



A plain English guide to the Localism Bill



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Department for Communities and Local Government

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Contents

Foreword	2
About this Guide	4
New freedoms and flexibility for local government	5
New rights and powers for communities	8
Reform to make the planning system clearer, more democratic and more effective	10
Reform to ensure that decisions about housing are taken locally	14
The overall effect of the Bill	17

Foreword

“The time has come to disperse power more widely in Britain today.”

The Prime Minister and the Deputy Prime Minister, Coalition Agreement, May 2010

For too long, central government has hoarded and concentrated power. Trying to improve people’s lives by imposing decisions, setting targets, and demanding inspections from Whitehall simply doesn’t work. It creates bureaucracy. It leaves no room for adaptation to reflect local circumstances or innovation to deliver services more effectively and at lower cost. And it leaves people feeling “done to” and imposed upon – the very opposite of the sense of participation and involvement on which a healthy democracy thrives.

I have long believed there is a better way of doing things. Eight years ago I wrote a book called *Total Politics* which set out the case for a huge shift in power – from central Whitehall, to local public servants, and from bureaucrats to communities and individuals.

Today, I am proud to be part of a Government putting this vision into practice. We think that the best means of strengthening society is not for central government to try and seize all the power and responsibility for itself. It is to help people and their locally elected representatives to achieve their own ambitions. This is the essence of the Big Society.

We have already begun to pass power back to where it belongs. We are cutting central targets on councils, easing the burden of inspection, and reducing red tape. We are breaking down the barriers that stop councils, local charities, social enterprises and voluntary groups getting things done for themselves.

But we can go a lot further by changing the law. The Localism Bill was published in December 2010. It sets out a series of proposals with the potential to achieve a substantial and lasting shift in power away from central government and towards local people. They include: new freedoms and flexibilities for local government; new rights and powers for communities and individuals; reform to make the planning system more democratic and more effective, and reform to ensure that decisions about housing are taken locally.

This document summarises each of the main ideas proposed in the Bill, and explains the overall difference that they could make. I am looking forward to a great debate about them in parliament over the coming months.

I also hope to see a debate in the wider country – among councils, community groups, volunteers, social activists and many more people – about how they can seize the opportunities this historic Bill represents, and use the rights and freedoms it offers to make a difference in their community.

A handwritten signature in black ink that reads "Greg Clark". The signature is written in a cursive style with a large, looped "G" and a distinct "Clark".

Rt Hon Greg Clark MP, Minister of State for Decentralisation

About this Guide

This document describes the main measures of the Localism Bill under four headings:

- new freedoms and flexibilities for local government
- new rights and powers for communities and individuals
- reform to make the planning system more democratic and more effective
- reform to ensure that decisions about housing are taken locally

The proposals described in this document are subject to parliamentary debate. They can only be put into practice when parliament agrees to them. The will be discussed at length by both the House of Commons and the House of Lords. You can read more about how a Bill becomes law on the parliament website

<http://www.parliament.uk/about/how/guides/factsheets/legislation/l1/>

Members of parliament can suggest changes to the Bill. This document describes what the Bill looked like when it was first published in December 2010: it does not reflect any changes that may be made later on.

This document is designed to give an overview only. You can read the Bill and its explanatory notes in full, and follow its progress through parliament, on the parliament website:

<http://services.parliament.uk/bills/2010-11/localism.html>

The document *Decentralisation and the Localism Bill: an essential guide* also gives further background. It explains how the principles that underpin the Localism Bill also inform other government policies:

<http://www.communities.gov.uk/decentralisationguide>

New freedoms and flexibility for local government

Local government plays a crucial role in the life of the nation. It is directly responsible for important public services, from street lighting, to social care, to libraries and leisure centres. It makes sure that other services work together effectively for the good of the community. And with councillors elected by and accountable to local people, local government provides democratic leadership.

