

Community Empowerment under the Localism Bill (clauses 39-88)

One of the essential actions identified by the Government to achieve decentralisation and disperse power is to empower communities to “do things their way”. The Community Empowerment provisions are set out below.

1. Assets of community value

- 1.1 The Bill introduces a new regime which requires local authorities to keep and publish a list of land in its area that is “land of community value”. The purpose of this list is to give local groups the opportunity to bid for land or assets which they would wish to retain for community purposes, where the owner proposes to sell them. There will be an interim moratorium period on the proposed sale in which local groups have the chance to express an interest in the land, and an overall moratorium period which is the total period for which the disposal can be delayed/halted. During this period any community groups interested in the land will have to produce the finances and complete the deal.
- 1.2 The Bill sets out a procedure for nominating land for inclusion on the list, providing for appropriate notice to landowners. Once the land is included on the list, the owner of the land must not dispose of it unless each of three conditions is met:-
 - (1) the landowner has notified the local authority in writing of his/her wish to dispose of the land and that notice has been published; and
 - (2) either (a) the interim moratorium period has ended without the local authority or the owner having received from any community group a written request for the group to be treated as a potential bidder in relation to the land; or (b) the full moratorium period has ended; and
 - (3) all the relevant protected periods to be prescribed by Regulations are complied with.
- 1.3 Regulations will make further provisions on the form of the list, its contents and, in particular, when land is to be regarded as “land of community value”. These key details will determine which assets are caught by the regime and how long community groups will have to express an interest and sort out their funding to make a bid. Regulations may also address compensation to be paid in relation to this regime.

2. Community Right to Challenge

- 2.1 A new right of community engagement will allow expressions of interest to be submitted by voluntary and community bodies, employees of a relevant local authority and parish councils to bid to a local authority to run a service provided by or on behalf of the council.
- 2.2 Local Authorities will be required to consider expressions of interest received which comply with the relevant requirements. An authority can specify periods during which expressions of interest, or expressions in relation to a particular service, may be submitted and may refuse to consider an expression of interest submitted outside this period. Expressions of interest may only be rejected on

one or more grounds which are to be specified by the Secretary of State in Regulations.

- 2.3 The grounds for rejection and the rules regarding the ability of councils to control the timetable for expressions of interest will be central to understanding the full impact of this provision.
- 2.4 At this stage, the Bill sets out that if the expression of interest is accepted, then the local authority must carry out an appropriate procurement exercise relating to the provision of the service. In considering the expression of interest, the local authority must consider whether acceptance would promote or improve the social, economic or environmental well-being of the authority's area.

3. **Referendums on local issues**

- 3.1 The Bill includes a new duty on Councils to hold local referendums. A local referendum must be held where either;-
- (1) a petition is received asking the authority to hold a local referendum on a stated question in a relevant area of that authority (either the whole of the area or one or more adjoining electoral areas within it), and that petition is signed by **5% of local government electors** in that area; or
 - (2) one or more **members of the authority** requests the authority to hold a local referendum on a stated question in a relevant area of that authority. For the request to be valid, each member who requests the referendum must be a member for an electoral area in that relevant area and where an electoral area has more than one member, all or the majority of the members for the area must make the request.
- 3.2 Where a request of one of these two types is received, the authority can only refuse the request on one of the following grounds:
- that the authority thinks that action taken to promote or oppose the referendum question is likely to lead to contravention of an enactment or a rule of law;
 - that the authority thinks that the matter to which the referendum question relates is not a local matter over which the authority has an influence or which affects the authority's area/the inhabitants of the area (the Bill states that a matter is a "local matter" if it relates to the economic, social or environmental well-being of the area in which the referendum is proposed to be held, and it has a particular connection with that area);
 - the referendum question relates to a matter specified by order by the Secretary of State;
 - the petition or request is vexatious or abusive.
- 3.3 In the case of a request from a member, there is a specific requirement that the authority must also pass a resolution to hold the referendum.

- 3.4 In addition an authority can resolve of its own motion to hold a local referendum throughout the area of the authority on a particular question.
- 3.5 The authority may substitute its own wording for the referendum question as submitted by residents or members, if it considers that the wording specified in the petition or request is "misleading". The referendum must be held more than two months but less than twelve months after receipt of the petition/request. The authority has a duty to publicise the referendum (its existence, the date, the question being asked) and a power to publish material either supporting or opposing the question.
- 3.6 The result of the referendum must be published. "As soon as reasonably practicable" after the result is known, the authority must consider what (if anything) it proposes to do to give effect to the result, and if no action is proposed then it must publish that decision together with the reasons for it.
- 3.7 The provisions requiring local authorities to adopt a petitions scheme, including the right to trigger a full council debate and hold senior officers to account are repealed.

4. Annual Council Tax Referendum

- 4.1 The Bill amends the Local Government Finance Act 1992, setting out provisions on the calculation of council tax increases. New provisions include a requirement to hold a referendum each year on the basic council tax amount fixed for the financial year where the authority proposes an increase which is above a specified threshold, so as to give local residents a power to veto excessive council tax increases.
- 4.2 The referendum, to be held no later than the first Thursday in May in the financial year, will ask local voters to indicate whether or not they accept the proposed council tax figure for that year. If the figure is not accepted, then a substitute figure (calculated by methods set out in the new provisions) will apply in place of the authority's original figure. The result of the referendum must be reported to the Secretary of State. The Secretary of State may make regulations about the conduct of these referendums.

