

Executive

Localism Bill 2010: Opportunities for Cherwell

7 February 2011

Report of Interim Chief Executive

PURPOSE OF REPORT

To consider the opportunities and issues for the district which are created through the Localism Bill 2010.

This report is public

Recommendations

The Executive is recommended:

- (1) To note the contents of the Localism Bill 2010 and consider any issues and communications they wish to make to the Secretary of State and/or local Members of Parliament.
- (2) To request officers to provide update briefings to the Executive as the Bill continues on its legislative passage.
- (3) To request officers to bring forward any opportunities for pilot projects as and when they arise including any legal, risk and financial implications.

Executive Summary

Introduction

- 1.1 The Localism Bill was published on 13 December 2010, as the vehicle to provide the legislative framework required to achieve many of the ambitions which were set out in the government's 'Big Society' agenda.
- 1.2 Unusually, for this type of proposed legislative change, the proposals were not set out in a green paper (discussion) or a white paper (consultation) document, instead being introduced as draft legislation. This means that there is no opportunity to formally submit a consultation response to the government, therefore any response to the consultation will have to be given to members of parliament and fed into parliament's consideration of the bill.
- 1.3 The Bill received its first reading in the House of Commons on 13 December

2010, its second reading (an opportunity for debate on the general principles of the Bill) was on 17 January 2011. The Bill then proceeds through the committee stage before consideration in the House of Lords. With the bill being introduced as draft legislation it is highly likely that it will have a long passage with many amendments made and it is unlikely to receive Royal Assent until late 2011, with different sections of the bill enacted on different commencement dates as and when regulations and guidance can be produced by the Secretary of State.

- 1.4 It should be noted that until the Bill passes in to law there are no legislative powers to enact new initiatives under it and any proposed pilots must use existing legislation, otherwise they are likely to be subject to legal challenge. In recent months both the Home Secretary and the Secretary of State for Communities and Local Government have been subject to successful judicial reviews for new initiatives that they have indicated should be followed despite there being no legislative basis to support this.
- 1.5 The Bill is a complex document comprising two volumes and some 405 pages, 208 clauses, 24 schedules and at least 142 orders and regulating powers including many repeals and amendments to existing legislation. Therefore due to the way it has been introduced (as draft legislation) there have been many discussions over the meaning of the draft legislation and if in fact it does give effect to all the governments intentions.
- 1.6 The Bill is arranged around six key principles:
 - Lifting the burden of bureaucracy
 - Empowering communities to do things their way
 - Increasing local control of public finances
 - Diversifying the supply of public services
 - Opening up Government to public scrutiny
 - Strengthening accountability to local people

With detailed proposals on the following topics:

- Standards Regime, Standards Board and National Code of Conduct – Section 1.7
- Duty to co-operate with other public bodies – Section 1.8
- Predetermination Removed – Section 1.9
- General Power of Competence – Section 1.10
- Local Authority Governance – Section 1.11
- Neighbourhood Development Orders Plans, Community Right to Build and Neighbourhood Plans – Section 1.12
- Council Tax Referendums on Excessive Council Tax – Section 1.13
- Ability to Discount Business Rates – Section 1.14
- Abolition of 'bin tax' – Section 1.15
- Community Infrastructure Levy – Section 1.16
- EU Financial Sanctions, Allocation to Local Authorities – Section 1.17
- Community Right to Express Interest in Running Public Services – Section 1.18
- Community Right to Buy Assets of Community Value – Section 1.19
- Senior Officer Pay Policy – 1.20
- Power to use Petitions to Trigger a referendum on any Local Issue – Section 1.21

- Duty to promote democracy and Statutory Petition Schemes Abolished – Section 1.22
- Duty for Planning Pre-application Consultation – Section 1.23
- Abolition of Regional Strategies – Section 1.24
- Duty to Co-operate - Planning of Sustainable Development – Section 1.25
- Abolition of Binding Inspectors Reports – Section 1.26
- Enforcement – Section 1.27
- Social Housing Allocations Reformed – Section 1.29
- New Homelessness Legislation – Section 1.30
- Social Housing Tenure – Section 1.31
- Council Housing Finance Reviewed – Section 1.32
- National ‘Homeswap Scheme’ launched – Section 1.33
- Housing Ombudsman – Section 1.34
- Social Housing Regulation Reformed- Section 1.35
- Help to Move Out of Social Rented Housing – Section 1.36
- Home Information Packs Abolished – Section 1.37

Proposals dealing with issues that are not applicable to Cherwell (e.g. Fire Authorities, London, Shadow elected Mayors and Council Housing finance) have been excluded.

