

Cabinet - 13th February, 2008

Joint Report of the Director of Law and Property and the Director of Adult, Community and Housing Services

Local Government and Public Involvement in Health Act 2007

Purpose of Report

1. To summarise the main provisions of the Local Government and Public Involvement in Health Act 2007 in so far as they affect the Council.

Background

2. This Act received the Royal Assent in October 2007 but the majority of its provisions will only come into force when the Secretary of State makes a commencement order for them.
3. It is a weighty statute comprising 246 sections and 18 Schedules spread over 261 pages.
4. This report provides a brief summary of the main provisions.

Elections

5. Local authorities may resolve to move from elections by thirds (as is the case with Dudley) to whole Council elections ie: all members to be elected every four years. Such a resolution must be passed by a majority of at least two thirds of the members voting on it and it must be preceded by a period of reasonable consultation with such persons as the Council thinks appropriate. In addition the resolution must be passed before the 31st December 2009 or the 31st December 2013, or in any fourth year afterwards.
6. If a local authority has whole Council elections it may also submit a request to the Electoral Commission to have single member wards.
7. The Council may resolve to change the name of any of its wards subject to consultation and the prior agreement of the Electoral Commission.

Executive Arrangements

8. With effect from the 30th December 2007 the Local Government Act 2000 is amended to discontinue the existing leader and cabinet and elected mayor and council manager executives and to introduce a new style leader and cabinet executive. Under the latter the leader is elected at the annual meeting and they may be removed by resolution of the Council. The term of office of the leader ends on the day when the Council holds its first annual meeting after the leader's normal day of retirement as a councillor unless, in the meantime, the leader is removed from office by resolution of the Council.
9. If a local authority wishes to change its executive arrangements (ie. In the case of Dudley from leader and cabinet to elected mayor), it must hold a local referendum.
10. Under the leader and cabinet executive model decisions on the arrangements for the discharge of functions (ie: the Scheme of Delegation) become the responsibility of the leader and cabinet executive.

Parishes

11. In line with the increasing focus on grass root democratic activity there are new provisions with regard to the creation of parishes. A local authority may institute a "community governance review" of its own volition or in response to a community governance petition which must be signed by at least 10% of the electorate of the designated petition area if such area has more than 2500 local government electors. The terms of reference of any such review include the creation of a new parish or the alteration of an existing parish.

Local Area Agreements

12. The provisions on Local Area Agreements (LAAs) came into force on the 30th December 2007 and require the Council in consultation with its partner authorities to draft an LAA for approval by the Secretary of State. The LAA must contain a number of local improvement targets as agreed between the partners and the Secretary of State, and the relevant partners are responsible for the delivery, or co-operating in the delivery, of those improvement targets which are relevant to their functions.

Councillor Empowerment and Scrutiny

13. The Act brings into play the so-called "community call for action" under which an elected member may refer to a Select Committee any local government matter relevant to the functions of that committee. The operation of this power will be subject to statutory guidance but at the very least it will mean that the item has to be placed on the agenda for a meeting and will be the subject of some discussion.
14. The legislation also enables the leader to arrange for the discharge of any function by a ward member in so far as the function is exercisable in relation to their ward. Such ward decision will be subject to regulations to be issued by

the Secretary of State and will be subject to scrutiny by the relevant Select Committee.

Bye-Laws

15. The Act introduces an alternative procedure for certain types of bye-law which can be made by a local authority without the need for final approval by the Secretary of State. In addition bye-laws may have fixed penalties and may be enforced by Police Community Support Officers.

Best Value

16. The legislation abolishes best value performance indicators and the need to undertake best value performance reviews.

