

Report for Information

Report to Executive
27 January 2010

Report of Head of Legal, Regulatory and Democratic Services

Subject Local Democracy, Economic Development and
Construction Act, 2009

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Purpose

To update on the requirements of the Local Democracy, Economic Development and Construction Act, 2009.

Recommendations

To consider the actions already/to be undertaken to meet the requirements of the Local Democracy, Economic Development and Construction Act, 2009.

Financial Consequences

If e-petitions are included in the requirements of the Act after the consultation period a budget of approximately £6000 will be required.

Any other actions as a result of the Act would need to be undertaken within existing budgets

Strategic Priority and Outcome/Service Priorities

The actions outlined in the report help to meet the four strategic priorities of the Council

Executive Member: All

Ward: All

Contact Officers

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Background Documents

Briefing issued to councillors in early December 2009 headed "What's happening in regional policy development"

Report

Background

1. The Local Democracy, Economic Development, and Construction Act, received Royal Assent on 12 November 2009. This report gives an outline of the main elements of the Act and where appropriate, gives details of action already undertaken or planned to meet the requirements of the Act.

Duties Relating to the Promotion of Democracy [Ss 1-9]

2. The Act created two new duties intended to promote participation in local authorities and other institutions with local responsibilities. The main duty will require a council to promote local understanding about its functions and democratic arrangements, and how members of the public can take part and understand what is involved in doing so. Particular attention must be paid to the recruitment of councillors.
3. The second duty will require councils to promote a similar understanding of the democratic arrangements of other local bodies. This involves a wide range of public bodies which provide, or directly influence, the services within the local authority's area.
4. However, in a recent written response to a parliamentary question, the Minister said she had "concluded that given the current economic situation implementation of the duty should be considered as part of the next spending review". This means that implementation of the duty will be deferred until after the forthcoming parliamentary election. Depending on the outcome of the election, there is a possibility that it will never come into force.
5. The Head of Legal, Regulatory and Democratic Services has been working with the Communications Manager to identify appropriate ways to promote democracy, including use of the Council's website and Citizen magazine. This work will continue to be undertaken to reinforce our commitment to good governance. Developments cover the essential features of the duty e.g. informing people about how to influence local decision making and encouraging people to take up civic roles.

Petitions to Local Authorities [Ss 10 – 22]

6. The Act requires all principal councils to make, publicise and comply with a scheme for handling petitions (including electronically through their websites).
7. Schemes will set out the requirements for petitions in order for them to be dealt with, including the number of signatures required (Signatures will need to be from people who live, work or study in the authority's area).
8. Schemes will also need to set out how the authority will acknowledge the petition and in what time scale. The acknowledgement must give information about what the authority has done or proposes to do in response to the petition.
9. Authorities are required to take steps in response to the petition and to inform the petition organiser and the public about what steps will be taken. The Act indicates a number of steps that councils may consider taking as a result of a

petition. Petitions above a certain size must be debated by the full council. A petition organiser is able to refer a petition to the council's overview and scrutiny committee if dissatisfied with the process adopted. It will also be possible for a petition to require an officer to be 'called to account' at a council meeting.

10. The council already has a process for dealing with petitions but this will need to be updated to take account of the additional requirements of the Act. Local authorities will be required to take "appropriate steps" and responses should be "proportionate to the seriousness of the issue and the level of support in the petition". The Act requires schemes to include specified "steps which may be taken" in response to a petition.
11. The CLG has produced draft statutory guidance and a draft petitions scheme and issued a consultation on these which ends on 24 February. A Constitution Working Party will be arranged in due course to consider the final guidance/scheme after the results of the consultation are published followed by Council approval to changing the constitution.
12. Provision of e-petitions is included. There are a number of companies who can provide "off the shelf" e-petition facilities at an annual cost of approximately £6000. Even before the Minister's announcement on deferral of the duty to promote democracy, it is likely that in view of the tight timescale, local authorities will be given a reasonable period to implement this requirement of the Act.

Extension of Duty to Involve [Ss 23 - 24]

13. The duty to involve originally applied to best value authorities, missing a range of organisations that provide services which are of relevance to the public. These provisions extend the duty to a number of organisations listed in the Act. These include the Environment Agency, Homes and Communities Agency, regional development agencies, police authorities and chief police officers, and the Secretary of State.