The Government is committed to passing new powers and freedoms to town halls. We think that power should be exercised at the lowest practical level – close to the people who are affected by decisions, rather than distant from them. Local authorities can do their job best when they have genuine freedom to respond to what local people want, not what they are told to do by central government. In challenging financial times, this freedom is more important than ever, enabling local authorities to innovate and deliver better value for taxpayers' money.

The Localism Bill contains a number of proposals to give local authorities new freedoms and flexibility.

General power of competence

Local authorities' powers and responsibilities are defined by legislation. In simple terms, they can only do what the law says they can. Sometimes councils are wary of doing something new – even if they think it might be a good idea – because they are not sure whether they are allowed to in law, and are concerned about the possibility of being challenged in the courts.

The Government thinks that we need to turn this assumption upside down. Instead of being able to act only where the law says they can, local authorities should be free to do anything – provided they do not break other laws.

The Localism Bill includes a “general power of competence.” It will give local authorities the legal capacity to do anything that an individual can do that is not specifically banned by other laws: they will not, for example, be able to impose new taxes, as other laws make clear they cannot.

The new general power will give councils more freedom to work with others in new ways to drive down costs. It will give them increased confidence to do creative, innovative things to meet local people's needs. Councils have asked for this power because it will help them get on with the job.

Abolition of the Standards Board

Councillors play a crucial role in local life. The people who elect them have the right to expect the highest standards of behaviour. The Government thinks it is important to have safeguards to prevent the abuse of power and misuse

of public money. Currently, all local authorities must, by law, have a standards committee to oversee the behaviour of their councillors and receive complaints. A central body, the Standards Board for England, regulates each of these committees.

In practice, however, this system of safeguards is ineffective. It is too easy for people to put forward ill-founded complaints about councillors' conduct. Lengthy debates about petty complaints or deliberately harmful accusations can undermine people's faith in local democracy and put them off standing for public office.

In the Localism Bill, the Government will abolish the Standards Board regime. Instead, it will become a criminal offence for councillors to deliberately withhold or misrepresent a personal interest. This means that councils will not be obliged to spend time and money investigating trivial complaints, while councillors involved in corruption and misconduct will face appropriately serious sanctions. This will provide a more effective safeguard against unacceptable behaviour.

Clarifying the rules on predetermination

In parallel with the abolition of the Standards Board, the Government intends to use the Localism Bill to clarify the rules on "predetermination." These rules were developed to ensure that councillors came to council discussions – on, for example, planning applications – with an open mind. In practice, however, these rules have been interpreted in such a way as to reduce the quality of local debate and stifle valid discussion. In some cases councillors have been warned off doing such things as campaigning, talking with constituents, or publicly expressing views on local issues, for fear of being accused of bias or facing legal challenge.

The Localism Bill will make it clear that it is proper for councillors to play an active part in local discussions, and that they should not be liable to legal challenge as a result. This will help them better represent their constituents and enrich local democratic debate. People can elect their councillor confident in the knowledge that they will be able to act on the issues they care about and have campaigned on.

Directly elected mayors

Almost every major city in the world has a powerful executive mayor. Evidence suggests that mayors can provide visible local leadership, strengthen economic growth, and boost democratic engagement. There are currently only 12 elected mayors in England. The Government thinks that a new generation of elected mayors with wide-ranging responsibilities and powers could raise the profile of English cities and strengthen local democracy.

The Localism Bill will give more cities the opportunity to decide whether they want a mayor. After the Bill has been passed, the Government intends to make the council leaders in 12 cities "shadow mayors." This will give local people an insight into what it is like to be governed by a mayor. Each city will

then hold a referendum on local Election Day in May 2012 to decide whether to have an elected mayor for the long term. For areas that vote in favour, mayoral elections will then be held at the same time as local elections in May 2013. People in other areas of the country will be able to use existing laws to call for their own referendum on whether to have an elected mayor.

London

The Localism Bill will pass greater powers over housing and regeneration to local democratically elected representatives in London. It will empower the democratically elected Mayor to carry on housing investment activities currently carried out by the Homes and Communities Agency, and the economic development work done by the London Development Agency.

