

Meeting of the Cabinet - 20th June 2012

Joint Report of the Chief Executive and Director of Corporate Resources

Implementing The Localism Act 2011

Purpose of Report

1. This report provides an update on progress to date in ensuring legal compliance with the 2011 Localism Act, and consistency with the Council Plan on placing Dudley among the best boroughs in the country through strong community engagement and the associated community-focussed developments around Our Society in Dudley.

Background

2. On 15th November 2011, The Localism Bill received royal assent, paving the way for a series of new provisions related to (i) governance & constitution, (ii) housing reform, (iii) development planning and (iv) community empowerment. The Act provides the legal framework for the Coalition's intention to preside over a degree of devolution of power from central to local government and also to communities.
3. The approach taken by the Council is to ensure legal compliance with the provisions of the Act; and to take forward the principles underpinning it in a way that is appropriate to the Borough.
4. To that end, the Council has set up a Localism Steering group chaired by the Director of Corporate Resources to direct and monitor progress against all of the four pillars referred to above. Set out below are details of our local response against each of these, what has been done so far and what future action is proposed.
5. **Process**
(i) Governance and Constitution
At the annual meeting of the Council on 17th May, 2012, the Council re-established its governance structures for 2012/13 largely based on the structures operated in previous years. However, a review will be undertaken of the Council's Scrutiny and Area Committee functions so that these better serve the needs of the Council and local residents as well as bringing about improvements to services in the future.
6. The Chairs of Scrutiny Committees will be undertaking the review of Area Committees as a matter of priority. A review of Scrutiny will follow during the municipal year. The Director of Corporate Resources will also submit his annual review of the Constitution to the Cabinet in the autumn.

7. With regard to the new Standards arrangements, the Council has established the Audit and Standards Committee and approved its terms of reference. A report will be submitted to the Committee on 3rd July, 2012 on the necessary action to implement the new Standards arrangements, including a local Members Code of Conduct, the appointment of Independent Person(s), procedures for dealing with complaints against Members, the registration of interests and the future arrangements for Member training.
8. Since 2009, the Council has operated a Petitions Scheme under the provisions of the Local Democracy, Economic Development and Construction Act 2009. The Localism Act 2011 has now repealed the petitions provisions. The opportunity is being taken to review the way in which the Council deals with petitions to reduce bureaucracy and simplify the previous scheme. The Chairs of Scrutiny Committees will be requested to undertake a review and report back to the Cabinet.
9. The general power of competence for English local authorities is now in force. The well-being powers contained in the Local Government Act 2000 have subsequently been repealed.
10. The Council approved its Pay Policy Statement in February, 2012 to comply with the provisions of the Localism Act concerning senior pay transparency.
11. **(ii) Housing Reform**
The Localism Act reforms are intended to allow more decisions about housing to be taken locally, and make the system fairer and more effective.
12. **Social housing allocations reform**
The Act gives local authorities greater freedom to set their own policies about who should qualify to go on the waiting list for social housing in their area. This means that they are now able, if they wish, to prevent people who have no need of social housing from joining the waiting list. Authorities are still obliged to ensure that social homes go to the most vulnerable in society and those who need it most.
13. **Dudley Response**
Dudley currently maintains an open waiting list (apart from individual exclusions for anti social behaviour/unsuitability to hold a tenancy).
A pre assessment process so that customers can see their prospects prior to applying for housing has been introduced and this has reduced applications by around 30%.
14. A new Code of Guidance on Allocations is due to be issued. Assuming that it will not change markedly from the draft, it will enable and/or encourage local housing authorities to
 - Restrict access to their waiting lists – e.g. this could mean introducing or extending residency qualifications, or excluding people for lower level anti social behaviour, or excluding people over a certain income threshold
 - Modify their allocation schemes to be more reflective of local needs – e.g. there will no longer be a requirement to prioritise multiple needs over single needs; people who have served in the Armed Forces can be given additional priority; and extra priority can also be given to people who serve their local communities in other ways such as fostering or volunteering.

