to:-

- Advise the County Council and the District Council on the public service priorities for the locality, for example the Locality Board could become a key contributor to the local Sustainable Community Strategy and the owner of the Locality section of the Vision for Kent;
- To deliver the countywide Ambitions in “Bold Steps for Kent”, **to grow the economy, to tackle disadvantage, to put citizens in control** in the locality, as relevant to the locality;
- Advise County and District Councils on service provision, moving towards combined place based commissioning where appropriate;
- Improve the local accountability to residents for public services in their locality; and
- Oversee public services in each locality through direct oversight in the case of local government services and through the exercise of community leadership for non local government services, for example by testing how the service delivery plans of other partners support the public service priorities of the locality.

(3) Locality Boards are a new way for the County Council and District Councils to work together. It is recognised that they will evolve differently and at different speeds.

(4) The core membership of the Locality Boards is the Leader of the District Council (who will be the Chairman of the Board) all Members who represent an electoral Division for that District and the requisite number of District Councillors to achieve parity. Members who are both Members of the County Council and District Council will serve on the Board in their County Council capacity unless they are also the Leader of the District Council.

(5) Working with our District Council partners we are preparing:-

- (a) the provisions for a core governance framework;
- (b) a core script for briefing our respective Members on the role Locality Board and the Members who serve on the Board; and
- (c) the development of some shared training for the changing role of the elected Member to the emerging agenda of localism and devolution

(6) It is envisaged that some Locality Boards will over a period of time develop Commissioning role.

Delivering the Locality Pilots including Community Based Budgets

(7) The Kent Forum has also agreed to five Locality Pilots:-

- Dover - (a project around social cohesion/health). The Dover Locality Pilot has an overarching aim to deliver an integrated health and social care model for the future. A working group has been established and agreed a set of principles and objectives;
- Sevenoaks – a project around youth services;
- Swale – (a community based budget pilot around families with complex needs);
- Thanet – (a community based budget pilot around families with complex needs; and
- Tunbridge Wells (a pilot around community safety and enforcement)

(8) Preliminary statements of interest have been received regarding the Sevenoaks and Tunbridge Wells pilots. No detailed discussion or planning has yet taken place, pending the formal arrangements of the governance of the Locality Boards in these districts.

Scrutiny in the Locality

5. The Scrutiny Board are aware of the evolving Locality Board infrastructure and are keen to ensure that the scrutiny need at both a strategic level as well as in the locality are adequately reflected in the emerging mixed economy for the commissioning of services.

Recommendation:

6. The Corporate POSC are asked to note the comment on the report and the emerging infrastructure for responding to the proposed legislative framework for localism and devolution.

Paul Wickenden, Overview, Scrutiny and Localism Manager
Tel No: (01622) 694486
e-mail: paul.wickenden@kent.gov.uk

Background Information: *Nil*

Summary

The *Localism Bill* will implement the Coalition Government's policy of decentralisation of power to local authorities and local communities. It has been introduced at a time of cuts to local authority budgets as announced in the local government finance settlement in December 2010. A separate Library Research Paper, *Localism Bill: planning and housing*, Research Paper 11/03, has also been published covering the housing, planning and London elements of the Bill.

The Bill is part of the Government's 'Big Society' agenda. It seeks to empower local authorities by making a number of changes to the way in which local authorities operate. The Bill introduces a general power of competence for councils. This would allow them to take any action provided it is legal. This new power would replace the well-being powers available to local authorities under the Local Government Act 2000, which have been widely seen as under used. The Government intends that the new power will actively encourage innovation which the Government sees as particularly important at a time of cuts to budgets.

The Bill will also make changes to the governance arrangements of local authorities, by allowing them to return to the committee system of governance abolished by the Local Government Act 2000, and also allowing for mayoral referendums in the twelve largest cities in England. This has proved a controversial aspect of the Bill as previous experience has not indicated a strong desire on the part of the public for mayors to run major cities (other than in London).

The Bill would abolish the requirement for local authorities to adopt a model code of conduct, instead introducing a voluntary code; and also abolishes Standards for England (previously the Standards Board for England) which oversees the current code. Instead, the Bill will introduce a requirement for local authorities to introduce a register of interests for members, as well as a new criminal offence of failing to declare a relevant interest. This element of the Bill has been criticised by the Committee on Standards in Public Life.

The Bill will introduce a requirement for local authorities to prepare and publish a pay policy for senior officers. The Bill will also introduce a new power to pass on the cost of EU sanctions to public authorities (including the Greater London Authority) in cases where the authority's actions have led to such sanctions. The Bill would make changes to the business rates regime in the areas of business rate supplements, discretionary reliefs and small business rates relief, as well as confirming the Government's commitment to waive substantial and unexpected backdated business rate liabilities suffered by certain port businesses.

The Bill will introduce a number of measures designed to empower communities. The current power to hold local referendums on issues of local interest will be enhanced, although the result of such a referendum will not be binding on the council. A new requirement to hold council tax referendums when the local authority introduces an excessive council tax will also be

introduced. The Bill will provide for a community right to challenge, which will allow community groups to challenge the way in which their local authority runs and delivers its services. Councils will also be required to prepare a list of community assets, which will not be able to be sold until community groups are given the opportunity to prepare a bid for such assets. However, the duty imposed by the previous Government to promote democracy and accept petitions will be repealed.

Kent Forum Architecture Diagram
DRAFT 16.03.11

