

Report of	Meeting	Date
Monitoring Officer (Introduced by the Executive Member for Resources)	Executive Cabinet	15 December 2011

THE LOCALISM ACT: KEY PROVISIONS

PURPOSE OF REPORT

- To inform the Executive Cabinet of the implications of the Localism Act 2011.

RECOMMENDATION(S)

- That the Executive Cabinet note the content of the report.

EXECUTIVE SUMMARY OF REPORT

- The Localism Act 2011 received royal assent on 15 November 2011. The stated intent of the Act is to provide Councils with a licence to innovate and to decentralise power back to communities and locally elected councillors.
- The provisions of the Act are wide ranging and cover a number of different subject heads. This report will touch on the main provisions so far as they directly affect this Authority. Members are asked to note that at present many of the provisions set out principles or a framework for an approach and will need further subordinate legislation to detail how they will operate in practice. It is not intended that this report provide a comprehensive description of the provisions of the Act only a brief overview.

Confidential report Please bold as appropriate	Yes	No
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Key Decision? Please bold as appropriate	Yes	No
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REASONS FOR RECOMMENDATION(S)

(If the recommendations are accepted)

- There are no actions to be taken at present following the Localism Act becoming law.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- None

CORPORATE PRIORITIES

7. This report relates to the following Strategic Objectives:

Strong Family Support	X	Education and Jobs	X
Being Healthy	X	Pride in Quality Homes and Clean Neighbourhoods	X
Safe Respectful Communities	X	Quality Community Services and Spaces	X
Vibrant Local Economy	X	Thriving Town Centre, Local Attractions and Villages	X
A Council that is a consistently Top Performing Organisation and Delivers Excellent Value for Money			X

BACKGROUND

8. The Localism Act was the major piece of legislation relating to Local Government introduced by the current national administration. The Act has had a long progress through Parliament, but given its sometimes contentious nature the final document was produced broadly by consensus across all parties.
9. The Act is presented in 10 Parts, not all of them relevant to this Authority and this report will present the new provisions in the same way.

PART 1: LOCAL GOVERNMENT

The General Power of Competence

10. The Act enables Local Authorities to do anything that an individual generally may do. The power cannot be exercised contrary to current or future legislation. So that the Authority are preventing from doing anything that the law says they cannot do. There are further limitations on charging for exercising this power or for exercising the power in a commercial manner.
11. This provision in effect changes the question local authorities are to ask themselves before acting. Instead of asking "Have we the power?"; we should now ask "Why not?". It is a significant change in approach. There will always be other factors to consider, but local authorities no longer have to try to fit their actions within existing powers.
12. This provision will be brought into force by an order of the Secretary of State. There is no date as yet fixed for this commencement.

Transfer and Delegation of Functions to Certain Authorities

13. This was described in the House of Lords by Lord Beecham as the "most localist part of the entire Bill". The power is exercisable by the Secretary of State and enables the transfer of a 'public function' from central government to a county or district council. The Secretary of State can only make such an order where the effect would be to promote economic development or wealth creation or to increase local accountability for the function transferred.
14. Local Authorities can make proposals for the transfer of functions to the Secretary of State who must then consider them and decide what action to take. Any transfer of functions must be made by statutory instrument which will be considered by both houses of parliament.
15. It is envisaged that this power will promote community budgeting and partnering between public service partners.

Predetermination and Standards

16. A full report has been provided to Council on 6 December and as a result this topic is not being considered further here.

PART 5: COMMUNITY EMPOWERMENT

Council Tax

17. The Act introduces a new procedure to be used where the Council intend to make an “excessive increase” to the level of basic council tax. What constitutes an excessive increase will be determined by the Secretary of State annually and is likely to reflect the current economic conditions.
18. Where an excessive increase is proposed the Council will be required to hold a referendum on the increase. The results of the referendum will then need to be reported to the Secretary of State who will then consider the proposed increase.