- Manage transfer applications from existing tenants separately to the waiting list for prospective new tenants.
15. The last major change to allocations in Dudley was two years ago when we changed from a points based scheme to a bandings scheme, so it will be appropriate to review again this year and decide whether we wish to make use of any of the new flexibilities.
 16. Changes have also been made to the legal right of succession to a secure tenancy, insofar as unmarried partners will have the same rights as those who are married or in a civil partnership, but other relatives (including sons and daughters) will have no right of succession unless Dudley changes its Allocations Policy to restore it. This will be reviewed accordingly.
 17. **Social housing tenure reform**

Through the Localism Act, the security and rights of existing social housing tenants are protected, including when they move to another social rented home. However, provisions now exist to allow for more flexible arrangements for people entering social housing in the future. Social landlords will now be able to grant tenancies for a fixed length of time. The minimum length of tenancy will be two years in exceptional circumstances with five years or more being the norm. There is no upper limit on the length of tenancy. Councils can still offer lifetime tenancies if they wish. More flexible tenancies will allow social landlords to manage their social homes more effectively and fairly, and deliver better results for local communities.
 18. **Dudley Response**

Dudley has worked with the Black Country Local Authorities to produce a draft Tenancy Strategy that is currently being used for consultation purposes. The draft has been well received by Registered Providers who welcome the cross authority approach and broadly agree with the content although it should be noted that they will not be legally bound by it but must have 'regard' to it in their own tenancy strategies. The Tenancy Strategy must be implemented by January 2013 and to achieve this deadline political sign off needs to be agreed by all partners by October '12. It is proposed that the decision to approve the contents of the Tenancy Strategy is delegated to the Cabinet Member for Housing, Libraries and Adult Learning by way of a decision sheet.
 19. In summary, the Tenancy Strategy covers:
 - the kinds of tenancies that will be granted;
 - the circumstances in which a tenancy of a particular kind will be granted, in particular the use of fixed term tenancies;
 - the lengths of the terms and the circumstances in which a further tenancy will be granted at the end of an existing tenancy
 - The use of Affordable Rents (rents used for social housing that are up to 80% of the local private rented sector rent levels).

20. **Reform of homelessness legislation**

Councils have a duty to house people who are eligible, in priority need and unintentionally homeless; and this duty will remain in place. The Localism Act lets local authorities meet their homelessness duty by providing good quality private rented homes. This option could provide an appropriate solution for people experiencing a homelessness crisis, at the same time as freeing up social homes for people in real need on the waiting list.

21. **Dudley Response**

Dudley's policies already seek to strike a balance between the needs of homeless households and those on the general waiting list. Our policy does give homeless households high priority for council housing, but only for a limited period of time, so they cannot choose to wait indefinitely in temporary accommodation for the council home of their choice. Some are limited to flats or maisonettes unless they have already been waiting long enough to secure a house. Dudley already referred homeless households to private landlords with their consent, particularly if we could not meet their preferences for property type or locality within our own stock. We also advertise private sector homes through Dudley at Home and offer a Deposit Guarantee Scheme.

22. Following the introduction of the legislation a policy decision was taken to permit the discharge of duty with an offer of a private sector tenancy. Accordingly Dudley is developing a procedure to ensure that it is used appropriately and in the light of individual housing needs assessments. Some authorities are developing their own social lettings agencies which provide a management service to private landlords on a commercial basis. It is intended to monitor and evaluate this approach to see its value for Dudley and its customers.

23. **Reform of council housing finance**

The Localism Act changes the way social housing is funded to pass more power to a local level. Previously, local authorities collected rent from their social tenants and then sent that to a single national pot managed by central government. Local authorities were then paid a sum out of the pot each year for the upkeep, renovation and repair of social homes. Instead, Councils will now be able to keep the rent and use it locally to maintain their social housing stock. This will give them a more predictable and stable basis to plan for the long term.

24. **Dudley Response:** Housing Finance is the subject of a separate report on this Cabinet Agenda

25. **National home swap scheme**

The Localism Act has introduced a national home swap scheme to facilitate greater movement between social tenancies. This will enable people who would like to swap their social home to access details of all other tenants who may be a suitable match. This has the potential to enable social tenants to find a home that better meets their needs and to exercise greater control over their lives.

