



Democratic Renewal Panel 12 February 2009

Briefing note: The Local Democracy, Economic Development and Construction Bill

The purpose of this briefing note is to outline the main provisions of the Local Democracy, Economic Development and Construction Bill which was introduced into the House of Lords in December 2008.

Introduction

The White Paper *'Communities in control: real people, real power'*, published in July 2008, set out the government's proposals for empowering local communities. These proposals have been developed into two pieces of legislation; (1) the Local Democracy, Economic Development and Construction Bill; and (2) the forthcoming Community Empowerment Bill. This briefing note sets out the main provisions in the Local Democracy, Economic Development and Construction Bill (known as 'the Bill').

It should be noted that a Community Empowerment Bill has yet to be published, but it will encompass other White Paper proposals, including the removal of barriers to directly elected mayors; empowering parish councils; enabling remote voting at council meetings and the introduction of voting incentives.

Overview of the Bill

The Bill covers the following areas related:

- Part 1 – duties relating to the promotion of democracy, provisions concerning local authority petitions and an extension of the duty to inform, consult and involve
- Part 2 – provisions relating to governance and audit
- Part 3 – local government boundary and electoral change
- Part 4 – local authority economic assessments
- Part 5 – regional strategy
- Part 6 – Economic Prosperity Boards and Combined Authorities
- Part 7 – Multi-Area Agreements
- Part 8 – construction contracts (not covered in this briefing note)

Part 1 – Democracy and involvement

Duty to promote democracy

The Bill introduces a duty to promote democracy above town/parish level. Its aim is to promote 'understanding' of the following:

- its functions;
- its democratic arrangements (meaning 'arrangements for members of the public to participate in, or influence, the making of decisions'); and
- how the public can take part, and what's involved, including how to become a Councillor; what councillors do; and what support is available for Councillors.

The duty extends beyond the council itself, and covers what are referred to as 'connected authorities' which, for practical purposes will include organisations normally found in the local strategic partnership. Councils will, therefore, have to promote democracy in:

- parish councils;
- fire and rescue authorities;
- police authorities;
- NHS trusts or foundation trusts;
- schools and further education institutions; and
- local probation boards.

Councils will also have to promote an understanding of:

- Court Boards
- Independent monitoring boards for prisons;
- Youth Offending Teams; and
- Lay Justices (Magistrates).

It should be noted that in two tier areas, county councils are responsible for disseminating information about the 'connected authorities' to districts in their area at least once a year.

Petitions to local authorities

Every council will be required to have an e-petition facility and adopt, publish and comply with a Petition Scheme. The government is likely to publish a Model Petition Scheme, but it is envisaged that councils will wish to develop their own. The Bill sets out some minimum requirements, which are:

- to acknowledge 'valid petitions' within a specified period;
- to take 'one or more steps' in response;
- to list a range of actions which the council might take, including:
 - agreeing to a request;
 - considering it at a meeting;
 - holding an inquiry;
 - holding a public meeting;
 - commissioning research;
 - providing a written response; and/or
 - referring to the Overview and Scrutiny Committee.

- to allow for petitions over a specified threshold to be either 'a petition requiring debate' or 'a petition to call an officer to account' (see below for more information about calling an officer to account).
- to specify the officers liable to be called to account.

To be a 'valid petition', the Bill states that it has to be:

- addressed to the authority;
- requesting action or cessation of an action;
- validly signed by people who live, work or study in an area;
- identifying a 'petition organiser'
- have used the council's own e-petitioning system;
- relating to a 'relevant matter' i.e.:
 - not vexatious, abusive or inappropriate;
 - not a repeat of a previous substantially similar petition within six months;
 - relating to a 'function of the authority' or (for upper tier councils only) 'relates 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.

Where the petition organiser is not satisfied with the council's response, she/he can request a review by the Overview and Scrutiny Committee. In turn, it will organise such a review, possibly involving the full Council, then inform the organiser of the result, and publish it on the council's website.

The Bill enables Petition Schemes to make arrangements for petitions to several councils or submitted to one council but relating to another; they can also cover petitions that fall beneath the threshold of being 'valid' petitions.

The government will issue guidance, which will likely include a Model Petitions Scheme; it will also be able to instruct a council to modify a scheme it dislikes.

Calling an officer to account

The Bill provides that certain senior officers can be called to account at a public meeting. It is up to the council to determine which of its officers is liable to be called to account and this must be included in the Petition Scheme. Relevant officers must include: head of paid service; Director of Children's Services; the Chief Education Officer; and the Chief Finance Officer.

Duty of public authorities to secure involvement

This extends the duty to involve to other public authorities. The Bill places a public duty on authorities to involve representatives of interested persons in the exercise of its functions, where it is considered appropriate to do so. The Bill requires that authorities will need to consider each of three ways of securing such involvement, namely, informing the representative, consulting them and involving them in other ways.