New rights and powers for communities

Greater freedom and flexibilities for local government are vital for achieving the shift in power the Government wants to see. But, on their own, these measures will not be enough. Government alone does not make great places to live, people do: people who look out for their neighbours, who take pride in their street and get involved – from the retired teacher who volunteers in the village shop once a month, to the social entrepreneur who runs the nursery full time.

Until now, however, many people have found that their good ideas have been overlooked and they have little opportunity to get on and tackle problems in the way they want. Voluntary and community groups often find that their potential contribution is neglected, when, in fact, they carry out some of the most innovative and effective work in public services and we should be encouraging them to get more involved.

We want to pass significant new rights direct to communities and individuals, making it easier for them to get things done and achieve their ambitions for the place where they live.

Community right to challenge

The Government thinks that innovation in public services can offer greater value for taxpayers' money and better results for local communities. The best councils are constantly on the look out for new and better ways to design and deliver services. Many recognise the potential of social enterprises and community groups to provide high-quality services at good value, and deliver services with and through them.

In some places, however, voluntary and community groups who have bright ideas find that they do not get a proper hearing. The Localism Bill will give these groups the right to express an interest in taking over the running of a local service. The local authority must consider and respond to this challenge. This will make it easier for local groups with good ideas to put them forward and drive improvement in local services.

Community right to bid

Every town, village or neighbourhood is home to buildings or businesses that play a vital role in local life. They might include meeting rooms, swimming pools, village shops, markets or pubs. Local life would not be the same without them, and if they are closed or sold into private use, it can be a real loss to the community.

In many places across the country, when local amenities have been threatened with sale or closure, community groups have taken them over. In some cases, however, community groups who have attempted to take assets over have faced significant challenges. They often need more time to

organise a bid and raise money than the private enterprises bidding against them.

Proposals in the Localism Bill will require local authorities to maintain a list of assets of community value. Communities will have the opportunity to nominate for possible inclusion the assets that are most important to them. When listed assets come up for sale or change of ownership, community groups will have time to develop a bid and raise the money to buy the asset when it comes on the open market. This will help local communities keep much-loved sites in public use and part of local life.

Local referendums

In many other countries around the world, communities have the right to put any local issue to a local vote. The ability to trigger a referendum can enliven local democratic debate and give people a way of making their voice heard on the issues that are close to their heart. Currently, in this country, communities can only trigger a local referendum in limited circumstances, and on a very limited range of questions. The Localism Bill will give local people the right to suggest votes on any local issue that they think is important. Local authorities and other public bodies will be required to take the outcome into account as they make their decisions.

Right to veto excessive Council Tax rises

Local authorities derive a significant proportion of their revenue from Council Tax. The money raised through Council Tax is spent on supporting vital local services. But it is also important that Council Tax be set at a reasonable and affordable rate, and that it be managed very carefully to avoid waste.

Currently, central government has the power to “cap” Council Tax rises. If Ministers think that local authorities are proposing to raise taxes at a rate that goes beyond what is reasonable or affordable, they can stop them doing so. But we think that local people are in a better position than Ministers to say what is fair.

The Localism Bill will give local communities a greater say. The Secretary of State and the House of Commons will agree on a “ceiling” for Council Tax rises. If a local authority proposes to raise taxes faster than this rate, local people will have the right to approve or to veto the rise in a referendum. This means that local authorities will need to convince local voters of the case for significant rises in local taxes.

Reform to make the planning system clearer, more democratic and more effective

The planning system helps decide who can build what, where and how. It makes sure that buildings and structures that the country needs (including homes, offices, schools, hospitals, roads, train lines, power stations, water pipes, reservoirs and more) get built in the right place and to the right standards. A good planning system is essential for the economy, environment and society.

There are, however, some significant flaws in the planning system as it stands. Planning does not give members of the public enough influence over decisions that make a big difference to their lives. Too often, power is exercised by people who are not directly affected by the decisions they are making. This means, understandably, that people often resent what they see as decisions and plans being forced on them. The result is a confrontational system where many applications end up being fought over.

