

NORTH LINCOLNSHIRE COUNCIL

CABINET

**LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT, AND
CONSTRUCTION ACT 2009**

1. OBJECT AND KEY POINTS IN THIS REPORT

1.1 To provide an update on the key issues arising from the Local Democracy, Economic Development and Construction Act 2009.

1.2 The main provisions of the Act include:

1. Duties Relating to the Promotion of Democracy
2. Extension of duty to involve
3. Tenant representation
4. Local freedoms and honorary titles
5. Politically restricted posts
6. Expansion of scrutiny including
 - a. Designation of Scrutiny officers
 - b. Joint overview & scrutiny committees
 - c. Responsibilities in Wales
7. Powers to establish mutual insurance arrangements
8. Audit requirements
9. Local Government Boundary Commission for England
10. Local authority economic assessments
11. Regional Strategies
12. Economic Prosperity Boards and Combined Authorities
13. Multi-Area Agreements

1.3 The report identifies where further action is required to implement the requirements.

2 BACKGROUND INFORMATION

2.1 The Local Democracy, Economic Development, and Construction Act, which received Royal Assent on 12 November 2009. This report gives an outline of the main elements of the Bill, and provides a timetable for the commencement of the different provisions.

2.2 The main provisions of the Act include the following with details of each outlined in appendix1:

1. Duties Relating to the Promotion of Democracy
2. Extension of duty to involve
3. Tenant representation
4. Local freedoms and honorary titles
5. Politically restricted posts
6. Expansion of scrutiny including
 - a. Designation of Scrutiny officers
 - b. Joint overview & scrutiny committees
 - c. Responsibilities in Wales
7. Powers to establish mutual insurance arrangements
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13. Multi-Area Agreements

3 OPTIONS FOR CONSIDERATION

3.1 The council is required to implement the Act in accordance with the timetable.

4 RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

4.1 The Act requires the publication of additional information and the undertaking of an economic assessment. The impact assessment that accompanied the Bill indicated that resources would be made available for these elements.

5 OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)

5.1 The Act is a statutory requirement and the council will need to ensure that it meets the timetable for implementation.

5.2 A full diversity impact assessment was undertaken by Government which indicated no adverse impact. The council will also need to undertake its own assessment for any policy changes arising as a result of any new requirements.

6 OUTCOMES OF CONSULTATION

6.1 The Act strengthens the duty to involve which will have implications on the way we engage with and involve local people.

7 RECOMMENDATIONS

It is recommended that:

- 7.1 The Director of Legal and Democratic Services assess the impact of the requirements on the council's constitutional and legal arrangements.
- 7.2 The Head of Regeneration Housing and Development undertake the economic assessment.
- 7.3 The Director of Human Resources assesses the impact of the changes to politically restricted posts.
- 7.4 The Service Director Finance considers the new Audit requirements.
- 7.5 The Service Directors Highways and Planning and Asset Management and culture implement any changes required to comply with the new requirements for construction contracts.

CHIEF EXECUTIVE

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Background Papers used in the preparation of this report

Local Democracy Economic development and Construction Act 2009

1. DUTIES RELATING TO THE PROMOTION OF DEMOCRACY [Ss 1-9]

The Act creates two new duties intended to promote participation in local authorities and other institutions with local responsibilities. The main duty will require a council to promote local understanding about its functions and democratic arrangements, and how members of the public can take part and understand what is involved in doing so. Particular attention must be paid to the recruitment of councillors. The second duty will require councils to promote a similar understanding of the democratic arrangements of other local bodies. This involves a wide range of public bodies which provide, or directly influence, the services within the local authority's area.

2. PETITIONS TO LOCAL AUTHORITIES [Ss 10 – 22]

Chapter 2 of the Act requires all principal councils to make, publicise and comply with a scheme for handling petitions (including electronically through their websites). Schemes will set out the requirements for petitions in order for them to be dealt with, including the number of signatures required. Signatures will need to be from people who live, work or study in the authority's area. Schemes will also need to set out how the authority will acknowledge the petition and in what time scale. The acknowledgement must give information about what the authority has done or proposes to do in response to the petition. Authorities are required to take steps in response to the petition and to inform the petition organiser and the public about what steps will be taken. The Act indicates a number of steps that councils may consider taking as a result of a petition. Petitions above a certain size must be debated by the full council. A petition organiser is able to refer a petition to the council's overview and scrutiny committee if dissatisfied with the process adopted. It will also be possible for a petition to require an officer to be 'called to account' at a council meeting.

