

Subject:	Governance Implications of Communities in Control White Paper		
Date of Meeting:	23 September 2008		
Report of:	Director of Strategy & Governance		
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Wards Affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 In July this year National Government published a White Paper titled 'Communities in Control'. The White Paper focuses on a variety of steps that National and Local Government and the voluntary and community sector could take to increase opportunities for people to influence and take control over the issues that affect their lives.
- 1.2 Within the White Paper and related proposed legislative changes there are several proposals which could require or enable changes to the Council's constitution or have broader implications for the governance of the city.
- 1.3 Consultation papers are being issued on aspects of the proposals. Papers on 'Improving local accountability' and 'The making and enforcement of byelaws' were issued in August 2008 and further consultation papers are anticipated over the coming months.

2 RECOMMENDATIONS:

- 2.1 (1) That the Committee notes the proposals in the White Paper that may require future changes to the Council's constitution or have broader implications for the governance of the city.
- 2.2 (2) That the Committee instructs officers to track the implementation of the proposals in the White Paper, including the Community Empowerment, Housing and Economic Regeneration Bill (CEHER Bill) and to report to a future meeting with full details of any proposed new legislation and relevant consultation documents.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 The key proposals contained in the White Paper that have potential implications for the council's constitution are summarised below:-

- A new duty to promote democracy and specifically practical support for Councillors including allowing Councillors to hold surgeries on council premises and allowing political parties to hire council premises for meetings and events.
- A new duty for councils to respond to petitions, including electronic petitions, relating to local authority functions or other public services where the council shares deliver responsibilities.
- A new power to provide incentives to promote voting.
- A community's right of appeal should the local authority deny the development of a new neighbourhood/community council
- The amendment of the Widdicombe rules which forbid council workers above a salary band from being active in party politics.
- New right to petition to hold local officers to account at public meetings.
- Change of regulation around petitions for and frequency of referendums on elected mayors
- Ability for members to participate in meetings, and particularly vote, remotely
- Changes to overview and scrutiny including holding deliberative events, moving meetings out of the town hall into the community, enhancing the power of overview and scrutiny committees to require information from partners on a broader range of issues.
- Backbench councillors with the power to make change in their wards through discretionary localised budgets

3.2 The key proposals contained in the White Paper that have potential implications for the wider governance of the city are summarised below:-

- Extension of 'duty to involve' to cover police authorities and key arts, sporting, cultural and environmental organisations including CLG working with local bodies to identify ways to streamline consultation and engagement, with a clear role for Local Strategic Partnerships
- Provision of information on services at local neighbourhood level and pilot more innovative approaches to sharing information with citizens, community groups and third parties
- Production of a national toolkit on empowering people in the decisions about housing growth in their area
- Encouragement to provide practical support to employees to take up civic roles
- Extension of pilot community contracts and encouragement to see these developed in every neighbourhood

- Encouragement of statutory agencies to develop and run a joint leadership development programme
- Development of a national accreditation system for councillors
- National review into extending redress for citizens – potential implication for council's complaints system
- Support use of 'community justice' and piloting citizen involvement in 'community payback' including rolling out of the principle of community engagement by the courts
- All local authorities to have some form of participatory budgeting by 2012
- Encouraged continued use of neighbourhood management
- Publication of guidance on the Councillor Call for Action, in order that councillors can better exercise this power

3.2 Of the proposals set out above, those which may have particular impact on the council's constitution are considered in more detail below:-

3.3 New duty for Councils to respond to petitions

3.3.1 This proposed new duty is intended to ensure that councils guarantee a response to petitions. It is proposed that petitions could call for action, participatory budgeting or a local referendum. The White Paper states that responding to a petition should not be a "tick box" exercise and that, if the relevant Overview and Scrutiny Committee decides that the response is not adequate or substantive, petitioners will be able to secure a debate at full council. In any event, if five per cent of the local population sign a petition, there will have to be a full council debate. Local Authorities will be able to set lower thresholds.

3.3.2 Brighton & Hove Council already has a long history of responding to petitions in public meetings. The proposals as set out in the White Paper go further than our current constitution in terms of giving additional responsibilities to Overview and Scrutiny Committees and requiring a full council debate in some circumstances. These proposals will require legislation to enact them and will be included in the planned CEHER Bill.