Proposals

Lifting the Burden of Bureaucracy

- 1.7 **Standards Regime, Standards Board and National Code of Conduct**
 The Bill abolishes Standards for England which was the national coordinating body for the standards regime. The Bill does abolish the mandatory national code of conduct and the requirement to have a Standards Committee but it leaves it to each local authority to decide whether it wishes to have a voluntary local code of conduct.

As there is no longer a national code it will be for each local authority, if it wishes to have a code, to decide what should be in that code. Local authorities may revise the code they have, adopt a new code to replace the existing code or withdraw the existing code without replacing it. Local authorities will be required to deal with complaints about breaches of their code of conduct, if they have one, but no sanctions other than censure will be available.

What remains is a duty to promote good conduct and an obligation to disclose and register interests. The Monitoring Officer will continue to be responsible for establishing and maintaining the register of Members’ interests. It will be an offence to fail to register, or fail to disclose, an interest. Prosecutions may only be brought by the Director of Public Prosecutions. The offence will be punishable by a fine of up to £5000 and potentially disqualification for up to five years.

Even if an authority chooses not to have a code of conduct it will need a mechanism to deal with complaints about the behaviour, or activities, of councillors. The Committee on Standards in Public Life has expressed

concern at the proposed lack of a national code, and an independent complaints mechanism, whilst recognising the problems, and cost, of vexatious or politically motivated complaints which have dominated the existing regime.

In terms of Parish Councils, conduct becomes a matter for the Parish Council in question and no longer a matter for the district council or the district council's Monitoring Officer to investigate.

1.8 Duty to co-operate with other public bodies

This duty was originally brought in to further Local Area Agreements and whilst these are not to continue, there is still a strong government commitment to ensure local bodies should promote shared services and work together. The retention and inclusion of this duty highlights this commitment and whilst there are no specific details the intent is clear.

1.9 Predetermination Removed

The scope of predetermination as a basis of alleging bias is narrowed. A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind just because they had previously done anything that directly or indirectly indicated what view the decision-maker took, or might take.

This essentially seems to replicate the existing common law position. A councillor is not to be taken to have had or to have appeared to have had a closed mind when making the decision just because that decision-maker had previously directly or indirectly indicated what view they might take. The 'just because' is significant since this effectively maintains the current common law position that there needs to be particular evidence of predetermination at the point of making the decision. However, whilst the law on bias remains unaffected, in that local authority decisions must be and be seen to be taken fairly and without bias, the proposed provisions in the Bill effectively enshrine in statute the common law position on predetermination. The key point is that councillors have a primarily democratic rather than a judicial role and their actions should be judged in that context.

Empowering communities to do things their way

1.10 General Power of Competence

'A local authority has power to do anything that individuals generally may do.'

This implies this activity can be unlike what authorities or public bodies traditionally do and can be done anyway, anywhere and commercially. It does not impair other local authority powers and they do not impair it. The power is a secondary power and if the activity can be carried out using existing legislation this should be used in preference.

There are a number of restrictions to the new power. If there is a pre-existing restriction or prohibition in legislation this will still apply or if new restrictions are brought in they will also apply. Local authorities can only charge for services delivered under this general power if the service is discretionary and the recipient has agreed to the service being provided. The power can only be used for commercial activity if it is something the local authority would 'do otherwise than for a commercial purpose' and additionally commercial activity

must be carried out through a company.

The Secretary of State can, by order, remove restrictions on the general power, or remove any legislation which overlaps with the general power and can also restrict the general power and apply conditions to it for all, some or one local authority.

This power applies to all local authorities and 'eligible parishes', although there is currently no definition of an 'eligible parish'.

1.11 **Local Authority Governance**

The Bill proposes giving local authorities four governance options.

