

N L G N

NEW LOCAL GOVERNMENT NETWORK



Sustainable Communities Act

The key that finally unlocks real local potential

Anthony Brand

www.nlgn.org.uk



New Local Government Network (NLGN) is an independent think tank that seeks to transform public services, revitalise local political leadership and empower local communities. NLGN is publishing this report as part of its programme of research and innovative policy projects, which we hope will be of use to policy makers and practitioners. The views expressed are however those of the authors and not necessarily those of NLGN.

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Prepared by NLGN
First floor, New City Court, 20 St. Thomas Street, London SE1 9RS
Tel 020 7357 0051 . Email info@nlgn.org.uk . www.nlgn.org.uk

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Summary

We are entering an interesting phase in the path to a more devolved political system. In the last couple of years we have seen the passage of the Local Government and Public Involvement in Health Bill, the central local concordat, and more recently, the empowerment white paper, all of which have been attempts to answer the criticism that we are one of the more centralised nations in Europe. This is not to mention the Lyons Review, the sub-national review, a harder CPA, Gershon and a particularly tight CSR. The combined impact of these policies has been to push councils from pillar to post, promising a lot, sometimes delivering, always testing, and always driving local authorities to do more and do better.

In the middle of this, many of us may have missed a small but particularly interesting piece of legislation – The Sustainable Communities Act 2007. If used well, this Act could be a driving force behind the next stage of the devolutionary process. It provides local authorities with an opportunity to take a more proactive leadership role in formulating policy and making stronger arguments for the devolution of powers, responsibilities and funding to the local level. This paper looks at what the Act might offer local communities, its potential as part of the devolution agenda, and the likelihood of its delivery on its potential.

We suggest that the Act be used to take forward proposals including:

- Where a PCT struggles to meet its financial targets and performance objectives, and there is organisational and popular consent, the PCT and unitary local authority, or county council, should be allowed to appoint joint posts on the senior management team
- New powers that allow the local hypothecation of increases in local tax revenues in order to finance regeneration, capital investment and infrastructure improvements;
- Local branches of national public services, when working in a partnership through an LAA, should be free to adapt local rules for operational

management procedures without waiting for prior approval from regional or national offices;

- Council leaders should become responsible for local public transport in their area with powers currently vested with unelected Traffic Commissioners devolved to leaders; and
- The Secretary of State within CLG should make an explicit statement recognising the importance of LAAs, and that partners who are found not to be contributing appropriately to the delivery of these agreements will be considered appropriate candidates for the transfer of functions and funding. The Secretary of State should set out guidelines for how these applications will be assessed and considered. Other relevant Government departments (such as the Department of Health) should prove that Whitehall is committed to LAAs and joined-up delivery by supporting the strengthened Sustainable Communities Act.

1 *The history of the Act*

Local government has been through a period of gradual, but significant change. We have seen a raft of legislation including:

- Well being powers of the 2000 local government Act;
- New LAAs;
- Sustainable Community Strategies;
- Local Development Frameworks;
- Sub-national review of economic development;
- Multi-Area agreements;
- Central local concordat;
- 2007 Local Government Bill;
- Empowerment White Paper;
- Ongoing housing finance reforms and the community Infrastructure Levy;
- Supplementary Business Rates and LABGI;
- Prudential Borrowing;
- A reformed CPA and reduced indicator set for local authorities;

Alone, some of these policies have failed to deliver on local government's expectations. Together, they represent a step-change in the powers and flexibilities local authorities now have to deliver locally tailored programmes and initiatives, and to display ambitious community leadership. Perhaps one of the most interesting of these developments was the broadly defined 'well-being power' of the Local Government Act 2000. This provided local authorities with the power to undertake any activities that are considered to have a positive impact on the lived experience of people in their area. A 2005 CLG report suggested that these powers were under-used, and there certainly remains some reluctance to embrace them, particularly where local authorities believe the Government will clamp down on those local authorities who go "too far". Is there another way to unlock this potential?

The Sustainable Communities Act looks to build on this progress, re-energise local authorities and their enthusiasm for making the most of new powers. The Act was introduced to the House of Commons as a private members Bill by Conservative Nick Hurd MP in November 2006. MPs from all parties backed the Bill by 175 votes to 17 and it received Royal Assent in October 2007.

Though by this stage the Bill had been diluted from its original form, the Act provides local authorities and the communities they serve with considerable new powers and opportunities. The Act enable councils to do more to drive government policy, particularly powers that extend their ability to tackle local economic, social and environmental sustainability issues.

