

# North Tyneside Council Report to Cabinet Date: 12 March 2012

## ITEM 7(d)

Title: Localism Act 2011

Portfolio(s): Elected Mayor

Cabinet Member(s): Mrs Linda Arkley

Report from Directorate: Chief Executive's Office

Report Author: Julia Veall Strategic Director Tel 0191 643 2005  
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Wards affected: All

### PART 1

#### 1.1 Purpose:

To inform Cabinet of the preparatory work being undertaken across the Council for the implementation of the provisions in the Localism Act 2011.

#### 1.2 Recommendation(s):

It is recommended that Cabinet note the progress outlined in this report.

#### 1.3 Forward plan:

The report appears on the Forward Plan for the period 1 March to 30 June 2012.

#### 1.4 Council plan and policy framework:

The report relates to the following theme in the 2011/12 Council Plan Widening Horizons: Priority 5 – Our Place.

#### 1.5 Information:

1.5.1 The Localism Act 2011 received Royal Assent on 15<sup>th</sup> November 2011. The Act is a key part of the Government's agenda to devolve power out to local government and beyond, into neighbourhoods and communities and the organisations that represent them. There are links between the provisions in the Localism Act and the Government's proposals for the reform of welfare and health and social care. The proposals for the transfer for the responsibility for public health to local authorities and for localising council tax support are other examples of the Government devolving power to local authorities.

- 1.5.2 The provisions in the Localism Act are wide ranging. They cover governance, new rights for communities, social housing and planning. They come into force at different times. Work is underway to prepare for the implementation of specific provisions. Appendix 1 provides an overview. The key measures are outlined below.

### **General power of competence**

- 1.5.3 The Act gives local authorities a general power of competence which will enable them to do anything an individual can do which is not specifically prohibited by law. The power replaces the 'well being power' contained in the Local Government Act 2000. The general power of competence represents a potential for culture change in local government. It marks a shift from the need to look for powers to allow the Council to act, towards the ability to act unless specifically restricted. The general power of competence is in force now.

### **Housing**

- 1.5.4 There are different implementation dates for the provisions on housing. The current subsidy system for financing Council social housing is being replaced with a local self financing system in April 2012.
- 1.5.5 The Act requires all local authorities to engage and consult with Registered Providers to produce a Tenancy Strategy by April 2013. The Strategy will outline our expectations for social landlords in relation to the use of fixed or lifetime tenancies for new tenants. North Tyneside Homes will need to develop a Tenancy Policy that outlines how they will deliver the aims of the Tenancy Strategy. Where a council chooses to introduce flexible tenancies there would be no change in the security of tenure for existing tenants. North Tyneside Homes will need to review and amend their existing Lettings Policy in line with the direction outlined within the Tenancy Strategy and the Tenancy Policy once these are agreed.
- 1.5.6 The Act also changes the way that complaints about social landlords are dealt with by introducing a new Housing Ombudsman from April 2013. There is a clear indication that tenants will be required to have a defined role in the complaints process and that a 'democratic filter' is used to resolve complaints at a local level. Consultation on the potential changes to complaints began in February 2012, and it is proposed to produce a new complaints policy for North Tyneside Homes by the end of 2012.

### **Rights for Communities**

- 1.5.7 There are a number of new rights for communities. These include Community Right to Bid (Assets of Community Value), Community Right to Challenge (the provision of Council services) and Neighbourhood Planning.

#### **Community right to bid (Assets of Community Value)**

- 1.5.8 The Council will be required to draw up and publish a list of assets (including privately owned land) in its area that are of community value. Land or a building should be considered to be an asset of community value if its actual use furthers the social wellbeing and interests of the local community or a use in the recent past has done so. Land may be included in the list in response to community nominations from voluntary and community organisations with a local connection and parish councils or where permitted by regulations by the Secretary of State. Local groups will be able to bid to buy listed assets on the open market when they are up for sale.

### **Community right to challenge (the provision of Council Services)**

1.5.9 The community right to challenge will allow voluntary and community groups, charities and council employees to submit an expression of interest to a council to run a service. The Council must consider the challenge and may only be able to reject expressions of interest on grounds to be specified by the Secretary of State in subsequent regulations. If the Council accepts the expression of interest, this triggers a procurement exercise where the challenging organisation or group may bid alongside others within the requirements of the Council's Contract Standing Orders, and if applicable relevant EU procurement requirements.

