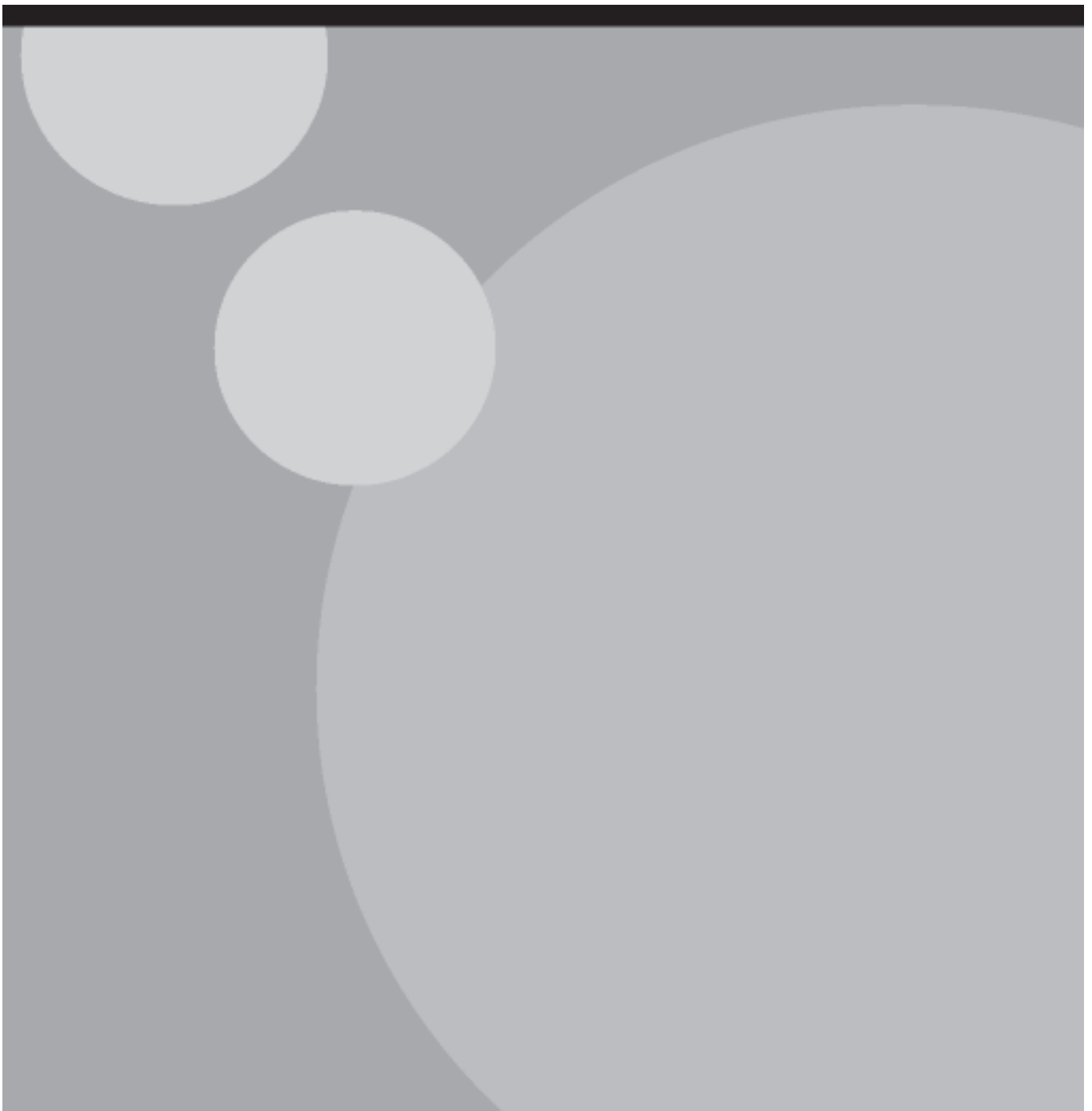




Sustainable Communities Act consultation on
regulations—
Summary of Responses and Government Response





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Contents

Summary	3
Background	4
Consultations Results	5
Outcome of the Consultation	6
Next Steps	9
Annex 1	11

Summary

The Department for Communities and Local Government ran a consultation exercise between 29 March and 20 June 2011 on new, light-touch, regulations to govern the implementation of the Sustainable Communities Act 2007.

