



Sustainable Communities Act 2007: A Guide



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Sustainable Communities Act – Implementation

The Sustainable Communities Act received Royal Assent on 23 October 2007. The aim of the Act is to promote the sustainability of local communities. This note describes what will happen next. It is in three parts.

1. A quick guide to the main provisions of the Act
2. A step by step guide to the Sustainable Communities Act. This describes what the Act means clause by clause. It makes clear what has to be done, who has to do it and when they have to do it.
3. A timetable for action, stating how the Government plans to implement the Act. This will describe the Government's approach to implementation and give details of key dates.

Background

The Sustainable Communities Bill was introduced to Parliament as a Private Members Bill. It was sponsored in the House of Commons by Nick Hurd MP, Conservative, Ruislip-Northwood and in the House of Lords by Lord Marlesford. The Bill was supported through Parliament by the Government and all of the main English political parties. It is the result of a five year campaign led by a coalition of organisations under the banner Local Works. Local Works name 85 national supporting organisations reflecting a very wide constituency.

A quick guide to the Sustainable Communities Act

The Sustainable Communities Act aims to promote the sustainability of local communities. It begins from the principle that local people know best what needs to be done to promote the sustainability of their area, but that sometimes they need central government to act to enable them to do so. It provides a channel for local people to ask central government to take such action. It is also a new way for local authorities to ask central government to take action which they believe would better enable them to improve the economic, social or environmental well-being of their area. This could include a proposal to transfer the functions of one public body to another.

The scope of the Act is very broad, covering economic, social and environmental issues. It does not limit the type of action that could be put forward, provided the action is within that broad scope. It is for local people to decide what they think needs to be done to promote the sustainability of their area.

The Act is designed to strengthen the role of communities. It provides a simple process by which the ideas generated by local communities are fed through their local authority and a body known as the “selector” (which we envisage will be the LGA) to central government. As it will not be possible for all suggestions to be put direct to central government, local authorities and the selector will have a “short-listing” role. The government will consult the selector and try to reach agreement on which of the proposals on the short-list should be implemented. The government will respond to all of the suggestions that are short-listed by the selector and will publish an action plan setting out how it will take forward the suggestions that it adopts.

As well as enabling local communities and local authorities to make suggestions for government action, the Sustainable Communities Act also ensures that communities are better informed about the public funding that is spent in their area. New “Local Spending Reports” will provide quick and easy access to information about where public money is spent. This will enable local authorities, their partners and communities to take better informed decisions about the priorities they choose to pursue to promote the sustainability of their local community.

A step-by-step guide to the Sustainable Communities Act

Section 1: Sustainability of local communities

The aim of the Act

Section 1 describes the principal aim of the Act as being to promote the sustainability of local communities. In the Act, references to promoting the sustainability of local communities are references to encouraging the economic, social or environmental well-being of the authority's area, or part of its area. This includes participation in civic and political activity.

Section 1 was written in this way to reflect the well-being powers that local authorities were granted by the Local Government Act of 2000. The reason for making this link is to ensure that the Act supports the role of local authorities as community leaders and contributes to the broader agenda for partnership working at local level, including the development of Sustainable Community Strategies and the negotiation of Local Area Agreements.

The power of well-being

The well-being power enables local authorities to do anything they consider likely to promote or improve the economic, social or environmental well-being of their area. The breadth of the power is such that councils can regard it as a 'power of first resort'. Rather than searching for a specific power elsewhere in statute in order to take a particular action, councils can instead look to the well-being power in the first instance. If what they propose to do is likely to promote or improve the well-being in their area and does not involve raising money. And if what they propose is neither explicitly prohibited, nor explicitly subject to limitations and restrictions, on the face of other legislation then a council can proceed.

The references to well-being are designed to be inclusive and are deliberately drawn broadly. This means that there is a very wide range of activity which falls within the scope of the Act. It is for local authorities – and local people – to make the case for which activities they think will contribute to the economic, social and environment well-being of their area when making proposals under section 2 of the Act.

Section 2: Proposals by local authorities

Invitation to make proposals

Section 2 describes one of the key new measures introduced by the Act. It requires the Secretary of State to invite local authorities to make proposals which they consider would contribute to promoting the sustainability of local communities. Other than the reference to sustainability there is no limit placed on the types of proposals that local authorities can make. The details of how these proposals are to be made are covered in subsequent clauses.

Transfer of functions from one body to another

Section 2 also states that proposals may include a request for a transfer of functions from one person to another. Broadly speaking, this provision recognises that local authorities may believe that the functions of some public bodies may be better performed by another. They may, therefore, propose that those functions be transferred. This may be a transfer from a national body to a local body, or it could be a transfer from one local body to another. If a local authority decides to request that the functions of one body are transferred to another they may also request that responsibility for the funding that is linked to that function is also transferred.

If a local authority makes such a proposal it must first consult both the body which currently performs the function and the body which the local authority proposes to transfer the function to. The functions that could be in scope are limited only by the principal aim of the Act, which is to promote the sustainability of local communities.

Matters in the Schedule

Before it makes a proposal a local authority must have regard to the matters specified in the Schedule to the Act. "Having regard to" means that the local authority needs to consider or take into account these matters. The matters described in the Act's Schedule reflect some of the key concerns of Local Works and its partners. They are designed to help local authorities and their residents form a view of the types of activity that could promote the sustainability of their local community.