3.4 Directly Elected Mayors

3.4.1 The White Paper includes proposals to make it easier for people to demand a move to establishing a directly elected mayor through a referendum. The proposals include:-

- Consulting on permitting on-line petitioning as well as traditional paper petitions to demonstrate support for a referendum;
- Consulting on reducing the threshold for a petition to trigger a mayoral referendum from 5% of voters to perhaps 2, 3 or 4 per cent;

- Removing the current timing restrictions so that a new referendum may be held after four years if a referendum is lost.

3.4.2 Again these proposals, if progressed, are planned to be included in the CEHER Bill, although the White Paper is clear that there will be consultation in advance.

3.5 A new right to petition to hold local officers to account.

3.5.1 The aim of this new right is to increase the visibility of local public officers so that they are all open to public scrutiny and questioning from local communities. The White Paper envisages strengthened overview and scrutiny powers to achieve this. In particular it sets out the proposal that if enough people served by a local service or agency sign a local petition then senior officers working for a local public body should be required to attend a public hearing.

3.5.2 If these proposals are enacted, they will go further than the Council's current powers in relation to Overview and Scrutiny of outside bodies, meaning that representatives from other agencies could be required to attend meetings. The requirements on attendance are currently limited to the Council and its Health partners. A new procedure would be needed to facilitate the type of meeting envisaged in the White Paper which would require further consultation with this Committee once the proposals are progressed.

3.6 Support for Councillors

3.6.1 The measures to increase support for Councillors include enabling the use of information and communication technology to enable councillors to participate in meetings and vote remotely. This proposal would require legislation and the CEHER Bill has again been identified as the potential vehicle for this. If the proposal goes ahead and the Council wished to make use of the new powers, new constitutional provisions would be needed.

4. CONSULTATION

4.1 No consultation has been carried out specifically on the proposals in the White Paper. However, as part of the development of the Community Engagement Framework a wide range of organisations, groups and partnerships have been asked what works well in the city with regard to community engagement, what doesn't and how could it be improved.

4.2 The consultation for the Framework finished on 5th September. The results will be used to shape the final document which will include priority projects to be pursued wither by the Stronger Communities

Partnership or individual organisations within the Partnership including the council.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

The 2008/09 budget for Democratic Services is £1.786m, of which Members' allowances accounts for £1.057m and staffing costs for Democratic Support Staff a further £392k.

The proposals in the White Paper may have potential impact on staff time within this service, and possibly require extra resources to achieve. More precise financial comments can be made to the Committee when progress of the Paper is known.

Finance Officer Consulted: Peter Francis

Date: 9 September 2008

Legal Implications:

As set out in the body of the report, many of the proposals in the White Paper, and in particular those that will either enable or require changes to the Council's constitution, will need new primary legislation to bring them into force. The Community Empowerment, Housing and Economic Regeneration Bill is the key piece of legislation proposed to bring into force many of these changes. It will be important to follow the progress of this Bill to be clear which of the White Paper's proposals are enacted.

Lawyer Consulted: Elizabeth Culbert

Date: 18th August 2008

Equalities Implications:

Any new activity instigated as a result of the white paper or future legislation will be equality impact assessed in line with the council's policy and procedure. The white paper was equality impact assessed by CLG.

Sustainability Implications:

The development of the any new activity is likely to have a direct link to the achievement of one of the four priorities in the UK's Sustainability Plan - sustainable communities using engagement and partnership to reduce poverty and environmental degradation.

Crime & Disorder Implications:

Any new activity instigated will be planned and delivered to ensure it meets the council's obligations under section 17 of the Crime and Disorder Reduction Act 200X

Risk and Opportunity Management Implications:

The white paper presents opportunities to help the council achieve one of its five corporate priorities: open and effective city leadership. However, there are associated risks in terms of likely resource implications and organisational change.

Corporate / Citywide Implications:

Future implementation of any of the actions will have corporate and citywide implications as they are directly related to the governance of the council and how the council works with its partners to deliver its vision for the city.

