



# Localism and its Legal Mandate: the Localism Bill

June 2011

## Localism, Decentralisation, and Big Society: What's it all about?

The essence of Localism is an emphasis on the value of local. A focus and strengthening of all local activities and traditions; whether they are cultural, food, goods, or services.

Localism through a political lens is primarily founded on strengthening local democracy – allowing local people to make decisions, rather than through central government.

The Localism Bill is the statutory effort of the coalition government to make localism a reality. Its pronounced objective: to **empower and enable** local communities to determine the process and outcome of local decisions. The government wants to move away from a '**Big Government**' and replace it with a '**Big Society**'.

To achieve this they are moving from; what they portray as, the previous Labour governments 'top down approach'. This process, known as decentralization, is the principal tactic in achieving the government's controversial 'Big Society' agenda. In short, Localism is the key to Big Society, and the Localism Bill is its Legal basis. <sup>1</sup>

*"By getting out of the way and letting councils and communities run their own affairs we can restore civic pride, democratic accountability and economic growth - and build a stronger, fairer Britain. It's the end of the era of big government: laying the foundations for the Big Society."*

- Local Government Secretary Eric Pickles

## PART 1 - THE LOCALISM BILL

Published on the 13<sup>th</sup> of December and currently about to enter its second reading in the House of Lords, the Localism Bill gives local communities and local governments various new rights and powers. At the same time it seeks to liberate them from overly constricting bureaucratic red tape and over dependence on the central government – placing the planning decisions at the heart of, local authority and the local community.

The Bill itself is a hefty 400 pages long. The government has also released a much shorter and straightforward document, 'Decentralization and the Localism Bill: an essential guide' to assist local communities and authorities in disseminating key points. <sup>2</sup>

With similar disseminating aspirations, this brief will highlight *five primary focal points* of the bill, and *ten key components* within those points. The specific intent is to concentrate upon the aspects of the Bill most likely to have a wide impact (good or bad) on the community, in **Kensington and Chelsea**, and the voluntary and community sector in particular.

<sup>1</sup> UrbanForum. (2010). *DECENTRALISATION AND THE LOCALISM BILL*. [Online] Available: <http://www.urbanforum.org.uk/policy-pages/decentralisation-and-the-localism-bill>. [Accessed June 2011]

<sup>2</sup> Decentralisation and the Localism Bill: an essential guide - <http://www.communities.gov.uk/publications/localgovernment/decentralisationguide>

## I. Community empowerment through rights

### 1. Right to Challenge

The Localism Bill will introduce the right to challenge. If communities think that a *local authority* run service is **failing in the services it provides**, the community (defined broadly by the government as a voluntary or community body, social enterprise, a body of persons, parish councils and a trust established for charitable purposes), can submit an “expression of interest to the relevant authority” to provide that service instead. This challenge may trigger a commissioning process in which the challenger can then officially bid.<sup>3</sup>

### 2. Right to Buy

This portion of the Bill will require that local authorities maintain a list of public and private assets that are considered to have community value. These may include such things as post offices, libraries, village shops, and local pubs. If these properties go up for sale *communities will have the opportunity and power to save them*, by bidding to take over ownership or management. A specific amount of time (to be determined); will be required before the final sale, to allow community groups to put together bids. Once a bid is organized they will then compete with other bidders. *Their success, however, is not guaranteed.*

### 3. Right to Build

Under this new right communities will be able develop and put forward small scale development plans for the building of homes and public spaces.

*If the proposals achieve 50% support on a local referendum they will go ahead without planning permission, (assuming they meet minor consultation requirements and certain safeguards), even in instances where the local authority is opposed.*

Communities will be responsible to “find land, finance and support for their proposals” and the local government will be required to “put in place arrangements to provide help and guidance”.<sup>4</sup>

## II. Community Empowerment through Referendum

4. This portion of the Bill will allow any community member to instigate a local referendum on a local issue. In the current system a referendum is only held as a result of a council member deciding to do so. The Localism Bill puts the *power* to hold a referendum *in the hands of the people* and does away with the present petition scheme.

