



Department for Communities and Local Government

**Memorandum – Post Legislative Scrutiny
Greater London Authority (2007) Act**

September 2012



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Presented to Parliament by the Secretary of State for
Communities and Local Government
by Command of Her Majesty

September 2012

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This memorandum has been prepared by the Department for Communities and Local Government for submission to the Communities and Local Government Committee (“the Committee”). It is published as part of the post-legislative scrutiny process. It provides the Committee with the department’s post-legislative assessment of the Greater London Authority Act 2007.

GREATER LONDON AUTHORITY ACT 2007

1. Introduction

The Greater London Authority Act 2007 (the “2007 Act”) received Royal Assent on 23 October 2007.

It is important to consider that the 2007 Act is not a coherent piece of legislation in its own right, but is rather a collection of amendments to pre-existing legislation (primarily the Greater London Authority Act 1999 (the “1999 Act”)) aimed at expanding the responsibilities of the Mayor and the Authority. The 1999 Act was an extremely significant Act running to over 400 sections that restored a strategic tier of government to London with the current Mayor and Assembly model.

In addition, the Localism Act 2011 has subsequently made very significant changes to the responsibilities of the Greater London Authority (“the Authority”), which go far beyond those included in the 2007 Act.

It is therefore important when considering the 2007 Act to view it in the context of much greater change and devolution that both preceded and succeeded it.

2. Objectives

The 2007 Act fulfilled the commitment made in the 2005 Labour Party manifesto to “review the powers of the London Mayor and the Greater London Authority”.

The title of the consultation paper of November 2005 (*The Greater London Authority: The Government’s proposals for additional powers and responsibilities for the Mayor and Assembly*) made it clear that this review was a consideration of which powers could be transferred to the Authority. It suggested that devolution would be considered in areas and policies where doing so would lead to the improvement of strategic planning and the delivery of services in the capital. It also noted that “the litmus test of success must be the quality of life in the capital.”¹

As enacted the 2007 Act made a number of changes to the running of the Authority. The most significant sections extend the Mayor’s planning powers, giving him the power to direct that he is the local planning authority for applications of strategic importance in Greater London. The 2007 Act also made changes to the governance of the Authority, for example giving the London Assembly power to hold confirmation hearings for specific Mayoral appointments. The 2007 Act gave the Mayor responsibility to create a range of new strategies, including on health inequalities, housing, and energy and climate change. The 2007 Act also established a London Waste and Recycling Board. Finally the 2007 Act made some changes to the

¹ *The Greater London Authority: The Government’s proposals for additional powers and responsibilities for the Mayor and Assembly. A Consultation Paper*, Office of the Deputy Prime Minister, November 2005, p.18

appointment of members to the boards of functional bodies (including Transport for London and the London Fire and Emergency Planning Authority) as well as the Museum of London.

The provisions of the 2007 Act were commenced by a series of five separate commencement orders. The first sections of the Act to be commenced came into force immediately on 23 October 2007 (most of Part 11 – Supplementary Provisions), and the last sections of the Act to be commenced came into force on 24 July 2008 (parts of section 38 – London Waste and Recycling Board).

A detailed schedule of the sections and implementation dates is attached as **Annex A**.

3. Secondary legislation etc

As noted there were five commencement orders associated with the 2007 Act, all commencing sections of the Act on separate days. One of these (SI 2008/1372) also made savings provisions for local development schemes submitted to the Secretary of State before 27 June 2008, the date on which submission of schemes in London transferred to the Mayor for approval.

There have been no other pieces of secondary legislation relating to the 2007 Act.

4. Legal issues

No particular legal issues have arisen in connection with the 2007 Act.

5. Other reviews

There have been no other reviews of the 2007 Act since its enactment.

6. Preliminary assessment of the Act

As mentioned, when assessing the 2007 Act it is important to view it in the broader context of other recent changes to London's governance. The 1999 Act was a major undertaking and created the current system of London governance in its entirety, while the Localism Act 2011 devolved the control of major programmes, such as housing delivery, to the Authority. Compared against these Acts in particular, the changes contained in the 2007 Act are in fact relatively minor. Any assessment of the 2007 Act must take this into account.

The Government in 2005 laid down as the marker of success for the 2007 Act the improvement of strategic planning and the delivery of services in London. Judging success by these markers is difficult owing both to the lack of appropriate, quantifiable metrics, and the fact that assessing the full impact of new powers on strategic planning and service delivery could take more than five years.

However, it is possible to make some assessments. While the extra planning powers conferred on the Mayor have only been used four times since their commencement in 2008, with two further cases currently awaiting a public hearing, the fact that in every case resolved so far the Mayor has approved applications which had previously been

refused by the borough planning officers means wider strategic considerations have impacted directly on some planning decisions. Insofar as the approval of planning decisions can be read as furthering economic development, then the power has had a beneficial effect on London's overall social and economic development. It may also be the case that the Mayor's initial uses of the powers may have persuaded boroughs to take a more positive view of development applications in order to avoid mayoral intervention, providing a further boost to the city's economy, although this latter point cannot be proven. However, any firm conclusions would need a much greater sample size and longer term assessment of the developments in question.

