



## Japan Local Government Centre, London

### Monthly Report for November 2009 (England) – Local authority consent regimes

The Department for Communities and Local Government has published plans to scale back the operation of local authority consent regimes and end the need for the ministers to approve byelaws<sup>1</sup> passed by local councils. There are currently 52 consent regimes where local authorities must seek central government approval before undertaking certain actions. Furthermore, the department retains the right to approve byelaws passed by local councils.

The department claims that this move, currently out for consultation, will free local government to act on local priorities, rather than have to wait for Whitehall to act. This implements the 2006 Cabinet Office/Office of the Deputy Prime Minister report *Consent Regimes - Reducing Unnecessary Bureaucracy*, which proposed a reduction in the number and scope of local authority consent regimes. Furthermore, the Local Government and Public Involvement in Health Act 2007 gave the Secretary of State powers to issue secondary legislation to reform the approval regime for local authority byelaws in order to simplify the process.

The department cites the following examples of where councils were prevented from acting on local priorities owing to the need to seek its approval:

- *In Worthing where residents campaigned to lift the ban on cycling on a promenade. Following a full consultation and getting the required central government approval, cycling was reinstated in August.*
- *In Newcastle-upon-Tyne local residents and shopkeepers complained about skateboarders in a pedestrianised area. Following discussions with all groups the council decided to build the skaters a new skate park but it had to seek permission from CLG to create a byelaw simply to prohibit skateboarding in that area.*
- *Young children in the Woodmancote parish council area were having the enjoyment of their new play area spoiled by anti-social older children and adults. The parish council has applied for byelaws to deal with this nuisance which have been approved and comes into force next month.*

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<sup>1</sup> A byelaw is a law which is made by a body, such as a local authority, under an enabling power established by an Act of Parliament and which has been confirmed by the Secretary of State. Byelaws generally require something to be done – or not to be done – in a particular location. They are accompanied by a sanction or penalty for non-observance. If validly made, byelaws have the force of law within the areas to which they apply. Offences against byelaws attract a penalty fine which can, at present, only be enforced through the Magistrates' Courts.

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- *Residents in Lawford Parish Council had problems with remote controlled cars being used on one of its recreation grounds where the cars had injured several residents. As a result the council sought the byelaw to prohibit the use of the cars on this particular ground. This was granted and came into force earlier this year.*

The government claims that once secondary legislation is issued, the local authorities concerned will not have to seek departmental approval before issuing or revoking similar byelaws in future. Councils will instead simply have to consult the local community before proceeding. Communities and Local Government Secretary John Denham said:

*"It's right that councils should be able to fight for the interests of their residents. But having to get Government's approval can sometimes feel like unnecessary red tape when what really matters are local people's views.*

*"Where national laws don't offer protections for localised problems, council leaders must be fully equipped with the powers they need to act decisively and effectively to tackle issues on behalf of their citizens and communities.*

*"Once they have community agreement they should be trusted to get on with it - rather than having to go to someone sitting behind a desk in Whitehall who may seem far removed from the problem in hand."*

However, the government has indicated that it will retain the right to approve byelaws from certain public bodies which are not subject to direct election, such as transport authorities.

Examples of local authority consent regimes include approval of school land disposals, school federations of more than five schools, revocation/modification of tree preservation orders, amalgamation of taxi licensing zones and the provision/removal of cattle grids.

Local authority consent regimes are subject to periodic review. In 1997 the government examined the then 196 consent regimes in existence, which has been cut down to 52 in 2009. The government now intends to cut this number further by at least half, either by merger or repeal of the remaining regimes. However, as with the byelaw provisions, the government has said it *"will retain powers where it considers it will benefit local government and citizens to retain national oversight."*

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