

SLOUGH BOROUGH COUNCIL

REPORT TO: Overview and Scrutiny Committee **DATE:** 10 April 2012

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WARD(S): All

PART I **FOR COMMENT AND CONSIDERATION**

LOCALISM ACT 2011

1. Purpose of Report

This report outlines the measures in the Localism Act 2011, their implications for Slough, and the actions required to ensure Slough responds to the challenges and opportunities presented by the Act. Although it is intended primarily as an information report to raise awareness of changes, and alert members to the initial work underway, guidance is sought with regard to the necessary governance arrangements that need to be put in place in relation to those parts of the legislation that are likely to come into effect within the next few months.

2. Recommendation(s)/Proposed Action

2.1 That the Overview and Scrutiny Committee:

- a) consider the report setting out the implications for the Council of the Localism Act, the actions taken so far and the lead officers who are responsible for implementing the legislation;
- b) comment on the future development of the Council's approach to localism; and consider whether any follow up action should be included in the Committee's work programme;
- c) request that the Corporate Management Team, following consultation with the relevant portfolio holder and Lead Officer, develop and put in place the necessary governance arrangements and procedures to enable the Council to undertake its functions with regard to Assets of Community Value and the Community Right to Challenge; and
- d) agree to receive further reports, specifically on the Council's Housing allocation policy and Neighbourhood plans and on others key policy issues where required, in response to any specific procedures that the Council's Executive need to put in place ahead of provisions in the Act coming into force.

3. Sustainable Community Strategy Priorities

3.1 The SCS which was refreshed in 2011, 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. The Localism Act therefore supports and contributes to the delivery of the following priorities:

- Economy and Skills
- Regeneration and Environment
- Housing

3.2 The Localism Act 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 that it will have on:

- Delivering Public Services: the Council will need to respond to the Act, particularly processes such as the Right to Challenge in a way that ensures that public services are delivered in the best way to local people.
- Securing jobs and homes: changes to housing and housing benefit will need to be managed to ensure that Slough's residents have access to decent, affordable housing.
- Delivering good value for money: To ensure the best value for money in responding to the challenges and opportunities in the Act, the focus will be on using our existing projects, established approaches and work already underway to contribute to our approach wherever possible. There may be a need to consider value for money implications in more detail around specific changes associated with the Act as approaches in different areas are developed, for example in assessing the options around our processes for responding to community rights.

4. Joint Strategic Needs Assessment (JSNA)

4.1 The aim of JSNA is to provide an evidence base for the Borough that covers all aspects of the local population including health, mental health, housing, education, deprivation, economy etc. By identifying these diverse needs in a single resource the JSNA enables decision makers to see the current areas of highest need, and how these are likely to change in the future and local partners to work together to coordinate their planning so that our services are better placed to meet these current and future needs – thereby informing commissioning; achieving better outcomes and reducing inequalities.

4.2 A full assessment of how the Localism Act might support the objectives of the JSNA has not been carried out. However JSNA implications can be considered when developing detailed plans and processes for various parts of the Act.

5. Other Implications

(a) Financial

There are a number of broad financial implications arising from the Localism Act.

The Council will need to continue to carefully consider the level at which it sets its Council tax, and make a value for money assessment of the implications of any rises above the government-determined level.

The Community Right to Challenge may provide the Council with the opportunities to achieve savings and value for money through alternative providers. However, the Right to Challenge may also increase costs to the Council, particularly in procurement,

as the Council will have to respond to expressions of interest and may have to then run procurement exercises.

The provisions regarding Assets of Community Value may also impact on the Council's ability to realise the commercial value of any land and property that it deems to be surplus to requirements. The inability to dispose of assets as quickly as in the past could lead to additional costs being incurred, for example on maintenance and security of assets.

Further significant changes are expected in the Local Government Finance Bill which will provide a statutory basis for the localisation of both Council Tax and Business rates.