A detailed note of the applications is included as **Annex B**.

In more general terms, the 2007 Act has made a relatively modest impact.

The creation of the London Waste and Recycling Board has provided opportunities for boroughs to act together to share best practice and use joint procurement, which may have improved service delivery, but the overall impact of co-operation has been relatively limited.

A significant portion of the 2007 Act focused on governance, either of the Authority, its functional bodies or other connected bodies. The Assembly's power to hold confirmation hearings and make an annual report, together with the new separate budget requirements have helped improve the overall transparency and scrutiny of the Authority. The removal of political restrictions on members of the Transport for London board and the Mayor's new ability to appoint two members to the London Fire and Emergency Planning Authority board may have contributed to the smoother functioning of the Authority's functional bodies across the Greater London Authority Group, and helped it take a more strategic view.

The duty to create a range of new strategies should have improved strategic planning, but in some cases (e.g. the housing strategy) has now been overtaken by events and in others (e.g. the health inequalities strategy) were inconsistent from the start. The duty placed on the Mayor to create a health inequalities strategy conflicts noticeably with the pre-existing constraint in the 1999 Act prohibiting the Authority from committing expenditure on "any health services".² In essence the Mayor is required to create a strategy he has no power to implement.

Overall it is hard to make firm conclusions about the degree to which these changes have contributed to any of the objectives laid down for the 2007 Act.

While the 2007 Act made clear Parliament and the Government's commitment to further devolution to the Authority and the Mayor, it also represented the tensions at the time between localism and centralism. Few of the sections amount to a sufficiently large difference to make clear improvements (or reversals) in the quality of London's strategic governance.

² Greater London Authority Act 1999 s.31(3)(d)

ANNEX A

Detailed Contents and Commencement

Part 1: General functions of the Authority

Part 1 amends the 1999 Act in relation to the general functions of the Authority.

Sections 1-11 commenced on 21 January 2008.

Section 1: allows the Authority to make payments to the Mayor or members of the Assembly on ceasing to hold office.

Section 2: introduces additional consultation procedures relating to Mayoral strategies.

Section 3: compels the Mayor to make a report to the Assembly five days, rather than three, before the Assembly's ten annual meetings.

Section 4: allows the Assembly to hold confirmation hearings for certain specified statutory Mayoral appointments.

Section 5: extends the time limit within which the Assembly may call certain categories of people to attend a meeting for questioning from three years to eight years.

Section 6: requires the Assembly to produce an annual report detailing its achievements that year.

Sections 7-11: make the appointment of the Authority's staff, Head of Paid Service, Monitoring Officer and Chief Finance Officer joint appointments of the Assembly and the Mayor, rather than the Assembly alone.

Sections 12-14 took effect for financial years beginning after 30 October 2007, while sections 15 and 16 commenced on that day.

Sections 12-15: require the production of separate component budgets for the Assembly and the Mayor

Section 16: requires the Deputy Mayor to exercise the budget-setting responsibilities of the Mayor if he were temporarily unable to act.

Part 2: Transport

Part 2 commenced in entirety on 21 January 2008.

Section 17: allows the Secretary of State to consent to any disposal of operational land by Transport for London ("TfL") in writing.

Section 18: removes the pre-existing restriction on holders of political office from being members of TfL.

Section 19: prohibits the payments of allowances to TfL members who are also Assembly members, unless they are Chairman or Deputy Chairman of TfL.

Part 3: The London Development Agency

Part 3 commenced in entirety on 21 January 2008.

Section 20: allows for the payment of allowances to the Chairman or Deputy Chairman of the London Development Agency who is also an Assembly member.

Part 4: Health

Part 4 commenced in entirety on 21 January 2008.

Section 21: provides for the appointment of a Health Advisor and one or more Deputy Health Advisors to the Authority.

Section 22: requires the Mayor to produce a health inequalities strategy.

Section 23: places a general duty on the Authority to have regard in the exercise of its general powers for any impact on health inequalities between people living in London.

Section 24: places a general duty on the Mayor to have regard when producing any of his statutory strategies, or amendments to those strategies, for any impact on health inequalities between people living in London.

Part 5: The London Fire and Emergency Planning Authority

Part 5 commenced in entirety on 21 January 2008.

Section 25: enables the Mayor to make two appointments to the London Fire and Emergency Planning Authority ("LFEPA").

Section 26: allows the payment of allowances to Assembly members who are also the Chairman or Deputy Chairman of LFEPA.

Section 27: allows for the Mayor to issue guidance and directions to LFEPA, and for the Secretary of State to issue directions to the Mayor where his directions or guidance are inconsistent with national frameworks.

Part 6: Housing

Part 6 commenced in entirety two months after the Act gained Royal Assent.

Section 28: requires the Mayor to produce a housing strategy for London giving his recommendations on the amount, type and location of new housing in London. The Secretary of State may give guidance if the strategy is inconsistent with national housing policy. There are also additional consultation requirements. The Housing Corporation/Homes and Communities Agency must have regard to the housing strategy.

Part 7: Planning

Section 29 commenced on 21 January 2008.