- Executive Arrangements – (Leader, Cabinet and Scrutiny)
- Executive Arrangement – (Elected Mayor, Cabinet and Scrutiny)
- Committee System Arrangements (with optional scrutiny arrangements)
- Other Prescribed arrangements (to be determined by Secretary of State)

Senior Executive Member – this term has been introduced as a singular description covering both the Leader and the Elected Mayor. This individual may discharge any Executive functions or arrange for these to be by the whole Executive, portfolio holders (who he appoints), committee of the Executive or an officer. Executive or Portfolio Holders can then delegate to an Executive Committee or officer unless the Senior Executive Member vetoes this. The delegating body can still make the decision even if delegated.

Leader and Executive

Appointment – the appointment for the Leader must be by an election at the full Council meeting (normally after the relevant local election). The Leader would serve for a 4 year term but can be removed by resolution of the Council. If there is a vacancy then there must again be an 'election' at the full Council meeting. The Secretary of State can control this by regulation.

Elected Mayor and Cabinet

Appointment – a person is returned as an Elected Mayor at an election called for such purpose. If a person is returned as an Elected Mayor at such an election and they are also returned as a councillor, then there becomes a vacancy for a councillor. Similarly, if a person is Elected Mayor at a time when the successful candidate is already a Councillor then a vacancy in the office of councillor occurs. The term of office for an Elected Mayor remains as 4 years.

Election – would normally be on the ordinary day of the local authority election. If there are 3 or more candidates the supplementary vote system would be used.

Elected Mayor, Chief Executive and Head of Paid Service – the Elected Mayor can now take on the position of Chief Executive. There would still be a designated Head of Paid Service who would report to them. The Secretary of State can, by order, enable local authorities to transfer the Head of Paid Service functions to Elected Mayors, effectively creating a combined role.

For a Mayor to take on these functions and become the most senior 'officer' of the Council, it would require a decision of Council and requires two-thirds of those present and voting to veto, for it not to be approved.

Transfer of Public Services – the Secretary of State will be able to transfer local public services (e.g. services not currently provided by the local authority) to Elected Mayors by order. This must occur within a period of one year from when the Elected Mayor took office, following the election. This would give more potential for a much greater role for Mayors on issues and in areas which are not traditionally local government. Mayors can make requests to the Secretary of State for the transfer of services and the Secretary of State must consider the proposal.

The Committee System

This has been described by Ministers as a 'return to the Committee system', but there will be some differences as the Secretary of State can specify any parts of committee system that cannot be delegated, or circumstances in which delegation cannot occur, e.g. functions reserved to whole authority.

What are known as 4th option Councils (those with an electorate of fewer than 85,000) were permitted to have a Committee system of governance under the Local Government Act 2000, which had to include an Overview and Scrutiny Committee. These arrangements have meant a more streamlined Committee decision making process than under the service committee system, however it remains to be seen whether this reworked option can provide an effective and accountable decision making process in anything other than the smallest authorities allowing timely and cost effective decision making.

Prescribed Arrangements

The Secretary of State can, by regulation, allow alternative models or variations of governance. Councils can apply for their proposals to be considered as long as they are an improvement, allow efficient, transparent and accountable decision making and would be suitable for all Councils and Councils matching a description.

Such examples could perhaps include no Cabinet or a Cabinet made up of Councillors and others. It will be interesting to see if this option is taken forward by local authorities, particularly as it will create a divergence of governance arrangements, making it difficult to introduce further legislation and requiring the law to be changed on a council by council basis. It should be noted that the only authority to operate an alternative model (Leader and Council Manager) under the Local Government Act 2000 reverted to an Executive model of governance.

Changing governance arrangements - to change between governance regimes it appears that Councils must undertake the following process:

- a) Council must make a resolution to that effect. Copies of the scheme must be available for inspection on deposit and a notice published in a newspaper.
- b) In addition to the resolution and public notice, in certain circumstances a confirmatory referendum must be held.
- c) Changed governance arrangements will come into force three days following the next set of elections.

This means that the earliest that authorities can change their governance arrangements (subject to the passage of the Bill) will be 2013 for counties and 2012 for authorities like Cherwell holding elections by thirds.