(b) Risk Management

Key risks, and the approach to managing them, are summarised below:

Risk	Mitigating approach
Implementation of changes and new approaches in Act results in delay or interruption to planned delivery of projects or services due to having to change approach, or through unexpected intervention or challenge by groups / communities.	<ul style="list-style-type: none"> • Ensure that planning for change and future project and service delivery plans take into account new powers within the bill for community challenge, bidding etc.
Increased requirements and duties around responding to bids and challenges under community rights, and wider changes extend the length of time these processes take and direct resource away from other tasks.	<ul style="list-style-type: none"> • Ensure that these impacts are included in business planning and project planning for future work in these areas. • Accept that there is a risk of extended project time as a result of new engagement processes. • Ensure forthcoming community engagement strategy and guidance emphasise need to consider asking communities for their views early in relation to potential services and assets, to be able to plan ahead for resource requirements. • Consider these changing requirements as part of ongoing value for money considerations about the most effective use of resource and teams, including the changing role of support services.
Lack of political buy-in to approach.	<ul style="list-style-type: none"> • Hold discussions with Members to ensure buy-in to direction and steer on areas for priority and our approach to these. • Provide briefings / training sessions as required.
Unrealistic expectations develop over outcomes, involvement and resources.	<ul style="list-style-type: none"> • Clear guidelines need to be established and changes

	<p>communicated early to set up reasonable expectations amongst staff, community groups etc.</p> <ul style="list-style-type: none"> • Those managing changes should invite challenge throughout to keep all key stakeholders informed and to ensure work is as successful as possible.
<p>Equalities and diversity principles are challenged by difficulty of meeting all needs and taking into consideration those of disadvantaged groups.</p>	<ul style="list-style-type: none"> • Equality Impact Assessments will be conducted on detailed changes and proposals to respond to the Act to ensure that the risks of any adverse impacts are identified and action taken to minimise these. • Implementation and action resulting from this work will need to carefully review where equalities risks are likely to arise and provide support to minimise them.
<p>Staff are reluctant to engage with the requirements of the Act. As an organisation we fail to achieve buy-in and adapt to the new structures and systems proposed, with morale and motivation suffering.</p>	<ul style="list-style-type: none"> • A range of approaches will be developed (and evaluated) to raise staff awareness, take into account the likely impact on staff and the requirements around transition, managing change and any other staffing implications that would result from future alternative methods of delivery. The impact on staff, particularly those at the frontline, will be a key consideration throughout.

(c) Human Rights Act and Other Legal Implications

There are no Human Rights Act implications arising from this report.

The Localism Act received Royal Assent in November 2011. A full timetable for the coming into force of the various parts of the Act is still awaited.

So far the Government has introduced two Commencement Orders, which came into force in December 2011 and January 2012 respectively. These Orders introduce some (but not all) of the legislation necessary to pass the Act's various powers on to communities.

Some parts of the Act may not become law for some considerable time.

The Council will need to ensure that it complies with the various parts of the Act as and when they come into force.

A number of provisions have already come into force.

(d) Equalities Impact Assessment

The Government has conducted impact assessments on the overall implications of the Localism Bill and key elements within it. A full Equality Impact Assessment has not been carried out for this report as it is largely for information. However, Equality Impact Assessments will be considered when developing detailed plans and processes for various parts in the Act.

To comply with the Equality legislation, consideration will need to be given to Section 149 of the Equality Act 2010, which places a general duty on public authorities in exercise of their functions to have regard to the need to promote equality. This includes the need to eliminate discrimination and advance equality of opportunity.

(e) Workforce

There may be staffing implications if services are subject to a successful challenge under the Community Right to Challenge and are no longer delivered by the Council. The Council will need to work closely with staff and new providers on any TUPE implications, where appropriate.

(f) Property and Assets

Under the provisions for Assets of Community Value, the disposals planned as part of the Council's Property Strategy may be affected if any of the Council's properties are listed as assets of community value. This may lead to a delay in assets being disposed of. There may also be implications if a Council service is subject to a successful Community Right to Challenge, as the asset the service is delivered from may need to be leased to a new organisation, or may no longer be required.