3. EXTENSION OF DUTY TO INVOLVE [Ss 23 - 24]

The duty to involve originally applied to best value authorities, missing a range of organisations that provide services that are of relevance to the public. These provisions extend the duty to a number of organisations listed in the Act. These include the Environment Agency, Homes and Communities Agency, regional development agencies, police authorities and chief police officers, and the Secretary of State.

4. TENANT REPRESENTATION [Ss 25 - 26]

This part of the Act provides for the funding by central government of organisations representing the views and interests of tenants at national level.

5. **LOCAL FREEDOMS AND HONORARY TITLES [Ss 27 – 29]**

These measures extend existing privileges to include the daughters of a freeman of a city or town, and provide for women to have the right to be admitted and to use the title of 'freewoman'. A civil partner will be in the same position as a spouse or surviving spouse of a person admitted to the freedom of a city or town. The honorary titles of honorary alderman or alderwoman may also be awarded.

6. **POLITICALLY RESTRICTED POSTS [S 30]**

The Local Government and Housing Act 1989 (c.42) (LGHA 1989) requires every local authority to prepare and maintain a list of politically restricted posts and identifies three categories of post deemed to be politically restricted on the basis of one or more defined characteristics. These are: specified posts, such as chief officers which are all politically restricted without right to appeal for exemption and set out by statute; Sensitive posts, who perform roles which are deemed to give advice to elected members or speak on behalf of the authority, for which the authority compiles its own list; Posts paid at or above a certain level (currently equivalent to spinal point 44 £36,730). Local government officers who are politically restricted may not stand for election or take part in a range of political activities.

The Act removes the requirement to politically restrict all posts that exceed a specified salary, provided that the post does not fall into either of the other two categories, and which as a consequence mean that the post-holder is subject to political restrictions.

7. **EXTENSION OF SCRUTINY [Ss 31 – 33]**

The Act in Part 2 deals with governance in local authorities in relation to their overview and scrutiny arrangements. Since the Local Government Act 2000 when local authorities were required to adopt new executive arrangements, and new overview and scrutiny functions to go with them, there has been concern expressed by many conducting local government research that the scrutiny function has taken longer to establish itself as effective than predicted.

The Act requires all authorities (except district councils in two-tier areas) to designate one of its officers as a scrutiny officer and prescribes a number of functions the officer must carry out. The Act also allows two or more authorities to appoint joint overview and scrutiny committees. This replaces the clause in the Local Government and Public Involvement in Health Act 2007 which limited the nature and scope of joint committees to issues relating to LAA targets under the auspices of a county council joint committee with a district in its area.

8. **POWERS TO SET UP MUTUAL INSURANCE ARRANGEMENTS [Ss 34 – 35]**

A late amendment has led to local authorities and a number of other public bodies being provided with powers to set up mutual insurance arrangements. This provides for the arrangements outlawed by the Court of Appeal in the London Authorities Mutual case in 2009.

9. **AUDIT OF BODIES CONNECTED WITH LOCAL AUTHORITIES [Ss 36 – 54]**

This chapter of the Act requires local authorities in England and Wales to appoint auditors of bodies - referred to as entities - which are connected with the authority and meet other conditions specified by English or Welsh ministers, and to issue public interest reports when appropriate. The regulations will apply to companies, limited liability partnerships, and industrial and provident societies, and were introduced to meet the recommendations of an independent review into the audit and accountability of public money, *Holding to Account: the Review of Audit and Accountability for Central Government* (2001).

10. **LOCAL GOVERNMENT BOUNDARY COMMISSION FOR ENGLAND [Ss 55 – 68]**

Part 3 of the Act removes the responsibility for electoral boundary matters from the Electoral Commission. The Political Parties, Elections and Referendums Act (2000) which set up the Electoral Commission had in 2002 transferred the powers for boundary reviews to the Electoral Commission. However, the Committee on Standards in Public Life recommended in its report on the work of the Electoral Commission, published in January 2007, that this legislation should be repealed and that the Boundary Committee for England should become an independent body, back in line with the other previous local government boundary commissions.