Tenant Representation [Ss 25 - 26]

14. This part of the Act provides for the funding by central government of organisations representing the views and interests of tenants at national level.
15. The government has provided funding to support the 'National Tenant Voice' which is a new organisation for tenants of housing associations, housing co-ops and local authorities (including ALMOS - Arms Length Management Organisations) in England. The Government's aim is for tenants to have a greater influence over the services they receive and national policy through government channels and other organisations such as the Tenant Services Authority, the new social housing regulator.
16. The recruitment for members of the National Tenant Voice board and supporting committees has been running over the Autumn / Winter 2009. Communities and Local Government released the names of the 50 members of the National Tenant Council on the 6th January 2010. Its members are made up of 20 people who were nominated from national and regional organisations

for tenants, and 30 who applied through a recruitment process for tenants who are not already active in tenant groups. The second group was originally intended to have 26 members, but this was extended to 30 after more than 1,200 people applied through the recruitment process run by Hays Social Housing.

Local Freedoms and Honorary Titles [Ss 27 – 29]

17. These measures extend existing privileges to include the daughters of a freeman of a city or town, and provide for women to have the right to be admitted and to use the title of 'freewoman'. A civil partner will be in the same position as a spouse or surviving spouse of a person admitted to the freedom of a city or town.
18. Since 12 January, 2009 the Council has been able to consider applications to become a Freewoman from people suitably qualified.

Politically Restricted Posts [S 30]

19. 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 post deemed to be politically restricted on the basis of one or more defined characteristics. These are:
 - specified posts, such as chief officers which are all politically restricted without right to appeal for exemption and set out by statute;
 - sensitive posts, who perform roles which are deemed to give advice to elected members or speak on behalf of the authority, for which the authority compiles its own list;
 - posts paid at or above a certain level (currently equivalent to spinal point 44 £36,730). Local government officers who are politically restricted may not stand for election or take part in a range of political activities.
20. The Act removes the requirement to politically restrict all posts that exceed a specified salary, provided that the post does not fall into either of the other two categories, and which as a consequence mean that the post-holder is subject to political restrictions.
21. HR will produce a new list and inform relevant officers.

Extension of Scrutiny [Ss 31 – 33]

22. The Act in Part 2 deals with governance in local authorities in relation to their overview and scrutiny arrangements. Since the Local Government Act 2000 when local authorities were required to adopt new executive arrangements, and new overview and scrutiny functions to go with them, there has been concern expressed by many conducting local government research that the scrutiny function has taken longer to establish itself as effective than predicted.
23. The Act requires all authorities (except district councils in two-tier areas) to designate one of its officers as a scrutiny officer and prescribes a number of functions the officer must carry out. The Act also allows two or more authorities

24. The Council already has a designated Scrutiny Officer.
25. A Joint scrutiny committee may be set up with any other local authority and could report to the appropriate authority on any issue except any matter with respect to which a crime and disorder committee could make recommendations.

Powers to set up Mutual Insurance Arrangements [Ss 34 –35]

26. A late amendment to the Act has led to local authorities and a number of other public bodies being provided with powers to set up mutual insurance arrangements. This provides for the arrangements outlawed by the Court of Appeal in the London Authorities Mutual case in 2009.
27. Should the Council enter into any such arrangements or plan to enter into any such arrangements this will be actioned with the advice of the Section 151 Officer and the Council's Solicitor.

Audit of Bodies Connected with Local Authorities [Ss 36 –54]

28. This chapter of the Act requires local authorities in England and Wales to appoint auditors of bodies - referred to as entities - which are connected with the authority and meet other conditions specified by English or Welsh ministers, and to issue public interest reports when appropriate. The regulations will apply to companies, limited liability partnerships, and industrial and provident societies, and were introduced to meet the recommendations of an independent review into the audit and accountability of public money, *Holding to Account: the Review of Audit and Accountability for Central Government* (2001).
29. The Council will undertake this as and when necessary with the advice of the Section 151 Officer and the Council's Solicitor.

Local Government Boundary Commission for England [Ss 55 – 68]

30. Part 3 of the Act removes the responsibility for electoral boundary matters from the Electoral Commission. The Political Parties, Elections and Referendums Act (2000) which set up the Electoral Commission had in 2002 transferred the powers for boundary reviews to the Electoral Commission. However, the Committee on Standards in Public Life recommended in its report on the work of the Electoral Commission, published in January 2007, that this legislation should be repealed and that the Boundary Committee for England should become an independent body, back in line with the other previous local government boundary commissions.
31. This Act now establishes an independent Local Government Boundary Commission for England (LGBCE) which will take on the functions which since 2002 have been carried out by a statutory committee of the Electoral Commission. Detailed provisions for the constitution and administration of the

LGBCE are set out in the Act, which replicate many of the arrangements which previously applied to the Electoral Commission.

