

## PERFORMANCE AND SCRUTINY OVERVIEW COMMITTEE

**Venue:** Town Hall, Moorgate  
Street, Rotherham. S60  
2TH

**Date:** Friday, 8 April 2011

**Time:** 9.30 a.m.

### A G E N D A

1. Apologies for Absence.
2. To determine if the following matters are to be considered under the categories suggested in accordance with the Local Government Act 1972.
3. To determine any item which the Chairman is of the opinion should be considered as a matter of urgency.
4. Declarations of Interest.
5. Questions from Members of the Public and the Press.

#### **For Discussion/Decision:-**

6. Self Regulation and Improvement (report herewith) (Pages 1 - 5)
7. Localism Bill (report herewith) (Pages 6 - 17)
8. P.E. in Schools Review - Feedback from Cabinet (Cath Saltis to report)

#### **For Information/Monitoring:-**

9. Minutes of the previous meeting held on 25th March, 2011 (herewith) (Pages 18 - 20)
10. Work in Progress (Chairs of Scrutiny Panels to report)
11. Call-in Issues - to consider any issues referred for call-in.
12. Date of Next Meeting

<b>ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS</b>
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<b>1.</b>	<b>Meeting:</b>	<b>Performance and Scrutiny Overview Committee</b>
<b>2.</b>	<b>Date:</b>	<b>8<sup>th</sup> April, 2011</b>
<b>3.</b>	<b>Title:</b>	<b>Self Regulation and Improvement</b>
<b>4.</b>	<b>Directorate:</b>	<b>Commissioning, Policy &amp; Performance</b>

## 5. Summary

- 5.1 Despite the abolition of national performance and inspection frameworks such as Comprehensive Area Assessment (CAA) and Local Area Agreements (LAA) there is still an expectation from central government that Councils will take responsibility both collectively and individually to manage their performance, ensure improved outcomes for their local areas and deliver services with increased accountability and transparency.

The Local Government Group (LG Group) paper *'Taking the Lead: Self Regulation and Improvement in Local Government'* sets out an approach to meeting these expectations. This report summarises the content of the LG Group paper and makes recommendations for its proposals to be adopted and taken forward as a Council wide project led by the Performance and Quality Team.

## 6. Recommendations

- 6.1 That PSOC considers the information set out in this report.

## 7. Proposals and Details

- 7.1 During 2010 the Local Government Association consultation '*Freedom to Lead: Trust to Deliver*' set out proposals for a sector led approach to delivering public service improvements which was freed from the central controls, nationally imposed targets and inspection which had characterised previous national performance frameworks such as Comprehensive Performance Assessment (CPA) and the more recent Comprehensive Area Assessment (CAA). The consultation recognised that central controls had produced structures that were burdensome, costly and at times placed barriers against the innovation and creativity required to tailor services to meet the requirements and needs of local communities. The alternative proposed by the LGA was for a decentralised arrangement with responsibility for performance and service improvement devolved to local authorities but supported by a common set of shared principles and mutually agreed arrangements for challenge and service improvement.
- 7.2 Responses to the LGA consultation were largely supportive of its proposals which have subsequently been given increased weight following the Coalition Government's dismantling of the national performance frameworks for local authorities and the abolition of the Audit Commission. The outcome of the consultation, '*Taking the Lead: Self Regulation and Improvement in Local Government*' was published in February 2011 and sets out an approach to sector led self regulation which will come into effect from April 2011.
- 7.3 A theme repeated throughout '*Taking the Lead*' is that the proposals do not seek to re-create the burdensome statutory performance regimes of recent times. The Local Government Group (LG Group) does however expect that all councils will take necessary steps to ensure that they have arrangements in place to deliver improvement and greater accountability and be willing to support each other. The LG Group will in turn support local authorities via the provision of various tools, resources and arrangements which will enable self assessment, peer challenge, information sharing and so forth.
- 7.4 The Role of Individual Authorities:** The LG Group proposals set out a clear expectation that councils take responsibility for their own performance, responsibility for leading the delivery of improved outcomes for local people in their area and for making themselves more accountable to their local communities through greater transparency. The means by which this will be achieved will include ongoing consultation, encouraging resident feedback, collection, analysis and publication of performance information, sharing knowledge and good practice, participating in peer review arrangements, supporting and developing the role of members in the new environment and to make full use of scrutiny to challenge and improve both council services and those of their partners.
- 7.5 The Role of the Local Government Group:** The LG Group is made up of several organisations including the LGA and IDEA and functions as an integrated lobbying and improvement organisation for the local government sector. '*Taking the Lead*' sets out the means by which the group will support self regulation and improvement as follows:

