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Localism Bill – Community Right to Challenge and Community Right to Buy

Report of the Clerk

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1 Summary

- 1.1 At its last meeting the Authority received a report summarising the main implications of the Localism Bill for fire and rescue authorities (FRAs). This report informs Members of two further specific aspects of the Bill – the Community Right to Challenge and Community Right to Buy – and considers the potential implications for FRAs.
- 1.2 The Community Right to Challenge and Community Right to Buy form part of the Government’s plans to shift power from Whitehall to local authorities and beyond to citizens and communities, to help build the “Big Society”.

2 Recommendation

That the implications of the provisions in the Localism Bill regarding the Community Right to Challenge and Community Right to Buy are noted.

3 What is the Community Right to Challenge?

- 3.1 The Community Right to Challenge will enable a voluntary body, community group, charity or social enterprise to express an interest in running a local service. It is intended that this will encourage greater diversity of service provision, reduce costs, and encourage innovation and responsiveness.
- 3.2 The Right would apply to all “relevant services” provided by “relevant authorities”. “Relevant authorities” would include local councils and such other bodies as the Secretary of State may specify. “Relevant services” would include services provided by or on behalf of the local authority in the exercise of any of its functions, other than a service which is specifically excluded in regulations made by the Secretary of State.
- 3.3 An expression of interest in taking over the running of a local service could be submitted at any time. However, it would be open to the local authority receiving it to specify a particular period during which such expressions of interest would be considered, in which case it would be able to refuse to consider any expression of interest received outside of that period.
- 3.4 The local authority would either accept or reject the expression of interest. Where it was accepted, however, this would not lead automatically to the

community group in question taking over the running of the service. Rather, the authority would then be obliged to undertake a tendering exercise for the provision of the service, in which the community group would be invited to tender. Whether or not it was ultimately successful would depend on the evaluation of all bids received in the tendering process.

4 Issues for Fire and Rescue Authorities

- 4.1 While FRAs are not included in the description of “relevant authorities”, those fire and rescue services which are hosted by county councils will be included. The Government has therefore consulted on extending the description to include all FRAs (i.e. including combined FRAs), in the interests of national consistency.
- 4.2 If a combined FRA is to be subject to the Community Right to Challenge, the question then arises as to which of its services will be regarded as “relevant services”. The recent Government consultation paper makes it clear that this will not include core activities including fire fighting and responding to road traffic accidents. The Government has also suggested that the exemption should extend to related activities including responding to emergencies regarding collapsed buildings and the handling of hazardous materials. This would be on the basis that all such services required application of the same trained and skilled staff, equipment, back-up infrastructure and resources in an integrated way.
- 4.3 However, this would leave some areas of service provision, not an intrinsic part of core activities, that would potentially be subject to the Community Right to Challenge e.g. marketing, training. However, even in these cases it would be open to the FRA to set a window of time during which it was prepared to consider any expressions of interest received, and not consider any submissions received outside of that period. The mere receipt of a submission would not bind the FRA, which would be free to accept or reject it.

5 What is the Community Right to Buy

- 5.1 The Localism Bill places a duty on local authorities to maintain a list of land and buildings of community value in their area. Assets may be included on the list on the nomination of a community group or on the initiative of the local authority, providing a test of “community value” (to be clarified in regulations) is met. The list is to be made publicly available. Inclusion on the list is registrable as a local land charge and the owner may seek a review of a decision to list their property.
- 5.2 The main effect of listing is that, where the local authority receives notice that the owner of the asset intends to dispose of it, there is a window of opportunity within which a community group can submit a proposal to acquire it. In this way it is intended that local communities have the opportunity to preserve for community usage assets of local value that may be threatened with closure (e.g. the village post office or local community centre).

6 Issues for Fire and Rescue Authorities

- 6.1 In the Authority’s area, the responsibility to maintain a list of assets of community value would rest with each of the district and unitary authorities in respect of their

area. In the event that a request to list any of the Authority's assets e.g. a Fire Station, was accepted, then the Authority would be entitled to request a review of that decision should it wish. However, even if the asset remained included on the list, this would not have the effect of requiring the asset to be sold. The question of sale to a community group would only arise once the Authority had made a decision that it had no further use for the asset in question and wished to dispose of it.

7 Equality Impact Assessment

- 7.1 These proposals are not considered to give rise to any issues in the context of the provisions of the human rights and equalities legislation.

8 Conclusion

- 8.1 The report outlines the main implications for the Authority of the provisions in the Localism Bill regarding the Community Right to Challenge and the Community Right to Buy. These provisions are still the subject of consideration by Parliament and may change before final adoption. However, in their current form they are not regarded as giving rise to significant strategic or operational issues for the Authority.

Section 100D – Local Government Act 1972 – background papers

The following documents disclose the facts or matters on which this report, or an important part of it, is based and has been relied upon to a material extent in the preparation of this report.

N.B. The list excludes:

Published works.

Documents that disclose exempt or confidential information as defined in the Act.

TITLE

FILE