6. Supporting Information

- 6.1 The Localism Act 2011 (the Act) received Royal Assent on 16th November 2011. The Act devolves more powers to Local Authorities in relation to governance and planning, and gives local communities more control over local decisions such as housing and neighbourhood planning. It also introduces "community rights", such as the right for community groups to bid to run local services and to take over local assets.
- 6.2 Although a full timetable for the commencement of some of the provisions in the Act is yet to be published, the Government has indicated that the majority of the Act will come into force in April 2012. Therefore the Council needs to prepare now for the changes that will be coming in to ensure that we take advantage of the opportunities in the Act, and prepare ourselves for the challenges that may present themselves to the Authority, residents and businesses as a result.
- 6.3 This report provides an overview of the final structure and content of the Act, areas of work that are already currently underway to assess implications, and asks members to indicate any other areas that should be considered in detail ahead of expected implementation in 2012. The report also seeks approval to put some initial governance arrangements in place to ensure the Authority is able to respond to those parts of the Act which are likely to come into force this spring.
- 6.4 The Localism Act introduces a wide range of changes to the operation of local government. The key changes are outlined below, along with the implications for Slough (where known) and the likely input required from Members.

6.4.1 **General Power of Competence (GPC)**

The GPC allows Local Authorities to do anything that an individual may do which is not specifically forbidden by law. The Secretary of State may amend, repeal or revoke any pre-existing statutory provisions which prevent Local Authorities from exercising the general power of competence (except for a list of 48 functions). The GPC cannot be used to charge for services that a Council is statutorily required to provide.

Implications

The GPC potentially gives the Council greater freedom and flexibility. It may also be that innovative ideas are easier to implement because of the GPC. It is therefore likely to be a change implemented through ensuring that Members and officers are aware of, and consider in their current projects and roles, any opportunities created by GPC.

6.4.2 **Transfer and delegation of functions to Local Authorities**

Any Council will be eligible to make an application to the Secretary of State to take over other local public functions that are a high priority for their communities. There is now a duty on the Secretary of State to consider such proposals from Local Authorities, considering whether a transfer would promote economic development or wealth creation, or increase local accountability.

Implications

Like the GPC, this provision offers an opportunity for the Council to gain greater freedom, and to implement innovative ideas for locally responsive public services.

6.4.3 **Governance**

Decision Making

The Act amends the Local Government Act 2000 to allow Local Authorities to change the permitted forms of governance. Under the Act a Local Authority must operate executive arrangements, a committee system or 'prescribed arrangements' (a more localised model which would require approval by the Secretary of State). A resolution of the full Council would be required for any such change of arrangements. Once passed no further change to governance arrangements can be made for five years.

The Act also consolidates a range of scrutiny legislation and leaves them largely unchanged. The Act sets out what is required if an Authority chooses to change its governance arrangements. Where an Authority continues with executive arrangements it must still have an Overview and Scrutiny Committee. If an Authority chooses to change to the committee system it is not obliged to operate a formal overview and scrutiny committee and it is open for the Authority to decide what, if any scrutiny arrangements to put in place.

The requirement for a local Authority to designate one of their officers a 'scrutiny officer' as set out in the Local Democracy, Economic Development and Construction Act 2009 is restated in the Act.

Standards and Code of Conduct

The Standards Board regime and the model Code of Conduct have been abolished.

However a Council must adopt a Code of Conduct that is consistent with Nolan principles and must set out the registration and required disclosure of pecuniary and non-pecuniary interests.

Local authorities may put in place arrangements for investigating and taking decisions on allegations of breaches of the Code. These arrangements must make use of an "Independent Person", who must be a public appointment.

It will become a criminal offence to deliberately fail to declare a personal interest in a matter.

Implications

The Council can decide whether it wishes to change its governance system. Any decisions in relation to these aspects of the Act will be a Council rather than an Executive decision, and the process of considering any implementing options for change is being overseen by the Assistant Director of Professional Services. The Group Leaders will be considering these aspects of the Act at their meeting in April.

The Council's Standards Committee have already considered the implications of the changes, including the content of Slough's Code of Conduct. Proposals were discussed by the Standards Committee on 15th March and will be reported to full Council 24th April 2012 for approval.