Community Right to Challenge

19. These provisions enable relevant bodies (as defined in the Act) to make expressions of interest to the Council to provide or assist in providing a relevant service. The Council are obliged to consider the expressions of interest although not to accept it.
20. This is akin to the provisions relating to the transfer and delegation of functions from central government to local.

Assets of Community Value

21. Local Authorities will be required to maintain a list of land of community value within their area. The definition of land of community value is quite detailed but essentially, the primary use should be for the social well-being or interest of the local community. The asset does not need to be owned by the Local Authority. In order to be listed the land of community value should be nominated by the community or be prescribed by regulation.
22. The effect of being on the list will be felt when the owner intends to undertake a relevant disposal of the land, most likely a sale. Prior to agreeing any disposal the owner must notify the Council of their intent and there will follow a moratorium to allow expressions of interest from any community interest group.

PART 6: PLANNING

Plans and Strategies

23. The Act provides the power to the Secretary of State to revoke, by order, Regional Strategies. It is unlikely that this power will be exercised before 20 January as the impact of any decision to revoke is currently undergoing a consultation exercise on the environmental impact.
24. In order to address any concerns over regional co-ordination on planning issues the Act provides a duty on local authorities and relevant bodies to co-operate. This co-operation should be in the form of active, constructive engagement in the preparation of development plan documents or other local development documents.

Community Infrastructure Levy

25. The Act amends the earlier legislation and intends to provide a greater clarity and consistency in the cost of developments. It requires that a ‘meaningful proportion’ of the levy be used in the neighbourhood of the development.
26. The amendments to the provisions for CIL do not spell the end of section 106 planning obligations which will still be used when the development has site specific needs that will not be covered by the levy.

Neighbourhood Planning

27. Neighbourhood Plans and Neighbourhood Development Orders are new powers for communities, acting through parish councils or neighbourhood forums, to steer development in their areas. A Neighbourhood Plan will provide the policies relating to the development of a particular area. A Neighbourhood Development Order will grant planning permission for a specified development or class of development in a particular area.
28. The powers are permissive in nature and do not provide an opportunity to limit development. Neither can the policies proposed within the Neighbourhood Plan be incompatible with the local development plan.

Consultation

29. A new process of community consultation by developers with local residents is introduced. Many developers already undertake a consultation exercise, however this will be a requirement for proposed developments specified in a development order (as yet not produced). The process undertaken will need to be compliant with the Act and there is also a duty to take account of the consultation responses.

PART 7: HOUSING

Allocations

30. Subject to exclusions within the Act it is for Council's to decide what categories of persons qualify for allocation of housing accommodation. Councils now have to have an allocations scheme that determines the priority of those persons. The scheme must allow the qualifying person to have either the choice of accommodation or to express a preference. There is guidance within the Act as to prioritisation both concerning the individual circumstances and financial resources.

Homelessness

31. The Council's duty to persons in priority need who are not intentionally homeless have changed. The Council may under this provision discharge their duty by the offer of private rented accommodation. Formerly, the person was able to wait in temporary accommodation for a social home.

COMMENCEMENT

32. Throughout this report the reference to the changes and new powers have been in the present tense. Members are asked to note that the majority of the provisions will be brought into force by order of the Secretary of State or a Minister. There is no published timetable for this although the expectation is that most of the sections will be commenced by Order prior to 1 April 2012.
33. It is important however, that the Council ready themselves for these provisions becoming effective as early as possible.

CONCLUSION

34. Chorley Council are an organisation that seeks to innovate and embraces change and always endeavours to engage with residents. The new powers will enable this approach to continue and should be welcomed.

IMPLICATIONS OF REPORT

35. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	y	Customer Services	
Human Resources		Equality and Diversity	
Legal	y	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE STATUTORY FINANCE OFFICER

36. No comments.

COMMENTS OF THE MONITORING OFFICER

37. None save in the body of the report.

CHRIS MOISTER
HEAD OF GOVERNANCE / MONITORING OFFICER

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
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