

# Localism Bill - Local Government Association

## Briefing for Commons Report Stage

17<sup>th</sup> May 2011

### The LGA's Take on the Report Stage of the Localism Bill

- We welcome many of the ideas in the Bill and want to ensure that it allows councils to innovate, differentiate, and get on with the job of serving their local residents. But there are currently too many parts of the Bill which are **centralist, overly-bureaucratic, or potentially damaging to local economic growth**.
- Ministers gave assurances that they would act on the concerns of elected councillors, but we are still worried that **the Government continues, in places, to pursue an overly prescriptive approach to localism** which does not acknowledge the vital role that local councillors play in leading their communities and representing their residents' wishes in the decision-making process.
- Allowing Whitehall to create precise regulations controlling, for example, how local assets of community value are listed or how neighbourhood planning should happen is **in opposition to the localist ideals enthusiastically championed by Ministers** and risks creating a "tick box" approach to localism, rather than real innovation. New complexities and bureaucracy could also prevent communities and individuals getting more involved, as they don't have the resources to deal with difficult, time-consuming guidance.
- **We oppose all sections of the Bill which will allow Whitehall to impose its will on local communities.** CLG should not, for example, have the power to impose "shadow mayors" on a community– it should be for the community to decide whether it wants this change. Nor should Whitehall decide what constitutes an "excessive" council tax rise - again, this is a local decision.
- The focus on referendums in the Bill is unnecessary. In many cases, such as with neighbourhood plans and council tax rises when local people and councillors agree with the plans, **expensive local referendums would be held only to satisfy Whitehall, rather than as a result of local demand.** This is not a localist policy and threatens to undermine democratic, transparent local government.
- The Bill will only lead to increased house building and growth if it frees councils to invest. We urge the Government to **remove the power for Whitehall to cap councils' ability to borrow to invest in social housing** and allow councils to keep 100% of Right-to-Buy receipts for reinvestment locally.
- **Moves to allow Ministers to force English councils to pay parts of fines imposed on the UK government by the EU are unfair, unworkable, dangerous and unconstitutional.** This is an unprecedented power for Ministers to avoid Parliamentary scrutiny and will inevitably lead to legal battles as Government tries to apportion "blame" for EU fines. We urge that this policy is scrapped.



# Briefing

## This Briefing

This briefing focuses on areas of the Bill that are of particular concern to councils. These are:

- Excessive Secretary of State Powers (Regulation and Guidance)
- Forcing Elected Mayors onto Communities
- EU Fines
- Housing Finance

The LGA has further briefing notes on other specific areas of the Bill on an issue-by-issue basis. Please contact us for more information.

### Secretary of State Powers

*The Localism Bill contains a significant number of new powers for the Secretary of State and Ministers to exercise over councils, including powers to issue guidance and regulation dictating exactly how localist policies must be pursued in every area.*

LGA View - Localism should allow for maximum local flexibility, and for residents to work with their local councils to decide how localist policies should best be rolled out in their neighbourhoods. **Allowing Whitehall to create centralised frameworks and regulations will inhibit innovation, limit variation and act as a barrier to engagement, participation and growth.** Councils are competent bodies, and more than capable of taking Government policies forward as is suitable for their local areas and in accordance with legal requirements. Rigid statutory guidance, such as **the complexities and bureaucracy around neighbourhood planning, will strangle localism, discourage growth and prevent public engagement.** They must be removed from the Bill.

The Bill is crammed with such powers, with almost every supposedly localist policy initiative to be followed with reams of central guidance and regulation. **We would like the Government to show more faith in councils to take forward localist policies,** without feeling the need to bind them with detailed statutory guidance. We would particularly like to see deleted:

- The power to decree what constitutes an “excessive” council tax rise. This is a matter for local areas, not for Whitehall.
- The power to decree what constitutes a local matter with regards to local referendums, and other micromanaging of how these referendums are conducted.
- Guidance on how councils should cooperate with one another
- **Four different set of rules, with further extensive guidance, on how councils should conduct referendums locally.**
- Micromanagement of the assets of community value policy, including decreeing from the centre how lists should be kept, how they can be changed, and how local people should be informed of changes.
- Central regulation of neighbourhood planning (an obvious contradiction in terms) including **forcing a neighbourhood to hold a referendum on a neighbourhood plan even if the residents, local councillors and businesses support it. This is wasteful and pointless.**

The LGA has a detailed briefing on the many unnecessary powers for the Secretary of State that need to be deleted if the Localism Bill is to be a truly localist piece of legislation – please contact us for more details.

## **Forced Creation of Elected Mayors and Merging of Mayors and Chief Executives**

*Schedule 2, Clauses 9N, 9NA & 9NB will allow the Secretary of State to require a local authority to begin operating an elected mayor and cabinet executive. Such local authorities will be required to have a “shadow mayor” prior to a local confirmatory referendum taking place.*

LGA View – Moves to consider having an elected mayor should rest in the hands of local people. **Giving the Secretary of State the power to force a shadow mayor onto local areas, and subject that decision to confirmatory referendums, is wholly against the spirit of localism and we oppose it.** We are also concerned by plans to force elected mayors to take on the role of council chief executive – these are resolutely separate roles, and councils strongly support the continued political independence of the chief executive role.

## **EU Fines**

*Clauses 30 – 34 will allow Ministers to require local authorities to contribute to any fine passed down to the UK Government by the European Union.*

LGA View – These clauses are unfair, unworkable, dangerous and unconstitutional. They would give Ministers unprecedented and unwarranted new powers to force councils and public authorities to pay all or part of an EU fine passed down to the UK. The policy would place **too much power in Ministers’ hands**, with no scrutiny by Parliament. In effect it means a Minister may simultaneously be prosecutor, judge, jury, and co-defendant, when Ministers themselves may actually be responsible for fines being levied. This is **neither impartial nor localist**. Inevitably this policy will lead to long, costly legal battles as the courts are forced to decide where responsibility for fines ultimately lies. Instead, LGA suggests a far more partnership-based, and far less acrimonious approach which will ensure the UK isn’t fined at all by the EU in the future.

## **Housing Finance**

*Clauses 140 – 147 reform the housing finance system, abolishing the housing revenue account and setting out how settlement payments will be made. They also give the Secretary of State the power to change the settlement payment in the future and to determine how much housing debt a local authority is allowed to take on.*

LGA View - The dismantling of the current complex, bureaucratic and inefficient housing finance system is very welcome. However, the power for the Secretary of State to put a cap on the amount that councils are able to borrow to invest in social housing is unnecessary and threatens growth. We also want to see councils able to retain 100% of Right-to-Buy receipts for local reinvestment, rather than them being forced to send 75% to the Treasury. **The reform of housing finance should give councils independence and financial certainty, but as drafted the Bill gives them neither.**