Elected Mayor Arrangements – Councils are not permitted to move away from this model of governance without the Secretary of State’s permission and if they refuse they can direct the governance arrangement to be used. Local authorities are also not permitted to move away from the Elected Mayor model without the written consent of the Mayor.

Public Demanded Referendums - a petition can still trigger a referendum for a change of governance arrangements under the 5% rule. The Secretary of State can also direct a Council to hold a referendum. Referendums cannot be held if a previous referendum was held within 5 years.

1.12 **Neighbourhood Development Orders Plans, Community Right to Build and Neighbourhood Plans**

The Bill introduces a right for parish councils and other neighbourhood forums (as designated by the local authority) to require local planning authorities to make ‘neighbourhood development orders’. These orders will grant planning permission without the need for an application for a particular development or class of development. An order must be adopted by the local planning authority where there is a simple majority in favour in a referendum. They will, however, be subject to independent examination.

A particular type of neighbourhood development order is known as a ‘community right to build order’. These orders, relating to proposals by community organisations, will grant planning permission for specified development in relation to a specified site in the neighbourhood area.

The Bill also introduces Neighbourhood Plans which will be part of the statutory Development Plan and which are promoted and adopted in a similar way to neighbourhood development orders (e.g. the requirement for independent examination and referendum). The plan must be in general conformity with the strategic policies set out in the Development Plan for the area. There is currently no indication of what independent examination may involve.

There is no discussion in the legislation of the rules for a referendum or how these will be funded i.e. whether the parish, neighbourhood or district would fund referenda. It is most likely the cost would fall on the planning authority e.g. Cherwell District Council.

Members should also be aware that, in advance of the Localism Bill passing into law and being enacted, the Department for Communities and Local Government is instigating a “neighbourhood planning vanguard scheme”. In this the Department for Communities and Local Government is looking to work with local authorities who wish to work closely with parish councils or community groups in preparing neighbourhood plans. The intention is to pilot the procedures in the Localism Bill and participating local authorities will need to work closely with parish councils and community groups to prepare the draft plans. These plans will need to be subject to independent examination and to a referendum. In undertaking this work, there will be support from staff within the Department for Communities and Local Government, and also grant funding available to support the process.

The Council has been considering whether there are any possible schemes within the district that would be suitable within the vanguard scheme. Clearly,

any major proposal of strategic importance should properly be considered as part of the Core Strategy, however there may be opportunities, focussed on individual parishes or local areas that may provide an opportunity. The closing date for applications is 14 February 2011.

Increasing local control of public finances

1.13 Council Tax Referendums on Excessive Council Tax

There is a new duty on billing and precepting authorities (councils, police, fire and larger parishes) to determine annually if their council tax rise is excessive. If excessive, it is necessary to hold a referendum, which is likely to fall to the relevant electoral authority (e.g. Cherwell District Council) to organise and run.

The Secretary of State will issue principles annually to determine what is excessive and can issue a notional amount for comparison purposes. The Secretary of State can also independently decide the council tax is excessive and force a referendum.

There is also to be a substitute calculation which is to be applied if the public vote that council tax is excessive in the binding referendum.

The billing authority (Cherwell District Council) will decide the date for a referendum which must be no later than the first Thursday in May (so this could be combined with local authority elections). If it is two or more precepting authorities that have been determined as excessive the referendum will be held together on the first Thursday in May. It appears the billing authority can't pay any of the precept during the restricted period although it would be possible to collect it. It also appears precepting authorities are able to campaign in a referendum to put their case across, but the costs incurred must be reasonable.

There is no discussion of who pays for these referendums and presumably it would be the precepting authority or, in the case of the whole council tax, shared by the precepting authorities.

1.14 Ability to Discount Business Rates

The Bill will give local authorities the power to grant discounts on business rates in their area to support struggling businesses and to encourage start-ups. Any discounts will have to be funded locally, although there is no scope to increase business rates above the government set maximum limit. The Bill also amends the rules on the cancellation of liability to back dated non-domestic rates.

1.15 Abolition of 'bin tax'

The ability for council's to establish a so called 'bin tax', introduced under the Climate Change Act 2008 (but not enacted), which would have allowed charging for domestic waste collection and fining for full bins has been removed.

