

SLOUGH BOROUGH COUNCIL

REPORT TO: Overview and Scrutiny Committee **DATE:** 15 November 2011

CONTACT OFFICER: Tracy Luck, Head of Policy and Communications
(For all enquiries) (01753) 875518

WARD(S): All

PART I **FOR COMMENT AND CONSIDERATION**

LOCALISM BILL

1 Purpose of Report

1.1 The purpose of the report is to provide Members with an update on the progress of the Localism Bill, give an overview of the wide ranging provisions contained in the latest draft of the Bill, and to summarise key aspects of the Localism Bill and their implications for Slough Borough Council.

1.2 It should be noted that in several areas, the practical detail on how the Government's proposals are intended to work is missing or still awaited. This is required urgently so that the Council can fully assess the impact of the Government's proposals and plan ahead.

2 Recommendation/Proposed Action

2.1 To note the report and the appendices setting out the implications for the Council of the Localism Bill, the actions taken so far, and the lead officers that will be responsible for implementing the legislation; and to invite members to give their views to help inform future development of the Council's approach to localism.

3 Community Strategy Priorities

3.1 The SCS sets out the strategic objectives and priorities for the borough for the period 2008 – 2028. These are reflected in the Strategic Plan 2009 – 2011 and other key strategies, policies and plans produced by the Council. It therefore supports and contributes to the delivery of the following priorities:

- **Celebrating Diversity, Enabling inclusion**
- **Adding years to Life and Life to years**
- **Being Safe, Feeling Safe**
- **A Cleaner, Greener place to live, Work and Play**
- **Prosperity for All**

3.2 The Localism Bill gives new powers and duties to local authorities and new freedoms and rights to local people to run their lives and neighbourhoods in their own way. This does not mean that the Council need re-visit its corporate objectives but it will mean

that the Council will have to consider, for example, how it engages with local communities and local groups in the future and the impact on service delivery.

4 **Other Implications**

- a) **Financial** – None arising from this report. A number of the provisions of the Localism Bill could have significant financial implications for the Council and for the Medium Term Financial Strategy (MTFS). More detail on the resource implications for the Council of implementing the provisions of the Localism Bill will be identified and advised to Cabinet when the Bill is enacted.
- b) **Risk Management** – The purpose of the report is to help ensure that the necessary action is being taken to prepare the Council for the implementation of the Localism Bill when it becomes law. The risk to the Council in not keeping up to date on the progress of the Localism Bill is that the Council may fail to properly implement the provisions of the Bill when it is enacted.
- c) **Human Rights Act and Other Legal Implications** – these implications are set out in appendix B and will be clarified when the Bill is enacted.
- d) **Equalities Impact Assessment** – the equalities implications of any changes required as a result of the Bill enacted will be reported as they are assessed.
- e) **Workforce** – there are no immediate implications but these may arise at a later stage.

5 **Supporting Information**

Background

5.1 The Decentralisation and Localism Bill (which has become known as the Localism Bill) was published on 13th December 2010. The original version of the Bill was subject to a whole series of separate consultation exercises, as a result of which a new draft of the Localism Bill was released on 24 May 2011. A 3rd Reading of the Bill in the House of Lords (i.e. the final chance for the Lords to change the Bill) took place on 31 October 2011. The next event in the Bill's timetable is for the House of Commons to consider the amendments suggested by the House of Lords on 7 November 2011.

5.2 The expectation is that the Bill will become law by December 2011, with an anticipated expected implementation date of April 2012. Those parts of the Bill requiring guidance or secondary legislation will follow later in 2012 or 2013. Some parts of the Bill will not therefore become law for at least two years.

6 **Proposals and Details**

6.1 The Coalition Government's stated aim for the Bill is to free local authorities from central government controls and give local people the freedom to run their lives and neighbourhoods in their own way. The reforms contained in the Bill cover four broad areas:

- strengthening local democracy
- community empowerment

- reform of the planning system; and
- social housing reform

6.2 The Bill includes six essential actions which underpin the key elements of decentralisation within the Bill. The first two actions are the most fundamental - given that the Coalition Government's argument that decentralisation will not get started without them. They are:

- Lifting the burden of bureaucracy by removing the costly control of unnecessary red tape and regulation which restricts local action; and
- empowering communities to do things their own way – by creating rights for people to get involved with and direct the development of their communities.