The consultation proposed the regulations that would be required to implement the second invitation of the Sustainable Communities Act. The Sustainable Communities Act enables councils that have consulted and reached agreement with their local communities and find that a bureaucratic barrier prevents them from taking action, to submit a formal 'proposal' asking Government to remove the barrier.

The Act and the proposed draft regulations set out in the consultation provide the means to holding Government to account and to ensuring that each proposal is given the fullest consideration, whilst minimising the burden on local authorities and communities. The consultation followed the commitment to consult made on 15 December 2010, when the second invitation was made.

The majority of the respondents to consultation (24) were supportive of the proposed broad thrust of the regulations, but a few felt some regulations were required for other issues.

This paper is a summary of the submissions received on the consultation and the Government's response to it.

Background

The Department for Communities and Local Government conducted a consultation exercise between 29 March and 20 June 2011 on new, light-touch, regulations to govern the implementation of the Sustainable Communities Act 2007.

The consultation proposed the regulations that would be required to implement the second invitation of the Sustainable Communities Act, which the Secretary of State issued on 15 December 2010. He invited councils to consult people, ask them how they would like to see their local area improved and to take appropriate action to make it happen. The Localism Act 2011 will give them far more freedom and flexibility to do this.

The Sustainable Communities Act enables councils that have consulted and reached agreement with their local communities and find that a bureaucratic barrier prevents them from taking action, to submit a formal 'proposal' asking Government to remove the barrier. Councils submit proposals through an online portal at <http://barrierbusting.communities.gov.uk> – this portal is also open to anyone who wishes to ask the Government to remove a barrier which is stopping local action, for example, town and parish councils, community groups and individuals.

The Sustainable Communities Act was amended in April 2010 to allow the procedures for receiving, considering and deciding proposals under the Act to be improved. The Act now allows the arrangements for the consideration of proposals submitted in response to the invitation to be set out in regulations, following a period of consultation. There are no deadlines for the submission of proposals, which can now be submitted directly to the Government at any time. Information on the action the Government is taking on the proposals will be available online so that councils and communities can track progress.

The Act, and the proposed draft regulations set out in this consultation, are a means to hold Government to account and ensure each proposal is given appropriate consideration.

Consultation Results

The consultation made seven proposals. These were to introduce regulations which require the Secretary of State to:

One: Consider a request by the selector to take action to remove a bureaucratic barrier, which the Secretary of State has previously decided not to implement

Two: Consult and try to reach agreement with the selector before he decides whether or not it can be implemented, or implemented in part, and how proposals will be implemented

Three: Publish his decision, with reasons

Four: State any action he will take with a view to implementing the proposal

Five: Publish an update on that action, should it not be complete within one year

Six: Introduce regulations which give the selector the discretion to appoint an advisory panel to assist it in its duties. This would be supported by non-statutory arrangements

Seven: We believe all other arrangements can be adequately addressed within the selector's terms of reference and the memorandum of understanding

Outcome of the Consultation

Respondents

There were 25 responses to the consultation of which 24 were relevant – one does not appear to be a response to the questions raised in the consultation. Four of these were received after the closing date of 20 June but before 1 July 2011. They were all considered as part of the consultation.

The breakdown of responses submitted by organisation is set out below:

- | | |
|---|-----------|
| • Unitary / City councils | 3 |
| • District Councils | 2 |
| • County Council | 1 |
| • Local Government Representative Bodies | 2 |
| • Other (including individuals and organisations) | 3 |
| • Town/Parish Councils | 13 |

Summary of responses by question

The consultation document invited views on seven proposals. The questions and a summary of responses are shown below.

Proposal One

To introduce regulations which require the Secretary of State to consider a request by the selector to take action to remove a bureaucratic barrier, which the Secretary of State has previously decided not to implement

Of those that commented on this aspect of the proposals, the vast majority of respondents were supportive of the idea. A couple of respondents suggested that the selector should be able to request that any proposal be reconsidered, not just those submitted by local authorities.

Government Response - We are pleased that the majority of respondents support this proposal and will be introducing regulations accordingly.

We have also considered whether the selector should be able to request any proposal to be re-considered, not just those submitted to the selector by the local authority whose request has not been implemented. The Government concluded that any request to reconsider a proposal must be from the local authority who raised the initial barrier, since only it will be able to consider the reasons for the Government's response and their application to the local area.