1.16 Community Infrastructure Levy

There are 3 changes in relation to Community Infrastructure Levy (CIL), although much of the detail is to follow in Regulations:

- 1) Regulations will require some CIL funds to be passed to neighbourhoods where development has taken place.
- 2) CIL funds can be spent on the ongoing costs of new infrastructure, e.g. maintenance.
- 3) Local planning authorities are to have greater control over charging schedules. If the independent Inspector considers the charging schedule is unreasonable, it will be up to the local planning authority to decide how to make it reasonable.

In advance of the Bill, the Department for Communities and Local Government is promoting a "CIL Frontrunners project". In this, local authorities are being invited to develop the best approach to implementing CIL in a way that works best for them. This project would not be appropriate for Cherwell District Council at the present time as it requires the Local Development Framework to be more advanced to provide a basis upon which CIL can be prepared. Whilst good work has been done in terms of both preparing the Core Strategy and understanding possible CIL requirements (though the work on the Planning Obligations Supplementary Planning Document), the Council is not in a position where it could consider taking part in such a project now.

1.17 **EU Financial Sanctions, Allocation to Local Authorities**

This will effectively allow Ministers to require that local authorities contribute to any fine passed down to the UK by the European Union. The Local Government Association have stated that in their view this is 'unfair, unworkable, dangerous and unconstitutional'.

Diversifying the supply of public services

1.18 **Community Right to Express Interest in Running Public Services**

Councils will be required to consider expressions of interest from voluntary or community groups, charities, parish councils, two or more council employees or other bodies (as determined by Secretary of State) to take over local services/ facilities. Expressions must be considered by the local authority as to whether they would improve the economic, social or environmental well being.

If the expression of interest is accepted, a procurement exercise should then be carried out and it will be possible to modify an expression of interest in light of procurement findings. The organisation who made the expression will be able to bid to provide the service along with others

1.19 **Community Right to Buy Assets of Community Value**

There is a duty on local authorities to keep a list of 'community value land', with land entered on the list removed after 5 years or before. Regulations will set out the criteria of 'community value'. Communities (via the parish council or persons specified by the authority) or the local authority themselves can nominate land to be included on the list. The local authority must inform the owner and the nominee of the addition. A list of unsuccessful nominations must also be kept and both lists must be published.

Local authorities must review an entry on the owner's request. There is a

period in which if the owner wishes to dispose of land they must inform local authority who will publicise this and it up to community to then consider buying it. Land included on community asset list must be included in the land charges list, which could effectively devalue land.

The appropriate authority may by regulation make payment of compensation. The provisions also appear to cover crown lands. This is a highly controversial proposal and is likely to be subject to significant legal challenge, particularly as it may be inconsistent with the Human Rights Act, it could also be very costly for the local authority administering the list in terms of compensation payments.

Opening up Government to Public Scrutiny

1.20 Senior Officer Pay Policy

There is a new duty to publish an annual senior pay policy for Chief Officers with specific requirements on the details it contains. The policy must be approved by full council and published as the council sees fit including the web. It is likely that in reality this policy would constitute an additional appendix to the annual budget setting report at council.

Strengthening Accountability to Local People

1.21 Power to use Petitions to Trigger a referendum on any Local Issue

Under these proposals if a petition is submitted to a principal authority (county or district council) which meets the threshold of electors, currently 5% in a 'relevant area' e.g. can be for the whole authority, a single electoral area (parish, ward or division) or two or more adjoining electoral areas, a local authority must hold a referendum. Petitions must set out the question to be asked and can at the discretion of the authority be electronic.

Signatures on petitions need to be dated and are valid if they are within 6 months of the petitions' submission or, for electronic petitions, 6 months from when the petition opened for signatures.

Councillors may also request a local referendum. This request must be by a member or members for electoral areas in the area in question, for multi-member electoral areas all of the members or a majority of areas must make the request, which must be in writing and state the question to be put.

A referendum must be held if the proper office deems it:

- not to be in contravention of the law
- not vexatious or abusive
- not a local matter over which the authority has influence
- not a local matter that affects the authorities area or inhabitants
- a matter which the Secretary of State has prohibited by order

The Secretary of State also has a reserve power to decide something is not a local matter.