- Local Accountability Tools – Development of web based, free of charge tools to enable Councils to work with local people, partners and communities to produce a shared assessment of current performance.
- Peer Challenge – LG Group is offering all councils one free of charge peer challenge over the three year period beginning April 2011. This will require a level of commitment from participating local authorities to provide high quality peers. Peer reviews may be tailored to suit local needs but will focus on corporate capacity and leadership. More subject specific peer challenge will be available but these will not be free of charge.
- Knowledge Hub – A free of charge web based tool to be fully operational by September 2011 that will enable sharing of information, knowledge, networking and collaboration.
- Data and Transparency – A free of charge area within the Knowledge Hub where councils may lodge and access data in particular to enable benchmarking. It is proposed that this is used to store data on a core of agreed metrics around cost efficiency and productivity, outcome and achievement and citizen satisfaction, but with the service offering the availability to go beyond these measures.
- Leadership Support – Ongoing development support for political and managerial leaders e.g. through the Leadership Academy and Leeds Castle programmes. The LG Group will continue to provide leadership support for political leaders and will be making available one subsidised place for every council for each of the next three years on one of the main programmes commissioned from the market.
- Learning and Support Networks – Ongoing support of officers and councillor networks at national and sub-national levels. LGG will seek to make use of these networks to inform its wider policy and lobbying role. .

**7.6 Local Government Group Improvement Programme Board:** Under LG Group proposals the Improvement Programme Board will maintain an overview of the performance of the local government sector. It will work with councils to find a 'light touch' method of gathering information and intelligence which it will use to monitor and identify trends including where things might be going wrong and identify circumstances where it might be appropriate to talk with and support local councils. The Improvement Programme Board will also meet with the remaining regulatory bodies and central government to provide reassurance that the sector is providing effective self regulation.

**7.7 Role of Audit and Inspection:** The LG Group recognises the continuing need for external audit of local authorities to ensure the integrity of public spending. There is, however, a general wish to ensure this does not eventually evolve into a full inspection regime. The group recognises that inspection should continue in some areas (e.g. safeguarding) but in the majority of areas peer challenge will be more appropriate

**7.8 Role of Central Government:** The LG Group requests that central government powers to intervene be used only as a last resort and that

government raises any initial concerns with individual councils and the Improvement Programme Board to ensure the sector is allowed to take responsibility for resolving issues wherever possible.

**7.9 Next Steps:** It is advised that all local authorities participate to some degree in the arrangements proposed by the LG Group in particular as a means of developing local improvement and accountability but also as a collective means of providing assurance to Central Government and of avoiding the return of burdensome inspection regimes and intervention. For Rotherham Council it is recommended that the following initial priorities should be taken forward by the Performance and Quality Team:

- Submit this paper to a joint Cabinet and SLT meeting and to a Performance Overview Scrutiny Committee (PSOC) for further discussion
- Raise general officer and member awareness of the LG Group 'offer' e.g. via Departmental Management Team meetings, M3 Manager Briefings and for councillors via the Member Development Panel
- Utilise the various LG Group improvement, self assessment and information tools as they become available
- Ensure local participation in data sharing systems such as the Knowledge Hub thereby contributing to the ongoing development of benchmarking information for the local government sector in the absence of any further Audit Commission quartile data.
- Investigate local capacity for providing high quality peers to deliver challenge to other councils.
- Explore the opportunity for a peer review for children's services as notified to the Minister when the authority came out of government intervention.

## 8. Finance

8.1 There are no financial issues related to this report.

## 9. Risks and Uncertainties

9.1 Local authorities seen to be opting out of the scheme may be more vulnerable to poor performance and, more importantly, poor reputation.