The Localism Bill contains proposals to make the planning system clearer, more democratic, and more effective.

Abolition of regional strategies

“Regional strategies” were first required by law in 2004. These strategies set out where new development needs to take place in each part of the country. They include housing targets for different areas, set by central government. Local communities had relatively limited opportunities to influence the strategies.

The Government thinks that this centrally-driven approach to development is bureaucratic and undemocratic. Rather than helping get new houses built, it has had the effect of making people feel put upon and less likely to welcome new development.

The Secretary of State has already written to local authorities to tell them that the Government intends to abolish regional strategies. The Localism Bill will fulfil this intention, and get rid of the law that requires regional strategies.

Neighbourhood planning

Instead of local people being told what to do, the Government thinks that local communities should have genuine opportunities to influence the future of the places where they live. The Bill will introduce a new right for communities to draw up a “neighbourhood development plan.”

Neighbourhood planning will allow people to come together through a local parish council or neighbourhood forum and say where they think new houses,

businesses and shops should go – and what they should look like. These neighbourhood development plans could be very simple, or go into considerable detail where people want. Local communities would also be able to grant full or outline planning permission in areas where they most want to see new homes and businesses, making it easier and quicker for development to go ahead.

Provided a neighbourhood development plan is in line with national planning policy, with the strategic vision for the wider area set by the local authority, and with other legal requirements, local people will be able to vote on it in a referendum. If the plan is approved by a majority, then the local authority will bring it into force.

Local planning authorities will be required to provide technical advice and support as neighbourhoods draw up their plans. The Government will also fund sources of help and advice for communities. This will help people take advantage of the opportunity to exercise influence over decisions that make a big difference to their lives.

Community right to build

As part of neighbourhood planning, the Bill will give groups of local people the ability to bring forward small developments. These might include new homes, businesses and shops. The benefits of the development, for example, profits made from letting the homes, will stay within the community.

Requirement to consult communities before submitting very large planning applications

To further strengthen the role of local communities in planning, the Bill will introduce a new requirement for developers to consult local communities before submitting planning applications for very large developments. This will give local people a chance to comment when there is still genuine scope to make changes to proposals.

Strengthening enforcement rules

For people to have a real sense that the planning system is working for them, they need to know that the rules they draw up will be respected. The Localism Bill will strengthen planning authorities' powers to tackle abuses of the planning system, such as making deliberately misleading planning applications.

Reforming the community infrastructure levy

As well as being able to influence planning decisions, local people should be able to feel the benefits of new development in their neighbourhood. Local authorities are allowed to ask developers to pay a levy (charge) when they build new houses, businesses or shops. The money raised must go to support new infrastructure – such as roads and schools. This is called the community infrastructure levy.

The Localism Bill proposes changes to the levy to make it more flexible. It will allow the money raised to be spent on maintaining infrastructure, as well as

building new infrastructure. It will give local authorities greater freedom in setting the rate that developers should pay in different areas. And crucially, the Bill will give the Government the power to require that some of the money raised goes directly to the neighbourhoods where development takes place. This will help ensure that the people who say “yes” to new development feel the benefit of that decision.

Reform the way local plans are made

Local planning authorities play a crucial role in local life, setting a vision, in consultation with local people, about what their area should look like in the future. The plans that local authorities draw up set out where new buildings, shops, businesses and infrastructure need to go, and what they should look like.

The Government thinks it is important to give local planning authorities greater freedom to get on with this important job without undue interference from central government. The Localism Bill will limit the discretion of planning inspectors to insert their own wording into local plans. It will also ensure that rather than focusing on reporting plans’ progress to central government, authorities focus on reporting progress to local communities.

Duty to cooperate

Not all planning decisions can, or should, be made at a neighbourhood or local level. In many cases there are very strong reasons for neighbouring local authorities, or groups of authorities, to work together on planning issues in the interests of all their local residents. This might include working together on environmental issues (like flooding), public transport networks (such as trams), or major new retail parks.

