

Subject:	Response to CLG ‘Strengthening Local Democracy’ Consultation Paper		
Date of Meeting:	22 September 2009		
Report of:	Interim Director of Strategy & Governance		
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Wards Affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report brings to the Committee’s attention a recent consultation paper, “Strengthening Local Democracy’ issued by the Department of Communities and Local Government. The consultation paper follows the government paper ‘Building Britain’s Future’ published in June 2009 and explores whether local government has the powers it needs to meet today’s challenges.

2. RECOMMENDATIONS:

- (1) That members agree the draft response to the consultation questions attached at appendix 2.
- (2) That Members consider including the comments from Overview and Scrutiny Commission on the consultation regarding scrutiny as detailed in appendix 3.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The consultation paper, which was published on 22 July 2009, is attached as Appendix 1 to the report. The deadline for responding to the paper is 2 October 2009.
- 3.2 The following paragraphs provide a précis of each chapter:
- 3.3 **Chapter 1 Local government at the centre of decision-making**
This chapter sets out proposals for new scrutiny powers for councils. These would provide powers for scrutiny of a wider range of public services than at present, extending beyond the scrutiny of specific targets in Local Area Agreements, and with a likely duty on those bodies to take part in scrutiny meetings. A list of organisations to which scrutiny could be extended is given, including utilities and public transport. This is linked to the analysis of public spending which was piloted in the Counting Cumbria project and which is being taken forward by the Total Place pilots. The chapter proposes a power

to scrutinise this spending, which would not give councils any leverage over spending other than to express views through scrutiny reports. The current Local Democracy, Economic Development and Construction Bill creates a requirement for councils to have a statutory scrutiny officer; the chapter discusses whether there could be additional requirements for support.

3.4 Chapter 2 - Strong local government operating the local interest

This chapter discusses the powers of local government and the emphasis set out in *Building Britain's Future* of defining individual service entitlements. It raises the possibility that the development of service entitlements might provide a context to reduce the number of central government targets, for example in Local Area Agreements.

It discusses the power of well-being (Local Government Act 2000) and specifically the restrictions on the use of this power which have been highlighted by the recent LAML court case on the joint action by London boroughs to provide insurance in partnership, which has ruled that making more efficient use of public money was not within the scope of this power. It proposes a specific power to enable councils to engage in mutual insurance arrangements. The chapter also discusses partnership working and raises the question whether there should be a rationalisation of the partnerships which are required.

3.5 Chapter 3 - Local authorities tackling climate change

The chapter discusses the role of councils in tackling climate change. It recognises that 97% of Local Area Agreements include climate change targets, just one illustration of the commitment of councils to this issue. It asks how the local role can be taken further, and sets out proposals on carbon budgets.

3.6 Chapter 4 - Sub-regional working

The chapter discusses recent developments on Multi-Area Agreements and sub-regional working, reviewing the measures already contained in the Local Democracy, Economic Development and Construction Bill. It puts forward options on the accountability of sub-regional arrangements, such as scrutiny and a duty to respond to petitions. It sets out options for stronger sub-regional democracy, such as elected bodies or mayors, but without advocating them. It makes no proposals for powers to be devolved to sub-regional bodies.

3.7 Chapter 5 - Clear relationships with local government

This chapter discusses the mechanisms by which central/local relations are managed. In the context of the government's current interest in constitutional reform, for example via the Constitutional Reform Bill published also July 2009, and a possible written constitution, this is important. The chapter refers to the government's ratification of the European Charter on Local Self Government, in 1998. The chapter advocates an ombudsman style arrangement which could adjudicate on central local relations. It also endorses the proposal for a joint Select Committee of both Houses of Parliament, to have oversight of central local relations.

4. CONSULTATION

4.1 No consultation.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 There are no direct financial implications arising from the recommendations of the report. However any extra costs arising from an increased scrutiny function, such as printing costs and officer time, would need to be met within existing resources.

Finance Officer Consulted: Peter Francis

Date: 9 September 2009

Legal Implications:

5.2 The proposed enhancement to local authority scrutiny powers is part of a general trend towards a more robust form of holding local public bodies to account, first given effect under Part 5 of the Local Government and Public Involvement in Health Act 2007 and subsequently supported by Part 2 of the Local Democracy Bill.

As stated in paragraph 3.4 above, Chapter 2 of the consultation gives notice of the Government's intention to introduce a specific power to enable councils to engage in mutual insurance arrangements. Subject to consultation responses, they intend to do this "at the first legislative opportunity possible." This may take the form of a late amendment to the Local Democracy, Economic Development and Construction Bill, or by making an Order under Part 1 of the Local Government Act 2000.

It should be noted that, due to limited parliamentary time before a general election is called, it is not expected that any other measures in the 'Strengthening Local Democracy' paper will be given legislative effect before June 2010. Were there to be a change of administration in Westminster following the election, some or all of the consultation proposals may change or not be implemented at all.

*Lawyer Consulted: Oliver Dixon
2009*

Date: 10 September

Equalities Implications:

5.3 No implications

Sustainability Implications:

5.4 See response to consultation questions on local authorities tackling climate change.

Crime & Disorder Implications:

5.5 No implications

Risk and Opportunity Management Implications:

5.6 No implications

Corporate / Citywide Implications:

5.7 No direct implications from the report. However, consultation on changes to scrutiny and sub-regional working if enacted would have implications for city partners and the council respectively.

SUPPORTING DOCUMENTATION

Appendices:

1. CLG 'Strengthening Local Democracy' consultation paper (July 2009)
2. Proposed BHCC response to the consultation
3. Comments from BHCC Overview & Scrutiny Commission on the consultation questions on scrutiny