SUPPORTING DOCUMENTATION

Background Documents

1. Communities in Control: Real People, Real Power, CLG, July 2008
<http://www.communities.gov.uk/publications/communities/communitiesincontrol>
2. Unlocking the Talent of our Communities, March 2008 (a precursor to the White Paper)
<http://www.communities.gov.uk/publications/communities/unlockingtalent>
3. Communities in Control: Real People, Real Power. Improving local accountability – Consultation, CLG August 2008
<http://www.communities.gov.uk/publications/communities/localaccountability>
4. The making and Enforcement of byelaws – Consultation, CLG August 2008
<http://www.communities.gov.uk/publications/localgovernment/byelaws>
5. Communities in Control: Real People, Real Power. Local Petitions and Calls for Action – Government response, CLG July 2008
<http://www.communities.gov.uk/publications/communities/petitionscallsgovernmentresponse>
6. The Government's Response to the Councillors Commission report 'Representing the future' - CLG July 2008
<http://www.communities.gov.uk/councillorscommission/publications/communities/representingthefuture>

7. Participatory Budgeting: a draft national strategy. Giving more people a say in local spending - Consultation, CLG March 2008
<http://www.communities.gov.uk/publications/communities/participatorybudgeting>

Summary

1. *Communities in control: real people, real power* aims to pass power into the hands of local communities. We want to generate vibrant local democracy in every part of the country, and to give real control over local decisions and services to a wider pool of active citizens.
2. We want to shift power, influence and responsibility away from existing centres of power into the hands of communities and individual citizens. This is because we believe that they can take difficult decisions and solve complex problems for themselves. The state's role should be to set national priorities and minimum standards, while providing support and a fair distribution of resources.
3. A vibrant participatory democracy should strengthen our representative democracy. The third sector – through charities, voluntary organisations and social enterprises – has much to offer from its traditions of purposeful altruism and selfless volunteering. Equally, we believe that political activity is a worthwhile and essential part of British life, and we want to restore people's faith in politics.
4. In the White Paper, we address seven key issues which we treat from the perspective of individual citizens: being active in your community; access to information; having an influence; challenge; redress; standing for office; and ownership and control.

We have done a lot so far...

5. Over the last decade, the Government has modernised the democratic system with devolved administrations in Scotland, Wales and Northern Ireland; a London assembly and directly-elected mayors in England; electoral reform for European Parliament elections; and an end to the hereditary principle in the House of Lords.



6. There have been equally important changes in our participatory democracy, with communities helping to shape regeneration programmes through New Deal for Communities, local elections to NHS Foundation Trusts and a stronger role for petitions. Local councils have become more visible and accountable, with greater devolution of power to local neighbourhoods. New partnerships and agreements have helped to strengthen accountability.

... but we need more reform

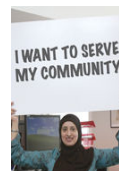
7. Yet power still remains too centralised and too concentrated in government. The division between what should be decided at the centre and what is best decided locally remains blurred.
8. There has been a growing disenchantment with formal political mechanisms. Turnout at elections has been declining. Political parties that once had 3.5 million members now have barely half a million between them. People locally don't feel they have an adequate say in the running of local services. And a majority do not think councillors represent their views.
9. But while people want to have a greater say, they need also to be convinced that their involvement will make a difference. If they speak up, they want to know that their voices will be heard. This is what **empowerment** is all about – passing more and more political power to more and more people through every practical means.
10. And the evidence suggests the quality of decision-making is improved as government actions more closely match the wishes of their citizens. In this way, empowerment can revive civic society and drive improvements in the NHS, police, justice system and local councils.

Local councils remain crucial

11. Councils remain at the heart of local democracy. The Government has given them a 45 per cent increase in real-terms funding since 1997, and has cut central targets. At the same time, accountability through the Audit Commission has seen a big improvement in quality, with only a handful of councils now in the Commission's weakest categories.
12. But many councils should do more to promote participation. So, we will introduce a new **'duty to promote democracy'** to help councils promote involvement through clearer information, better trained staff and more visible councillors in the community. We will also extend the existing **'duty to involve'** local people in key decisions, which will come into effect in April 2009, and will cover police authorities and key arts, sporting, cultural and environmental organisations. We will **support frontline staff** in responding to individual needs with a new task force. We will also set up an **Empowerment Fund** of at least **£7.5m** to support national third sector organisations turn key empowerment proposals into practical action.

