

WIRRAL COUNCIL

CABINET - 18 MARCH 2010

REPORT OF THE DIRECTOR OF LAW, HR AND ASSET MANAGEMENT

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

### **1. Executive Summary**

- 1.1 The Local Democracy, Economic Development and Construction Act 2009, received Royal Assent on 12 November 2009. On 16 December 2009, the Government published a commencement order for sections of the Act coming into effect at various dates between December 2009 and April 2010. The commencement of the duty on councils to promote local democracy, the requirement to publish a petitions scheme, and the changes to the operation of construction contracts, has all been delayed until an unspecified date.

### **2. Background**

- 2.1 The Act is wide-ranging and is part of the Government's intention to further transform communities and services. It implements a number of policy commitments made in the Government's Communities in Control White Paper: Real People, Real Power 2008 and implements policy commitments made as part of the Government's review of Sub-National Economic Development and Regeneration (the SNR), published in 2007, which examined how councils could have a more substantial role in economic development, through working more closely with local people and regional partners to deliver growth. The proposals around giving councils the power to develop mutual insurance arrangements are a direct result of a legal case on the use of councils' power of well-being, which a number of London councils used to establish a mutual insurance company. The court ruled that this was an inappropriate use of the power of well-being. The Government then decided to legislate to allow councils to co-operate in mutual insurance arrangements.
- 2.2 The Government has stated the benefits of the Act as:
- Empowering citizens. Giving communities' new tools to create active citizens get involved in the design and delivery of local public services and improve communities.
  - Supporting improved economic decision making at every level, by bringing together economic and spatial planning in the regions, empowering local authorities to work together on economic development and ensuring that each local area has a strong understanding of its economy.
  - Making it easier for people to understand how to influence decisions, stand for office and take up other civic roles. A new duty to promote democratic understanding to make local authorities the democrat hub.

- Giving citizens greater power to hold local authorities to account and influence local services. A new duty to respond to petitions.
- Increasing transparency and public accountability, and reducing the risk to public money by allowing the Audit Commission to appoint auditors to certain local government bodies.

### 3 Implementation

It is clear that plans must be put in place to implement the requirements within the Act. A summary of what must happen across the Council and what plans must be put in place to implement the relevant sections of the Act is set out in the table below.

Sections of the Act	Wirral Borough Council's proposed approach to implementation
<b>Democracy sections</b>	
Duty to promote democracy	Commencement of this duty has been delayed and therefore guidance on what this will require has not been issued. If and when the duty is introduced the fuller implications for Wirral will be assessed and a delivery plan developed.
Operation of a petition schemes	Commencement of this requirement has been delayed. However, this is something the Council would like to introduce as part of its corporate plan priority to create an excellent Council. The Director of Law, HR and Asset Management will be bringing a separate report forward to the Scrutiny Programme Board in the next Municipal Year (and at the request of the current Chair to the Audit and Risk Management Committee) on a proposed petition scheme for Wirral.
Appointment of a statutory scrutiny officer	<p>Guidance from the Department of Communities and Local Government is that the person appointed to this position should be an officer who operates at practitioner level (and that it should not be someone who has significant responsibilities for delivery of work for the Executive). It was noted on several occasions as the Bill progressed through Parliament that greater devolution was a key overarching aim and that individual local authorities would need to decide on the arrangements that best suited their local area. Unlike the Council's other statutory officers, the post does not have a dismissal safeguard.</p> <p>The recommendation is that Cabinet recommend to Council that the Head of Legal</p>

	<p>and Member Services be appointed to the position of statutory scrutiny officer. This post is considered appropriately detached from the day-to-day delivery of Executive priorities but sufficiently engaged with the borough's overarching strategic direction. Thereby ensuring that the Scrutiny Programme Board is well informed enough to hold the Executive to account, and able to develop policy which is relevant to the vision for Wirral set out in the Council's Corporate Plan.</p> <p>The role of the Statutory Scrutiny Officer is set out in Appendix A to this report.</p> <p>The Cabinet is therefore asked to endorse this recommendation to Council.</p>
Local freedoms and honorary titles	Appropriate amendments will need to be made to the arrangements for conferring freedom of the borough and honorary titles to reflect these amendments.
Extension of 'Duty to Involve'	The duty to involve already applies to the Council. The extension of this power will need to be raised with partners, to work with them on how best we can further involve our communities in a joined up way.
Political restrictions	Officers currently in politically restricted posts solely on the basis of their pay level will cease to be restricted and formal notification will need to be given to them by Human Resources. It is not yet known how many posts this will affect within the Council.
<b>Mutual insurance arrangements section</b>	
Power to establish mutual insurance arrangements	<p>The Council's Insurance Team can work with other local authorities to jointly procure insurance cover. The Council could benefit from financial efficiency savings from this arrangement.</p> <p>If it is determined that establishing mutual insurance arrangements would bring further efficiency savings, then specific proposals would made to the Cabinet.</p>
<b>National issues sections</b>	
Establishment of an independent boundary committee	There are no implications for the Council resulting from these changes.