This Act now establishes an independent Local Government Boundary Commission for England (LGBCE) which will take on the functions which since 2002 have been carried out by a statutory committee of the Electoral Commission. Detailed provisions for the constitution and administration of the LGBCE are set out in the Act, which replicate many of the arrangements which previously applied to the Electoral Commission. This part of the Act applies only to England.

11. **LOCAL AUTHORITY ECONOMIC ASSESSMENTS [S. 69]**

The Act creates a duty for all upper tier and unitary authorities in England to prepare an assessment of the economic conditions in its area. In two-tier county areas, the county council will be expected to consult with district councils, and will be required to include intelligence gathered by districts in pursuit of their planning role. District councils will be required to co-operate with the county in the preparation of the assessment. Responsible authorities

will be required to consult with key economic partners such as the RDAs, the LSC, the HCA and Jobcentre Plus. The content of the assessments will be determined by the Secretary of State who will also have reserve powers to order revisions in assessments.

12. REGIONAL STRATEGY [Ss70-87]

In all English regions except London, RDAs and an 'established body' will be responsible for producing joint economic development and land-use strategies for their region. The 'established body' will be known as a 'Leaders' Board', for which participating authorities must submit proposals for approval by the Secretary of State. Participating authorities can be any district, county, or unitary authority within each region, in addition to National Park authorities. If a Leaders' Board is not considered by the Secretary of State to be operating effectively the Act provides for the withdrawal of 'approval for the scheme under which it is established', meaning that it will be abolished, and the RDA will act alone. RDAs and Leaders' Boards will also be responsible for reviewing the integrated strategy and for drawing up annual implementation plans.

13. ECONOMIC DEVELOPMENT BOARDS & COMBINED AUTHORITIES [Ss88-120]

The Act will allow the Secretary of State to create combinations of authorities working together on Economic Development Boards (EPBs). The majority of members of EPBs will be elected members appointed by each constituent council.

It is likely that EPBs will grow voluntarily from existing partnership arrangements like MAAs, with the constitution, governance, financing, resourcing, and range of functions established through agreements brokered by the partner authorities, although subject to Ministerial approval.

The Act also provides for combined authorities that will have functions relating to economic development, regeneration, and transport. The Secretary of State may make orders about the constitution and functions of combined authorities that can follow provisions for Integrated Transport Authorities (ITAs). It is likely that the Government intends for some of these partnerships to evolve into statutory 'city regions' with wide-ranging powers for transport, regeneration, and economic development. The Business Rate Supplement Act will allow the supplementary rate to be levied by sub-regional partnerships of local authorities to support economic development.

14. MULTI-AREA AGREEMENTS [Ss121 – 137]

The Act provides the statutory underpinning for Multi-Area Agreements (MAAs), defined as a document that covers an area of two or more local authority areas, and specifies improvement targets (which may mean any target relating to the economic, social, or environmental well-being of an area). For the purposes of the Bill, a local authority can include an IPB. As

with existing MAAs, there will be lead authority with responsibility for drafting the agreement co-ordinating actions towards the targets. A duty will be placed on named partners (which will include both local government and other agencies) to co-operate with the lead authority.

15. **CONSTRUCTION CONTRACTS [Ss138 – 145]**

These provisions are meant to improve contractual relationships in the construction industry, particularly with regard to payments. It is intended that the provisions will improve the cash flow of construction industry businesses.

Appendix2

NEW PROVISION	COMMENCEMENT
Duties Relating to the Promotion of Democracy	Date to be announced by Secretary of State or Welsh Ministers in case of Wales
Extension of duty to involve	Date to be announced
Tenant representation	12 November 2009
Local freedoms and honorary titles	Two months from 12 November 2009
Politically restricted posts	Two months from 12 November 2009
Designation of Scrutiny officers Joint overview & scrutiny committees Responsibilities in Wales	Date to be announced Two months from 12 November 2009 Two months from 12 November 2009
Powers to establish mutual insurance arrangements	Date to be announced by Secretary of State or Welsh Ministers in case of Wales
Audit requirements	Date to be announced by Secretary of State or Welsh Ministers in case of Wales
Local Government Boundary Commission for England	Some changes immediate, others on date to be announced
Local authority economic assessments	Date to be announced by Secretary of State
Regional Strategies	Date to be announced by Secretary of State
Economic Development Boards and Combined Authorities	Date to be announced by Secretary of State
Multi-Area Agreements	Two months from 12 November 2009