The origins of the Bill were concerns that over-centralised policy-making was undermining local efforts to create strong, vibrant and prosperous neighbourhoods with clear and positive identities. Nick Hurd states his concerns that *“the decline and loss of local services is having a clear and serious impact on the prosperity and of local communities.”* *“We’ve seen the closure of local banks, post offices, local stores, all which were out of the control of local communities, but all of which are damaging their sustainability... and leading to the destruction and homogenisation of local towns and high streets.”*

The Government, though not accepting of the image of community decline, were positive about the Act’s potential for encouraging greater self-determination and community involvement in the decisions that will affect that community. In turn, the Act might help to overcome the perceptions of powerlessness and disengagement that can pervade some neighbourhoods. In this way the Act certainly chimes well with the direction of other Government policy, including the Local government Bill and the recent Community Empowerment White Paper. The Bill was also supported by 80 national organisations, 300 local organisations, over 1000 parish and town councils and thousands of individuals.

2 *The content of the Act*

The Act achieves several things.

- 1. It replaces the previous term “community strategy” with the term “sustainable community strategy”**- Putting into legislation the duty, already central to local authorities’ thinking, to consider the long-term sustainability of the communities they serve, and the way in which local services and plans contribute to that sustainability.
- 2. It creates a duty for Government to produce a local spending report that details, for each local authority area, the amount of public money spent by all relevant agencies (central, regional and local) on services and projects over a given period** – This idea, initially proposed in the Conservatives policy document *Permissive State*, originally allowed local authorities to make recommendations on the allocation of any relevant spending in its area, by drawing up a local spending plan. The final Act is more circumspect, though a similar outcome could be achieved through part 3 below.
- 3. It invites local authorities to make proposals which they consider would contribute to promoting the sustainability of local communities.** – A proposal may include a request for a transfer of functions from one person to another (following consultation with the partners). The local authority must also establish or recognise a panel of representatives of local persons to be consulted about the proposal.

3 *Local policy proposals*

This last aspect of the Act is particularly interesting, the ability for local communities, through their councils, to put forward policy suggestions. Any proposals put forward must have regard to the:

- Provision of local services, and the extent to which the volume and value of goods and services are produced within 30 miles;
- Rate of increase in the growth and marketing of organic food;
- Reasonable access of residents to nutritional food;
- Number of local jobs;
- Measures to conserve energy and increase the quantity of locally supplied energy
- Measures taken to reduce the level of road traffic including;
- Increase in social inclusion, including an increase in involvement in local democracy;
- Measures designed to decrease emissions of greenhouse gases;
- Measures designed to increase community health and well being;
- Planning policies which would assist with the purposes of this Act, including new arrangements for the provision of affordable housing;
- Measures to increase the use of local waste materials.

The LGA must then consider the proposals and, produce a report listing the proposals chosen for discussion, those rejected, and why. The LGA, in co-operation and negotiation with the Secretary of State, will then draw up a short-list of the most viable ideas to be taken forward. Decisions will be made through constructive central local dialogue, and this is not expected to be a simple Yes/No exercise by Government. The Secretary of State must then produce an action plan for implementation of these proposals and report annually on its progress. The first invite for proposals is due by October 23rd 2008, and is due to be announced at an LGA launch conference around this time.

The LGA are currently working through the way in which the Act will be delivered and the timing of each stage, but it is likely that from October, councils will have up to six months to put forward ideas and for the LGA to review them. The LGA suggest that there will be considerable flexibility in the way in which proposals will be received and put together. An “80 page business plan” will not be necessary, but the key questions for those considering the proposals will be, can they be achieved already under existing legislation, how do they contribute to sustainability, and what community engagement has been conducted in order to ensure the suitability of the proposals.

4 *Will it work?*

The range of criteria for proposals are set so wide, particularly with regards improving well-being, that the scope and potential ambition for ideas is almost limitless. The agencies and MPs driving the Bill, believed that in this way the Act could lead to a fundamental change in central local relations, freeing local government to demand the freedoms and powers that they have been arguing for, for so long.

In reality, there is some doubt as to how far-reaching the changes that result from the Act will be. For one thing, the Act has been diluted somewhat since its original appearance, particularly with regards the local spending plans and the rights of local authorities to suggest alternative ways of allocating local public spending. It was felt by the Government that the aims of the original clause 5 – the ability to create local spending plans – could be achieved as readily by a combination of LAAs, the duty to cooperate and the other powers within the Act.