6.3 The next two actions provide the resource and freedom of choice needed to sustain progress of decentralisation and include:

- Increasing local control of public finance so that decisions over how local money is spent and raised are increased and taken within local communities; and
- diversifying the supply of public services by ending public sector monopolies, ensuring a level playing field for all suppliers and giving people more choice and a better standard of service.

6.4 The final two actions enable people to take control of the process of decentralisation and include:

- Opening up government to public scrutiny, by releasing government information into the public domain ; and
- Strengthening the accountability to local people by giving every citizen the power to change the services provided to them through participatory choice or the ballot box.

7 Key areas of the Bill for Councils

7.1 The key provisions relating to Councils include:

- giving Councils a general power of competence
- allowing Councils to choose to return to the committee system of governance and allowing for referendums for elected mayors in certain authorities
- abolishing the Standards Board regime and the model code of conduct, and introducing local accountability and a criminal offence of deliberate failure to declare a personal interest in a matter
- giving residents the power to instigate local referendums on any local issue and the power to veto excessive council tax increases
- allowing Councils more discretion over business rate relief
- providing new powers to help save local facilities and services threatened with closure, and giving voluntary and community groups the right to challenge local authorities over their services.

7.2 The housing provisions include:

- abolishing the requirement to have a Home Improvement Pack

- reforming the Housing Revenue Account system
- providing for a new form of flexible tenure for social housing tenants
- allowing local authorities to discharge their duties to homeless people by using private rented accommodation
- giving local authorities the power to limit who can apply for social housing within their areas
- abolishing the Tenant Services Authority and provides for a transfer of functions to the Homes and Communities Agency
- amending the way in which a social tenant can make a complaint about their landlord
- improving the ability of social tenants to move to different areas.

7.3 The planning and regeneration provisions include:

- abolishing Regional Spatial Strategies
- abolishing the Infrastructure Planning Commission and return to a position where the Secretary of State takes the final decision on major infrastructure proposals of national importance
- amending the Community Infrastructure Levy, which allows Councils to charge developers to pay for infrastructure
- providing for neighbourhood plans, which would be approved if they received 50% of the votes cast in a referendum
- providing for neighbourhood development orders to allow communities to approve development without requiring normal planning consent
- giving new housing and regeneration powers to the Greater London Authority, while abolishing the London Development Agency

7.4 The key aspects of the Bill in so far as they have been identified as having implications for the Council and the actions currently being taken by lead officers to prepare for them are set out in Appendix B.

8 **Appendices**

Appendix A – Structure of the Localism Bill

Appendix B - Key elements of the Localism Bill

9 **Background Papers**

- a) Localism Bill
- b) Decentralisation and the Localism Bill: an essential guide
- c) A plain English guide to the Localism Bill
- d) Community-led Regeneration: A guide
- e) Proposals to introduce a Community Right to Challenge
- f) Proposals to introduce a Community Right to Buy – Assets of Community Value
- g) Pre-application Consultation with Communities: A basic guide
- h) Consultation on the Fair Deal Policy: Treatment of pensions on compulsory transfer of staff from the public sector
- i) Consultation on Neighbourhood Planning Regulations

APPENDIX A – STRUCTURE OF THE LOCALISM BILL

Part	Heading	Provisions with direct relevance the Council
1	Local Government	General Power of Competence
		Governance
		Mayoral arrangements
		Predetermination
		Local Government Standards
		Local Government Pay and Remuneration
		Transparency
		Repeals and other key clauses
2	EU fines	EU fines
3	Non domestic rates etc	Non domestic rates
		Tax Increment Financing and Capital Investment
		Local Financial Autonomy
4	Community Empowerment	Local Referendum
		Local Council Tax Referendum
		Assets of community value
		Community right to challenge
5	Planning	Abolish Regional Strategies
		Duty to Cooperate
		Abolish Regional Strategies
		Duty to Cooperate
		Local Development Schemes
		Changes to Community Infrastructure Levy (CIL)
		Neighbourhood plans
		Community Development Orders Community Right to Build
		Pre-application Consultation
		Enforcement
		Allocations reform
		Nationally significant infrastructure
6	Housing	Reform of Homelessness Legislation
		Social Housing Tenure Reform
		Reform of Council Housing Finance
		Reform of Social Housing Regulation
		National House Swap Scheme
		Facilitating moves out of the Social Rented Sector
		Home Information Packs (HIPS)
7	London	n/a
8	General	n/a

