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To: Selection and Member Services Committee
27 January 2009

Subject: The Local Democracy, Economic Development and Construction Act 2009.

Classification: Unrestricted

Summary: This reports sets out key issues arising from the Local Democracy, Economic Development and Constitution Act 2009 for Members consideration/information.

Introduction

1. (1) This Act received Royal Assent on 12 November 2009 and there is a phased implementation of its provisions. Regulations and guidance are likely to be issued to support this legislation over the coming months. This report gives an outline of the main elements of the Act that are relevant to KCC and indicates any known timescales for commencement of the provisions.

(2) The main provisions of the Act relate to:

- Duties relating to the promotion of Democracy
- Petitions to Local Authorities
- Local freedoms and honorary titles
- Politically restricted posts
- Aspects of Overview and Scrutiny
 - Designation of a Scrutiny Officer
 - Joint Overview and Scrutiny Committees
- Powers to establish mutual insurance arrangements
- Audit requirements
- Local Government Boundary Commission for England
- Local authority economic assessments
- Regional Strategy
- Economic Prosperity Boards and Combined Authorities
- Multi-Area Agreements

New duties

Duties relating to the Promotion of Democracy

2 (1) This places a duty on Local Authorities to promote understanding of the opportunities that exist for members of the public to get involved in, and influence the work of Local Authorities and other local public bodies.

- (2) An understanding of the following needs to be promoted by KCC:
- KCC's functions and its democratic arrangements, how members of the public can take part in those arrangements and what taking part is likely to involve
 - the role of councillors, how to become one and the support that is available to councillors to assist them in their role
 - public bodies which relate to the authority's area (referred to as 'connected authorities', e.g. health, police, fire, probation, schools, parish councils, etc), i.e. what these bodies do and their democratic arrangements and how members of the public can take part in those arrangements and what taking part is likely to involve
 - the work of the police force as a whole, including "neighbourhood policing" and "the policing pledge" which sets out both locally and nationally the standards the public can expect from the police
 - understanding of courts boards, independent monitoring boards for prisons, immigration removal centres and Youth Offending Teams and to provide information about what these bodies do, how to take part in their work and what this is likely to involve
 - the role and responsibilities of lay justices, how a member of the public can become a lay justice and what the role involves.

(3) The Act places a requirement on County Councils in two tier areas to require information from "connected authorities" (e.g. Police, Health Authorities etc) at least once a year and to pass information received to District Councils so that they can also promote these bodies.

(4) There is provision for guidance to be produced on how Councils should fulfil this duty. This guidance will be the subject of consultation. There is currently no indication of when the guidance will be published or when this provision will come into force.

(5) Members will be aware that the authority is looking to implement the recommendations arising from the Accessing Democracy Select Committee report approved by the County Council in December 2008. Several of the recommendations which are already being implemented have an impact on these legislative provisions.

Petitions to Local Authorities:

(6) The Act requires all local authorities to make, publicise and comply with a scheme for handling both paper and electronic petitions. The intention is to make local decision-making in relation to petitions more transparent, by requiring Local Authorities to respond to petitions and making the response to petitions publicly available.

(7) KCC does not currently have a formal petitions scheme although there are informal schemes in operation for specific areas such as petitions relating to planning matters. The Chairman of the County Council will also receive petitions from time to time, which are reported as part of the Chairman's announcements at County Council meetings.

- (8) The petition scheme under the Act must give residents:
- the right to a public response if they sign a local petition (both paper and electronic)
 - the ability to trigger a County Council debate on their issue (subject to there being the required number of signatures, the figure to be set by the County Council)
 - the ability to trigger a senior officer to give evidence at an overview and scrutiny committee meeting (subject to there being the required number of signatures, the figure to be set by the County Council)
 - the ability to appeal to the councils overview and scrutiny committee (in the first instance this is likely to be the Scrutiny Board) if they feel that the response from the authority is not adequate.

(9) The Act sets out a number of requirements which the Councils petitions scheme must include these are:

- the petition scheme must relate to a function of the authority or relate to an improvement in the economic, social or environmental well-being of the authority's area to which any of its partner authorities could contribute
- It must be signed by the requisite number of people who live, work or study in the area
- petitions must be acknowledged in writing within a certain period of time, and set out what the authority proposes to do with the petition, if known at that stage
- if the petition is made electronically it must comply with the Councils e-petition scheme.

(10) The Act sets out the following possible steps a Council may take to address a valid petition which may be included in the petition scheme but it will be for the local authority to decide how to respond to the petition.

- Give effect to the request in the petition
- consider the petition at a meeting of the authority
- hold an inquiry
- hold a public meeting
- undertake research into the matter
- give a written response to the petition organiser setting out the authority's views about the request in the petition
- refer the petition to an overview and scrutiny committee.

(11) In relation to e-petitions there are a number of providers of these systems on the market including the company that provide KCC's Committee Management System (modern.gov) and the company that currently provide the webcast facility (public-i). The modern.gov system will be used to host KCC's e-petition facility as the system can be implemented quickly at no extra cost (other than officer time) as it is part of the current package and would be supported under the existing maintenance contract.

(12) A consultation document was published on 2 December 2009 (closing date 24 February 2010). This is the subject of a separate report to this

Committee. The consultation seeks views on various matters including when the provisions relating to petitions and e-petitions should come into force.

Honorary titles:

(13) The Act gives County Councils the power to confer the title “honorary freeman” or “honorary freewoman” on persons of distinction or persons who have rendered eminent services to the local area. Also there is a power to confer the title “honorary alderwoman” rather than ‘honorary alderman’ on former members of the council who have rendered eminent services

(14) This provision came into force on 12 January 2010.