The petition scheme; according to the Government, was excessively bureaucratic and expensive, whereas the new system will give people a voice and offer the council valuable public opinion to make their decisions.<sup>5</sup>

Referendums will be triggered if 5% of local registered voters sign a petition on a local issue. Though the result of the referendum will not be legally binding, local authorities will be required to incorporate the outcome into their decisions. In addition, the council will be able to reject a petition if it thinks the issue is not a local matter or if the request is “vexatious or abusive.”<sup>67</sup>

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<sup>3</sup> NCVo Policy Team. (2011). *Briefing on the Decentralisation and Localism Bill*. [Online] Available: [http://www.ncvo-vol.org.uk/sites/default/files/Decentralisation\\_and\\_Localism\\_Bill\\_briefing.pdf](http://www.ncvo-vol.org.uk/sites/default/files/Decentralisation_and_Localism_Bill_briefing.pdf). [Accessed: June 2011]

<sup>4</sup> Blume, Toby. (2010). *Decentralization and the Localism Bill Briefing December 2010*. [Online]. Available: [http://www.urbanforum.org.uk/files/ufpublic/2010\\_12\\_decentralisation\\_and\\_the\\_localism\\_bill\\_briefing.pdf](http://www.urbanforum.org.uk/files/ufpublic/2010_12_decentralisation_and_the_localism_bill_briefing.pdf). [Accessed June 2011]

<sup>5</sup> McMullin Caitlin. (2011). *Local Democracy Revisited: The changing role of local councilors*. [Online].

[http://www.urbanforum.org.uk/files/briefings/local\\_democracy\\_revisited.pdf](http://www.urbanforum.org.uk/files/briefings/local_democracy_revisited.pdf). [Accessed June 2011]

<sup>6</sup> FairPay. (2011). *A Detailed Summary of the Localism Bill*. 19 Jan 2011. [Online]. [http://fairpay.org.uk/85/The\\_Localism\\_Bill85\\_1.html](http://fairpay.org.uk/85/The_Localism_Bill85_1.html). [Accessed June 2011]

### III. Planning

5. The Localism Bill initiates a “**total shake-up of the planning system**”<sup>8</sup> with the overall target of *shaking power down from the top, to the local level*. Placing planning decisions directly into the hands of the local government and community members. The *three primary steps* the Bill takes to accomplish this are:

- a. The total abolishment of regional strategies and planning targets.
- b. Alterations in the powers of planning inspectors. Inspectors will only be able to rewrite local plans if it is first suggested by the local authority. Furthermore, the inspectors’ recommendations; in ways to amend a development plan, will no longer be binding.
- c. Introduction of a Community Infrastructure Levy that will allow local authorities to distribute some of the money from an ongoing development to the neighbourhood where it is proceeding.

6. In addition, communities will be able to shape their own “**Neighbourhood Planning Authority**” (NPA). These NPAs can then prepare a “**Neighbourhood Development Plan**” (NDP). NDP’s will establish general policies that will assist in steering local planning activities and will need to be taken into accord in the statutory development plan. The NDPs, however, are still required to conform both with national planning policy, and to the core strategic elements of the local authorities’ development plan.<sup>9</sup>

### I. Housing

7. In, ‘Decentralisation and the Localism Bill Briefing December 2010’<sup>10</sup>, the ‘UrbanForum’ highlights several key changes that will give local authorities more power over housing decisions within their communities. Many of the points underscored in their report have gone un-noticed in similar briefings from other sources. This common oversight is a mistake as, though small, these changes possess *great potential to impact the lives of the more vulnerable members of Society*.

The changes in power are as follows:

- Greater control over waiting lists – eligibility rules will remain in the hands of the central government, but local authorities will be able to **remove people determined not to have priority need** from the waiting lists.
- **Homeless people will no longer have a right to social housing** – currently, homeless people can remain in temporary accommodation while waiting for social housing to become available. In the future local authorities will be able to meet their responsibilities by making an offer of private rented accommodation.
- **Social housing tenure will be limited by the local authorities** – this means that the local authority will be under no obligation to provide lifetime tenancies for social housing. Instead, “*fixed term tenancies*” will be decided upon by local authority.