The Council's Constitution will need to be amended to reflect any changes in the Council's governance arrangements. Any necessary amendments will be reported to the Annual Council Meeting via the Member Panel on the Constitution.

The Monitoring Officer and Democratic Services are leading on this part of the Act.

6.4.4 Pay Policy

Councils will be required to publish annual pay policy statements which set out an authorities' approach to the remuneration of its highest and lowest paid staff, and its approach to the relationship between the remuneration of its chief officers and the rest of the workforce.

Full guidance on this will be produced; it is expected that the statement will have to include the Council's policies relating to:

- a) the level and elements of remuneration for each chief officer;
- b) remuneration of chief officers on recruitment;
- c) increases and additions to remuneration for each chief officer;
- d) the use of performance related pay for chief officers;
- e) the use of bonuses for chief officers;
- f) the approach to the payment of chief officers on their ceasing to hold office under or to be employed by the Authority; and
- g) the publication of and access to information relating to remuneration of chief officers.

Implications

The Council has developed a Pay Policy Statement to meet the requirements of the Act, which was approved by resolution of full Council as part of its 2012/13 budget setting process.

The Council will need to ensure all current pay arrangements meet this pay policy statement. A process of ongoing review and annual publication of this policy will need to be implemented. The Pay Policy Statement must be published on the Slough Borough Council's public website.

Central Finance is responsible for responding to this part of the Act.

These are Council rather than Executive decisions.

6.4.5 Local Finance (Local Government Finance Act Bill)

The Government has produced a draft Local Government Finance Bill which is currently undergoing its third reading in the House of Commons. Under the current proposals, Local Authorities will be allowed to retain business rates raised in their area and will be able to:

- set local discounts and raise supplementary rates with agreement from the business community;
- capture an increase in income from business rates from infrastructure development, and borrow against future income.

Implications

The impact of the above proposals has already been modelled into the Council's Medium Term Financial Strategy.

It was announced in the spending review of 2010 that support for Council Tax would be localised from April 2013 and expenditure reduced by 10%. This means that Local Authorities will be able to determine their own schemes. The Council is currently undertaking financial modelling to ascertain the impact of this scheme on our Council Tax arrangements.

The Strategic Director of Resources, Housing and Regeneration is responsible for responding to this part of the Act.

6.4.6 Local Democracy

Residents will get the power to veto excessive Council tax increases¹. Central government will decide on an annual basis what would count as "excessive"; if a Council wishes to raise Council Tax above this level then they will be required to hold a referendum. Levies issued to local authorities by levying bodies should be disregarded when calculating whether a Council Tax increase is excessive.

The requirement to have a petitions scheme and the duty to promote democracy have also been repealed.

¹ When first introduced, the Localism Bill included the ability for local people to instigate a referendum on any local issue. This provision was removed during the Bill's passage through Parliament.

Implications

The Council will need to evaluate its proposals for Council Tax in coming years against the government's definition of an "excessive" rise. Should a referendum occur then resources and officer capacity will be needed to support it.

The Council existing petitions scheme - based on Statutory Guidance issued at the time clearly sets out how petitions will be dealt with and includes the facility to submit petitions electronically.

The Member Panel on the Constitution considered the implications of the Act on our current Scheme at its meeting on 3rd April. Recommendations concerning a way forward are expected shortly.

Democratic Services, with input from Central Finance in relation to Council Tax, will be the lead for responding to these parts of the Act.

6.4.7 Community Right to Challenge

The Community Right to Challenge gives civil society organisations (VCS, charities, staff groups) the right to bid to take over and potentially run a service currently being delivered by a Council.

Local groups, including groups of two or more Council employees, may submit an "expression of interest" in running a service. The Council must then decide whether to accept or reject the expression of interest. If it is accepted, then a full procurement process (in line with procurement law thresholds) is triggered.

The Council may specify periods during which expressions of interest may be submitted, and will have to decide on how long it will take to make decisions.

The Secretary of State may do "anything appropriate" to give advice or assistance to community groups seeking to submit an expression of interest to take over a service or participate in a procurement exercise. This may include providing financial assistance.

