



**Memorandum to the Communities and Local Government Commons  
Departmental Select Committee**

**Post-Legislative Scrutiny**

**THE SUSTAINABLE COMMUNITIES ACT 2007**

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

October 2012

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# **Memorandum to the Communities and Local Government Departmental Select Committee**

## **Post-Legislative Scrutiny**

### **The Sustainable Communities Act 2007**

#### **Introduction**

This Memorandum has been prepared by the Department for Communities and Local Government for submission to the Communities and Local Government Departmental Select Committee (“the Committee”) and is published as part of the post-legislative scrutiny process set out in Cm 7320. It provides the Committee with the Department’s post-legislative scrutiny assessment of the Sustainable Communities Act 2007 that received Royal Assent on 23 October 2007.

It also includes details about the Sustainable Communities Act 2007 (Amendment) Act 2010 because it amended the Sustainable Communities Act 2007 to improve the procedures for managing proposals under the Act.

#### **(a) Objectives**

The Sustainable Communities Act 2007 aims to promote the sustainability of local communities. It recognises that local people know best what needs to be done to promote the sustainability of their area, but sometimes they need central government to act to enable them to do so. The Sustainable Communities Act 2007 provides a channel for local people to ask government to take action.

The scope of the Sustainable Communities Act 2007 is very broad, covering economic, social and environmental issues. It does not limit the type of action that can be put forward, although they must be within the broad scope of the Act.

The Sustainable Communities Act 2007 is a useful mechanism for local authorities to submit proposals that help to improve the well being of their local communities, where these proposals require central government to remove barriers to make them possible. In the first round, the current Government agreed to take forward 98 proposals. The operation of the Act also complements a number of other current Government initiatives to enhance local well being including local transparency to help people influence key spending and other decisions that affect their local area.

Key requirements put in place by the 2007 Act were:

- Local authorities would be invited to make proposals which would promote the sustainability of local communities.
- Arrangements would be made for the production of local spending reports which would map the level of public expenditure in each local authority area.

### ***Sustainable Communities Act 2007***

The Sustainable Communities Act 2007 requires the Secretary of State to invite local authorities to submit proposals that will help to improve the sustainability of their local areas. It also provides a simple process whereby local authorities seek ideas to improve their areas from local communities. The ideas generated by local communities are fed through their local authority and a body known as the “selector” (which was the Local Government Association under the first invitation) to central government. Under the first invitation, local authorities were invited to submit their proposals to the ‘selector’ who was responsible for “short-listing” proposals. These proposals were submitted to the then Government who were responsible for consulting the selector and trying to reach agreement on which of the proposals on the short-list should be implemented. In December 2010, the current Government responded to all of the proposals that were short-listed by the selector and published an action plan setting out how it would take forward the suggestions that it adopted.

The Act was the result of a 5 year campaign led by a coalition of organisations under the banner of Local Works. The Sustainable Communities Bill was put forward as a Private Member’s Bill and had cross party support as well as widespread support across the country.

The then Government intended the Act to support its efforts to engage and empower communities. The Act also aimed to increase transparency and accountability in identifying the public funds that went into an area.

### ***The Sustainable Communities Act 2007 (Amendment) Act 2010***

The Sustainable Communities Act 2007 was amended in 2010 to help improve the management of proposals received under the Act. The Sustainable Communities Act 2007 was amended following the submission of a private member’s bill to amend the Act. The Sustainable Communities Act 2007 (Amendment) Act 2010 received Royal Assent on 8 April 2010.

The Sustainable Communities Act 2007 (Amendment) Act 2010 changed the process in the Sustainable Communities Act 2007 for submitting and considering proposals in the following ways:

- Proposals would be submitted to government rather than to the selector. This would ensure all proposals submitted by local authorities were considered by government.

- There would be no deadlines for submitting proposals. This would avoid huge numbers of proposals having to be considered at the same time.
- Local authorities would be able to ask the selector to re-submit their proposal to the Secretary of State if they were unhappy with the decision taken on their proposal.
- The Secretary of State would be required to try to reach agreement with the selector on all the decisions he has been asked to review before taking a final decision on a proposal.
- Those that submitted Sustainable Communities Act proposals would be able to track progress of their proposal on a tracker on the Department's website.

### ***Local Spending Reports***

Local Spending Reports are a requirement of the Sustainable Communities Act 2007, intended to give local people more influence over local spending priorities.