9.2 Current budgetary and resource pressures may impact on the extent to which the Council is able to contribute staff to Peer Challenges of other local authorities.

## 10. Policy and Performance Agenda Implications

10.1 The LG Group proposals provide a voluntary framework for local performance management and service improvement. Implementation at local level is a key priority the Performance and Quality Team.

**11. Background Papers and Consultation**

*Taking the Lead: Self Regulation and Improvement in Local Government,  
Local Government Group, February 2011*

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<b>ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS</b>
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<b>1.</b>	<b>Meeting:</b>	<b>PSOC</b>
<b>2.</b>	<b>Date:</b>	<b>8<sup>th</sup> April 2011</b>
<b>3.</b>	<b>Title:</b>	<b>Localism Bill</b>
<b>4.</b>	<b>Directorate:</b>	<b>Chief Executive's</b>

### **5. Summary**

The Localism Bill was introduced in the House of Commons on 13<sup>th</sup> December 2010 and is now in the Committee Stage. The Bill is made up of:

- 207 clauses
- 24 schedules
- 8 Parts (Part 7 only relevant to London)

The Bill takes forward the Government's stated commitment to devolve power to the lowest level, enabling communities to make decisions as part of the big society. Many provisions enable this by enabling communities to challenge public service providers and for the outsourcing of public services.

### **6. Recommendations**

**That PSOC:**

- a) **Receives the report and comment as appropriate.**
  - b) **Gives consideration to the policy implications across a range of services within the Council, and also in relation to the emerging review of Scrutiny and the Self Regulation agenda.**
  - c) **Receive further reports in due course on policy developments and implementation including relevant legislation.**
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## 7. Proposals and Details

The Localism Bill received its 1<sup>st</sup> reading on 13<sup>th</sup> December. It is a substantial Bill of 207 clauses and 24 Schedules. It is currently in the Committee Stage. The Bill started in the House of Commons.

This report gives an overview of the headline provisions most relevant to the Council. Some provisions relevant to Fire Authorities and London are not included. The report also includes in the “Policy and Performance Agenda Implications” section an assessment of the “community engagement” issues arising from the Council, especially where the approach taken by the Bill potentially contradicts the approach taken in Rotherham to date.

Many of the provisions provide amendments and repeals to other legislation meaning that these will need to be cross-referenced to the relevant Acts to enable a thorough assessment of the implications. This together with the diverse range of issues covered by the Bill will require further in depth analysis of the various components in further briefings as the Bill passes through parliament.

The overview of provisions is as follows:

### **General power of competence**

The Bill provides that the Council will have the power to do anything that individuals generally may do.

The Power relates to:

- Power to do it anywhere in the United Kingdom or elsewhere;
- Power to do it for a commercial purpose or otherwise for a charge, or without charge; and
- Power to do it for, or otherwise than for, the benefit of the Council, its area or persons resident or present in its area.

Limitations to the power include anything that is or will be expressly prohibited by other statutes.

Charges will be able to be made for services provided that:

- The service is not one that a statutory provision requires the Council to provide to any person;
- The person has agreed to its being provided; and
- Where otherwise the authority does not have power to charge for providing the service.

The general power is subject to a duty to secure that, taking one financial year with another, the income from charges does not exceed the costs of provision.

Where in exercise of the general power, the Council does things for a commercial purpose; the Council must do them through a company.



The Secretary of State may by Order make provision preventing the Council from doing, in exercise of the general power, anything which is specified, or is of a description specified, in the order.

The power will extend to parish councils where a parish council is “eligible” meeting conditions prescribed by the Secretary of State by Order.

### **Governance**

The Governance provisions are extensive. These include:

- Ceasing to operate executive arrangements or alternative arrangements; and
- Starting to operate executive arrangements or a committee system

The Secretary of State may by Order make such transitional, transitory or saving provision as the Secretary of State considers appropriate.

Schedule 2 to the Bill contains significant amendments to governance arrangements, including elected mayors and provisions for the Secretary of State to give directions to hold a referendum.

### **Predetermination**

These provisions deal with the previous requirements for members to be required not to have pre-determined a position before a decision is made.