Again, this is another area where the government will issue guidance as to the discharge of these duties to which authorities must have regard.

Part 2 – Governance and audit

Scrutiny

In broad terms, the Bill provides for designated scrutiny officers, for upper-tier councils, in order to promote the scrutiny role generally and provide better support and guidance.

The 'Scrutiny Officer' will be required to discharge various functions. These functions include promoting the role of, and providing support to, the council's overview and scrutiny committees and their members. The functions also include the provision of support and guidance concerning the function of the overview and scrutiny committees to members, executive and officers. Neither the head of paid service, nor the monitoring nor chief finance officer can be designated as Scrutiny Officer.

Part 3 – Local government electoral and boundary change

Boundary committee

This part of the Bill establishes the Boundary Committee for England as a separate corporate body to the Electoral Commission. Consequently, many of the clauses in this part of the Bill relate to the transfer of functions from the Electoral Commission to the Boundary Committee (including conducting boundary reviews). It also provides that the Committee must, from time to time, conduct a review of electoral arrangements of each principal council in England. The Committee can also make recommendations as to whether each electoral area in a council should return to one member.

Part 4 – Local authority economic assessments

The Bill requires some local authorities (county, unitaries and London borough councils, but NOT districts) to prepare an assessment of economic conditions in the area. In shire county areas, the county council must consult and seek the participation of its area district councils in preparing its economic assessment and in so doing it must have regard to any material produced by the district councils. District councils must also co-operate with the county council.

Part 5 – Regional Strategy

Clause 65 of the Bill requires a regional strategy for each region outside London setting out policies relating to sustainable growth and development and the use of land in the region or any part of it. These will include policies designed to contribute to the mitigation of, and adaption to, climate change. The regional strategy will replace the existing regional spatial strategy.

Leaders' Board

Authorities are required to set up 'Leaders' Boards' for the purposes of this Part of the Bill. The Leaders' Board is a means to enable local authorities to act collectively and decisively at regional level. The Boards will enable local government representation at regional level. District and county councils must make and consult on a scheme for establishing

and operating a Leaders' Board. The participating authorities must submit the scheme to the Secretary of State for approval before establishing the body in accordance with the approved scheme.

The Secretary of State has the power to fund the Leaders' Board or a participating authority in respect of that Board. He/she also has the power to withdraw approval for the Leaders' Board where this is not operating effectively.

Responsible regional authorities

The regional development agency (RDA) and the local authorities' Leaders' Board for the region are, jointly, the 'responsible regional authorities' for this part of the Bill. If there is no Leaders' Board, the RDA will act alone.

The responsible regional authorities have a variety of responsibilities including: keeping the regional strategy under review and preparing a draft revision when they consider it necessary or expedient or when required by regulations or directed to do so by the Secretary of State; preparing and publishing a statement of community involvement when preparing a draft revision of a regional strategy; and power to arrange for an examination in public to be held by an appointee of the Secretary of State in connection with preparing a draft revision of the regional strategy.

Part 6 – Economic Prosperity Board and Combined Authorities

Economic Prosperity Boards

Under clause 83, the Secretary of State may, by order, create an 'economic prosperity board' (EPB) for an area covering the whole of two or more local government areas having contiguous boundaries. This EPB will have functions relating to the economic development and regeneration of its area. The Secretary of State has wide powers by order to make provision in relation to the membership, member voting power and executive arrangements of the EPB.

The majority of the EPB members will be appointed by the constituent councils from amongst their elected members and it will be necessary for each representative council to appoint at least one of its elected members as an EPB member.

The Secretary of State can, if considered appropriate, provide for a local authority function, in relation to an area within that covered by the EPB, to be exercisable by the EPB.

The Bill enables the Secretary of State to order that the EPB costs be met by its constituent councils and to provide the basis on which the amount payable by each authority is to be determined.

Two or more authorities that have undertaken a review of the effectiveness and efficiency of arrangements to promote economic development and regeneration in the area may prepare and publish a scheme for the establishment of an EPB if the review concludes that to do so would be likely to improve the exercise of the relevant statutory functions and economic conditions in the area.

Combined Authorities

The Bill provides for the introduction of a new corporate combined authority (CA) consisting of the whole of two or more local government areas having contiguous boundaries which the government indicates is to have functions relating to economic development, regeneration and transport. CAs will have a duty to perform their functions with a view to promoting economic development and regeneration.

Part 7 – Multi-area agreements

A multi-area agreement is a document that covers an area for which there are two or more local authorities and which specifies improvement targets for the area. Unlike EPBs and CAs, the area can be non-contiguous so that any part of the MAA area may be separated from any other part by territory that is not part of the area. An improvement target is one for the improvement in the economic, social or environmental well-being of the whole or any part of the relevant area and which relates to one or more of the area local authorities and/or partner authorities.

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