Establishment of a National Voice for tenants	There are no direct implications for the Council resulting from the Act because the legalisation establishes a tenants' body to influence and guide national housing policy.
Audit Commission - appointment of auditors to audit local authorities	There are no implications for the Council resulting from these changes since the Audit Commission already has the ability to appoint Auditors to audit local authorities.
<b>Economic development sections</b>	
Duty to develop an economic assessment	The Cabinet has responsibility for signing off the economic assessment, including the elements of the assessment that will be enacted at the City Region Level.
Establishment of economic boards and combined authorities	<p>Liverpool City Region partners have agreed that the shadow LCR Cabinet could potentially become the Economic Prosperity Board for the City Region, subject to additional guidance and the agreement of all Local Authority partners. The Council is yet to receive full guidance on the requirement to establish a leaders' board. Once this has been issued by the Government, the implications for Wirral arising from it will be re-assessed.</p> <p>Decisions on the establishment of an economic board and a leaders' board, would be taken by the Cabinet.</p>
Development of regional strategies	<p>Part 1 of the North West Regional Strategy was published, 4 January 2010 subject to 8 week consultation period until end February.</p> <p>Part 1 sets out a high-level framework and outlines the overarching vision, priorities and action areas for the strategy that will enable Northwest partners to work together to maximise the region's opportunities and address the challenges over the next twenty years.</p> <p>There will be a formal 12 week public consultation on policies in revised Part 1 and more detailed Part 2 of RS2010 in Summer 2010 which will be reported to Cabinet.</p>

Multi-Area Assessments (MAAs)	<p>The Liverpool City Region (LCR) Multi-Area Agreement (MAA) was signed off by Central Government in September 2009. The MAA set out the priorities that will enable partners to compete for jobs and investment and create a thriving international City Region.</p> <p>The Agreement also means that the City Region will work more closely with Government to minimise the adverse impact of the current economic downturn as well as maximising the longer term ambitions of improving the economic and social prospects of the area.</p> <p>The Liverpool City Region MAA covers the boroughs of Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral. The combined population of this area is around 1.5 million people.</p> <p>Decisions to be taken would be taken by the Cabinet.</p>
<b>Construction section</b>	
Contractual relationships in construction contracts	The Government has not yet issued guidance on the implementation of this. As soon as this guidance has been published the implications for the Council will be re-assessed.

#### **4. Financial implications**

- 4.1 The Department of Communities and Local Government, through its policy impact assessments has identified that the additional cost to each local authority of implementing these new requirements could be between £100,000 and £200,000 per year. It has indicated that there will be a slight increase in general and unhypothecated (i.e. not earmarked) Revenue Support Grant to local authorities to pay for this.
- 4.2 However, no specific growth has been identified in respect of these requirements, either in the 2010/11 Draft Revenue Estimates or the Medium Term Financial Plan. Therefore, any additional cost to Wirral Borough Council resulting from implementation of this legislation will need to be met from within existing resources.

#### **5. Staffing implications**

- 5.1 Staff in politically restricted posts will be affected.

#### **6. Equal Opportunities implications**

- 6.1 There are no equalities implications within this report, however, equalities issues will need to be considered when the proposals for implementation start to be worked

through. At that point an Equalities Impact Assessment will be required for each relevant proposal.

**7. Community Safety implications**

7.1 None

**7. Local Agenda 21 implications**

8.1 None

**9. Planning implications**

9.1 None

**10. Anti-poverty implications**

10.1 None

**11. Human Rights implications**

11.1 None

**12. Social Inclusion implications**

12.1 None

**13. Local Member Support implications**

13.1 None

**14. Background Papers**

14.1 The Local Democracy, Economic Development and Construction Act 2009

**15. Recommendations: Cabinet is asked to:**

- comment on the proposed approach for implementing the requirements of the Local Democracy, Economic Development and Construction Act 2009, as outlined above;
- note that commencement of the duty on Councils to promote local democracy, the requirement to publish a petitions scheme, and changes to the operation of construction contracts have been delayed until an unspecified date;
- recommend to Council that the Head of Legal and Member Services be appointed as the Council's statutory scrutiny officer.

### STATUTORY SCRUTINY OFFICER'S ROLE

Section 31 of the Local Democracy, Economic Development and Construction Act 2009, states:

- (1) Subject as follows, a local authority in England must designate one of their officers to discharge the functions in subsection (2).
- (2) Those functions are—
  - (a) to promote the role of the authority's overview and scrutiny committee or committees;
  - (b) to provide support to the authority's overview and scrutiny committee or committees and the members of that committee or those committees;
  - (c) to provide support and guidance to—
    - (i) Members of the authority,
    - (ii) Members of the executive of the authority and
    - (iii) Officers of the authority, in relation to the functions of the authority's overview and scrutiny committee or committees.
- (3) An officer designated by a local authority under this section is to be known as the authority's "scrutiny officer".
- (4) A local authority may not designate any of the following under this section—
  - (a) the head of the authority's paid service designated under section 4 of the Local Government and Housing Act 1989;
  - (b) the authority's monitoring officer designated under section 5 of that Act;
  - (c) the authority's chief finance officer, within the meaning of that section.

This part of the Act comes into force on 1 April 2010.

Paragraph 82 of Parliament's Explanatory Notes to the Local Democracy, Economic Development and Construction Act 2009 explains the intention of Section 31.

*"Typically, a scrutiny officer will promote the scrutiny function generally within the authority and local government partners more widely and provide advice and support to members of the authority's committee(s) in undertaking their work. This may include the provision, or management, of committee secretariat services, research, analysis of data and report preparation for example."*

The appointment of a Statutory Scrutiny Officer is a Council responsibility and the proposal will secure compliance with the Council's duty under Local Democracy, Economic Development and Construction Act 2009.