The proposals provide that a decision maker is not to be taken to have, or to have appeared to have predetermined an issue just because the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter.

### **Standards**

The Bill contains a duty to promote and maintain high standards of conduct.

The Council may produce a Voluntary code of conduct, which must be approved by the full council and deal with any complaints regarding any breach of the code.

The Secretary of State may by Regulations make provision for or in connection with requiring the monitoring officer of a relevant authority to establish and maintain a register of interests of the members and co-opted members of the authority.

Offences under the regulations will be criminal offences that could lead to a maximum fine of level 5 and disqualification of up to five years.

### **Pay accountability**

The Council will be required to prepare a senior pay policy statement for the financial year 2012/13 and each subsequent financial year setting out the remuneration of its chief officers. A Council's senior pay policy statement must be approved by a resolution of the full Council.

The Council will be required to have regard to any Guidance issued or approved by the Secretary of State.

### **Repeal of duties relating to promotion of democracy**

Chapter 1 of Part 1 of the Local Democracy, Economic Development and Construction Act 2009 (duties relating to promotion of democracy) is repealed. These provisions had never commenced.

### **Repeal of provisions about petitions to local authorities**

Chapter 2 of Part 1 of the Local Democracy, Economic Development and Construction Act 2009 (petitions to local authorities) is repealed. The provisions relating to e-petitions only came into force on 15th December 2010.

### **Charges for waste services**

Schemes to encourage domestic waste reduction by payments and charges are repealed. These are the so called "bin taxes"

### **EU fines**

The Bill makes provision for the recovery of EU money.

This involves "EU financial sanctions" as lump sum or penalty payments (or both) imposed after by the Court of Justice of the European Union under Article 260 of the Treaty on the Functioning of the European Union.

A Minister of the Crown may require a local or public authority to make a payment of an amount determined by the Minister in respect of any EU financial sanction imposed on the United Kingdom.

The provisions include the requirements for warning notices; and EU financial sanction notices

### **Non-domestic rates**

The Bill makes several amendments to other legislation including:

- Ballot for imposition and certain variations of a business rate supplement making changes to the process of the ballot and information to be provided;
- Non-domestic rates: discretionary relief changes to the eligibility criteria for relief subject to having regard to any relevant guidance;
- Small business relief addressing maximum rateable value of hereditaments and other related matters; and
- Cancellation of liability to backdated non-domestic rates providing that the Secretary of State may by regulations provide that, in a prescribed case, the chargeable amount for a hereditament in England for a chargeable day is zero.

## Local referendums

A Council will be required to hold a referendum in accordance with duty set out in the Bill, subject to certain conditions. The conditions cover:

- That the Council receives a petition for a referendum that complies with “the required percentage” being 5%; or
- One or more members of the authority makes a request;

The Council would be able to provide a facility for making petitions under this section in electronic form to the authority.

The Council may determine that it is appropriate to hold a local referendum; or decline on grounds of:

- The Council 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;
- The Council thinks that the matter to which the referendum question relates is not a local matter;
- That the referendum question relates to a matter specified by order by the Secretary of State; or
- The Council thinks the petition or request is vexatious or abusive.

If the determination is that it is appropriate to hold the referendum, the Council will be required to make arrangements for the referendum to take place.

It will be for the Council to decide the question to be asked in the local referendum and date for holding the referendum.

If the question to be asked in the referendum relates to a matter over which a partner authority has an influence, the Council would be required to inform the partner authority of the matters listed in subsection

The persons entitled to vote in a local referendum held by a principal local authority are those who, on the day of the referendum:

- Would be entitled to vote as electors at an election for members for an electoral area which is situated in the area in which the referendum is to be held (“the referendum area”); and
- Are registered in the register of local government electors at an address within the referendum area.

The Secretary of State may by regulations make provision as to the conduct of local referendums.

As soon as is reasonably practicable after the result is known, the Council would be required to consider what steps (if any) the authority proposes to take to give effect to the result, and if the Council decided to take no steps to give effect to the result, it must publish that decision in such manner as it thinks appropriate together with the reasons for that decision.

The Secretary of State may by regulations make provision about the holding of polls or referendums by parish councils.