Implications

Council services may be subject to "expressions of interest", which, if accepted, will result in an open procurement process. While only local groups can submit "expressions of interest", there is no restriction on what type of providers may bid – and may ultimately be successful – in a procurement exercise. Therefore it seems likely that the current "mixed economy" of service delivery will grow, with services being delivered by a range of private providers, social enterprises, community groups, and the Council itself.

As "expressions of interest" can relate to an individual element of a service, it is possible that the Right to Challenge could also lead to one part of a service being delivered by a community organisation or private provider, while the rest is delivered by the Council. Should this be the case the Council will need to work closely with the external organisation to ensure that services are aligned for the service user.

There are likely to be resource implications from handling "expressions of interest", and from running procurement exercises. There may also be ongoing resource implications from managing contracts and monitoring the performance of external providers for services that were previously run in-house.

During the Report Stage in the Commons, the Government proposed a new clause to the Act which will empower the Secretary of State to provide financial assistance to support the Community Right to Challenge. However, there has also been discussion in Parliament about whether Local Authorities might be given a role in supporting organisations to take on a public service delivery role. Exactly what such a role might entail is uncertain. However, consideration will need to be given to the legal implications of any such support as it could be perceived as anti-competitive and could lead to legal challenge.

The 'Right' as presently enacted does not take account of the protected groups specified in the Equality Act (particularly those groups that feel consistently excluded from the decision making process, such as older and younger people). Any process adopted by Local Authorities will need to mitigate against any potential adverse impact to these groups during the implementation of any changes made to the way some services are procured and / or delivered.

The Council will need to put the necessary governance arrangements and procedures in place to respond to "expressions of interest", including:

- specifying periods during which expressions of interest may be submitted to fit with our commissioning and planning cycles;
- the process for considering and responding to bids;
- defining the criteria we will use when considering a challenge (taking into account the requirements of the legislation / guidance), including what we would require of a reasonable business plan, who and how we would take a decision;
- the process for managing bids from groups of staff, and what additional support would be available to staff to prepare business cases.

The process will need to be publicised on the Council's website. The Council will also need to consider to what extent it will publicise the process to staff and local community groups, and whether it will offer training or advice and guidance to build capacity in communities and amongst staff to bid for services.

The Corporate Management Team will shortly be considering where the officer lead on this work will sit. The work will also need to be undertaken in association with wider work around value for money and business planning

6.4.8 **Assets of Community Value**

This provision seeks to give local groups and people the opportunity to buy local assets if they come up for disposal on the open market. Community groups may nominate assets which they believe to be of community value. The Council will then have to decide whether to accept or reject the nomination, and list all accepted assets on a publicly available register. The Council must also keep a list of unsuccessful nominations. For the purposes of the legislation, "community value" is defined as:

- an actual current use of the building or other land (that was not an ancillary use) furthers the social wellbeing or social interests of the local community, and it is realistic to think that there can continue to be use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community; OR
- there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community, and it is realistic to think that there is a time in the next five years when

there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.

When the owner of a listed asset wishes to sell the asset, s/he must inform the Council who will then be required to inform the organisation who nominated the asset in the first place. A moratorium then begins during which the sale cannot happen, to give the community the opportunity to organise itself to offer to purchase the asset. The owner does not have to sell the asset to a community group – it is up to them who they ultimately sell the asset to.

Where different parts of any land of community value are in different Council areas, the local authorities will have a duty to co-operate with each other.

Implications

The Council will need to design and implement its own procedures to receive and process community nominations for assets of community value, and maintain and publicise the database.

There may also be an impact on the Council if an asset owned by the Council is listed. Should the Council then wish to dispose of the asset, it will need to take into account the additional time needed for the moratorium period before any sale can take place.

Proposals to establish a dedicated cross-Council working group to examine these provisions and develop the necessary procedures to deal with the Council's responsibilities with regard to Assets of Community Value are currently being considered by the Corporate Management Team.