APPENDIX B - KEY RELEVANT ELEMENTS OF THE BILL (not all sections are listed)

Heading	Issue	Content	Action by SBC
Local government (powers and governance)	General Power of Competence	The Bill introduces a general power of competence. This will allow Councils to do anything that is not specifically forbidden by law (as opposed to the current system that only allows councillors to do things specifically allowed by law) - although the doctrine of 'ultra vires' has not been removed. The legislation is also set to appeal the <i>well being powers</i> defined through the Local Government Bill 2000. Councils previously relied on undertaking many activities beyond their usual scope through these powers.	Implications to be considered – awaiting further details following amendments suggested by the HoL's
Local government (powers and governance)	Governance	This section specifies the forms of governance a local authority can operate. It includes powers to allow Councils to return to the 'committee system' should it wish to, discharge functions through area committees, maintain executive functions or another prescribed arrangement agreed by the secretary of state and develop overview and scrutiny functions within them, with a designated 'scrutiny officer'. One of the following three forms of governance arrangements will be allowed: <ul style="list-style-type: none"> ○ Executive Arrangements – either Leader, Cabinet and Scrutiny or Executive Mayor, Cabinet and Scrutiny; ○ Committee system – either with or without a scrutiny element ○ Another arrangement proposed by the local authority and approved by the Secretary of State. This means that Authorities operating Executive arrangements (either Leader and Cabinet or Executive Mayor and Cabinet) must continue to have at least one scrutiny committee. Authorities operating a committee system may have one or more scrutiny committees.	Implications to be considered – awaiting further details following amendments suggested by the HoL's
Local government (powers and governance)	Mayors	This part of the Bill also allows for the creation of new mayoral management arrangements by providing for the opportunity of directly elected mayors, with options for who can be the directly elected mayor and transferring functions to them.	Implications to be considered – awaiting further details following amendments suggested by the HoL's
Local government (powers and governance)	Local Government Standards	There will be a new duty on the Council to promote and maintain high standards of conduct for elected members and co-opted members. Measures will be introduced to abolish the need for a statutory standards committee and abolish the Standards Board for England (which regulates local authority Standards committees). Authorities will be able to use voluntary codes of conduct and consider whether to investigate written allegations of breaches of their codes and what action to take.	Implications to be considered – awaiting further details following amendments suggested by the HoL's
Local government (powers and governance)	Local Government Pay and Remuneration	Under this part of the Bill, Councils will be expected to provide the public with information on senior officers' contracts and salaries and Councils spending over £500, allowances and expenses.	Implications to be considered – awaiting further details following amendments suggested by the HoL's
Local government (powers and governance)	Transparency	Under this part of the Bill, Councils will be expected to provide the public with information on job vacancies, organisational information, performance data and minutes of Council meetings etc. It also contains provisions on Council publicity and Council newspapers.	Implications to be considered – awaiting further details following amendments suggested by the HoL's