## **Council tax**

The Bill makes provisions for the calculation of a level of Council Tax increase by the Secretary of State, where if the Council wished to increase Council Tax by more than this amount, a referendum would have to be held to approve the proposed increase or default to the level indicated in the Secretary of State's calculation.

The Bill also makes provisions for major precepting authorities.

## **Community right to challenge**

The Council would be required to consider an expression of interest in providing or assisting in providing a relevant service on behalf of the authority functions, other than a service of a kind specified in regulations made by the Secretary of State.

An expression of interest could be submitted by:

- A voluntary or community body;
- A body of persons or a trust which is established for charitable purposes only;
- A parish council;
- Two or more employees of the Council; or
- Such other person or body as may be specified by the Secretary of State by Regulations.

Whilst an expression of interest may be submitted at any time, the Council would be able to specify periods during which expressions of interest, or expressions of interest in respect of a particular relevant service, may be submitted to the Council.

If the Council accepted the expression of interest it must then carry out a procurement exercise relating to the provision on behalf of the authority of the relevant service to which the expression of interest relates.

The Council would be required in considering an expression of interest, to consider whether acceptance of the expression of interest would promote or improve the social, economic or environmental well-being of the authority's area.

## **Assets of community value**

The Council will be required to maintain a list of land in its area that is land of community value.

Where land is included in the Council's list of assets of community value, the entry for that land is to be removed from the list with effect from the end of the period of 5 years beginning with the date of that entry

For the purposes of the Bill, whether or not a building or other land is land of community value is to be determined in accordance with Regulations made by the appropriate authority.

Regulations under subsection may, in particular:

- Provide that a building or other land is land of community value, or that a building or other land is not land of community value, if the building or other

land is specified in the regulations or is of a description specified in the regulations;

- Provide that a building or other land in a the Council's area is land of community value, or that a building or other land in a local authority's area is not land of community value, if the Council or some other person specified in the regulations considers that the building or other land is of a description specified in the regulations;
- Make provision as to matters that are, or as to matters that are not, to be taken into account by the Council or other person when deciding whether land is of community value.

In relation to any land, those matters include;

- The owner of any estate or interest in any of the land or in other land;
- Any occupier of any of the land or of other land;
- The nature of any estate or interest in any of the land or in other land;
- Any use to which any of the land or other land has been, is being or could be put;
- Statutory provisions, or things done under statutory provisions.

Land in a local authority's area which is of community value may be included by a local authority in its list of assets of community value in response to a community nomination, or where permitted by Regulations made by the appropriate authority.

The owner of land included in the Council's list of assets of community value will be able to ask the Council to review the authority's decision to include the land in the list.

An owner of land included in the Council's list of assets of community value will not be able to enter into a disposal of the land unless each of conditions are met:

- That the owner has notified the local authority in writing of the owner's wish to enter into a relevant disposal of the land;
- That the interim moratorium period has ended without the local authority or the owner having received during that period, from any community interest group, a written request for the group to be treated as a potential bidder in relation to the land;
- That the full moratorium period has ended; and
- That the protected period has not ended.

### **Plans and strategies**

There are extensive proposed changes to planning. These are best summarised as follows:

The requirement for Regional Strategies is repealed and all Regional Strategies will be revoked.

Proposals for local plans include changing role of the Planning Inspectorate to assessing local plans at a public examination. However, the Council will only be able

to adopt plans judged as satisfying requirements by the inspector. The monitoring of plans is also included.

### **Community infrastructure levy**

The provisions for Community Infrastructure Levy (CIL) are amended to include:

- A charging authority must use appropriate available evidence to inform the charging authority's preparation of a charging schedule;
- Arrangements for examination of a charging schedule; and
- CIL Regulations may require that CIL received in respect of development of land in an area is to be passed by the charging authority that charged the CIL to a person other than that authority.

CIL Regulations would provide for, in relation to CIL passed to a person in discharge of a duty make provision about the use of and accounting for the CIL.

### **Neighbourhood planning**

Any qualifying body will be entitled to initiate a process for the purpose of requiring a local planning authority in England to make a neighbourhood development order.

