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The Sustainable Communities Act

A four page briefing for Councillors and Officers

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1. Introduction

The Sustainable Communities Act is possibly the most radical new law that our country has seen in over a century. This is because it establishes, for the first time in our nation's history, a new 'bottom up' process where **councils are in the driving seat on what government does to help local areas.**

The Act became law in October 2007 with full cross party support. Local Works, a coalition of over 90 national organisations, had campaigned for 5 years to see this happen. The campaign was a great victory in recognising the important and valuable roles that councils have in our system of governance.

The Act sets up a new process of governance where councils can drive central government action, policy and assistance to promote and protect thriving communities. This means that the potential the Act presents councils is huge. Councils can use it to do things like gain new powers, devolve existing powers and money from central control to local control, change the planning rules and reduce centrally imposed duties.

It is crucial to recognise that the Act does not merely set up yet another meaningless consultation process. Government can not just say 'no' to councils' ideas made under this Act. There is a duty on central government to **try to reach agreement** with the LGA which gives the process real 'teeth'.

The Act also gives councils the power to make proposals for a transfer of public money and powers from central control to local control.

2. What the Act says

The first important aspect of the Act is that **it impacts on central government, not on councils.** The aim of the process is to make government do more to help councils promote sustainable communities: **this is NOT about Whitehall stepping in and taking over – it is about making government responsive to the demands and needs of councils.**

The Act sets up a process, by which councils can drive government action. This means that:

1. The Act gives councils the power to make proposals to the Secretary of State (SoS) as to how government can 'assist councils'¹ in promoting the sustainability of local communities'. The SoS then has a duty to 'try to reach agreement' with councils, via their representative body, the LGA, called 'the selector' in the Act, on how those proposals will be implemented. **It is this process that puts councils in the driving seat as to what the government must do.**

2. The Act defines local sustainability as 'encouraging the economic, social and environmental well being of the authority's area' and that "'social well-being" includes participation in civic and political activity'.

3. When making their proposals to the SoS, councils must involve local people who, in the opinion of the council, represent interested local persons. Guidance from government encourages councils to set up, or recognise if they already exist, 'panels of representatives of local people' (or citizens' panels). Councils can then 'try to reach agreement' (i.e. **not** merely consult) with those panels regarding ideas for proposals to put to the SoS for government action.

¹ i.e. district/borough/city/unitary and county councils

3. How the process works, step by step

1. The Secretary of State, as required, has invited councils (district, borough, city, unitary and county) to make proposals to central government on how central government can help promote local sustainability as defined in the Act (see definition above).
2. Councils can submit proposals at any time, once they have agreed those proposal with their communities (see 3. below). There is no deadline. There is also no limit on how many proposals a council can put forward.
3. Those councils that choose to submit proposals must first consult **and try to reach agreement** with representatives of local people. This is the mechanism in the Act's process whereby residents can put forward their ideas on what proposals they think the council should make to government.
4. Councils that choose to can submit joint proposals with other councils from nearby or across the country. Doing this is worth while as it is likely to give added weight to such proposals.
5. All proposals made by councils go first to government. These are considered and government responds with whether and how they will implement each proposal. Government must give reasons for why they have said 'no' to those they do not implement.
6. The LGA as the 'selector' can then resubmit any proposal that the government has initially rejected. Central government must then consult **and try to reach agreement** with the LGA on whether and how that proposal will be implemented. This means that government must have a dialogue with the LGA, with iteration, co-operation and compromise, where **the final decision on what is to be done is taken together**. This is the crucial part of the process that gives the ideas councils put forward a much better chance of success than in mere consultation. Government can not simply reject proposals because they don't like them or don't want to take any action on them.
7. A new legal agreement between the government and the LGA will require proposals to be fully dealt with within six months of being submitted.
8. Government action is then taken on proposals that have been agreed to be implemented. If the agreed action on a proposal has not been completed within a year then government must publish a progress report.

4. Reasons why councils should choose to use the Act

The Act presents a unique opportunity for councils. Councils have a choice – they can use the Act's new process or they can ignore it. The philosophy behind the Act is that there are too many centrally imposed duties on councils and so they it allows them to be free to choose whether or not to use this process and be accountable only to their electorate, not central government.

Here are some important reasons why choosing to use the Act will benefit councils:

1. Power to determine the action and assistance government gives

Councils that use the Act's process will be determining the nature of what they gain from using it. Any actions and assistance that government gives to councils will be a direct result of proposals made by those councils.

2. Strength in numbers

Councils can act in unison and make joint proposals. Government will have a harder time refusing to act on such well supported proposals.

3. Transferring powers and monies from central to local control

The Act also enables councils to request the transfer of powers and monies from government control or government agency control to themselves. So councils could gain control of powers and spending that affect their local areas that are currently under central control. This is very significant: consider that the vast majority of public money currently spent in any local area is not controlled by councils but by central government departments, agencies and QUANGOs.