Local government (powers and governance)	Repeals and other key clauses	The Bill will repeal of the duty to respond to petitions and the duty to promote democracy. This will mean that the Council will no longer have to comply with a scheme for handling petitions and to provide a facility for making petitions available in electronic form. It will also no longer be required to make information available on the role of the Council, Councillors, and how people can get involved.	Implications to be considered – awaiting further details following amendments suggested by the HoL's
Non domestic rates	Tax Increment Financing and Capital Investment	This provision will allow local authorities to capture the increase in income from business rates that would flow from infrastructure investment and borrow against this future income. The additional revenue generated will then be used to pay back the loan. This is a freedom under the prudential borrowing code. Potentially this could ensure that much needed investment to local infrastructure and therefore corresponding improvements to local areas	Berkshire Treasurers are reviewing and Berkshire Economic Development officers are contributing to a Government consultation which ended on 24 October 2011
Non domestic rates	Local Financial Autonomy	This area of the Bill centres on the proposals on business rates and specifically to give greater financial autonomy to local government and communities groups. Councils will be given the power to set local discounts on business rates, provided they are funded locally. Supplementary business rates can be introduced but only when agreed on by the business community. Business rate discounts will be a helpful tool for local authorities as they seek to encourage new business enterprise in their communities.	
Community Empowerment	Local Referendums	There will be a new duty on the Council to hold a local referendum if certain conditions are met. The Council must hold a referendum if it receives a petition signed by 5% of the electors and relates to a local matter (defined in legislation). Although the results of the referendum are non binding, and can relate to issues outside of the Council's direct control, the Council must take the outcomes into account in decision making.	Implications to be considered – awaiting further details following amendments suggested by the HoL's
Community Empowerment	Council Tax Referendum	The Secretary of State will set the principles for excessive Council tax. The billing authority will be required to hold a referendum on the Council tax requirement if it is determined excessive. This will give the public the power to approve or veto excessive Council tax rises, rather than the Government deciding through capping action.	Implications to be considered – awaiting further details following amendments suggested by the HoL's
Community Empowerment	Community right to challenge	This will give voluntary and community groups, social enterprises and employees of a relevant authority the right to bid to take over local state run services where they feel that it could be run better. This will mean that residents can demand the right to provide a service for lower costs or save a service that the Council is seeking to discontinue. The Council must consider and respond to this challenge. The challenge may trigger a procurement exercise for that service, which the challenging organisation could then bid in, alongside others.	SLT has been reviewing and exploring the risks and opportunities associated with these provisions in readiness for when the legislation comes into force
Community Empowerment	Community right to buy	The Council will be required to maintain and publish a list of public or private assets of community value put forward for consideration by communities. When listed assets come up for disposal (either the freehold or a long leasehold), communities will be given the chance to develop a bid and raise the capital to buy the asset when it comes on the open market. This will help communities save sites which are important to the community, such as pubs or libraries, before they disappear or are sold off to developers.	Implications to be considered – awaiting further details following amendments suggested by the HoL's
Planning	Duty to Cooperate	There will be a new duty on the Council and other public bodies to cooperate with key partners and each other over the development of planning proposals, so that the interests of	There already is a requirement to consult neighbouring authorities when

		<p>surrounding areas are properly taken into account. This will be subject to government guidance and will be a key element of the government's proposals for strategic working, once Regional Strategies are abolished.</p> <p>The abolition of the Regional Plans means that there is no longer any formal requirement for any plan making above individual Local Authority areas. The Governments proposed Duty to cooperate is therefore being introduced in recognition of the fact that there will still be a number of "larger than local" planning issues that will need to be addressed. The Duty to cooperate relates to the preparation of Development Plan documents and other local development documents, and "other activities that support the planning of development". It covers local planning authorities and "other prescribed bodies or persons" and requires them to "engage constructively, actively and on an ongoing basis" in these activities. In particular, this includes a requirement to give a substantive response to consultations or other requests to assist in the undertaking of these activities.</p> <p>The revocation of regional strategies is part of the Government's policy for a more localist planning system. This is supported by the proposed duty for public bodies to cooperate. Local authorities will be expected to demonstrate evidence of having successfully cooperated to plan for issues with cross-boundary impacts when their local plans are submitted for examination.</p>	<p>producing plans/core strategies etc but in practice this is not something that has happened very much.</p> <p>The main implication to be drawn from this provision is that we will have to be much more proactive in getting involved in the plans of adjoining authorities, particularly where Councils may need to seek to reduce the amount of development proposed. Possible opportunities for future collaboration include Windsor and Maidenhead's new Local Plan and West Berkshire's Minerals and Waste plan - both of which could have serious implications for the Council. Both of these Authorities will have a Duty to Co-operate with us and we will have to make sure that we take advantage of this in order to try to protect our interests.</p>
Planning	Local Development Schemes	<p>The Bill will give the Council and communities greater choice and control by removing the ability of the Planning Inspectorate to re-write local plans and by removing the procedures on timetabling and monitoring, which many authorities have found bureaucratic. The Bill includes a number of changes to the process of preparing development plans. The public examination stage is amended and the duty to prepare an Annual Monitoring Report is removed. Inspectors will continue to assess plans, and Councils will only be able to adopt the plan if it is judged to be sound, but Councils will be able to suggest changes during the inquiry, and inspectors will only be able to suggest changes at the request of the Council.</p>	<p>Implications to be considered – awaiting further details following amendments suggested by the HoL's</p>
Planning	Changes to Community Infrastructure Levy (CIL)	<p>The Community Infrastructure Levy will allow local authorities to set charges which developers must pay when bringing forward new development in order to contribute to new infrastructure. This will replace Section 106.</p>	<p>Implications to be considered – awaiting further details following amendments suggested by the HoL's</p>
Planning	Neighbourhood plans	<p>The Localism Bill introduces a number of new ways in which planning can be carried out by local people to help shape their local areas, and if they wish, introduce an order that would permit specified development without the need for planning permission. This includes the preparation of Neighbourhood Plans, Neighbourhood Development Orders (NDO) and Community Right to Buy Orders (see below).</p> <p>These proposals are intended to allow whole communities to come together through a local parish council or neighbourhood forum and plan for where they think new houses, businesses</p>	<p>There has been no indication so far that there is any interest in Slough from Parish Councils or local groups to get involved in neighbourhood planning, but this has yet to be tested. Whilst a Neighbourhood Plan could be used to 'add local colour' to the Council's development control policies, the main</p>