If the question is misleading the authority can substitute the wording, but must

consult the petition organiser. The local authority can decide on the date of the referendum, there is a 12 month window for holding the referendum. The franchise is the same as for a local government election in the area concerned.

The referendum (including the results) must be publicised and the local authority can publish or arrange for publication of information to encourage support or opposition to a petition (if originating from a petition or request) and may incur reasonable expenditure. The results of the referendum are non-binding.

The Secretary of State may make provisions about the holding of polls or referenda by parishes, either using these provisions or amending current provisions e.g. parish polls. The Secretary of State may make or arrange for payments to be made to parishes to meet this additional expenditure.

Again it would appear that all costs for petitions resulting in a referendum would fall on the district or count to whom the petition is submitted and the arrangements for any district, parish or county referendum would fall on the electoral authority, Cherwell District Council.

- 1.22 **Duty to promote democracy and Statutory Petition Schemes Abolished**
Both the duty to promote democracy (not enacted) and the statutory petitions scheme as set out in the Local Government and Public Involvement in Health Act 2007 will be repealed.
- 1.23 **Duty for Planning Pre-application Consultation**
The Bill introduces a legal requirement for applicants of large developments to carry out pre-application consultation. There is an express duty for the applicant to take into account any representations when formulating the planning application. Again it is unknown how this will work in reality and what the impact will be, if any, with regard to formal consultation as part of the planning process.

Planning

- 1.24 **Abolition of Regional Strategies**
As comprehensively trailed, the Bill revokes Regional Strategies. It also revokes saved structure plan policies.
- 1.25 **Duty to Co-operate - Planning of Sustainable Development**
The Bill places a local planning authority under a duty to cooperate with other local planning authorities and bodies (to be prescribed by the Secretary of State) in relation to maximising the effectiveness of the preparation of development plan documents, the preparation of other local development documents, and other activities that support the planning of development.
- 1.26 **Abolition of Binding Inspectors Reports**
The ability of the Planning Inspectorate to re-write development plan documents will be removed in the Bill. Local planning authorities will still only be able to adopt plans that have been judged sound at public examination, but Inspectors will only be able to recommend changes at the request of the local authority.

1.27 **Enforcement**

Under the Bill, a local planning authority may decline to determine an application for planning permission for development where an enforcement notice is in force.

There is a new power regarding situations of full or partial concealment of breaches of planning control. The local planning authority can apply to the magistrates' court for a 'planning enforcement order' in respect of an apparent breach of planning control regardless of whether the time periods for the taking of enforcement action have expired. An application for a planning enforcement order must be made within 6 months of the evidence of the apparent breach of planning control coming to the local planning authority's attention.

There are new powers relating to the defacement of premises which also covers post boxes, bus shelters, and other street furniture.

Housing

1.28 Many of the housing proposals set out in the Localism Bill were reported to the Executive on 10 January 2011, however for completeness, they are set out below.

1.29 **Social Housing Allocations Reformed**

The main change is that the government will prescribe classes of persons who are, or who are not, to be treated as "qualifying persons" for housing. The Bill will then allow local authorities the freedom to decide (subject to these prescribed classes) who should be treated as qualifying persons and therefore who is eligible to go on the housing waiting list.

Tenants who wish to transfer, but who are not in housing need, will be removed from the scope of the allocation rules. If a person is deemed to be a non qualifying person they can make a fresh application (as opposed to requesting a review).

1.30 **New Homelessness Legislation**

The Bill seeks to give local authorities the power to end a homeless duty by making an offer of suitable accommodation in the private rented sector without needing the homeless applicant's agreement. There will be safeguards – an offer of private sector housing will only bring the homeless duty to an end if the accommodation is suitable for the whole household, the private sector tenancy would need to be for a minimum fixed term of 12 months, and the duty would recur if, within 2 years, the applicant becomes homeless again through no fault of their own (and continues to be eligible for assistance).

The Bill proposes that an applicant will be homeless from the date on which a Section 21 Notice Requiring Possession expires. They will be deemed threatened with homelessness from the date notice is given.

