

Subject: Local Democracy, Economic Development and Construction Bill

Date of Meeting: 10 March 2009

Report of: Director of Strategy and Governance

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Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Local Democracy, Economic Development and Construction Bill is part of the Government's legislative programme for 2008-09 and is now proceeding through Parliament. The local democracy provisions originate from the *Communities in Control* White Paper issued in July 2008 and are intended to promote understanding of how local government operates and how individuals and communities can get involved.

This report outlines these provisions and the implications for governance arrangements at Brighton & Hove City Council. In addition, the report provides a brief overview of the provisions relating to economic development.

2. RECOMMENDATIONS:

That the Governance Committee:

- 2.1 Notes the governance provisions of the Local Democracy, Economic Development and Construction Bill ('the Bill') and their implications for the Council.
- 2.2 Instructs officers to track the passage of the Bill and to bring a further report to the Governance Committee once the Bill is enacted and the timescale for implementing its key provisions is known.

3. RELEVANT BACKGROUND INFORMATION / CHRONOLOGY OF KEY EVENTS:

- 3.1 The report on the *Communities in Control* White Paper considered by the Governance Committee on 13 January 2009 contained a summary of the key provisions of the Bill. In light of this, the Committee instructed officers to provide a further report in March with more detail and analysis.

3.2 The Bill was introduced by Baroness Andrews, Parliamentary Under-Secretary of State for Communities and Local Government, in December 2008 and is first proceeding through the House of Lords. At the time of writing (25.2.09) the Bill is with the Lords' Grand Committee where each clause is considered in turn. After Report Stage and Third Reading, the Bill proceeds to the House of Commons.

3.3 The governance related provisions of the Bill are described below.

3.3.1 Duties to promote local democracy (clauses 1-9)

- (a) A local authority will be under a duty to promote among local people an understanding of –
- (i) its functions
 - (ii) its democratic arrangements (those enabling members of the public to participate in, or influence, the making of decisions, whether at full council, executive meetings or other committee meetings including overview and scrutiny)
 - (iii) how to take part in those arrangements and what taking part is likely to involve. This includes explaining the role of councillors, how to become one, and the support available to assist them in their role.

(b) A local authority will also be required to promote understanding of:

- authorities connected with it, namely those public bodies providing services in the Council's area and listed in the Bill, such as health bodies and any police body, fire and rescue authority or parish council
- (to the extent that any exist in the Council's area) court boards, independent monitoring boards for prisons and immigration removal centres, and Youth Offending Teams
- lay justices: their functions, how to become one and what is involved

N.B. the duty in (b) only applies where the body has made the necessary information available to the local authority.

3.3.2 Petitions to local authorities (clauses 10-22)

This part of the Bill provides that every local authority has arrangements to ensure that petitions are considered, a response is sent to the petitioners, and that petitions over a certain scale trigger a debate at full council.

In the case of unitary authorities such as Brighton & Hove, a petition can relate not only to the functions of the authority but to an improvement in the economic, social or environmental well-being of the authority's area to which any of its partner authorities could contribute.

In particular, a local authority will be required to:

- provide a facility to accept electronic petitions
- make, publicise and comply with a 'Scheme'* for handling paper and electronic petitions
- acknowledge petitions within a specified period
- specify in its Scheme the measures to be taken in response to a petition; these must include holding an enquiry or public meeting, commissioning research, or referring the matter to an overview & scrutiny committee

- specify in its Scheme a threshold number of signatures which will give an automatic right for the subject matter of the petition to be debated by full council (except for petitions calling an officer to account)
- notify the petition organiser of the steps the authority has taken or proposes to take; and publicise this information on the authority's website

* The Secretary of State may, by secondary legislation, stipulate what a petition scheme must or must not contain. Statutory guidance may include a model scheme.

A petition bearing the requisite number of signatures may require a senior officer to be called to account at a public meeting of an overview and scrutiny committee. Officers subject to this requirement must include the chief executive and the most senior officers responsible for the delivery of services.

Once an authority has notified the petition organiser of the steps it intends to take or has taken in response to the petition, the organiser can – if dissatisfied with that response – request one of the authority's overview and scrutiny committees to review the adequacy of those steps. The outcome of the review must be communicated to the petition organiser (and made public, unless inappropriate).

No local authority will be required to take substantive measures in response to a petition that is vexatious, abusive or unconnected with the authority's functions; or to a petition that duplicates one dealt with in the previous six months.

3.3.3 Involvement in functions of public authorities (clauses 23-24)

This deals with the issue of stakeholder involvement in public authority functions, and mirrors the duty to be imposed on local authorities from 1 April 2009¹. The duty is that where an authority considers it appropriate for local representatives to be involved in the exercise of any of the authority's functions, it must take appropriate steps to provide information about the function, to consult over the exercise of the function, or to involve them in any other way.

A wide range of public authorities are covered by this provision including the Environment Agency, the Health & Safety Executive, and any regional development agency.

3.3.4 Scrutiny (clauses 27-28)

A local authority will be required to designate one of its officers (other than the chief executive, monitoring officer or chief finance officer) to:

- promote the scrutiny function internally and externally
- provide advice and support to the authority's overview and scrutiny committees
- advise members and officers regarding any O & S function

Where a local authority decides to operate a joint O & S committee with one or more councils in their county, its remit will no longer be limited to matters relating to the attainment of a Local Area Agreement target

¹ See section 138 of the Local Government & Public Involvement in Health Act 2007

3.3.5 Audit of entities connected with local authorities (clauses 30-48)

Following on from Lord Sharman's 2001 review into the audit and accountability of public money, the Audit Commission will have power to appoint a person to audit certain 'entities': companies, limited liability partnerships and industrial and provident societies that are connected with local authorities.