The Sustainable Communities Act 2007 provides considerable flexibility about the arrangements for the production of reports (although the Secretary of State must consult those likely to be affected before making arrangements) and the scope and form the reports take.

Section 6 of the Sustainable Communities Act 2007 enables the Secretary of State to decide:

- whether the local spending reports are produced by government or others.
- What expenditure is covered, in what area, by which organisations and over what period.
- Organisations covered can be local authorities, government departments or those exercising public functions.
- The geographical area must be one or more local authority areas, one or more parts of a local authority area or any combination of those; and
- A report may relate to different areas or periods for different authorities or include future periods.

The Department for Communities and Local Government produced and published the first report in April 2009. This was made available as a downloadable spreadsheet with reports subsequently hosted on the Department's Places Database.

The December 2009 *Report to Parliament* set out proposals to develop Local Spending Reports in the context of wider work to make public data public.

Proposals for a second Local Spending Report were published in a consultation document in March 2010 – although the current Government are not bound by this exercise as it was initiated under the previous Government.

Separately, the current Government has set in place a range of measures to improve local transparency to help people influence key spending and other decisions. These were:

- *Code of recommended practice for local authorities on data transparency*  
<http://www.communities.gov.uk/documents/localgovernment/pdf/1997468.pdf>  
which lists information that councils should publish, including spend over £500, senior salaries, key council decisions, policies and performance, contracts and grants to the voluntary and community sector. Ministers are minded to make the Code mandatory, subject to consultation.

- *Guides on publishing local spending data*  
The Department has created practitioners' guides to publishing local spending data, senior salary information and new contracts - published by the Local Government Association, in collaboration with the Local Public Data Panel and other experts.

- *Citizens' rights to see council accounts*  
The Department has enhanced citizens' rights to inspect town hall ledgers: every council is required by law to make its accounts available to the public for 20 days a year. This includes every invoice, payment and receipt registered in the council's ledgers.

- *Making a difference with data*  
The Department provides funding to this initiative, which aims to raise awareness about how citizens can access data from local public services such as local authorities, the police and the NHS, and use it to make a difference in their local community.

Recently, the London Borough of Lambeth has developed an on-line tool related to Lambeth's Food Strategy to demonstrate how better access to information can help improve policy and decision-making at the local level. We will be using this tool to stimulate further debate in Lambeth and other local authorities about open data. We want this to focus around a dialogue between councils and their residents and communities, helping them to understand what data is available, and how they can use it to influence and shape local public services.

- *Openness and accountability on pay and jobs*  
We have required all relevant authorities to produce, approve and publish a policy statement setting out their approach to a range of matters relating to the pay and reward of their staff – particularly senior staff and the lowest paid. This includes policies on salaries, bonuses and severance arrangements. These pay policy statements must be approved by Full Council and must be made available on an authority's website. Guidance, to which authorities must have regard when undertaking these duties, is available here:  
<http://www.communities.gov.uk/publications/localgovernment/guidancelocalpay>

- Local procurement

The current Government is committed to improving the system for commissioning and procuring local services and encouraging all councils to make regular use of: <http://www.contractsfinder.co.uk>, a tool that helps match up providers and bidders.

The department is encouraging councils to remove the need for a Pre-Qualification Questionnaire for contracts under the EU threshold of £173,000.

- Local Public Data Panel

The Department is supporting the Local Public Data Panel, chaired by Professor Nigel Shadbolt, which was established to make local public services better understood and more accessible.

## **b) Implementation**

The provisions of the Sustainable Communities Act 2007 relating to the submission of proposals were exercised when the first invitation to submit proposals to help improve the sustainability of local areas was issued on 14 October 2008. The Sustainable Communities Regulations 2008 governed the management of proposals received under the first invitation.

The second invitation for proposals under the Sustainable Communities Act 2007 (as amended by the 2010 Act) was issued on 15 December 2010. The process for managing proposals under the second invitation is set out in the Sustainable Communities Regulations 2012 and which came into force on 26 July 2012.

## **c) Secondary Legislation etc.**

Section 5(1) of the Sustainable Communities Act 2007 enables the Secretary of State to make regulations about the steps to be taken by local authorities before submitting proposals and by the selector before drawing up a shortlist of proposals. It required the Secretary of State to issue guidance to local authorities about making proposals.