### V. Local Government

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<sup>7</sup> FairPay. (2011). *A Detailed Summary of the Localism Bill*. 19 Jan 2011. [Online]. [http://fairpay.org.uk/85/The\\_Localism\\_Bill85\\_1.html](http://fairpay.org.uk/85/The_Localism_Bill85_1.html). [Accessed June 2011]

<sup>8</sup> McMullin Caitlin. (2011). *Local Democracy Revisited: The changing role of local councilors*. [Online]. [http://www.urbanforum.org.uk/files/briefings/local\\_democracy\\_revisited.pdf](http://www.urbanforum.org.uk/files/briefings/local_democracy_revisited.pdf). [Accessed June 2011]

<sup>9</sup> met-net. (2011). *The Localism Bill: A Quick Guide*. 28 March 2011. [Online]. Available: <http://met-net.co.uk/News/the-localism-bill-quick-guide-189.aspx>. [Accessed June 2011]

<sup>10</sup> Blume, Toby. (2010). *Decentralization and the Localism Bill Briefing December 2010*. [Online] Available: [http://www.urbanforum.org.uk/files/ufpublic/2010\\_12\\_decentralisation\\_and\\_the\\_localism\\_bill\\_briefing.pdf](http://www.urbanforum.org.uk/files/ufpublic/2010_12_decentralisation_and_the_localism_bill_briefing.pdf). [Accessed June 2011]

## 8. Committee System

In an effort by the central government to limit dictation on how local councils should be structured and run, councils may return to a committee system if they chose to do so.

## 9. General Power of Competence

Under the current system councils are only allowed to do the things specifically put in their power by law. Under the new 'General Power of Competence', councillors will be able to do anything that is not *specifically* forbidden by law. The government hopes this will effectively **free councillors to become more responsive** to their electorate, in addition to producing more "innovative, proactive, and creative" ways to deliver services.<sup>11</sup>

## 10. Predetermination Rules and the Standards Board

- As they stand, pre-determination rules have limited councillors' abilities to advocate for certain groups and express specific concerns on matters they may later be called to vote upon. The **Localism Bill will change all of this**. Councillors will be able to campaign, discuss, and express opinions on *any* local issue, while still taking part in the deciding vote.
- Councillors will have the opportunity to become even more vocal when the Bill abolishes the Standards Board regime and the central code of conduct it has imposed. This action will effectively open a *whole new playing field* of opportunities, for councillors to utilize forms of social media, (i.e. Twitter and Facebook and blogging), to express their newly liberated viewpoints without fear of compromising their position as a councillor.<sup>12</sup>

# PART 2 - ANALYSIS OF THE BILL

It must be established first and foremost that The Localism Bill, *has* been welcomed with a good deal of *positive* feedback, from many quarters. It offers opportunity for beneficial change, innovation, community cohesion and empowerment in a variety of ways. However, there are also many areas of apprehension.

A few specific *key concerns*; representing the various broader issues, are highlighted below. Amidst the hope *and* concerns, however, is the primary observation that, **the voluntary and community sector (VCS) has a key role to play** in guiding communities through the upcoming changes and ensuring that the *potential* of **Localism** becomes realized.

One Councillors' opinion is, in essence, a gauntlet being thrown to the local community:

*"I think there are different ways of doing things, and I think this is a real opportunity in many ways for local people to put their money where their mouths are. Everybody says 'we can do better.' Well, I suppose this is the opportunity to prove you actually can do better"*

- Parish councillor, Leicester  
Policy event, December 2010

<sup>11</sup> McMullin Caitlin. (2011). *Local Democracy Revisited: The changing role of local councilors*.

[Online]. [http://www.urbanforum.org.uk/files/briefings/local\\_democracy\\_revisited.pdf](http://www.urbanforum.org.uk/files/briefings/local_democracy_revisited.pdf). [Accessed June 2011]

<sup>12</sup> Ibid.

## Is bureaucracy always unnecessary?

Central to many of the aims and changes enacted by the Localism Bill is ending *unnecessary* Bureaucracy. In many instances the end of unnecessary officialdom will do a lot of good. However, bureaucratic regulation, though tedious, is **not always a bad thing**. It is often what protects and safeguards the vulnerable and deprived individuals from harm.