Supporting you in becoming a more active citizen or volunteer

13. Britain has a rich tradition of voluntary activity. Three-quarters of British people volunteer in some way. The government has supported volunteering, particularly for young people and the socially excluded, for example, through the **v** charity, Volunteering for All and Goldstar. The Department for Work and Pensions are exploring how **those on benefits can be supported** in taking up volunteering opportunities and the Office of the Third Sector will invest **£2m in opportunities for people with disabilities** to volunteer. We are working closely with the Prime Minister's Council on Social Action on **extending mentoring and befriending**.



14. Learning about citizenship helps to develop skills in young people and adults. The **citizenship curriculum** is important in schools and we will also be supporting a **pathfinder programme (Take Part)** for adults which will offer training and information about how to be an active citizen. We will encourage and **support innovative programmes to help young people from diverse backgrounds to become effective leaders.**
15. Community development workers can help citizens to shape their own areas. We are keen to encourage other frontline workers to do community building. Independent multi purpose community led organisations can also play a vital role in empowering local people and we are establishing a **£70m Communitybuilders** scheme to help them become more sustainable. Grassroots Grants, developed by the Office of the Third Sector, offer small sums of money from an £80m fund – in addition there is a £50m community endowment fund – to help locally-based groups to survive and thrive.
16. Many tens of thousands of people are motivated by their faith to provide services to local communities. But their contribution hasn't always been fully appreciated. We intend to **remove the barriers to commissioning services from faith-based groups** and carry out a national survey of third sector organisations, including faith based organisations, to understand the difficulties they face.
17. We will support community effort in tackling **climate change**. A 'Green Neighbourhood' scheme has been launched which will demonstrate how communities can take action to adopt low carbon lifestyles.
18. Local events provide a great way for communities to come together and encourage people to get involved in local activities. We will **support local communities in developing local events** such as litter picks, painting community centres, street parties or fairs in local parks.

Providing you with more access to information

19. Citizens often feel powerless because of a lack of information. Too much jargon can alienate, confuse and frustrate. More accessible and open information is a pre-requisite to community empowerment. Despite freedom of information and more 'Plain English', people feel less well-informed about their local council today than they did a few years ago.
20. The Internet offers huge opportunities and we want to encourage public bodies to authorise the re-use of information. We are **improving the information available to local citizens** and service-users. But there is a correlation between social and digital exclusion. We will ensure all sections of society can enjoy the benefits of the Internet, and other methods of communication.
21. Local authorities, public service providers and websites set up by citizens are helping us to ensure that more widespread up-to-date local data is published. NHS hospital data will help patients make more informed choices about their care. Parents will soon know more about their children's progress, behaviour and homework.
22. We want people to have access to information on what is happening in their own areas. We will **increase access to information available** at a local level and explore new and innovative approaches to sharing information both with citizens and with third parties. We will open up further elements of the Places Database.
23. A strong independent media is a vital part of any democracy. We will continue to support a range of media outlets and support innovation in community and social media. We will pilot a mentoring scheme in deprived areas on using the Internet.



Making sure your petitions are heard – and acted upon

24. Petitions have become easier through the Internet, with more than 8 million people signing petitions on the No 10 Downing Street petitions website to date.
25. To make it easier to influence the agenda at a local level we will introduce a **new duty for councils to respond to petitions**, ensuring that those with significant local support are properly debated. Local authorities should respond clearly to petitions, for example those dealing with empty properties, transferring the ownership of a building to the community, or participatory budgeting. If people are not satisfied with a response to a petition, they could ask for it to be debated in full council. Councils will also act as **community advocates for petitions related to the Primary Care Trust**.
26. Petitions should be taken into account in decision making in public services. We will work with key inspectorates to encourage them to ensure **petitions are important pieces of evidence to determine when inspections should be triggered**.