In line with one of the principles of public audit endorsed by Lord Sharman, an auditor so appointed will have power to make a report in the public interest. This means making a report to the entity about any matter relating to the financial affairs or corporate governance of the entity which they consider would be in the public interest to bring to the attention of the entity, the local authority to which it is connected, or the public.

The entity concerned must consider the report within one month of receipt and decide what action, if any, to take. It is then for the connected local authority to decide on any action based on the auditor's report and on the entity's response to it.

3.3.6 Local government boundary and electoral change (clauses 49-62)

In 2007 the Government accepted a recommendation by the Committee on Standards in Public Life that the Electoral Commission should no longer be involved in English electoral boundary matters. The Bill provides for these matters to be dealt with instead by a new and independent body known as the Boundary Committee (BC) for England.

The BC *must* from time to time conduct a review of each local authority area and recommend whether a change should be made to their electoral arrangements in terms of:

- the total number of council members
- the number and boundaries of local wards
- the number of members to be returned for each ward
- the name of any ward

The BC *may* at any time carry out a review of this type on an individual part of a local authority area.

A local authority may request the BC to conduct a review of their electoral arrangements and, specifically, to make recommendations as to whether any of that authority's wards should return a single member.

On completion of its review, the BC must publish its draft recommendations and invite representations from interested parties. In due course, the BC may by order give effect to all or any of its final recommendations.

3.3.7 Parts 4-7 of the Bill relate to economic development and stem from the Government's Review of Sub-National Economic Development and Regeneration. Although these provisions are not expected to have a significant effect on governance arrangements, the Committee needs to be aware of the broad proposals; a summary is given below.

Local authority economic assessments (clauses 63-64)

There is to be a new duty on unitary authorities and county councils to assess the economic conditions of their area. In conducting the assessment, the authority will be required to consult certain named partners and other people or organisations they consider appropriate. Statutory guidance is likely to indicate what an assessment should contain, how to prepare it and when.

Regional Strategy (clauses 65-82)

Each region outside London is to have a new regional strategy to replace their existing regional economic strategy and regional spatial strategy. It will also integrate the substance of other regional strategies covering culture and sport, housing, biodiversity and transport. The strategy must set out policies relating to sustainable economic growth, and the development and use of land in the region; and contribute to the mitigation of and adaptation to climate change.

All district and county councils across a region must establish a “Leaders’ Board” (whose formation and operation must have Sec of State approval) to enable local authorities to act collectively at regional level.

Joint responsibility for preparing, reviewing and maintaining the regional strategy sits with the regional development agency and the Leaders’ Board for the region.

Economic Prosperity Boards, Combined Authorities and Multi-Area Agreements (clauses 83-132)

Parts 6 and 7 of the Bill provide for the creation of three new options for sub-regional co-operation: economic prosperity boards; the combination of the functions of an economic prosperity board with the functions of an integrated transport authority; and multi-area agreements with statutory duties.

The Sec of State will have power to create an ‘economic prosperity board’ (EPB) for an area covering two or more local authority areas having contiguous boundaries. The EPB will have functions relating to the economic development and regeneration of the area. The Sec of State may provide for a Board’s membership, voting powers and executive arrangements.

A Multi-area Agreement (MAA) is a voluntary agreement between two or more local authorities, their local partners and central Government to work together to deliver targets in return for policy freedoms and flexibilities. If these local authorities and their partners have their draft MAA approved by the Sec of State, they will be under a duty to have regard to every improvement target they have specified in the MAA, in exercising their respective functions.

4. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 4.1 On the assumption that the Local Democracy, Economic Development and Construction Bill successfully proceeds through Parliament, there are likely to be

some financial implications for the council in the form of staffing and publicity costs. These costs will be assessed once more definite details are known.

Finance Officer Consulted: Peter Francis

Date: 23 February 2009

Legal Implications:

- 4.2 Legal implications are dealt with in the body of the report. If any provision in the Bill necessitates an amendment to the Council's constitution, officers will bring a report to Governance Committee where this is required under Article 15.03.

Lawyer Consulted: Oliver Dixon

Date: 23 February 2009

Equalities Implications:

- 4.3 Any new activity instigated as a result of the Bill's implementation will be equality impact assessed in line with the Council's equalities policy

Sustainability Implications:

- 4.4 As stated in 3.3.7 above, the new Regional Strategy for the South East must set out policies relating to sustainable economic growth, and contribute to the mitigation of and adaptation to climate change.

Crime & Disorder Implications:

- 4.5 Potentially, the Council might receive one or more petitions in connection with a crime and disorder matter, which it would then be required to deal with in accordance with its Petition Scheme

Risk and Opportunity Management Implications:

- 4.6 The provisions on promoting democracy present opportunities to support the Council in achieving open and effective leadership, one of its five corporate priorities. However, there are associated risks in terms of resource implications, and infrastructure to support e-petitioning.

Corporate / Citywide Implications:

- 4.7 As indicated in 3.3.1 above, it falls to the Council to promote the democratic arrangements exercised by other public bodies operating across the city. In that respect, the Council will act as city leader in fulfilment of its "place-shaping" role.

SUPPORTING DOCUMENTATION

Appendices: None

Background Documents:

1. Local Democracy, Economic Development and Construction Bill, as introduced to House of Lords, 4 December 2009.

<http://www.publications.parliament.uk/pa/ld200809/ldbills/002/2009002.pdf>

2. Explanatory Notes to the Bill

<http://www.publications.parliament.uk/pa/ld200809/ldbills/002/en/2009002en.pdf>

3. Progress of Bill and links to parliamentary debates

<http://services.parliament.uk/bills/2008-09/localdemocracyeconomicdevelopmentandconstruction.html>