In the past, regional strategies formed an unaccountable bureaucratic layer on top of local government. Instead, the Government thinks that local authorities and other public bodies should work together on planning issues in ways that reflect genuine shared interests and opportunities to make common cause. The duty will require local authorities and other public bodies to work together on planning issues.

Nationally significant infrastructure projects

Some planning decisions are so important to our overall economy and society that they can only be taken at a national level. These include decisions on nationally significant infrastructure projects such as major train lines and power stations. Currently, these decisions lie in the hands of an unelected public body, called the Infrastructure Planning Commission. It is not directly accountable to the public. The Government thinks that these important decisions should be taken by Government Ministers, who are democratically accountable to the public. The Localism Bill will abolish the Infrastructure Planning Commission and restore its responsibility for taking decisions to Government Ministers. It will also ensure the National Policy Statements, which will be used to guide decisions by Ministers, can be voted on by parliament. Ministers intend to make sure that major planning decisions are

made under the new arrangements at least as quickly as under the present system.

Reform to ensure that decisions about housing are taken locally

Social housing provides eight million people in England with a decent home at an affordable rent. It can make an immense difference to their health, happiness and quality of life, and have significant wider consequences for their families, neighbours and employers.

But the current social housing system has some fundamental flaws. The rules are too rigidly set by central government, so that councils find it hard to adapt and meet local needs. Social landlords don't have enough discretion over how they manage their housing in the best interest of their local community. And in some cases social housing rules actually trap people in difficult circumstances – making it hard to move for work, for example – with the result that the system fails the very people it is designed to help.

The Localism Bill proposes reforms that will mean more decisions about housing are taken locally, and make the system fairer and more effective.

Social housing tenure reform

Currently, social landlords are normally only able to grant lifetime tenancies. Sometimes this can mean that people acquire a social home at a moment of crisis in their life, and continue to live there long after their need for it has gone. Meanwhile there are people waiting for a social home who face much more difficult circumstances. This is unfair, and represents a poor use of valuable public resources.

The Government has made clear that all current social tenants will keep their current tenancy arrangements. Anyone who has a lifetime tenancy today will keep that lifetime tenancy. However, proposals in the Localism Bill will allow for more flexible arrangements for people entering social housing in the future. Social landlords will be able to grant tenancies for a fixed length of time. The minimum length of tenancy will be two years, and there is no upper limit on the length of tenancy. Councils will continue to be able to offer lifetime tenancies if they wish. More flexible tenancies will allow social landlords to manage their social homes more effectively and fairly, and deliver better results for local communities.

Social housing allocations reform

At the moment almost anyone can apply to live in social housing, whether they need it or not. As social housing is in great demand and priority is rightly given to those most in need, many applicants have no realistic prospect of ever receiving a social home. The current arrangements encourage false expectations and large waiting lists.

The Bill will give local authorities greater freedom to set their own policies about who should qualify to go on the waiting list for social housing in their area. This means that they will be able, if they wish, to prevent people who

have no need of social housing from joining the waiting list. Authorities will continue to be obliged to ensure that social homes go to the most vulnerable in society and those who need it most.

Reform of homelessness legislation

People who experience a homelessness crisis need somewhere suitable to live. Councils have a duty to house people who are eligible, in priority need and unintentionally homeless and this duty will remain in place. Central government will also continue to fund support and advice to prevent homelessness and rough sleeping.

However, under the current rules, people who become homeless are able to refuse offers of accommodation in the private rented sector, and insist that they should be housed in expensive temporary accommodation until a long-term social home becomes available. This can mean that in some circumstances people in acute but short-term housing need acquire a social home for life, although they may not need one, while other people who do need a social home in the longer term are left waiting.

The Localism Bill will let local authorities meet their homelessness duty by providing good quality private rented homes. This option could provide an appropriate solution for people experiencing a homelessness crisis, at the same time as freeing up social homes for people in real need on the waiting list.