What is more, despite a continued push from MPs such as Nick Hurd, organisations such as Local Works and Unlock Democracy, the LGA, and the Conservative central office, awareness of the Act among the local government family remains low and responses varied. There are mixed feelings as to how serious Whitehall might be about agreeing to radical proposals, many of which local government will have already been arguing for for some time.

Unfortunately, the Act has also not been helped by its sequencing and timing. The first round of public spending reports are not due until April 09, some six months after the first round of proposals is initiated. This lack of synchronisation between the elements of the Act might undermine the ability of local authorities to realise the full potential of the changes. The requirement in the Act for the government to ‘open the books’ will mean that local authorities will know just how much extra money they might access if they push for a transfer of functions. Without that, it may be that much harder to make a strong case.

These feelings, combined with the understandable degree of ‘initiative-itis’ that now pervades an over-worked sector, is serving to dampen local enthusiasm.

This should not be allowed to happen. For one thing, the suggestion is that proposals jointly supported by many authorities simultaneously will receive greater consideration. Certainly it would seem likely that the Government will find it harder to turn down ideas with large-scale support. Councils should work with the LGA and other agencies to build this coherence.

At this early stage such coherence is conspicuously absent, but those local authorities engaging comprehensively with the debate are keen to see it happen. A website (www.suscomms.org.uk/) has been set up to facilitate more discussion on the topic, to share ideas, and to attempt to ensure some coherence and widespread support across proposals.

What we might find, as the Act progresses, is that the need for additional powers is actually over-estimated. Discussions with private sector solicitors suggest that there is considerable scope within existing legislation to do more at the local level. In many instances it is actually a lack of imagination and/or a timidity and fear of central interference that prevents more ambitious local action. The Act might highlight these instances, with the LGA returning those proposals that are already achievable, and consequently encouraging local authorities to try new things.

“Too many councillors and officers can seem quite comfortable operating in a system of constrained choices where it is easy to blame government rather than seize control of their own destiny. This usually manifests itself in an unwillingness to get past expressions of disbelief that government is serious about devolution. If you keep convincing yourselves ‘It will never happen’, it won’t.”

Simon Milton, LGA Conference Speech, 2008

That’s said, the Act provides a useful ‘bat-stop’ and driver to ensure that agencies work with local authorities, without undermining the more positive and collaborative framework achieved with the existing legislation.

“[Another agency will think] it is not worth not doing what the local authority wants us to do because, if we don’t, the local authority will petition the Secretary of State for the ability to take it over.” That is precisely the dynamic that we wish to create”.¹

Oliver Letwin, Chairman of the Conservative Party’s Policy Review

¹ <http://www.publications.parliament.uk/pa/cm200607/cmpublic/sustain/070523/pm/70523s01.htm>

This may prove useful in relation to LAAs and strengthening the duty to cooperate – particularly in areas where relationships are fragile, where targets are not being hit due to fragmented local cooperation, and where difficult discussion between partners have been shelved only to re-emerge further down the line. The existing duty remains ill-defined and has been criticised for lacking teeth. When Comprehensive Area Assessment arrives next year it may go some way to strengthening the ‘teeth’ of the LAA. That aside, should agencies renege on LAA commitments there is currently little beyond reputational concerns by which agencies can be held to account for LAA delivery. This new Act may fill that accountability void to some extent.

5 *What we might propose*

The scope and remit for this Act is almost limitless. In time, the proposals put forward will no doubt reflect this fact. Ideas will range from the very local and those easy to implement, to more controversial powers that require robust discussions between local and central agencies. Councils, their partners and the communities they serve should be beginning now to think about how they might make use of the act. Using the Sustainable Community Strategy as a starting point, and engaging through existing committees, boards, partnerships and other community fora, the potential of the Sustainable Communities Act should become public knowledge.

This awareness-building role is a key one, but so too must we begin to shared ideas on the proposals we might make. In their supporting literature, LocalWorks suggest several proposals, including:

- Keeping essential community services like Post Offices open;
- Promoting small businesses by increasing the rate relief they receive;
- Promoting local renewable energy, e.g. by removing the restrictive barriers relating to the local grid;
- Promoting local food and other products, e.g. by giving rate relief to businesses that earn 50% of their turnover from selling local food and goods;
- Powers to levy non-domestic rates on out-of-town car parking spaces – with a power for the council to allow discounts (perhaps up to 100%) if the supermarket, or other store, sources a stated percentage of goods for sale locally.