Section 29: introduces additional consultation procedures for the Mayor's spatial development strategy.

Section 30 commenced on 27 June 2008

Section 30: gives the Mayor a power of intervention in local planning authorities' local development schemes (within London).

Sections 31-36 commenced on 6 April 2008

Sections 31-34: give the Mayor the power to determine planning applications which are of "potential strategic importance" in place of the local planning authority (within London).

Section 35: requires the Mayor to offer a "representation hearing" to the applicant and local planning authority before making a decision on an application.

Section 36: enables regulations under section 46 of the Planning and Compulsory Purchase Act 2004 to provide for cases where the Mayor is acting as the local planning authority.

Part 8: Environmental functions

Section 37 commenced on 21 January 2008

Section 37: provides that London waste authorities exercise some of their waste collection and disposal functions "in general conformity" with the Mayor's waste management strategy.

Section 38 where not already commenced, commenced on 24 July 2008. The Secretary of State's power to make orders and regulations commenced at Royal Assent, and some such powers are included in this section

Section 38: establishes a new London Waste and Recycling Board.

Section 39 commenced on 21 January 2008

Section 39: requires waste authorities to inform the Mayor if they intend to tender for a waste contract.

Sections 40-44 commenced on 21 January 2008

Section 40: requires the Authority to consider the effects that any exercise of its general power will have on climate change and its consequences.

Section 41: requires the Mayor to have regard to climate change and its consequences when preparing his strategies.

Section 42: introduces a duty on the Mayor and Assembly to address climate change.

Section 43-44: require the Mayor to publish strategies on climate change mitigation and energy, and on adaptation to climate change.

Part 9: Culture, Media and Sport

Section 45 commenced on 6 April 2008

Section 45: moves the power to appoint nine of the eighteen members of the Museum of London Board of Governors from the Prime Minister to the Authority.

Section 46 commenced two months after Royal Assent

Section 46: extends the period of appointment for Museum of London Governors from three years to “not more than four years”. It also has retrospective force.

Sections 47-49 commenced on 6 April 2008

Sections 47-49: transfer from the Secretary of State to the Authority other powers relating to the Board of Governors, including expenditure and appointment of staff.

Section 50 commenced on 21 January 2008

Section 50: amends the consultation process for the Mayor’s culture strategy.

Section 51 commenced on 6 April 2008

Section 51: imposes a duty on the Mayor to make appointments to certain arts bodies to do so as soon as reasonably practicable after receiving a written request to do so.

Part 10: Miscellaneous and General

Section 52 commenced on 21 January 2008.

Section 52: enables the Authority and the functional bodies to arrange for administrative, professional or technical services to be provided by any of them on behalf of the others.

Part 11 contains supplementary provisions and was commenced at Royal Assent.

ANNEX B

Planning decisions taken by the Mayor

In all cases the Mayor's intervention followed the relevant councils informing him they were minded to refuse the applications.

1. Hertsmere House / Columbus Tower

(Local planning application reference number: PA/08/02709)

Site located in the London borough of Tower Hamlets.

Columbus Tower is a 63 story mixed-use skyscraper development planned for the Canary Wharf area of Tower Hamlets.

The Mayor informed the council he would act as the planning authority on 26 August 2009. A public hearing was held on 7 October 2009 and the Mayor granted permission on 2 December 2009.

2. Southall Gas Works

(Local planning application reference number: Ealing – P/2008/3981-S, Hillingdon – 54814/APP/2009/430)

This application spanned the boroughs of Ealing and Hillingdon.

The Mayor granted approval for a development of 3750 houses on the site of the gas works, as well as the extension of Southall town centre.

The Mayor informed both councils he would act as the planning authority on 22 December 2009. A hearing was held on 25 March 2010, and the Mayor approved the scheme the same day.

3. Saatchi Block

(Local planning application reference number: 2010/6873/P)

Site located in the London borough of Camden.

This scheme is a significant redevelopment of the Saatchi & Saatchi building in Fitzrovia to include office space and housing.

The Mayor informed the council he would act as the planning authority on 27 June 2011, and a public hearing was held on 19 September 2011. The Mayor approved the scheme the same day.

4. SITA Recycling Park

(Local planning application reference number: 08/P2724)

Site located in the London borough of Merton.

The scheme is a planned extension of an existing recycling facility with new buildings for anaerobic digestion and an In-Vessel composting facility.

The Mayor informed the council he would act as the planning authority on 30 November 2010, and a public hearing was held on 12 October 2011. The Mayor approved the scheme the same day.

Current cases

1. Eileen House

(Local planning application reference number: 09/AP/0343)

Site located in the London borough of Southwark.

This application is for two buildings, one a 44-story residential tower, just off the Elephant & Castle roundabout.

The Mayor informed the council he would act as the planning authority on 1 December 2011. No date for a public hearing has been set.

2. London Fruit and Wool Exchange

(Local planning application reference number: PA/11/02220)

Site located in the London borough of Tower Hamlets.

This application is to redevelop the London Fruit and Wool Exchange near Spitalfields Market with a new development including retail and office space.

The Mayor informed the council he would act as the planning authority on 20 June 2012. No date for a public hearing has been set.



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