A "qualifying body" means a parish council, or an organisation or body designated as a neighbourhood forum, authorised for the purposes of a neighbourhood development order to act in relation to a neighbourhood area as a result of section

The Secretary of State may with the consent of the Treasury make regulations providing for the imposition of charges for the purpose of meeting expenses incurred (or expected to be incurred) by local planning authorities in, or in connection with, the exercise of their neighbourhood planning functions.

The Secretary of State will also have the ability to provide financial assistance, or make arrangements for the provision of financial assistance, to any body or other person for:

- The purpose of publicising or promoting the making of neighbourhood development orders or neighbourhood development plans and the benefits expected to arise from their making, or
- The purpose of assisting anyone to make proposals for such orders or plans or to do anything else for the purposes of, or in connection with, such proposal or such orders or plans.

### **Consultation**

There is to be a requirement to carry out pre-application consultation where a person proposes to make an application for planning permission for the development of any land in England, and the proposed development is of a description specified in a development order.

The applicant will be required to publicise the proposed application in such manner as the person reasonably considers is likely to bring the proposed application to the

attention of a majority of the persons who live at, or otherwise occupy, premises in the vicinity of the land.

### **Retrospective planning permission**

A Council will be able to decline to determine an application for planning permission for the development of any land if granting planning permission for the development would involve granting, whether in relation to the whole or any part of the land to which an enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control.”

Provisions also include:

- Time limits for enforcing concealed breaches of planning control and enforcement procedures; and
- Remedying persistent problems with unauthorised advertisements

### **Nationally significant infrastructure projects**

The Infrastructure Planning Commission is to be abolished and the property, rights and liabilities will vest in the Secretary of State.

### **Allocation and homelessness**

The Council shall not be able to allocate housing accommodation to:

- Anyone from abroad who is ineligible for an allocation of housing accommodation by virtue of the provisions of the Bill, or
- Two or more persons jointly if any of them is a person mentioned above; or
- Anyone subject to immigration control within the meaning of the Asylum and Immigration Act 1996 is ineligible for an allocation of housing accommodation by a local housing authority in England unless he is of a class prescribed by regulations made by the Secretary of State.

The Council will be required to have an “allocation scheme” for determining priorities, and as to the procedure to be followed, in allocating housing accommodation. This is to include all aspects of the allocation process, including the persons or descriptions of persons by whom decisions are taken.

The scheme will be required to include a statement of the authority’s policy on offering people who are to be allocated housing accommodation:

- A choice of housing accommodation; or
- The opportunity to express preferences about the housing accommodation to be allocated to them.

### **Social housing: tenure reform**

A Council will be required to prepare and publish a “tenancy strategy” setting out the matters to which the registered providers of social housing in its district are to have regard in formulating policies relating to:

- The kinds of tenancies they grant;
- The circumstances in which they will grant a tenancy of a particular kind,

- Where they grant tenancies for a term certain, the lengths of the terms; and
- The circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.

There are also provisions in relation to flexible tenancies, tenancy transfers and succession to secure tenancies.

### **Housing finance**

Proposed reforms to Housing finance include the establishment of local Housing Revenue Accounts and the abolition of the Housing Subsidy system. There is proposed to be a one off settlement to deal with capital debt. The Council would, in future then fund its own HRA and associated investments through income derived from rents.

### **Housing mobility**

The Bill provides for the Secretary of State to make arrangements for a national tenant exchange scheme.

The Bill also provides for a type of mutual exchange where the landlords are different providers.

### **Regulation of social housing**

Transfer of functions from the Office for Tenants and Social Landlords to the Homes and Communities Agency.

### **Commencement**

Most provisions are to come into force on a date to be determined by the Secretary of State, with some provisions intended to commence two months after the passing of the Act. The Act is expected to receive Royal Assent around December 2011. Many provisions would in effect commence from April / May 2012.

## **8. Finance**

There will be financial implications arising from the proposals in the Bill. The most critical is likely to be the proposed arrangements for any increase in Council Tax. In effect, it will be the Secretary of State that determines what the maximum increase will be, unless the Council were prepared to hold a referendum on an alternative amount.

There could also be considerable costs if the Council were required to undertake several procurement exercises in accordance with the provisions under "Community right to challenge".