Reform of council housing finance

The Localism Bill will change the way social housing is funded to pass more power to a local level. Currently, local authorities collect rent from their social tenants then send the money to central government. Central government collects all the money raised this way into a single pot. Local authorities are then paid a sum out of the pot each year for the upkeep, renovation and repair of social homes.

In the future, instead of having to send the money raised by rent to central government and wait to see each year what share they get allocated back, councils will be able to keep the rent and use it locally to maintain their social homes. This will give them a more predictable and stable basis to plan for the long term.

National Homeswap Scheme

There are lots of reasons why people move house: to take up a new job, to be nearer to family members who need care, to give a young family more space to grow or to find a smaller, more manageable home in later life. Evidence suggests, however, that it is less straightforward for people who live in social housing to move than for other people. Fewer than one in 20 households move within the social housing sector each year, for example, compared to almost one in four private renters.

The Localism Bill will pave the way for a national home swap scheme. This would enable people who would like to swap their social home to access

details of all other tenants who may be a suitable match. This has the potential to enable social tenants to find a home that better meets their needs and to exercise greater control over their lives.

Reform of social housing regulation

The Bill will reform the way that social housing is regulated. The Bill will provide social tenants with stronger tools to hold their landlords to account. Landlords will be expected to support tenant panels – or equivalent bodies – in order to give tenants the opportunity to carefully examine the services being offered. The Bill will also abolish the Tenant Services Authority and transfer its remaining functions to the Homes and Communities Agency.

The Bill will also change the way that complaints about social landlords are handled. Currently, there are two separate ombudsmen (the Local Government Ombudsman and the Independent Housing Ombudsman) handling social tenants' complaints about their landlord. In the future, a single watchdog (the Independent Housing Ombudsman) specialising in complaints about social housing will ensure greater consistency across the sector.

The overall effect of the Bill

Taken together, the measures in the Bill mean:

New freedoms and flexibilities for local government. The Bill will:

- give local authorities everywhere the formal legal ability and greater confidence to get on with the job of responding to what local people want
- cut red tape to enable councillors everywhere to play a full and active part in local life without fear of legal challenge
- encourage a new generation of powerful leaders with the potential to raise the profile of English cities, strengthen local democracy and boost economic growth
- reform the governance of London so that more power lies in the hands of elected representatives who are democratically accountable to London's citizens

New rights and powers for local communities. The Bill will:

- make it easier for local people to take over the amenities they love and keep them part of local life
- ensure that local social enterprises, volunteers and community groups with a bright idea for improving local services get a chance to change how things are done
- give people a new way to voice their opinions on any local issue close to their heart
- enable local residents to call local authorities to account for the careful management of taxpayers' money

Reform to make the planning system clearer, more democratic and more effective. The Bill will:

- place significantly more influence in the hands of local people over issues that make a big difference to their lives
- provide appropriate support and recognition to communities who welcome new development
- reduce red tape, making it easier for authorities to get on with the job of working with local people to draw up a vision for their area's future
- reinforce the democratic nature of the planning system – passing power from bodies not directly answerable to the public, to democratically accountable Ministers

Reform to ensure that decisions about housing are taken locally. The Bill will:

- enable local authorities to make their own decisions to adapt housing provision to local needs, and make the system fairer and more effective
- give local authorities more control over the funding of social housing, helping them to plan for the long term
- give people who live in social housing new ways of holding their landlords to account, and make it easier for them to move

This is, in sum, a Bill with the potential to effect a significant change in national life, passing power to a local level, creating space for local authorities to lead and innovate, and giving people the opportunity to take control of decisions that matter to them.

The Government has already begun consultation on how it might use some of the powers and provisions contained in the Bill – so that when the Bill is approved by parliament, it will be possible to make the most of the opportunity it presents to achieve widespread, swift and lasting change.

Together with other, wider Government reforms, putting the Bill into practice will represent a major milestone towards the transfer of power and control set out in the coalition agreement.

You can find updates about various consultations about the use of the powers in the Localism Bill, and about the Department for Communities and Local Government's wider work on the Department's website:

<http://www.communities.gov.uk/corporate/whatsnew>