6.4.9 EU fines

The Act allows for Councils to be required to make payments in respect of EU financial sanctions, where the European Court of Justice imposes a fine for a breach or infringement of European Law and the Secretary of State concludes that the Local Authority caused or contributed to the breach or infringement. Currently, the UK Government is responsible for any fines as a member state of the European Union. Under the terms of the Act Ministers will be able to lay before both Houses of Parliament, on a case-by-case basis, details of every local or public authority they intend to pass on a fine to, including the EU law they have breached and the total of the fine. This will be subject to a vote in both Houses. An independent panel will also scrutinise, and advise, on any suggested fine, with some members of the panel nominated by local government.

6.4.10 Planning

The Act replaces the Infrastructure Planning Commission with a democratically accountable system that seeks to provide a fast track process for major infrastructure projects. A Major Infrastructure Planning Unit has therefore been established within the Planning Inspectorate to now determine **Major Infrastructure Projects** – as established by the 2008 Planning Act – like wind farms and nuclear power stations. Ministers will ultimately take decisions on applications within the same statutory timeframe as the current regime.

The Act also seeks to **streamline National Planning Policy Guidance**. The Coalition Governments Agreement (published in May 2010) committed the government to present to

Parliament a simple and consolidated national planning framework covering all forms of development and setting out national economic, environmental and social priorities. In December 2010, the Department for Communities and Local Government published a general consultation, inviting organisations and individual to suggest ways in which to make the planning system more streamlined and more decentralised. DCLG received around 3,426 responses by the deadline of 28 February 2011. Also in December 2010, the Minister for Decentralisation and Cities, the Rt Hon Greg Clark MP, set up the Practitioners Advisory Group (PAG) to prepare a first draft of the National Policy Planning Framework (NPPF). The PAG published its draft on 20 May 2011. Subsequently in July 2011 the Government published its draft of the NPPF for consultation. This consultation ended on 17 October 2011 with DCLG receiving over 10,000 responses.

DCLG has indicated that the new National Planning Policy will be published by April 2011 and that the finalised document will replace all current Planning Policy statements (PPSs) and Policy Planning Guidance notes (PPGs). If this happens over 1,000 pages of documentation will be replaced by just some 50 pages. Members should note that there is however some residual concern that some parts of the NPPF still need fine tuning and better internal consistency. There is also a need for greater clarity around some key policy areas.

The **Community Infrastructure Levy** (CIL) has been retained and amended to allow Local Authorities to set charges which developers must pay when bringing forward new development in order to contribute to new infrastructure. The Act now enables for some CIL funds to be passed to neighbourhoods where the development has taken place.

Local finance considerations can be a material consideration in planning applications (i.e. Community Infrastructure Levy and government grants such as the New Homes Bonus).

The Act will introduce **compulsory pre-application consultation** for developments above 200 dwellings or 10,000 square feet. This is intended to give people a real chance to comment on proposed development which may have an impact on them, when they still have a real chance to influence proposals before they are finalised. Constraints on the conduct of councillors determining planning applications are to be relaxed and overtaken by new laws on pre-determination. Pre-application consultations carried out before the Act comes into force will count.

Some of the requirements around the **Local Development Framework** (LDF) have also been amended, giving greater discretion to Local Authorities on how LDFs proceed.

Regional Spatial Strategies have been abolished. New housing and regeneration powers will be given to the GLA, and the London Development Agency has been formally abolished.

A key component of the Act is the right for communities to shape their local areas by creating a Neighbourhood Planning Authority (NPA). The NPA could be based on existing parishes – or a group of parishes or by an organisation designated by the Local Planning Authority as a “**Neighbourhood Forum**”. The Neighbourhood Forum, once established, will take effect for 5 years.

To be designated as a Neighbourhood Forum a group or organisation must have a purpose which seeks to promote the overall economic, social and environmental wellbeing of an area. The minimum number of people required for a Neighbourhood Forum to be valid is 21; membership criteria includes people who work in an area or are neighbourhood

Councillors, not just those who live there. Forums will be expected to try to recruit members from a broad spectrum of the community, and from all 3 groups (residents, businesses and Councillors). Neighbourhood Forums can cross Council boundaries.

Once a Forum has been set up it will then be able to develop **Neighbourhood Development Plans** (NDPs), and hold a referendum in the area to approve the plan. Local Authorities should approve NDPs if they receive 50% of the votes cast in a referendum and meet strategic goals.