## **9. Risks and Uncertainties**

Whilst the Bill sets out detail in respect of many of the provisions, it also contains 142 so called “Henry VIII” powers, where the legislation gives the Secretary of State new powers to determine the detail, and to make changes to the detail. This creates an uncertain environment for commencement of the provisions and future implementation.

## **10. Policy and Performance Agenda Implications**

The Government’s policy direction is driven by its statements about the “Big Society”, pushing powers to communities and doing away with big government. This is reinforced by the Government’s statement on public service reform, setting out the objective for non-public providers to run schools, hospitals and council services such as maintaining parks, adult care, special schools and roads maintenance.

There are many policy implications arising for the Council. In relation to community engagement, Part 4 “Community Empowerment” and Part 5 “Planning” are most relevant. There are also housing implications, the detail of which will be set out in draft Directions to be published for consultation later in the year.

The most significant policy shift is a move away from a co-operative approach of partnership working, to an adversarial one of challenge. In fact the word “partnerships” only appears once in the Bill, and that’s in relation to levying land development charges.

Whilst the Bill will not directly prevent the nature of partnership working taken forward by the Council over many years, it could create a dilemma where organisations that the Council is seeking to have a co-operative relationship with choose to take the approach of challenge. Members will need to consider a policy response to this. These provisions in the Bill will create the same issues for the relationship with any community forums and neighbourhood working and in relation to parish councils.

There is the possibility that the “Community right to challenge” will come to nothing in practice, or certainly as it relates to community organisations bidding for services. In practice, should a challenge be received, it will be difficult for most community organisation to participate in the legalities of the procurement process, probably leading to a private sector body winning the contract.

The approach to “Assets of community value”, as set out in the Bill assumes that community groups will have access to the finances to buy any of the listed assets (assuming that the owner is selling as well), and the finances to operate the facility, as it is assumed that this is about moving away from public subsidy. However, members will need to consider how these provisions in the Bill sit alongside the Council’s approach to community control and ownership of assets and associated service provision.

The provision about referendums sets out thresholds for the calling of a referendum and the procedures to be followed. These, with the exception of a referendum on a

Council Tax increase, will be triggered by a petition containing the requisite number of signatures. In contrast to this, the requirement for the Council to handle petitions, introduced by the Local Democracy, Economic Development and Construction Act 2009 (c. 20) will be repealed by the Bill, along with the “duty to promote democracy” albeit that the later has never been brought into effect. The Council has fully implemented the petitions provision, including amendments to the Council’s constitution. In light of this, members will need to consider how the changes included in the Bill should impact on how the Council handles petitions.

The community engagement policy implications arising from the planning provisions could be considerable. At this stage EDS identify the following:

- A new relationship between the Council and the community for the purposes of both Planning Policy and Development Management, ie at what level are decisions made on planning applications;
- An extra role for the Council in supporting neighbourhood planning including implications of this and what resources may be required;
- Progressing the LDF Core Strategy to adoption in order to provide a strategic framework for the distribution of new development in the long term;
- The Community Right to Build will give local communities the power to take forward development in their area without the need to apply for planning permission; and
- Changes to the Community Infrastructure Levy: regulations will require some of these funds to be passed to neighbourhoods where the development has taken place.

Much of the detail around these issues will be set out in Regulations and there remains a significant degree of uncertainty. Notwithstanding this members will need to give consideration to the Council’s policy direction, especially around neighbourhood planning, the role of community forums; area assemblies; and parish councils.

Given the wide range of policy implications arising from the Bill, a series of action have been put in place to ensure a “one council” approach. These include:

- Set up a project steering group made up of officers from Policy, Community Engagement, Planning, Housing, Procurement and Neighbourhoods;
- Running members seminars to raise awareness of Bill and what it means for them through Members Development Programme;
- Currently establishing where we are at against the requirements of the Bill and any gaps;
- Intention to bring a report/action plan to SLT and Cabinet in May/June; and
- Will be running workshops for the Parish Council Network and the VCS in future, so you all know what impact it will have on you and your organisations

## **11. Background Papers and Consultation**

Localism Bill as introduced in the House of Commons on 13<sup>th</sup> December 2010.