Audit Commission

17. There are new provisions apparently designed to create a more cohesive inspection regime amongst the various inspectorates. For example the Audit Commission may serve a notice on another inspecting agency requiring it not to conduct an inspection or to do so in a particular way if the Audit Commission considers that such an inspection would impose an unreasonable burden if conducted at all or in the way envisaged.
18. The powers of external auditors and inspectors to obtain information are extended to include computer data.
19. The powers of the Audit Commission in relation to performance are also strengthened. The Audit Commission will be able to produce comparative and other reports relating to a number of aspects of performance including the risk of inadequate or failed performance, rate of improvement and effective use of resources.

Local Ombudsman

20. The range of matters which may be subject to investigation by the local ombudsman are alleged or apparent :-
 - maladministration in connection with the exercise of an authority's administrative functions.
 - failure in a service which it was the function of the authority to provide, and
 - failure to provide such a service.

Ethical Standards

21. The Act gives a revamped role for the Standards Board for England making it a strategic regulator whilst giving local Standards Committees the responsibility for the initial processing of complaints of alleged breaches of the Code of Conduct. On receipt of a complaint the Standards Committee must refer the matter for local investigation or, if it is a more serious complaint, refer it to the Standards Board for England for investigation, or determine that no action

should be taken. If the decision is to take no action, the complainant may ask the Standards Committee to undertake a review of that decision.

22. It is expected that these provisions will be brought into force in April 2008 following the issuing of Regulations by the Secretary of State and guidance from the Standards Board for England.
23. Standards Committees will also have the function of determining any application for exemption from the provisions governing politically restricted posts in local authorities.

Local Authority Entities

24. The provisions regarding local authority controlled or influenced companies are repealed and replaced by a power enabling the Secretary of State to regulate local authority "entities" the definition of which is rather wide and will include a company, trust or partnership.

Involvement in Health and Social Care

25. The legislation imposes a duty on local authorities to make contractual arrangements for the involvement of local people in the commission, provision and scrutiny of local care services (ie: health and local authority social services functions). This includes enabling local people to monitor and review the standard of provision of these services, whether and how they could be improved and whether and how they ought to be improved. The arrangements must also include obtaining the views of local people about their needs for and their experience of, local care services. This will involve setting up a "local involvement network" (not being a local authority or health body) in order to conduct the "involvement" activities referred to above. This will also be subject to Regulations issued by the Secretary of State.
26. It is a requirement of the legislation that the implementation of the local involvement network be scrutinised by the appropriate scrutiny committee and in Dudley the Health and Adult Social Care Select Committee has received reports on a variety of aspects of implementation over the last year.
27. The financial allocation for the Council for supporting the local involvement network was announced in December 2007 as just over £170,000 per year over the next three years. It is included as part of the Area Based Grant.
28. A successful engagement event with the local voluntary and community sector and representatives of the Patient and Public Involvement Forums took place on the 21st November 2007.
29. An overall multi agency Project Group has been formed under the oversight of the Dudley Health and Wellbeing Partnership to ensure appropriate procurement. A timetable for procurement is in place together with all associated activities such as the drafting of a specification and the setting of shadow / transitional arrangements.

Conclusion

- 30. A number of the new provisions will need to be reflected in my review of the constitution which is currently underway but which cannot be completed until the relevant Regulations and guidance have been issued.
- 31. In the meantime, it would be helpful for the Cabinet to indicate whether there is any interest in moving to whole Council elections and single member wards (paragraphs 5 and 6) or a community governance review to create new parishes (paragraph 11).

Finance

- 32. There are no specific financial implications arising from the recommendations in this report.

Law

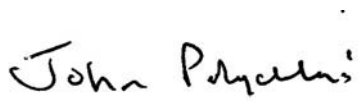
- 33. The relevant provisions of the new legislation have been summarised in this report.

Equality Impact

- 34. The broad thrust of the legislation is about empowering local people in their engagement with the Council and their involvement in health and social care, and consequently there will be significant equality implications to be taken into account in the exercise of these functions.

Recommendation

- 35. It is recommended that the Cabinet note this report and comment on the proposals for whole Council elections, single member wards and a community governance review.



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