*“We believe that communities should have the freedom to manage their own affairs in their way, and be empowered, not suppressed, by Government. The Bill will enact new rights allowing local people to shape and influence the places where they live...”*

- Decentralisation Minister  
Greg Clark

## Civic engagement, the minority, and the role of the sector

The new rights established by the Localism Bill are simultaneously some of the most *promising and* potentially *unsettling* statutory changes to occur in this century. Community empowerment seems at first glance all well and good, but it will be dependent on the abilities of local people to engage in their society to the fullest.

The right to referendum, the right to build, the right to buy, these have the *potential* to shape local communities in great ways, but only with a good deal of time and leadership. The concern is that with the current financial climate, the increased stress, and absorption into managing day to day challenges – **how many people will**

**have the time to be actively and civically engaged?** This in itself is an additional concern. Who will represent those unable to represent themselves? What about the marginalized and vulnerable in society?<sup>13</sup>

This is where the sector becomes key. It is the voluntary and community groups with their many abilities to enable, engage and give voice – that must provide the answers to these dilemmas. The sector will be crucial in providing support and leading people into the skills and confidence they will need, to become the **‘engaged citizen’** that the Localism Bill seems to envision. For example,

*“local authorities will need to work with the VCS to ensure that petitions for referendums and proposals for development and planning do not unduly threaten the services and interests of marginalized groups and benefit the community as a whole while ensuring that everyone in their community has the right information and opportunity to participate in civic life.”<sup>14</sup>*

## The right to challenge, the good with the bad, and the lack of clarity

Many components of the Bill will require the VCS to play the role of chief guide and leader; representing and engaging community members. The right to challenge, however, is very pertinent to the existence of the voluntary and community sector organizations themselves. It will inevitably be utilized first hand by VCS organizations, *rather* than merely guiding others into its use. In the right to challenge we find again the juxtaposition of potential and positive outcomes, with a great deal of questions and concerns.

<sup>13</sup> NCVO Policy Team. (2011). *Briefing on the Decentralization and Localism Bill*. [Online] Available: [http://www.ncvo-vol.org.uk/sites/default/files/Decentralisation\\_and\\_Localism\\_Bill\\_briefing.pdf](http://www.ncvo-vol.org.uk/sites/default/files/Decentralisation_and_Localism_Bill_briefing.pdf). [Accessed: June 2011]

<sup>14</sup> *Ibid.*

Organisations such as the **National Council for Voluntary Organizations** (NCVO), have welcomed this right as giving communities a greater say and insuring that services are more responsive to local needs.

It is hoped that voluntary and community groups; many of whom have established skills and experience in working within communities, are likely to benefit from this right. However, of course, a challenge to the provider of services can go both ways. VCS organisations may themselves be challenged. In addition, the outcome of the bidding process once a challenge or expression of interest is issued is not guaranteed to go to the charity that initially instigated or expressed it. The door will be open to all other organizations including private companies.

Furthermore, there is as yet no guidance on how existing contracts will be honoured if challenged, nor measures for ending contracts within appropriate timescales.<sup>15</sup>

*“In theory, however, the new right, by triggering procurement processes for council services could open the door for private companies to cherry-pick council services.”*

*“a jekyll and hyde localism bill”,*  
Robert Hamilton, Director of  
Urban Answers.

### **The ultimate dilemma – can we afford localism?**

In principle, giving people the power to shape their own communities is a desirable thing. The aims of the Localism Bill to enhance Localism and develop a Big Society, one in which the power to change and impact local decisions is in the hands of the local people – are exciting. There are any reasons to be positive.

The dilemma is that all of it – Localism, Big Society, Community empowerment – all of it is being handicapped before ever getting off the ground. The governments’ decisions to cut public sector funding in the most drastic of ways will make their pronounced goal of a Big Society very difficult indeed. The *very same voluntary and community organizations*, necessary in providing a strong *cohesive foundation* for Localism, are the very organizations *struggling to even survive* under the weight of public sector cuts.<sup>16</sup>

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<sup>16</sup> Morgan Kevin, Adam Price. (2011). *The Collective Entrepreneur Social Enterprise and the Smart State*. [Online]. March 2011. Available: <http://www.charitybank.org/sites/default/files/pdf/The%20Collective%20Entrepreneur%20%E2%80%93%20Social%20Enterprise%20and%20the%20Smart%20State.pdf>. [Accessed June 2011]