		and shops should go – and what they should look like. The main requirements of these plans are that they should comply with the strategic policies in the Core Strategy, be subject to an independent examination and then be approved by a majority of residents in a referendum.	<p>disincentive is that they will have to deliver more development than that set out in the Core Strategy. It may be unlikely that local residents would want to be seen as promoting growth and there is doubt as to whether this would be approved in a referendum.</p> <p>There may also not be interest in a Neighbourhood Development Order. We already have a Simplified Planning Zone (SPZ) for Slough Trading Estate which has the same effect. It is possible that businesses with an interest in promoting changes within a shopping centre or an industrial area might want produce a Neighbourhood Development Order.</p>
Planning	Community Development Orders Community Right to Build	Community Right to Build Orders will give groups of local people the power to build new homes, businesses, shops, playgrounds or meeting halls. A community organisation will be able to bring forward development proposals which, providing they meet minimum criteria and can demonstrate local support through a referendum, will be able to go ahead without requiring a separate traditional planning application.	<p>This proposal is only likely to be used where there is little prospect of local people getting planning permission in the normal way. In this respect the main advantage is that it could be used to overcome Green Belt policy.</p> <p>One scenario where the Community Right to Build might be used in Slough is where there is local support for a religious building which might not otherwise get planning permission because of the impact that it may have.</p>
Housing	Allocations reform	Local authorities will be given the freedom to determine who should qualify to go on the housing waiting list. As social housing is in great demand and priority is given to those most in need, many applicants have no realistic prospect of ever receiving a social home. This measure will allow the Council to set waiting list policies that are appropriate to the local area.	Implications currently being investigated by the Housing Service
Housing	Reform of Homelessness Legislation	The Bill will give the Council the flexibility to bring the homelessness duty to an end with an offer of suitable accommodation in the private rented sector, without requiring the household's agreement. There will be safeguards, as now and an offer of private sector housing will only bring the duty to an end if the accommodation is suitable for the whole household. The private sector tenancy would need to be for a minimum fixed term of 12 months, and the duty would recur if, within 2 years, the applicant becomes homeless again through no fault of his or her	

		own (and continues to be eligible for assistance).
Housing	Social Housing Tenure Reform	Currently, social landlords are normally only able to grant lifetime tenancies. The provisions in the Bill will enable local authority landlords to grant tenancies for a fixed length (the minimum length being two years). These 'flexible' tenancies will give more freedom to local authority landlords, allowing them to manage their stock more effectively and ensure that the occupation of social housing better reflects actual need.
Housing	Reform of Council Housing Finance	The Bill will provide a new system of Council housing finance. The Housing Revenue Account (HRA) subsidy will end and Councils that operate a HRA will keep all their rental income and use it to support their own housing stock. The Bill will enable a one-off payment between Government and the Council. This will put all the Council in a position where it can support its own housing stock and housing debt from future income.
Housing	Reform of Social Housing Regulation	The Bill will abolish the Tenant Services Authority (TSA), transfer its remaining functions to the Homes and Communities Agency; and make changes to the Ombudsman regime applicable to social housing complaints. The regulator will be focused on the economic regulation of landlords and resolving serious failings that can't be resolved between landlord and tenant at the local level. Housing associations will continue to be subject to robust economic regulation with a stronger focus on VFM, thereby maintaining lender confidence, protecting taxpayers and supporting the supply of social housing.