32. We envisage that this change will have no significant impact on the way that boundary reviews are carried out.

Local Authority Economic Assessments [S. 69]

33. The Act creates a duty for all upper tier and unitary authorities in England to prepare an assessment of the economic conditions in its area. In two-tier county areas, the county council will be expected to consult with district councils, and will be required to include intelligence gathered by districts in pursuit of their planning role.
34. District councils will be required to co-operate with the county in the preparation of the assessment. Responsible authorities will be required to consult with key economic partners such as the RDAs, the LSC, the HCA and Jobcentre Plus. The content of the assessments will be determined by the Secretary of State who will also have reserve powers to order revisions in assessments.
35. We have already produced a Local Economic Assessment (LEA) for the Greater Norwich area through the GNDP, in anticipation of the Act using the draft statutory guidance. This Assessment already covers an estimated two-thirds of the requirement. The County Council are now consulting Norfolk-wide on the Local Economic Assessment - we need to ensure that the Greater Norwich LEA is fully recognised and that the Norwich story is clearly told. Norwich City Council's Economic Development Team has the Labour Market Analysis capability to undertake the LEA for Greater Norwich. Councillors have already received a briefing on this through e-councillor in early December 2009 headed "What's happening in regional policy development"

Regional Strategy [Ss70-87]

36. In all English regions except London, RDAs and an 'established body' will be responsible for producing joint economic development and land-use strategies for their region. The 'established body' will be known as a 'Leaders' Board', for which participating authorities must submit proposals for approval by the Secretary of State. Participating authorities can be any district, county, or unitary authority within each region, in addition to National Park authorities. If a Leaders' Board is not considered by the Secretary of State to be operating effectively the Act provides for the withdrawal of 'approval for the scheme under which it is established', meaning that it will be abolished, and the RDA will act alone. RDAs and Leaders' Boards will also be responsible for reviewing the integrated strategy and for drawing up annual implementation plans.
37. There are currently several lines of thinking regarding the best ways of delivering economic prosperity and investment, particularly as due to the financial crises many of the old investment models are broken and unlikely to be effective in a changed economic climate. Norwich needs to focus on clearly understanding and articulating the needs of the city and, economically at least, Greater Norwich. Councillors have already received a briefing on this through e-councillor in early December 2009 headed "What's happening in regional

policy development”

Economic Development Boards & Combined Authorities [Ss88-120]

38. The Act will allow the Secretary of State to create combinations of authorities working together on Economic Development Boards (EDBs). The majority of members of EDBs will be elected members appointed by each constituent council.
39. It is likely that EPBs will grow voluntarily from existing partnership arrangements like MAAs, with the constitution, governance, financing, resourcing, and range of functions established through agreements brokered by the partner authorities, although subject to Ministerial approval.
40. The Act also provides for combined authorities that will have functions relating to economic development, regeneration, and transport. The Secretary of State may make orders about the constitution and functions of combined authorities that can follow provisions for Integrated Transport Authorities (ITAs).
41. It is likely that the Government intends for some of these partnerships to evolve into statutory ‘city regions’ with wide-ranging powers for transport, regeneration, and economic development. The Business Rate Supplement Act will allow the supplementary rate to be levied by sub-regional partnerships of local authorities to support economic development.
42. The future of structures such as the Economic Prosperity Board is likely to be addressed through GNDP and the final outcome of LGR. Councillors have already received a briefing on this through e-councillor in early December 2009 headed “What’s happening in regional policy development”

Multi-Area Agreements [Ss121 – 137]

43. The Act provides the statutory underpinning for Multi-Area Agreements (MAAs), defined as a document that covers an area of two or more local authority areas, and specifies improvement targets (which may mean any target relating to the economic, social, or environmental well-being of an area).
44. As with existing MAAs, there will be a lead authority with responsibility for drafting the agreement co-ordinating actions towards the targets.
45. A duty will be placed on named partners (which will include both local government and other agencies) to co-operate with the lead authority.
46. As above, the future of structures such as the Economic Prosperity Board and MAAs is likely to be addressed through GNDP and the final outcome of LGR. Councillors have already received a briefing on this through e-councillor in early December 2009 headed “What’s happening in regional policy development”

Construction Contracts [Ss138 – 145]

47. These provisions are meant to improve contractual relationships in the construction industry, particularly with regard to payments. It is intended that

the provisions will improve the cash flow of construction industry businesses.