The Sustainable Communities Regulations 2008, governing the management of first invitation proposals, were made on 9 October 2008 and came into force on 3 November 2008.

The 2008 regulations required:

- local authorities to establish panels of local people, to consult them and try to reach agreement with them on proposals they wanted to put forward.
  - Local authorities to submit proposals to the selector (the Local Government Association), and
  - the selector, who under section 3 of the Act is responsible for short listing first invitation proposals, to prepare a written report on the proposals and send it, together with the short list of proposals, to the Secretary of State for consideration.
- The first invitation for proposals was issued on 14 October 2008 and proposals had to be submitted to the selector by 31 July 2009. The Secretary of State



considered all short listed proposals and issued a decision on the proposals on 15 December 2010.

Section 5B of the Sustainable Communities Act 2007 (Amendment) Act 2010 was inserted into the Sustainable Communities Act 2007. It enables the Secretary of State to make regulations to govern the process for dealing with proposals submitted by local authorities in response to an invitation issued by the Secretary of State under section 5A (subsequent invitations).

The Sustainable Communities Regulations 2012 governs the management of second invitation proposals. The second invitation for proposals was issued on 15 December 2010 and the Government consulted on regulations that would govern the process for considering proposals in March 2011. Regulations were made in July 2012. The 2012 Regulations require:

- Local authorities to consult representatives of interested local persons on proposals under the Sustainable Communities Act 2007 and try to reach agreement with them before submitting proposals for consideration by government.
- The Secretary of State to consider proposals and decide whether to implement them in full or in part, and to issue decisions on proposals with reasons, and to explain the action that would be taken to implement the proposal.
- The selector to represent the interests of local authorities and to consider requests from local authorities whose proposals have been rejected in part or in full and to seek advice on proposals from an advisory panel (consisting of other persons who represent the interests of local authorities or interested local persons), as the selector thinks fit.
- The selector to re-submit proposals to the Secretary of State requesting for a reconsideration of his decision, if the selector considered the proposal would promote the sustainability of local communities and should be taken forward by the Secretary of State. The selector is required to submit reasons for its decision.
- The Secretary of State to consider proposals re-submitted by the selector and to consult and try to reach agreement with the selector on final decisions.
- The Secretary of State to publish his decision with reasons.
- The Secretary of State to publish the action that will be taken on a proposal, and publish an update if the action is not completed within a year.

#### **d) Legal Issues**

There were no specific legal issues during the implementation of the 2007 and 2010 Acts which needed to be addressed.

#### **e) Other Reviews**

There was no formal review of the Sustainable Communities Act 2007, however during the consideration of proposals under the first invitation in 2008, it was apparent that the process for considering proposals could be improved. In

particular, setting a deadline for submission of proposals meant that a large number of proposals were submitted to the selector which required careful consideration because they raised complex issues. This slowed down the time taken to make decisions on proposals and resulted in increased costs to the public purse. The current Government decided that the process for considering proposals could be improved and therefore supported amending the Sustainable Communities Act 2007 to provide an improved process for considering proposals submitted under the Act.

#### **f) Preliminary Assessment of the Act**

The current Government considers that the Sustainable Communities Act 2007 achieves its purpose in enabling local communities to get involved in proposals to help improve the sustainability of their local communities. During the first invitation, over 300 proposals were submitted by local authorities to the selector, and 199 proposals were short listed and submitted to the Secretary of State for consideration. The Secretary of State issued his decision on all these proposals in December 2010.

Although the first invitation enabled local authorities to submit proposals, the current Government decided that the process for submitting proposals under the Sustainable Communities Act 2007 could be streamlined and improved. The Sustainable Communities Act (Amendment) Act 2010 was drafted to remove the deadline for submitting proposals, to allow local authorities to submit proposals direct to government rather than to a selector, and to enable local authorities to ask the selector to resubmit proposals to the Secretary of State where they were unhappy with the decision on their proposal. The change in process is likely to result in reduced costs as the selector would only be responsible for considering proposals where the decision on them has been challenged by local authorities.

Only a small number of Sustainable Communities Act proposals have been submitted to the Department since the second invitation for proposals was issued in December 2010. We expect that the number of proposals could increase following the making of the regulations that will govern the process for managing proposals. We are also considering whether to extend powers under the Sustainable Communities Act 2007 to town and parish councils. If this proposal goes ahead it could lead to an increase in the number of Sustainable Communities Act proposals submitted to the Department.



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