Increasing your chance to influence council budgets and policies

27. Citizens should have a greater say in how local budgets are spent. **Participatory budgeting** – where citizens help to set local priorities for spending – is already operating in 22 local authorities. We want to encourage every local authority to use such schemes in some form by 2012.
28. Local authorities should do more to **promote voting** in elections, including working with young people through citizenship lessons. We will give councils the power to provide modest **incentives for voting** – perhaps an entry into a prize draw – as a way of engaging people.

Giving you more say in your neighbourhood

29. We want to encourage **more neighbourhood councils**. So we will build on the existing 8,900 parish and town councils by encouraging new village, neighbourhood and community councils, particularly in urban areas. We will introduce a right of appeal where a community's proposal for a local council is denied by the local authority.
30. A quarter of local councils use **neighbourhood management** to join up local services including health and transport and help tackle problems in deprived communities. The recent Flanagan review of policing recommended that neighbourhood policing should be part of this process. The third sector also has a unique ability to articulate the views of citizens and drive change, and we will work with them to develop principles for their participation in Local Strategic Partnerships.
31. Local authorities must engage more people in **commissioning local goods and services**. Citizens should have a say in how services are delivered, to improve decision-making and value-for-money.
32. We want witnesses and the victims of crime to feel that the system is on their side. We support the use of '**community justice**' giving local people the chance to decide, for example, what tasks offenders on work orders should undertake. The Ministry of Justice will work with the Local Government Association and the Association of Chief Police Officers to agree **pilot projects for citizens to discuss 'community payback'** and local community safety priorities.
33. Equally, we want local people to have more of a say in the planning system so we will provide more funding to support **community engagement in planning** and we will ensure planners develop stronger skills in working with communities.



34. Up to 750,000 people are on a **tenants'** group or committee, making decisions about their homes and estates. Subject to Parliamentary approval, a new body, the Tenant Services Authority will soon be responsible for protecting all social housing tenants. We are giving tenants a greater say through local compacts, choice-based lettings and tenant co-operatives.

Giving older and young people a stronger voice

35. It is important that older people can shape local services and in June 2008 the Government launched a **review of older people's engagement with government**.
36. Most young people don't vote and many seem disaffected with traditional politics. Yet 67 per cent of 18-24 year olds say they are interested in local issues – and young people are often willing to volunteer. So we must do more to engage them.
37. Young people need genuine influence over local services and decision making. The Department for Children, Schools and Families (DCSF) has established a Youth Sector Development Fund to support good third sector organisations expand their capacity to deliver good quality provision to young people. **250 trained young advisors** are already helping public bodies to develop policies and plans in ways that meet the needs of young people. Some areas also have a youth mayor elected by young people locally. We will establish **direct access for young advisors to the Secretary of State for Communities and Local Government and set up a programme for young people to 'shadow' government ministers and elected mayors**. DCSF are establishing a £6m national institute for youth leadership which will work with us to develop **internships for young people with councillors**.

Enabling you to hold those with power to account

38. We will **raise the visibility of the overview and scrutiny function** in local government, which is similar to Select Committees in Parliament. **Public officials will become more visible.** A key part of the role of a chair or chief executive of a public body should be that they face a regular public hearing. We will consult on a new right to petition to hold local officers to account at public meetings.
39. We are increasing the **accountability of local police and health services.** Through consultation on the NHS Constitution Primary Care Trusts are being asked to consider how they can strengthen their direct engagement with the public. The forthcoming Policing Green Paper will set out how police forces will be made more accountable, including through direct elections.
40. We want more visible and accountable local leaders. We support the directly-elected mayor model, already in operation in 12 towns in addition to the high-profile London Mayor. We want to see more **mayors directly elected** and will consult on making it easier for local people to demand a referendum and on reducing restrictions on the frequency of referendums.
41. New independent assessments of services in local areas are being introduced from April 2009. This **Comprehensive Area Assessment** will include evaluation of the quality of public engagement.