Proposal Two

To introduce regulations which require the Secretary of State to consult and try to reach agreement with the selector before he decides whether or not it can be implemented, or implemented in part, and how proposals will be implemented

The majority of respondents that commented on this requirement were supportive. A few respondents thought this requirement could be improved with suggestions including:

- The requirement should be amended so that the independent selector makes the final decision on whether the proposal can be implemented (one respondent)
- The selector should be able to work with the proposer to strengthen the submission if it is confident that, if approved, it would improve the sustainability of local communities (one respondent).

Government Response – We are pleased that the majority of respondents support this proposal and will be introducing regulations accordingly.

The Government has considered whether the selector should make the final decision on whether a proposal can be implemented. We have concluded that the Secretary of State should take the final decision on appeals, allowing him to consider any differential impacts on different areas or groups, and tensions with wider policy objectives.

We agree that the selector should have the flexibility to work with the proposer to strengthen a proposal if it considers that it would improve the sustainability of local communities. We do not, however, believe that regulations are an appropriate tool to provide flexibility, and will work with the selector to consider how this can best be taken forward.

Proposal Three

To introduce regulations which require the Secretary of State to publish his decision, with reasons

Respondents were supportive of this measure to ensure the transparency of the process. A small number of respondents thought that the Selector should publish an account of how agreement was reached.

Government Response – We are pleased that the majority of respondents support this proposal and will be introducing regulations accordingly.

The Government is keen to ensure the transparency of the Sustainable Communities Act proposals. We will discuss with the selector whether it should publish an account of how agreement was reached on Sustainable Communities Act appeals.

Proposals Four and Five

To introduce regulations which require the Secretary of State to state any action he will take with a view to implementing the proposal and; to publish an update on that action, should it not be complete within one year

Those that commented on this aspect of the proposals were supportive of it, although two respondents suggested that, in the main, each proposal should be fully dealt with within six months.

Government Response – We are pleased that the majority of respondents support these proposals. We will be introducing regulations that require the Secretary of State to state any action he will take with a view to implementing a proposal.

The barrier busting portal includes an update tracker that allows all those who submit proposals to monitor current progress on an ongoing basis. We will publish decisions on all proposals, and information on the progress of cases where decisions have not yet been reached, or have been appealed, on the tracker.

Proposal Six

To give the selector the discretion to appoint an advisory panel to assist it in its duties

Almost half of respondents did not express a view on this proposal. Of those that did, the vast majority supported the proposal.

Government Response – The Government notes the support for this proposal. We will take this into account in finalising the arrangements for the Selector with the Local Government Association and other interested organisations such as Local Works and National Association of Local Councils, to ensure that appropriate advice is obtained from organisations that represent the interests of communities.

Proposal Seven

We believe all other arrangements can be adequately addressed within the selector's terms of reference and the memorandum of understanding

- There was a mixed response to the proposed removal of the requirement on local authorities to consult with their communities before submitting proposals, with seven respondents disagreeing. While many welcomed the removal of the

prescriptive approach to consultation, some felt that the removal of this legal requirement would result in no or only cursory consultation with the community.

- Three respondents asked that proposals from other groups such as Parish and Town Councils and community groups submitted via the Barrier Busting website should be recognised under the Act.
- Four respondents welcomed the proposed key roles for National Association of Local Councils and Local Works in relation to the Selector role.
- Some respondents wanted to see more detail on what would be in the terms of reference and memorandum of understanding and how the process of re-submission would work.

Government Response – The Government is considering the detail that should be included in the memorandum of understanding and the terms of reference and will discuss them with the Local Government Association and the other organisations with an interest in the Sustainable Communities Act process.

We note the support for including in regulations a requirement for local authorities to consult their communities on Sustainable Communities Act proposals, and to try to reach agreement with them before submitting them to the barrier busting portal. We also note that a few respondents asked that parish and town councils be allowed to submit Sustainable Communities Act proposals.

The Government agrees that community engagement is a vital element of the Sustainable Communities Act process. The Government is therefore including in regulations a requirement that local authorities consult their communities and try to reach agreement on proposals before submitting them. We recognise that local authorities are best placed to consider how to fulfil this requirement, drawing upon their understanding of local communities. We do not, therefore, intend to prescribe the means by which this consultation should take place.

The Government also agrees that town and parish councils have an important role to play in engaging local communities in the Sustainable Communities Act process. It therefore intends to consult on whether town and parish councils should be given powers to submit proposals under the Act.

Next steps

The Government will work with the Local Government Association and other interested bodies over the next two months to finalise the composition of the selector and the advisory panel, as well as the details that should be included in the memorandum of understanding and the terms of reference. Regulations will be laid in June 2012.