1.31 **Social Housing Tenure**

The Bill proposes introducing flexible tenancies (which will still be secure tenancies) which can be granted for a fixed term if over a minimum period of

2 years.

The Bill proposes to replace mutual exchange with a system of permitted surrender of a tenancy coupled with the grant of a new tenancy.

The Bill will limit succession of council housing. The lifetime tenancies and succession rights of existing council and housing association tenants will not be affected. New tenants will be guaranteed one succession to a spouse or partner, with landlords free to grant further succession rights.

1.32 Council Housing Finance Reviewed

This will not apply to Cherwell as the council does not have a housing stock.

1.33 National 'Homeswap Scheme' launched

A national web based mutual exchange service will be launched with social landlords required to participate. The scheme will be administered by the social housing regulator.

1.34 Housing Ombudsman

The Bill proposes that a complaint against a social landlord can only be referred to the Housing Ombudsman by an MP, local housing authority or a designated tenant panel. It is also proposed that the Housing Ombudsman will take over certain functions, in respect of investigating housing complaints against local housing authorities, from the Local Government Ombudsman.

1.35 Social Housing Regulation Reformed

The Office of Tenants and Social Landlords (also known as the Tenants Services Authority) will be abolished and have its functions transferred to the Homes and Communities Agency.

1.36 Help to Move Out of Social Rented Housing

The Bill will allow Registered Provider (Housing Association) tenants to take up incentive schemes which help them to move in to the owner occupier accommodation. This is currently precluded by legislation which prevents any payment taking place.

1.37 Home Information Packs Abolished

Home Information Packs (HIPs) were suspended on 21 May 2010. Clause 156 of the Bill will formally abolish them.

Conclusion

1.38 The Localism Bill provides many potential opportunities for Cherwell District Council to develop localism and to work towards 'The Big Society'. Due to the way the Bill has been introduced it is inevitable the clauses will be subject to much amendment during its legislative passage and therefore may change quite dramatically from the analysis which is set out above, therefore a further report will be produced following the bill receiving Royal Assent.

1.39 Additionally, whilst the Bill contains many proposals aimed at enhancing democracy, these come at a real cost both in terms of the staffing resource to administer them but also in terms of budgets for instance the cost for a district wide referendum is estimated to be in excess of £150,000.

Key Issues for Consideration/Reasons for Decision and Options

The following options have been identified. The approach in the recommendations is believed to be the best way forward

Option One	To agree the recommendations
Option Two	Not to agree the recommendations
Option Three	To amend the recommendations

Implications

Financial: Until the Bill passes into legislation there are no direct financial implications. It should be noted that the Bill contains significant potential areas of expenditure which are not included within budgets or within the Medium Term Financial Strategy. Several areas such as referenda are not controllable and if passed into legislation there will be a need for appropriate staffing resources to be made available as well as budgetary allocation.

Following Royal Assent it will be necessary for detailed financial implications to be prepared and considered by members for inclusion in the budget process.

Comments checked by Karen Curtin, Head of Finance 01295 221551.

Legal: Until the Bill becomes law, there are no legal powers to enact any of its measures, even as pilot projects, unless a legal basis can be found in existing legislation and therefore a detailed legal risk analysis would need to be undertaken. The status of the Bill has been confirmed by a number of High Court cases recently. The intention of the government to legislate does not override existing legislation.

It is likely that there will be significant changes during the passage of the Bill through Parliament and challenges to some of the proposals under the Human Rights Act are anticipated.

Comments checked by Liz Howlett, Head of Legal and Democratic Services 01295 221686

Risk Management: Whilst it is acknowledged that the Bill presents significant opportunities, there are also numerous risks which the authority will need to consider as and when the Bill is passed into law. Any pilot projects will require a full risk assessment to be undertaken

Comments checked by Rosemary Watts, Risk Management and Insurance Officer 01295 221566

Wards Affected

All

Corporate Plan Themes

All

Executive Portfolio

Councillor Barry Wood
Leader of the Council and Portfolio Holder for Policy, Community Planning and
Community Development

Document Information

Appendix No	Title
None	
Background Papers	
None	
Report Author	James Doble, Democratic, Scrutiny and Elections Manager
Contact Information	01295 221587 james.doble@Cherwell-dc.gov.uk