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**PERFORMANCE AND SCRUTINY OVERVIEW COMMITTEE**  
**Friday, 25th March, 2011**

Present:- Councillor Whelbourn (in the Chair); Councillors Austen, Gilding, J. Hamilton, Jack, License, Steele, Swift and Whysall.

Apologies for absence were received from The Mayor (Councillor McNeely) and Councillors G. A. Russell and P. A. Russell.

**148.       DECLARATIONS OF INTEREST**

There were no declarations of interest made at this meeting.

**149.       QUESTIONS FROM MEMBERS OF THE PUBLIC AND THE PRESS**

There were no questions from members of the public or the press.

**150.       THE ROLE AND FUNCTIONS OF OVERVIEW AND SCRUTINY IN  
ROTHERHAM - FUTURE ARRANGEMENTS**

Further to Minute No. 144 of the meeting of this Committee held on 11<sup>th</sup> March, 2011, Councillor Whelbourn introduced and Caroline Webb, Senior Scrutiny Adviser, presented the submitted report which set out the findings and recommendations of the scrutiny review into the role and function of overview and scrutiny in Rotherham and its future arrangements.

Highlighted were the background to, and rationale for, the review, membership, scope, key findings and recommendations, issues emerging from the review and a different way of working. The full report of the scrutiny review group was submitted.

Discussion and a question and answer session ensued focusing on the review recommendations and the following issues were covered:-

- need for, and frequency of, regular meetings between overview and scrutiny chairs and Cabinet
- value in scrutiny chairs attending cabinet member meetings and cabinet members attending scrutiny meetings unless specifically invited for a particular item
- perception amongst some elected members that the present governance arrangements of a cabinet system was non democratic and not as inclusive for members as the old 'committee' system
- need to develop clear work programmes
- citizenship sessions and need for elected members to inform partners/public about the role of a councillor/scrutiny
- need for a co-ordinated role and work programme regarding children and young people's services

- responsibility for scrutinising the crime and disorder function
- membership and commissioning role of the proposed overview and scrutiny management board
- optimum number of scrutiny panels
- whether or not a panel needed to be dedicated exclusively to children and young people's issues
- proposed scrutiny panels not to be aligned to directorates
- involvement of statutory co-optees
- extent of review work
- titles of the scrutiny meetings going forward

Resolved:- (1) That, as far as this Committee is concerned, approval be given to the proposal to establish an Overview and Scrutiny Management Board to lead and manage the overview and scrutiny function, coordinate its workload and commission pieces of work. Underpinning this Board, four select commissions with the following remit:-

- A select commission focusing on self regulation, value for money and budget transparency
- A health scrutiny select commission
- Improving Lives select commission focusing on children and young people and the wider 'Think Family' agenda
- Improving Places select commission focusing on wider environmental/regeneration issues

(2) That the select commissions meet on a six weekly basis.

(3) That, along with the views now discussed, the review, together with the findings and recommendations, be supported.

(4) That the review and its recommendations be forwarded to Cabinet for consideration and response within two months.

#### **151. MINUTES OF THE PREVIOUS MEETING HELD ON 11TH MARCH, 2011**

Resolved:- That the minutes of the meeting held on 11<sup>th</sup> March, 2011 be approved as a correct record for signature by the Chairman.

#### **152. WORK IN PROGRESS**

Members of the Committee reported as follows:-

- (a) Councillor Jack reported that meetings took place last week of the

Domestic Abuse Forum and also the Women's Strategy Group who received a presentation from Mana Kaur – GROW Project. A meeting with NHS Rotherham to discuss keeping warm in later life was taking place later today.

- (b) Councillor Whysall reported that the severe weather review was almost complete and the next review to be undertaken by the Regeneration Scrutiny Panel related to pedestrian crossings.
- (c) Councillor Austen reported that the next meeting of the Democratic Renewal Scrutiny Panel was scheduled for 21<sup>st</sup> April, 2011.
- (d) Councillor License reported that the latest meeting of the Children and Young People's Services Scrutiny Panel had considered:
  - restructuring of children's centres
  - first annual report from the Safeguarding Board.

### **153. CALL-IN ISSUES**

There were no formal call-in requests.