Local authorities are beginning to take up the challenge too. The whirring of brainstorm sessions can be heard outside many Town Halls. Some ideas suggested by local authorities include:

- New options for social housing to allow areas facing Large-Scale-Voluntary-Transfer 'No' votes to access new funding streams;

- Powers to absorb BusinessLink funding in order to drive wider economic development objectives; (mentioned during the Commons debate on the Act and by Brighton & Hove City Council²);
- Increased powers over crime and criminal justice, including the ability to look across the piece at the funding of local services and refocus interventions on local preventative measures;
- Better joining up of regional and local transport funding with increased powers to ensure agencies such as RDAs, Network Rail and the Highways Agency have regard to local plans;
- The ability of local authorities to take a more central role in the delivery and funding of a localised welfare system, with greater freedom for JobCentrePlus collaboration and the local capture of benefits savings; (Kent, Southwark and Brighton & Hove City Councils all mentioned this).

Other ideas, drawn from the recommendations in recent NLGN research, include:

- A more qualitative Best 'Added' Value tool to predict the impact of new entrants on the local economy and to inform planning consent decisions based on a range of social, economic and community benefits that a business might bring to an area;³
- Where a PCT struggles to meet its financial targets and performance objectives, and there is organisational and popular consent, the PCT and unitary local authority, or county council, should be allowed to appoint joint posts on the senior management team. For example, a single chief executive would oversee the PCT and the local authority, with a joint head of finance and director of public health. Moreover, to ensure full democratic accountability, the PCT board could be constituted with a majority of councillors and chaired by the leader of the council or mayor;⁴
- Responsibility for post-19 skills, training and apprenticeships should be devolved to local authorities;⁵

² Contact Jonathan Bryant from Brighton and Hove City Council for further details

³ NLGN, Exiled from Main Street, Managing the local high street (unpublished)

⁴ NLGN, Primary Care Trusts, Tailoring commissioning (2007)

⁵ NLGN, Trading Places (2008)

- The conversion of myriad regeneration grants into a single, un-ring-fenced and needs-based grant;⁶
- Councils could apply for ROMS and Probation Trust offender management goals to be integrated within the LAA for each locality and agreed by the LSP;⁷
- All bus plans would be exposed to public consultation through the Local Strategic and Quality Contracts and partnership arrangements would all be tested against the local public interest.⁸
- Where appropriate, councils could use new charging powers to encourage recycling on a ward by ward basis. Local authorities could return a proportion of any charges, as well as Landfill Tax and EU fine savings to those wards that perform best and allow it to be spent however that locality sees fit;⁹
- Replacing the GLA with a London Leaders' Council (LLC) of all elected Council Leaders in London, whose sole role would be to approve the Mayor's budget, to review his strategic plans and documents and to question the Mayor, his staff and organisations under the Mayor's control;¹⁰
- Reforming quangos to ensure that 'national diversity' is added to the concept of equality of opportunity to be pursued in the public appointments process, with invitation to Council Leaders and MPs to make specific nominations for appointment to public bodies, and for some powers to be devolved to local authorities themselves;¹¹
- In Europe, the Councillors nominated by CLG to sit on the Committee of the Regions should be elected from the UK's 12 administrative regions. The candidates in these elections could be restricted to Council leaders or cabinet-level portfolio holders in order to ensure a sustainable and accurate reflection of regional interests on an EU level;¹²

6 NLGN, Trading Places (2008)

7 NLGN, Reducing Re-offending: Creating the right framework (2007)

8 NLGN, Local Buses Delivering National Policies: Options for Bus Reform (2007)

9 NLGN, How can we refuse? Tackling the waste challenge (2007)

10 NLGN, Glad to be GLA? Making London Government more accountable (2008)

11 NLGN, You've been Quango'd! Mapping power across the regions (2008)

12 NLGN, Making Europe Local, Putting Councils at the Heart of the EU (2008)

- Greater powers to influence and manage community policing, and local flexibility over funding targeted at gang and youth crime prevention initiatives;¹³
- The integration of Police Authorities with CDRPs to ensure joined-up, efficient and targeted use of resources to tackle local criminal justice priorities;¹⁴
- Local branches of national public services, when working in a partnership through an LAA, should be free to adapt local rules for operational management procedures without waiting for prior approval from regional or national offices;
- The Secretary of State within CLG should make an explicit statement recognising the importance of LAAs, and that partners who are found not to be contributing appropriately to the delivery of these agreements will be considered appropriate candidates for the transfer of functions and funding. The Secretary of State should set out guidelines for how these applications will be assessed and considered. Other relevant Government departments (such as the Department of Health) should prove that Whitehall is committed to LAAs and joined-up delivery by supporting the strengthened Sustainable Communities Act;¹⁵
- Fifty per cent of benefits savings realised through local worklessness initiatives should also be returned to the local authority without claw-back for at least five years;¹⁶
- New powers could allow the local hypothecation of increases in local tax revenues in order to finance regeneration, capital investment and infrastructure improvements;¹⁷
- Flexibility to adjust local right-to-buy rules and buy-to-let planning permission criteria could allow local authorities to respond to immediate local housing concerns;¹⁸