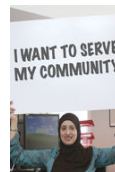


Providing you with redress when things go wrong

42. When public services fall short of the highest standards, citizens should be able to **complain and seek redress**.
43. One in five adults complains to their local council each year and a larger proportion is dissatisfied about the quality of local services. People who want to complain often don't know how to go about it. Nearly two-thirds of those who do complain to the council are dissatisfied with how their complaint is handled. Even so, there is also a growing belief that the quality of local services is improving.
44. Public services are becoming more accessible through services such as Directgov and Consumer Direct. The Audit Commission and the Local Government Ombudsman both provide advice on how to complain about poor services. We are **reviewing the Local Ombudsman's jurisdiction** to make sure all matters are covered.
45. However, it is important that every local authority has **a system of accessible, interactive contact** for citizens to raise concerns. Such systems should be developed with clear principles and a proper understanding of what redress or compensation may be available where that is appropriate. Where people just want things put right, they should be kept informed of what has been done following their complaint.
46. Rights and powers should be balanced by responsibilities and duties. We will extend pilot **Community Contracts** which agree priorities between councils, police or the NHS with local residents, who in turn agree to play their part. We would like to hear from local areas interested in running a **community pledgebank** where individuals pledge a small amount of resource if others do the same.
47. We will commission a **review into extending redress for citizens**. The review will report in early 2009.

Making it easier for you to stand for office

48. The proportion of councillors who are women, under-25 or from black and minority ethnic backgrounds is far lower than their proportion of the population. We want to see **a wider range of people standing for election** to their local council. A taskforce chaired by Baroness Uddin is working to help more black and minority ethnic women become councillors. Programmes such as Operation Black Vote are using a shadowing scheme to encourage more black people to become councillors, magistrates and school governors. We will **amend the Widdicombe rules** which forbid council workers above a certain salary band from being active in party politics.
49. We will give **backbench councillors more powers** to make changes in their ward with discretionary localised budgets that they can target on ward priorities. We will support authorities in enabling councillors with caring responsibilities and others to participate in meetings and vote remotely.
50. We want people to serve in a range of civic roles. Councillors, magistrates, school governors and others are already entitled to request reasonable **time off work for their public duties**. Working with employers, we will consult on extending that right to people serving on a range of other important public boards such as members of court boards or boards of housing associations.
51. People may be prevented from standing for public office because they are afraid of losing their job if they are elected. Employers often overestimate the time involved and underestimate the skills acquired in a civic role. So we are working with employer organisations on an **employers' information pack**.
52. Many councillors would like to see **a formal qualification** that recognised their work. We will review existing qualifications and modules to develop a system of formal accreditation at different skill levels. We will encourage councils to use their existing powers **to create Aldermen from experienced former councillors and enable the use of the new title of 'Alderman'**.



53. We want to make it easier for people wishing to serve on local committees, boards or school governing bodies to know what the role involves and how to go about applying for vacancies. We will make it easier for people to find information on the range of ways they could be active in civic roles in their communities. This will involve directing people to further information, and also allow those running community websites to present relevant information to their local community.

Ownership and control

54. We want to see an increase in the number of people helping to run or own local services and assets, and to transfer more of these assets into community ownership. These assets might include community centres, street markets, swimming pools, parks or a disused school, shop or pub. A new **Asset Transfer Unit** will provide information, research and good practice.
55. Local authorities should ensure that information on the assets they own or manage is clearly up to date.
56. Community Land Trusts (CLTs) are independent organisations which own or control land for the benefit of the local community. We will **consult on a national framework for Community Land Trusts**. We are supporting fourteen pilot CLTs.
57. We want to see more people involved in starting and running social enterprises, where the profits are ploughed back into the community or reinvested in the business. A new Social Enterprise Unit is being set up in Communities and Local Government to recognise the social enterprise contribution to the department's objectives. We will also **encourage local authorities to ensure social enterprises are able to compete fairly for contracts**.

Scope and consultation

58. In developing the White Paper, we spoke to a wide range of stakeholders who fed their comments and suggestions into policy development, and we are very grateful for their help.

59. The policies in the White Paper largely cover England only. Where proposals cover the United Kingdom, this is explicitly stated in the full text. We will engage with all devolved administrations in implementation, issue by issue.

Conclusion

60. Unless we give citizens similar choices in our democratic system to those they have in their everyday lives – and the same rights to demand the best – we will see a further erosion of trust and participation in democracy. There are no limits to the capacity of the British people for self-government, given the right platforms, mechanisms and incentives. Empowering citizens and communities is an urgent task for us all.