26. **Dudley Response**
Dudley has for some time been members of the largest scheme (Home Swapper) offering our customers consider scope for mobility. The national scheme has been launched and our customers have access to it. It is intended to plan further publicity, and particularly wish to promote mutual exchange as an alternative to transfer for tenants who need to move as a result of Welfare Reform.
27. We are partners in the West Midlands Best Use of stock group (seven local authorities and the nine largest housing associations), currently engaged in mapping our stock holdings and identifying where we can work together to address under-occupation and overcrowding.
28. **Reform of social housing regulation**
The Act reforms the way that social housing is regulated, providing social tenants with stronger tools to hold their landlords to account. Landlords will be expected to support tenant panels - or similar bodies - in order to give tenants the opportunity to carefully examine the services being offered. The Act also abolishes the Tenant Services Authority and transfers its remaining functions to the Homes and Communities Agency.
29. The Act also changes the way that complaints about social landlords are handled. In future instead of two separate Ombudsmen (the Local Government Ombudsman and the Independent Housing Ombudsman) a single watchdog (the Independent Housing Ombudsman) specialising in complaints about social housing will ensure greater consistency across the sector.
30. **Dudley Response**
It is intended to hold a 'customer excellence' conference in September 2012 and for an external facilitator from the Housing Quality Network (HQN) to undertake preparatory work to involve customers, Members, officers, Area Housing Panels and Dudley Federation of Tenants & Residents (DFTRA) to consider ways of working to comply with the regulations and put our customers in a position where they can scrutinise, influence and change the housing service.
31. **Abolition of Home Information Packs**
Home Information Packs (HIPs) were first introduced in 2007, containing information about the property, including local authority searches and title documents. The Government suspended the requirement for Home Information Packs in May 2010. Since then, home sellers have only had to provide an Energy Performance Certificate (EPCs), showing the energy efficiency of their house. The Localism Act has repealed once and for all the original laws that called for Home Information Packs.
32. **Dudley Response**
Social Housing did not have to produce Home Information Packs so this change will have no impact. The Energy Performance Certificate has not been repealed. EPCs are an effective way of capturing 'energy data'.

33. **(iii) Development Planning**

The Localism Act brought with it planning reform; abolishing regional planning, introducing the concept of formal neighbourhood planning; bringing forward a duty to cooperate and the publishing of the National Planning Policy Framework along with some structural changes to planning enforcement powers and amendments to consultations on pre application discussions. There are also changes to the Community Infrastructure Levy (CIL).

It also brings with it transitional arrangements to ensure conformity of existing plans already adopted with the new National Planning Framework - In Dudley a self assessment process is underway to ensure that the Unitary Development Plan saved policies, the Black Country Core Strategy and the Brierley Hill Area Action Plan are in general conformity.

In relation to Dudley Borough, the abolition of Regional Planning comes at a time where there are strong sub regional linkages with the adoption of the Black Country Core Strategy and the creation of the LEP. Dudley continues to work closely with its local neighbours through formal and informal structures to ensure the duty to cooperate is met.

34. **Neighbourhood Planning**

The extent of Neighbourhood Plans can vary from being very detailed to being strategic, but they need to be in conformity with the vision for the wider area or national planning guidance. In Dudley Borough there have been few expressions of interest in relation to Neighbourhood Planning which would be viable to explore as full neighbourhood plan opportunities. Nevertheless Dudley, as the Local Planning Authority, remains committed to ensuring that this obligation can be met if the demand arises within the Borough.

35. **Community Right to Build**

In terms of community right to build, the Act gives groups of people the power to deliver development needed by the community providing it meets a set of minimum criteria and can demonstrate support through a referendum. The benefits from the development will stay within the community and be managed for the benefit of the community.

36. **Community Consultation**

The Act also now formally requires developers to consult local communities before submitting some planning applications for certain developments, providing opportunity for plans to better reflect local needs and views. In practice, many larger scale projects have often adopted this as a practice. In terms of CIL, the Act allows the money raised from development to be spent on things other than infrastructure and to go to the communities where development takes place.

37. **(iv) Community Empowerment**

There are specific provisions in the Act with regard to empowering communities. These include:

1. Community Rights to Challenge - The Act gives voluntary and community groups, parish councils and local authority employees the right to express an interest in taking over the running of a local authority service;
2. Assets of Community Value – the right to bid for and therefore retain a building or piece of land as a community asset that otherwise risks being sold off and used for other purposes;

38. The community rights agenda chimes with developing a response to the principles that underpin The Council Plan. To that end, the Council is supporting a joined up initiative involving DCVS, DCP and community volunteers to develop what is known as “Our Society in Dudley” (click on this link: <http://oursocietydudley.org.uk>). This approach recognises the Borough’s strong pedigree in community volunteering; of working in partnership; and the package of community engagement methods we have already developed and are using to broker more effective and fruitful relationships with local communities. The emphasis is very strongly on what works for this Borough, based on the bedrock that already exists. It therefore reaches beyond the legal specifics of community rights much further into the spirit of collaboration/cooperation; and it also offers support to the Community First panels that now exist in 9 of the Borough’s more deprived wards

39. **The Community Rights made Real project**

Within the context of that approach, this project has been undertaken in partnership with the national charity Urban Forum. Its work began in advance of royal assent back in August 2011, commencing with a project led by Urban Forum (with funding sponsored by Barrow-Cadbury). Its initial purpose was to understand the level of awareness and appetite for taking up the aforementioned community rights in Dudley.