### **Neighbourhood planning**

1.5.10 The Act provides for a completely new neighbourhood planning regime. The Act allows parish councils to draw up draft neighbourhood plans, which must have regard to national policies and conform to local strategic policies. In areas without a parish council, another body could be designated. The draft plans would have an independent check and be subject to a local referendum. A consultation on the Neighbourhood Planning Regulations closed on 5 January 2012.

### **1.6 Decision options:**

There are no decision options, as this report is submitted for Cabinet's information only.

### **1.7 Reasons for recommended option:**

The report is for information and Cabinet is asked to note its content.

### **1.8 Appendices:**

Appendix 1: Summary of actions required to implement the provisions in the Localism Act 2011.

### **1.9 Contact officers:**

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### **1.10 Background information:**

The Localism Act 2011.

## **PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING**

### **2.1 Finance and other resources**

There are no immediate financial implications arising from this report. Any financial implications will be assessed and addressed through the development of policies and procedures to implement the provisions in the Act and appropriate advice will be provided for due consideration in an update provided to Cabinet or Council as appropriate.

## 2.2 Legal

The Act comprises a range of new duties and powers which significantly impact on the Council and its operation. Specific legal implications will be assessed and addressed through the development of policies and procedures to implement the provisions in the Act. Appropriate legal advice will be provided through out such implementation.

## 2.3 Consultation/community engagement

### 2.3.1 Internal consultation

Information had been provided regularly to both councillors and senior managers during the passage of the Bill through Parliament and following the Act receiving Royal Assent. Any internal consultation/ engagement required to develop policies and procedures to implement the provisions in the Act will be undertaken by the lead service in relation to particular provisions.

### 2.3.2 External consultation/ engagement

Any consultation/ community engagement required to develop policies and procedures to implement the provisions in the Act will be undertaken by the lead service.

## 2.4 Human rights

There are no human rights implications arising directly from this report

## 2.5 Equalities and diversity

There are no immediate equality and diversity implications arising from this report. Any equality or diversity implications will be assessed and addressed by the lead service through the development of policies and procedures to implement specific provisions of the Act.

## 2.6 Risk management

There are no immediate risk management implications arising from this report. Any risk management implications will be assessed and addressed by the lead service through the development of policies and procedures to implement the provisions of the Act.

## 2.7 Crime and disorder

There are no crime and disorder implications arising directly from this report.

## 2.8 Environment and sustainability

There are no environment or sustainability implications arising directly from this report.

## PART 3 - SIGN OFF

- Strategic Director(s)
- Mayor/Cabinet Member(s)
- Chief Finance Officer

- Monitoring Officer

- Strategic Director with responsibility for Community Engagement

**Report authors** Jacqueline Laughton, Strategic Manager Policy and Partnerships  
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## Appendix 1: Summary of actions required to implement the provisions in the Localism Act 2011.

| Provision                                      | Lead Service                              | Implication   | Action required  |
|--|---|---|--|
| General power of competence<br>February 2012   | Legal, Governance and Commercial Services | The power replaces the well being power contained in the Local Government Act 2000. It is intended to give councils the confidence and scope to be more innovatory.   | No immediate action required. The Council can consider the opportunities offered by the power when considering innovatory initiatives.   |
| Transfer of public functions<br><br>April 2012 | Policy and Partnerships                   | Provisions in the Act enable the Secretary of State to transfer local public functions to a permitted authority where it would promote economic development or wealth creation or increase local accountability. A transfer may also be made by the Secretary of State in response to a request from a permitted authority. | No immediate action required. The Council can monitor developments in this area.   |
| Governance arrangements<br>April 2012          | Legal, Governance and Commercial Services | The Act enables local authorities to change their forms of governance.  | Action required in specific situations.  |
| Revised Standards Process<br><br>July 2012     | Legal, Governance and Commercial Services | The Act abolishes Standards for England, revises the statutory powers associated with standards and provides for localised arrangements for the handling of complaints.   | The Head of Legal Governance and Commercial Services is taking forward work in this regard, liaising as appropriate with other North East Councils to determine the approach being taken in other authorities. On 26 January 2012 Council requested the Head of Legal, Governance and Commercial Services in consultation with a Working Group to produce for consideration and adoption by Council<br>a. A draft Code of Conduct to reflect the requirements of the Localism Act 2011 and regulations enacted in respect of Disclosable Pecuniary Interests;<br>b. Draft arrangements for handling of Misconduct Complaints Interest<br>c. A draft Standing Order requiring a member to withdraw from the meeting room during the consideration of any item of business in which a Member has a pecuniary interest. |

