



## Japan Local Government Centre, London

### Monthly Report for November 2011 - Localism Act

*“An Act to make provision about the functions and procedures of local and certain other authorities; to make provision about the functions of the Commission for Local Administration in England; to enable the recovery of financial sanctions imposed by the Court of Justice of the European Union on the United Kingdom from local and public authorities; to make provision about local government finance; to make provision about town and country planning, the Community Infrastructure Levy and the authorisation of nationally significant infrastructure projects; to make provision about social and other housing; to make provision about regeneration in London; and for connected purposes.”*

#### *Background*

The Localism Bill was tabled by Communities and Local Government Secretary Eric Pickles in December 2010. It was billed by the department as *“a radical package of reforms that will devolve greater power and freedoms to councils and neighbourhoods, establish powerful new rights for communities, revolutionise the planning system, and give communities control over housing decisions.”* The Act was given Royal Assent in November 2011, with the Secretary of State saying:

*“Today marks the beginning of an historic shift of power from Whitehall to every community to take back control of their lives. The Localism Act pulls down the Whitehall barricades so it will no longer call the shots over communities – bug bears like housing targets and bin taxes are gone. For too long, local people were held back and ignored because Whitehall thought it knew best. That is changing for good. Councils have their General Power of Competence and residents have a real power over decisions like council tax, town hall pay, planning, community buildings or local services.”*

Provisions in the first Bill related to automatically forcing councils to pay EU environmental fines levied against the UK, giving residents the power to instigate local referendums on any local issue, introducing ‘shadow’ mayors in English cities and combining mayoral and chief executive roles were removed during its House of Lords stages by peers with government consent. The ‘general power of competence’ was later extended to also cover Integrated Transport Authorities, Passenger Transport Executives and Combined Authorities. Much of the Act is enabling and therefore the detail of many of the provisions in the Act will subsequently be specified in powers given to the Secretary of State to make regulations. The majority of the Act extends to England, although certain provisions relate to Wales.

The abolition of the Metropolitan Police Authority and the transfer of its scrutiny functions to the London Assembly and its oversight powers to a new Mayor’s Office of Policing and Crime will take

place in early 2012 under the separate Police Reform and Social Responsibility Act 2011. Elsewhere in England, Police and Crime Commissioners will be elected to replace police authorities from November 2012. Mayor of London Boris Johnson said of the Localism Act:

*"I am delighted that the stifling bureaucracy of the past is now behind us and London faces a future that will deliver among other benefits an enhanced housing and regeneration plan and greater scope for enterprise and job creation. I have been clear throughout that historically too much has been controlled centrally by Whitehall and measured by standards that don't apply to the communities affected. This is local democracy in action."*

#### *Localism Act 2011*

The Act introduces a 'general power of competence' for councils, the power to "do anything that individuals may generally do". This allows them to take any action provided it is legal. This new power replaces the 'well-being' powers available to local authorities under the Local Government Act 2000. The Act also makes 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 providing for mayoral referendums in the 12 largest cities in England<sup>1</sup>. The Act also gives ministers powers to delegate certain functions from public authorities to permitted local authorities, if requested, where it is likely that this would promote economic development or increase local accountability. In each case this would be subject to parliamentary approval.

The Act abolishes Standards for England (previously the Standards Board for England) which oversees the local government code of conduct. The Act introduces 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.

The Act introduces a requirement for local authorities to prepare and publish a pay policy for senior officers. It makes 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 backdated business rate liabilities suffered by certain port businesses.

The Act introduces a number of measures designed to empower communities. A new requirement to hold council tax referendums when the local authority introduces an 'excessive' council tax is introduced. The Act provides 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 statutory duty imposed by the previous Government to promote democracy and accept petitions is repealed.

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<sup>1</sup> Leicester has already chosen to introduce the mayoral system so will not be required to hold a referendum

The Act abolishes regional strategies and introduces a duty to co-operate for local authorities and public bodies. It increases the freedom of a local planning authority in adoption of development plan documents. It amends the Community Infrastructure Levy, introduced by the last government just before the General Election. The Act will require a significant proportion of the money charged to developers to go to local projects.