40. The project explored new territory in this regard which was why Urban Forum, who have acted in an advisory capacity to Cabinet Office, were keen to work with Dudley. In essence the project worked with a range of community volunteers, many of whom represent active groups in the borough, and found a low level of awareness and appreciation of community rights among that audience. This mirrored the findings of national surveys. Moreover, the mood was very much not about interest in the specific powers provided through the Act (people do not necessarily get mobilised just because of a policy change), but far more concerned with community groups receiving the right support and resources to help them to be more effective and valued for the work they already do to improve life in the borough.

41. The project outcome is further collaboration with community volunteers, still supported by DCVS and an officer group from the Council, which will test out opportunities and desire for greater collaboration with (principally) the Council around these three groupings:

- Collaborative approaches to service delivery (exploring local interest and opportunities for community solutions)
- Engagement and Communication (wrapping up a number of linked issues around and ideas for improved communication and dialogue between communities and local public sector agencies)
- Resource sharing (use of shared space; support to community groups from volunteered skills of council staff; community use of assets)

The principles behind this process might support the idea of a “citizens’ commission” and could be adapted to fulfil that aim; and act as a platform for the Council to develop collaborative projects along the cooperative council model

42. **Community Asset Transfer Policy**

Work is taking place around a Community Asset Transfer Policy whose basis is to give local people and community groups greater control in the future of their area and their community. This is of course subject to further discussion with members and key stakeholders. One specific initiative under development which aligns with the Localism Act and the Community Asset Transfer policy is the future management of the Brierley Hill Civic Centre. This is to be assessed to see what scope there may be to have a stronger community involvement in the day to day operation of the Centre, opening up new uses, supporting the voluntary and community sector and preserving an outstanding physical asset in the Borough.

43. **Assets of Community Value**

A duty is placed on the Council to manage a process that allows any group able to demonstrate a connection with a local community or neighbourhood in the Borough, to nominate land or buildings as assets of community value. The objective behind this is to insure against the loss of potential assets when these are sold commercially for various purposes – for example, a pub sold and turned into residential space.

44. The Council will act in judgement of any such bids, maintain a list of such assets, and also a list of those rejected. It will have a duty to inform landowners of their position, and to preside over a moratorium in the event a landowner wishes to dispose, allowing any interested parties to come forward with proposals. The process will be managed via the Council's website.

Finance

45. The financial implications of the implementation of the Localism Act and its various provisions will need to be considered as part of the Council's ongoing budget process.

Law

46. The report refers to the provisions of the 2011 Localism Act and the duties placed upon the Council.

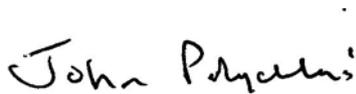
Equality Impact

47. The potential for a differential take-up of community rights and other opportunities open to the public including neighbourhood planning is recognised; in that some communities will be better equipped than others to exercise such rights; while other communities which have less resource or social capital may need greater support from the Council. Such communities may reflect greater levels of deprivation and among those there may be a greater representation of BME communities

Recommendations

48. It is recommended:-

- That the content of the report and the corporate direction proposed by the Localism Act Steering Group be approved.
- That the ongoing work, as set out in this report, be endorsed and the relevant Cabinet Members, the Chief Executive and Directors be authorised to pursue the implementation of the various provisions of the Localism Act 2011 as relevant to their particular areas of responsibility.
- That the corporate progress be monitored by the Director of Corporate Resources through the Localism Act Steering Group.
- That the repeal of the Petitions provisions be noted and the Chairs of Scrutiny Committees be requested to consider and report back to the Cabinet on the revision of the existing Petitions Scheme as contained in the Constitution.



.....
John Polychronakis
Chief Executive



.....
Philip Tart
Director of Corporate Resources

Contact Officer: Andy Wright
Telephone: 01384 814147
Email: andy.wright@dudley.gov.uk

List of Background Papers

Localism Act 2011 and associated guidance