13 NLGN, *Gangs at the Grassroots, Community solutions to street violence* (2008)

14 NLGN, *Your Police or Mine?* (2008)

15 NLGN, *LAA Success* (2008)

16 NLGN, *The Local Journey To Work, Localism, welfare and worklessness* (2008)

17 NLGN, *Capital Ideas, Financing Local Economic Development* (2007)

18 NLGN, *Good House Keeping?, Stronger communities through local housing intervention* (2008)

- Council leaders should become responsible for local public transport in their area with powers currently vested with unelected Traffic Commissioners devolved to leaders, including franchising bus operators to ensure strategic routes are served and fares controlled. Government should devolve to local authorities the £380 million grant that goes to bus operators so that councils can subsidise the routes that fulfil local strategic needs.¹⁹
- We recommend that half of landfill revenues should be returned to the top quartile of local authorities showing the quickest improvement in waste reduction performance, and the other should form a “Waste Innovation Fund” administered and determined by the LGA to which authorities bid for resource to support local waste projects;²⁰
- More radically, local government could pursue the relocation of business rates, a huge expansion of the LABGI system, or the targeted localisation of some taxes as local grants in order to incentivise local growth (Taxes as Grants);²¹

¹⁹ NLGN, *Politics of Traffic* (2007)

²⁰ NLGN, *Time to Waste? Tackling the landfill challenge* (2008)

²¹ NLGN, *Pacing Lyons* (2006)

6 *Making it happen*

Organisation such as Unlock Democracy, and MPs like Nick Hurd are already driving support for this Act. Organisations as diverse as the campaign for Real Ale (CAMRA) and Friends of the Earth now signed up in support. Nevertheless, if the Act is to deliver on its potential local authorities will be the driving force behind coordinating the views of local people and drawing up ambitious local proposals. For this to happen, we need to see ambitious local leaders championing the cause. Simon Milton began to do this at the LGA, but perhaps we could do more.

SOLACE could pull together a committee to lead on the Act, to engage with local authorities across the country and to coordinate action and proposals around a few key themes? This would not conflict with the LGA's mandate as the selector of proposals, but could deliver a critical mass of local political and community support for the most ambitious and exciting proposals.

LSPs should also be setting aside time to get local partners up to speed with the Act, encouraging an open debate on the flexibilities required to achieve more locally. As local authorities have argued, and proved, for years, real innovation comes from the wealth and mixture of views, opinions and experiences of the people that live in and work with local communities.

This Act could also be a way to tap into the potential of public debate, building on the enthusiasm for ideas like the No.10 Web Petition site and freeing people to put forward their own ideas for improvement. We suggest that £2m of the new £7.5m 'Empowerment Fund' announced in the 'Communities In Control' White Paper this July should be earmarked to support grassroots "brainstorming events" where local communities could propose policy reforms. This could fuel the "double devolution" agenda and increase pressure on Government to accept ideas that are firmly rooted in local communities. This will supplement the community panels required by the Act.

7 *Conclusion*

The Sustainable Communities Act may not have been designed with such radical goals in mind, but it has unlocked a door that all local authorities should now be clambering to open. It is unlikely that all of the above proposals would be feasible, and some may not even been desirable for all areas, but unless local authorities take on this challenge, they will never know how far the Act might take them.

I hope that the ideas above can help to ignite discussions around the country, and that come October, the LGA is weighed down with ideas and initiatives for transforming local communities into the vibrant, prosperous, and sustainable places we all wish to live.





If used well, the Sustainable Communities Act could be a driving force behind the next stage of the devolutionary process. It provides local authorities with an opportunity to take a more proactive leadership role in formulating policy and making stronger arguments for the devolution of powers, responsibilities and funding to the local level.

This paper looks at what the Act might offer local communities, its potential as part of the devolution agenda, and the likelihood of its delivery on its potential.