It introduces a neighbourhood planning regime, allowing both neighbourhood plans and neighbourhood development orders to be prepared in draft by a parish council or similar body, which are then submitted to independent examination. The results will have to be adopted if favoured by 50% of those voting in a referendum, provided that certain international obligations are not infringed. It also introduces new requirements for consultation for large planning applications other than major infrastructure projects of national importance. It increases enforcement powers, particularly in relation to development undertaken without planning consent. It abolishes the Infrastructure Planning Commission, restoring to the Secretary of State the final decision. Other changes are made to the consent procedures for nationally significant infrastructure projects.

The Act makes significant changes to the way in which social housing is provided and also repeals the legislation governing the provision of Home Information Packs (HIPs). It gives housing authorities additional discretion to determine who can apply for social housing within their areas and will enable them to discharge their duty to secure suitable accommodation for unintentionally homeless households by using privately rented housing.

It gives local housing authorities and registered providers of social housing (housing associations) discretion to offer 'flexible tenancies' with a minimum term of two years to new tenants. The circumstances of these tenants will be reviewed prior to the end of the fixed-term in order to assess whether the tenancy should be extended or not. It will provide a framework for the introduction of a new 'self-financing' system of council housing finance which will enable councils with a Housing Revenue Account (HRA) to keep the rent received from their tenants. It also contains measures aimed at improving the mobility of social housing tenants, while it will also abolish the existing regulator of social landlords, the Tenant Services Authority (TSA). The TSA's functions will be transferred to the Homes and Communities Agency (HCA). It extends the powers of the National Assembly for Wales in regard to housing matters and will provide for a single Ombudsman service to deal with all complaints about social housing.

The final Part of the Act will make changes to London housing and regeneration functions as well as to London governance. It provides for the devolution of executive powers over housing investment from the HCA to the Greater London Authority (GLA) so it can be fully aligned with the Mayor's own funding pot and the London Housing Strategy. It also abolishes the London Development Agency and provides for an economic development strategy for London. It gives the Mayor of London the power to designate Mayoral development areas in which a Mayoral Development Corporation will be the local planning authority. It will allow ministers to delegate certain functions to the Mayor. Six environmental strategies will be consolidated into one London Environment Strategy. The London Assembly is also given an enhanced role in the development of

the mayoral strategies.

*'What can a mayor do for your city?'*

In November Cities Minister Greg Clark formally asked the residents of 12 English cities to contribute their views on what powers they would like an elected mayor to be able to exercise on their behalf.

In May 2010, the Coalition Agreement set out the Government's commitment to create directly elected mayors in the 12 largest English cities outside London, subject to confirmatory referendums and full scrutiny by elected councillors. Leicester elected its first Mayor in May 2011 following the city council's decision to move to the system. The Government is now planning for referendums to take place in 11 other cities – Birmingham, Bradford, Bristol, Coventry, Leeds, Liverpool, Manchester, Newcastle upon Tyne, Nottingham, Sheffield and Wakefield – in May 2012.

The Government is seeking to ensure that any elected mayors approved have powers that are properly suited to local circumstances. Rather than imposing a standard set of powers, the Government is launching a consultation, *What can a mayor do for your city?*, to give local people a say over what they would want a mayor to be able to do on their behalf. The consultation invites people who live and work in the 12 cities to contribute their views on the proposed approach for giving powers to city mayors, the powers that should be transferred, and on how mayors can best be subject to local scrutiny.

Mr Clark said: *"Every city has its own unique needs, identity and character. There's no such thing as a 'one size fits all' mayor - they should be able to do whatever it takes to get to grips with the local challenges and help their city flourish. That's why I'm asking the people who live and work in our 12 largest cities – what could a mayor do for you?"*

Following Royal Assent secondary legislation was laid to provide for these cities to hold mayoral referendums on the local Election Day in May 2012.