NDPs are still required to be consistent with national planning policy and conform to the strategic elements of a Local Authorities Development Plan Document Plans. The Localism Act ensures that NDPs do not override these wide ranging plans, including the proposed changes in national planning policy guidance (see above).

Local Planning Authorities can designate an area as a Neighbourhood Area, and in doing so must also consider whether the area should be designated as a “Business Area”. In Business Areas there would need to be two referendums in relation to any Neighbourhood Business Plan – one referendum of local residents, and one of non-domestic ratepayers in the area. The Authority may (but need not) make the Plan if there is a majority vote in favour in one of the referendums (it has no choice if the Plan is voted through in both referendums, or is voted down in both).

Local Planning Authorities may withdraw the status of an organisation or body as a Neighbourhood Forum if they consider it is no longer meeting the conditions subject to which it was designated or any other criteria which the Authority were required to have regard to when they made the original designation.

The Act also provides for **Neighbourhood Development Orders** (NDOs) to allow communities to approve development without requiring normal planning consent; and introduces a **Community Right to Build Order** (CRBO) where local communities have the power to take forward developments in their area without the need to apply for planning permission, where there is overwhelming local support for development and subject to certain safeguards being met.

The extent to which Slough’s Parish Councils and/or local groups will want to participate in neighbourhood planning is presently unknown. Nonetheless, suitable governance arrangements and procedures to enable the Council to undertake its functions with regard to the development of Neighbourhood Forums and the assessment of NDPs is being developed and will shortly be put in place.

The Act introduces a “**duty to cooperate**”, meaning that Local Authorities will be required to cooperate on issues where the development or use of land would have a ‘significant impact’ on at least two planning areas (and in particular on strategic infrastructure).

The Duty 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.

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. There already is a requirement to consult neighbouring Authorities when producing plans. This level of involvement is however likely to change (and potentially increase), as Councils seek to influence and become more involved in the development of adjoining authorities plans.

Implications

The abolition of the Regional Plan and introduction of a new Duty to Cooperate means that the Council will have to be much more proactive in getting involved in the plans of adjoining authorities.

There has not been any interest to date in Neighbourhood Planning in Slough but we will need to continue to monitor this in order to be aware of what future work programmes may be. It will also be necessary to review the Scheme of Delegation to ensure that decisions about Neighbourhood Planning are taken at the appropriate level.

It is proposed to start work on the Community Infrastructure Levy this year so that a scheme can be in place by 2014.

The National Planning Policy Guidance, which was published on 27th March, could have a significant impact upon planning in Slough. A report on this will be put to a future meeting of the Planning Committee once we have had time to consider what the implications will be.

Planning Policy will lead on responding to these parts of the Act.

Final decisions with regard to these matters will be for the Council rather than Executive functions.

6.4.11 Housing

Under the Act the **allocation of housing** will only be given to eligible persons, with the Council deciding who qualifies. The Secretary of State has the power to prescribe classes of people who are eligible or ineligible. Councils must put in place an allocations scheme for determining priorities and procedures to follow. Reasonable priority must be given to certain specified groups of people.

Every Local Housing Authority has a duty to produce a **tenancy strategy** and for registered providers of social housing to have regard to this.

Tenure will be provided for a minimum of two years (although only below five years if there are exceptional circumstances) as opposed to previous lifetime tenancies. There will be no automatic succession rights to spouses or partners. Beyond this, Councils will have flexibility to develop tenancy agreements to meet local need

In order to create greater consistency across the housing sector in handling complaints the functions of the Local Government Ombudsman will be transferred to the **Housing Ombudsman Service** (HOS). The remit of the HOS will be extended to cover the tenants of Local Authority housing as well as those of Housing Association Registered Providers (HARPs). Tenants will be able to access the Housing Ombudsman through a local Councillor, MP or directly if they want their privacy protected. Where their MP, Councillor or Tenant Panel reject the complaint or refuse to take it to the Ombudsman then the tenant can refer it directly.