Politically restricted posts:

(15) The Local Government and Housing Act 1989 requires every local authority to prepare and maintain a list of politically restricted posts and identifies three categories of politically restricted posts. There are:

- specific posts such as chief officers, which are all politically restricted without a right to appeal for exemptions
- sensitive posts, where the role involves giving advice to elected Members or speaking on behalf of the authority:
- posts paid at or above a certain level (currently £36,730).

(16) Local government officers who hold a politically restricted post may not stand for election or take part in a range of political activities.

(17) The 2009 Act removes the requirement to politically restrict a post that exceeds a specific salary and does not fall into any of the other two categories.

(18) This provision came into force on 12 January 2010

Overview and Scrutiny

(19) The Act requires local authorities (with the exception of District Councils), operating executive arrangements to designate one of their officers as their Scrutiny Officer and prescribes the following functions for this officer:-

- to promote the role of and provide support to the overview and scrutiny committee suite
- to provide support and guidance to elected Members, including Member of the Executive and officers on the functions of the County Councils overview and scrutiny suite.

(20) The following officers cannot be designated as the authorities “Scrutiny Officer”:

- the Head of the Paid Service (Chief Executive)
- the Monitoring Officer (Director of Law and Governance)
- the Chief Finance Officer (Director of Finance)

(21) The Committee is asked to recommend to the County Council that the Overview, Scrutiny and Localism Manager be designated as Kent County Councils Scrutiny Officer.

(22) This provision will come into force on 1 April 2010

(23) The Act also allows any two or more authorities to appoint a joint overview and scrutiny committee to consider any matter (other than crime and disorder matters which are excluded as there is a separate provision for this under the Police and Justice Act 2006). This replaces the provision in the Local Government and Public Involvement in Health Act 2007 which limited the scope and nature of such joint committees to issues relating to LAA targets.

(24) Although this provision came into force on 12 January 2010, regulations are expected to be published to cover the conditions or limitations for the operation of these Committees and also to make provision as to the information that must be provided to a joint committee. The advice from the Department for Communities and Local Government is to await the regulations before setting up a joint committee under this legislation.

Powers to set up mutual insurance arrangements

(25) The Act enables local authorities and a number of other public bodies to set up mutual insurance arrangements.

(26) This provision will come into force on a date to be announced

Audit of bodies connected with local authorities

(27) Under the Act the Audit Commission may appoint an auditor to an entity (e.g. a company, a limited liability partnership, or an industrial and provident society) connected to one or more local authorities and for the auditor to issue a public interest report.

(28) This provision will come into force on a date to be announced

Local Government Boundary Commission for England

(29) This provision establishes a new body, the Local Government Boundary Commission for England, and transfers to it the functions of the Boundary Committee for England (with some modifications) and removes the responsibility from the Electoral Commission for this process.

(30) Some of the changes under this provision are in force others will commence on 1 April 2010.

Local authority economic assessments

(31) The Act places a duty on each County and Unitary Council to prepare an assessment of the economic conditions in its area. County Councils are required to consult with District Councils who are required in turn to co-operate with County Councils in the preparation of the assessment.

(32) A report was submitted to the meeting of the Regeneration and Economic Development Policy Overview and Scrutiny Committee on 12 November 2009 which set out the likely opportunities and challenges for KCC arising from the Bill and the proposed approach to taking forward the Local Economic Assessment jointly with Medway Council and in partnership with the Kent Districts.

(33) This provision came into force on 17 December 2009.

Regional Strategy

(34) The Act provides for all English regions, except London, to set up a "Leaders' Board", as a means for local authorities to act collectively at a regional level. County and District Councils which must make and consult on a scheme for establishing and operating a Leaders' Board, this scheme must be submitted to the Secretary of State for approval. The Leaders' Board and Regional Development Agency are jointly responsible for reviewing, implementing and monitoring the regional strategy which includes economic development and land use strategies for the region. The Regional Strategy takes the place of the regional spatial strategy and the Regional Economic Strategy for the area.

(35) This provision will come into force on 1 April 2010.

Economic Prosperity Boards (EPB's) and Combined Authorities

(36) The Act allows the Secretary of State to create combinations of authorities working together on Economic Development Boards. The majority of members of the EPB will be elected Members of its constituent authorities. Only elected Members will have voting rights.

(37) In the Regeneration Framework, KCC has made a commitment to pursuing an EPB. Establishing this is likely to require a review of existing economic partnership arrangements at county-wide level, as well as further analysis of the roles that the EPB (or equivalent body) would undertake.

(38) The majority of these provisions came into force on 17 December 2009. On 12 January 2010 the provisions which confer powers on the Secretary of State to make orders in relation to EPB's and combined authorities came into force.

Multi-Area Agreements (MAAs)

(39) The Act makes statutory arrangements for MAAs which are agreements between two or more local authorities and certain partner authorities. They are approved by the Secretary of State and specify improvement targets for improvement in the economic, social and environmental well-being of the area or part of the area covered by the agreement.

(40) This provision will come into force on a date to be announced. There is provision for guidance to be produced on how Councils should fulfil this duty. This guidance will be the subject of consultation. There is currently no indication of when the draft guidance will be published.

3. Recommendation

RECOMMENDED that the report be noted and that the County Council be requested to designate the Overview, Scrutiny and Localism Manager as Kent County Councils Scrutiny Manager in accordance with Section 31 of the Local Democracy, Economic Development and Construction Act 2009.

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Background Information: None