| <b>Provision</b>   | <b>Lead Service</b>                       | <b>Implication</b>   | <b>Action required</b>  |
|--|---|--|---|
| Pay policy statement<br>March 2012   | Human Resources                           | Councils are required to publish pay policy statements for 2012/13 and each following year.  | Human Resources have prepared a pay policy statement for submission to Council in March 2012.   |
| Predetermination<br>January 2012   | Legal, Governance and Commercial Services | The Act codifies in statute the predetermination rules which had previously been governed by common law.   | On 18 January 2012 the Monitoring Officer issued guidance to all councillors clarifying the approach outlined in law.   |
| EU fines<br>April 2012   | Legal, Governance and Commercial Services | The Act proposes powers for the Secretary of State to order English councils to contribute towards the UK's obligation to pay an European Union fine in accordance with a statutory policy.  | Action only required in specific situations.  |
| Community right to bid/ assets of community value<br>April 2012                | Strategic Property                        | The Council will be required to draw up and publish a list of assets (including privately owned land) in its area that are of community value.   | Strategic Property is leading on preparations for community right to bid.   |
| Community right to challenge (the provision of council services)<br>April 2012 | Legal, Governance and Commercial Services | This right allows voluntary and community groups, charities and council employees to submit an expression of interest to a council to run a service. The council must consider the challenge.  | Legal, Governance and Commercial Services are to lead on preparations for community right to challenge.   |
| Local referendums<br>Council budget setting 2012/13                            | Legal, Governance and Commercial Services | Councils will be required to hold a referendum on increases in council tax above a ceiling set by the Secretary of State and approved by the House of Commons.   | Action only required in specific situations.  |
| Tenancy strategy and tenancy policy<br>April 2013                              | Housing Strategy / North Tyneside Homes   | The Act requires all local authorities to engage and consult with Registered Providers to produce a Tenancy Strategy by April 2013. North Tyneside Homes will need to develop a Tenancy Policy that outlines how they will deliver the aims of the Tenancy Strategy and to review and amend their existing Lettings Policy in line with the direction outlined within the Tenancy Strategy and Tenancy Policy once agreed. | Work to publish a Tenancy Strategy and Policy by November 2012 is underway and the Lettings Policy will be revised in line with the Strategy and Tenancy Policy by November 2012. |
| Housing self financing   | North Tyneside Homes/ Finance             | The current subsidy system for financing council social housing is being replaced with a local self  | Final determinations were received January 2012 and incorporated in the Budget and  |

| <b>Provision</b>                                      | <b>Lead Service</b>  | <b>Implication</b>   | <b>Action required</b>  |
|---|----------------------|--|---|
| April 2012  | and Resources        | financing system.  | Council Plan proposals for 2012/13.   |
| Co-regulation and housing complaints<br>April 2013    | North Tyneside Homes | The Act changes the way that complaints about social landlords are dealt with. Tenants will be required to have a defined role in the complaints process.  | A new complaints policy for North Tyneside Homes will be produced by the end of 2012, ensuring cohesion with the Councils existing complaints procedure.  |
| Neighbourhood plans<br>April 2012                     | Planning             | The Act provides for a new neighbourhood planning regime.  | Planning is leading on preparations for the neighbourhood planning regime.  |
| Community right to build<br><br>April 2012            | Planning             | A community organisation will be able to bring forward development proposals as part of the neighbourhood planning framework.  | Action required in specific situations.   |
| Community infrastructure levy (CIL)<br><br>April 2014 | Planning             | The Act gives the government the power to require that some of the money raised from the levy go directly to the neighbourhoods where development takes place. CIL charging schedules should be in place by April 2014 but CIL can only be applied if a Core Strategy has been agreed. | CIL can only be charged after the Core Strategy is adopted.   |
| Enforcement<br><br>April 2012                         | Planning             | Planning authorities' have new powers to tackle abuses of the planning system.   | Work is underway to revise the Officer Scheme of Delegation to reflect new enforcement powers under the Act.  |
| Duty to co operate<br><br>November 2011               | Planning             | A new statutory duty on local planning authorities and other bodies to co-operate on sustainable development.  | The Duty to Cooperate was included on the agenda of a Heads of Planning meeting (Tyne and Wear /Northumberland/Durham) in January and further discussions are to be held. The Head of Regeneration, Development and Regulatory Services is to initiate discussions with Newcastle and Northumberland. |