The Act brings to an end the **Housing Revenue Allowance** (HRA) Subsidy system, and introduces a self-financing system, allowing Local Authorities that operate HRA to keep the rent received and become self-financed. The Act also enables the Secretary of State to retain a proportion of Right to Buy receipts, and provides the power to change the settlement payment in the future and to determine how much housing debt a Local Authority is allowed to take on.

On **social housing**, there will be a new form of flexible tenure for social housing tenants. Local Authorities will have the power to limit who can apply for social housing within their areas. Social landlords will be expected to support tenant panels (or equivalent bodies) in order to give tenants the opportunity to carefully examine the services being offered. There will also be a requirement for social landlords to participate in a national home swap scheme. The Act also makes provisions for a landlord to regain possession of a property if the tenant has died and the tenancy has been inherited by someone who does not qualify as a successor.

Requirements around **tenancies** are also amended to:

- remove the requirement that a tenancy with a fixed term exceeding three years must be executed as a deed; and
- remove the requirement that a tenancy with a fixed term exceeding seven years must be entered at the Land Registry.

Councils will now be able to discharge their duty to persons with priority need who are not intentionally **homeless** into the private rented sector, whereas previously an applicant could refuse the private rented sector and wait in temporary accommodation for a social home.

The Localism Act reforms the way that **social housing** is regulated with the functions of the current regulator, the Tenant Services Authority (TSA) being transferred to the Homes and Communities Agency (HCA) via a regulatory committee. The regulator will set a standard for all local landlords.

The requirement to have **Home Improvement Pack** has also been abolished.

Implications

This report provides a useful overview of the main provisions of the new Act, however, in common with most legislation it is not until the subordinate legislation, regulations, guides and codes of practice are published that flesh is added to the bare bones of the statute. The housing service is beginning to explore potential options introduced by this Act however it is unlikely that any major policy changes will be proposed until the government publishes the necessary guidance. At present we have no indication as to when this will take place.

A new housing allocations policy is being developed for adoption by Cabinet this summer.

Housing will lead on responding to these parts of the Act.

7. Comments of Other Committees

- 7.1 The views of other committees with an interest in the Localism Act have not been sought for this report.

7.2 When developing further proposals for responding to the Act, lead officers will work with relevant Portfolio Holders, appropriate Members and Member bodies, relevant committees and partners, including the voluntary and community sector, as and where appropriate.

8. Conclusion

8.1 A full implementation timetable is expected to be published by the government soon. It is expected that the majority of key elements in the Act will come into force in April 2012.

8.2 In order to ensure that the Council meets the requirements of the Act, the Corporate Management Team has already identified a number of key policy areas for initial examination/research. Lead officers for these policy areas have been identified and are currently assessing the likely implications for Slough as a result of these provisions coming into force.

8.3 Subject to Members' views, reports on the topics listed in Section 6 above and any others topics required by members can be brought to the appropriate member bodies' attention, subject to further discussion with Portfolio Holders, the Corporate Management Team and Lead Officers, where appropriate

8.4 The following policy areas are expected to require further reports and Executive decisions:

- Any changes to the governance system
- Code of Conduct and Constitution
- Pay Policy Statement
- Process for Community Right to Challenge
- Process for Assets of Community Value
- Community Infrastructure Levy
- Tenancy Strategy
- Housing Allocations Policy
- Approach and process for considering neighbourhood plans

8.5 There may be further government consultation on the implementation of parts of the Act that officers will wish to engage with members on.

9. Appendices attached

None

10. Background Papers

- *The Localism Act 2011 www.legislation.gov.uk/ukpga/2011/20/contents/enacted*
- *The Localism Act 2011 (Commencement No.1 and Transitional Provisions) Order 2011 www.legislation.gov.uk/uksi/2011/2896/made*
- *The Localism Act 2012 (Commencement No.2 and Transitional Saving Provisions) Order 2012 www.legislation.gov.uk/uksi/2012/57/contents/made*
- *Equalities Impact Assessments on the Localism bill www.communities.gov.uk/localgovernment/decentralisation/localismbill/*
- *Local Government information and guidance www.communities.gov.uk/localgovernment/decentralisation/localismbill/*