4. Democratic citizen involvement

All politicians (and many council officers) talk a lot about lack of public involvement in democracy. The most recent Hansard Society Audit of Political Engagement showed that more than ever people do not feel it is worth getting involved in political processes. Because the Act's process is different and truly 'bottom-up', by

using it councils will involve people in improving their communities.

Analysis has shown that where councils have used the Act local people who got involved have felt something different, special and inspiring was happening due to the engagement and involvement they had with their councils.

5. A response to concerns councils may have

Below are possible concerns councils may have when considering using the Act and responses to them.

“But we already have the Localism Act, the general power of competence and the power and/or plans to promote sustainable communities.”

Whilst new powers for councils in the Localism Act and the general power of competence are welcome, this is the only Act to have set up a process where councils drive what is done. **It impacts on central government.** It is about gaining new powers, resources and assistance from government beyond that which councils now have. Consider too that the many good plans that councils have to promote local sustainability could be better realised if government gave more help - this process can be used to gain that new help.

“But this will cost money and resources.”

Whilst it is true that using the Act will take up officer time to instigate, this has to be weighed against the many potential benefits of using the Act, such as the potential of gaining powers to raise more money or devolving control of existing public money from central to local control.

“But it’s not worth the effort, the process has no teeth, government won’t grant anything we propose.”

Consider that we have never before had a bottom up process in law like this. Never before has there been legislation that requires central government to **‘try to reach agreement’** with the LGA on what councils want. This is a legal mechanism designed in favour of councils. As well as this new legal mechanism also consider that there will be heavy political pressure on the government to act on the proposals councils make.

Also consider that there have already been results. Councils that have used the Act and had proposals agreed and implemented have truly driven central government action to help their areas.

“But there is no community decline in our area at all.”

Given the evidence of the national decline of things like local public services, local shops, local trade and local community activity this would be remarkable if true. However, whether true or not, councils can make proposals for government action not just to reverse community decline but to protect and further improve communities that are already thriving.

6. Examples of what councils could propose and gain by using the Act

Firstly, what constitutes a valid proposal under the Act’s process? This is a question that councillors, officers and citizens who get involved may ask. There are two simple criteria for a valid proposal:

- a) That the proposal is something that only central government could do. So if a council already has the power to do it the proposal not valid.
- b) That it can be shown that the proposed action from central government would promote sustainable communities as defined in the Act (see above for that definition).

Here are some examples of what councils could propose and gain by using the Act:

- That government change the planning system so that developers can not appeal to central government to overturn a local planning decision.
- That government reduce the restrictions on councils regarding how they spend granted money so that they can choose to spend it on locally decided priorities, e.g. on Post Offices and local services.
- That government give councils the power to retain revenue from business rates to be spent on locally decided priorities.
- That government give councils the power to use the planning system to stop developers from demolishing public services (for example pubs) that they own in order to then apply for planning permission to develop the site.

- That government give councils the power to create a separate fund for the revenue raised from council tax on second homes to be used for reinvestment in local affordable housing needs.
- That government give councils the power and resources to refurbish existing housing in the council's area to reduce fuel poverty and increase energy efficiency (e.g. by fitting insulation).
- That government give councils new powers to allow the increase of local allotment provision and other measures for people to grow and sell local food.
- That government give councils the power and resources to increase local recycling and/or the amount of recycling that is processed locally.
- That government give councils the power to influence and determine how to spend money controlled by a central government agency that is already being spent in the area.
- That government give councils greater powers over local bus company operators and other local public transport providers.
- That government give councils the power to designate land for 'self build' and for community land trusts.

7. What has happened so far

The first 'round' of the Act occurred in 2008-10. One hundred councils submitted a total of 300 proposals. The process was different then: The LGA short listed 199 of those 300 proposals and agreed with central government which would be implemented. Note the good news: now councils can send proposal directly to government – there is no short-listing process.

Here are some of the proposals that were implemented by the government:

- Councils will be given the power to offer discretionary business rate relief to encourage and sustain small and medium sized **local businesses** and **shops**.
- Measures are being introduced to make it easier to introduce renewable energy schemes by introducing permitted development rights for small scale **renewable** and **microgeneration** energy.
- Sheffield City Council have been given new responsibility to maintain and sustain the local **Post Office** network, which if successful will be offered to other areas around the country.
- A new “**community right of purchase**” will be established, allowing communities to bid to take over local assets, including giving community groups time to prepare a bid.
- Communities that host **renewable energy** projects will be allowed to keep the additional business rates these projects generate.

An Amendment Act in 2010 and new regulations in 2012 have improved the Act's process for councils. This guide incorporates all those changes and improvements.

8. Help from Local Works and contact details

Local Works has produced a number of briefings and guidance sheets on the Sustainable Communities Act. These are available on our website - www.localworks.org or by contacting us using the details below.

Local Works Co-ordinator, Steve Shaw, is available to give presentations and Q&A sessions at council meetings on the Act. He has extensive experience doing this. To arrange this please contact Local Works using the details below.

Contact Details

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