Timing of first invitation

The Secretary of State must issue the first invitation to local authorities to make proposals on or before 22 October 2008, which is one year after the Act was passed. While the Act does not specify a time at which the Secretary of State must issue further invitations, the intention is to do so periodically. The Government will work with the local government sector to agree the frequency and timing of further invitations.

Section 3: Decision on short-list

Appointment of a “selector”

Section 3 requires that before inviting proposals the Secretary of State must appoint a “selector” to consider the proposals. The selector must represent the interests of local authorities. The Secretary of State envisages appointing the Local Government Association as the selector. The selector must draw up a short-list of proposals and it must do so in co-operation with the Secretary of State. The selector must follow the procedure laid down in regulations (see section 5 below).

Co-operation between the Secretary of State and the selector

On receiving the short-list the Secretary of State must decide which of the proposals should be implemented. Before doing so, the Secretary of State must consult the selector and try to reach agreement about which of the proposals to implement. Although the Secretary of State and the selector must try to reach agreement, the final decision on whether or not to implement any proposal rests with the Secretary of State.

Section 4: Action plans

Publication of decisions

Section 4 requires the Secretary of State to publish her decision under section 3, and the reasons for it. She must also publish a statement of the action she proposes to take to implement any proposal. This statement will be known as an “action plan”.

Reports to Parliament

Each year the Secretary of State must publish and lay before Parliament a report which describes the progress that has been made in relation to each action plan.

Section 5: Proposals: regulations

Regulations

Section 5 requires the Secretary of State to make regulations about the procedure to be followed by local authorities and the selector in relation to proposals. Before making regulations the Secretary of State must consult the selector and others who the Secretary of State believes represent the interests of local authorities. This consultation will inform the content of the regulations.

The regulations **may**:

- specify, or authorise the selector to specify, steps to be taken by a local authority before making proposals;
- specify steps to be taken by the selector in considering the proposals and drawing up the short-list;
- require the selector to prepare and provide a report on the proposals.

The regulations **must**:

- require a local authority, before making any proposal, to establish or recognise a panel of representatives of local persons and consult it about the proposal;
- require a local authority to try to reach agreement about proposals with the panel;
- require a local authority to have regard to any guidance issued by the Secretary of State – see below.

The regulations have yet to be made but they may include requirements intended to ensure the clarity, workability and quality of the overall process. The objective is to design a system that captures the best ideas from communities.

Guidance

The Act requires local authorities to consult and try to reach agreement with local people via a panel of representatives before they make a proposal. Beyond this requirement, the Act does not specify how local authorities should consult or who they should consult.

The Secretary of State is, however, required to issue guidance to local authorities relating to the proposals. This:

- **must** include guidance on the inclusion of persons from under-represented groups; and
- **may** include guidance about establishing and consulting a panel of local representatives.

Before issuing this guidance the Secretary of State must consult local authorities or persons who represent the interests of local authorities.

Definitions

The Act defines what is meant by:

- **local person**: a person who is likely to be affected by or interested in a proposal
- **panel**: a panel constituted in accordance with the regulations made by the Secretary of State

- **representative:** a person who appears to the local authority to be representative of local persons
- **under-represented groups:** to be defined in the regulations.

Links to the new “duty to involve”

Aspects of this section are very similar to the new ‘duty to involve’ which applies to best value authorities, introduced in the Local Government and Public Involvement in Health Act 2007. Best value authorities are defined in the Local Government Act 1999. The duty to involve requires best value authorities to inform, consult or involve representatives of local people in the exercise of their functions. Where authorities are proposing to use panels as part of their implementation of the duty to involve, they may find it sensible to use the same panels in relation to the Sustainable Communities Act where the panels meet the requirements of the Sustainable Communities Act.

Section 6: Local spending reports

Local spending reports

Section 6 requires the Secretary of State to make arrangements for the production of local spending reports. A local spending report provides information about public expenditure in relation to a particular area. This will help promote the sustainability of local communities by providing access to high quality information about the public funding that is spent in the area.

Arrangements

The Act requires the Secretary of State to consult on the arrangements but leaves discretion about the details to the Secretary of State. It does not specify what information must be included in a report, or the way in which the information must be presented. Bodies whose expenditure may be included in the local spending report include local authorities, government departments and any other person exercising public functions. The area covered by a report must be one or more local authority areas, one or more parts of a local authority area or any combination of these. Reports can cover past, current or future expenditure and the Secretary of State can provide different reports for different areas. The first arrangements must be made on or before 22 April 2009, which is 18 months after the Act was passed, but we intend to do so well before this date. We plan to update the information provided in local spending reports as it becomes available.

Purpose

The aim of this section is to support local authorities, their partners and local people in their work to promote local sustainability. This provision will inform local authorities’ consultations with local people, strengthen local democracy and enhance the operation of the new Local Area Agreements by ensuring that there is greater accountability and transparency. We intend to ensure that local spending reports are closely linked with the regular and accessible information on local services that we have committed to provide for local communities.

Local spending reports will enable local authorities, their partners and communities to take better informed decisions about the priorities they choose to pursue to promote the sustainability of their local community. They will also enable local people and local authorities to identify which functions (and funding) they might propose should be transferred from one body to another.

While the aim behind local spending reports is to identify where public money is spent, it will not be possible or cost effective to map all public expenditure. For example, some public funding supports services which are not geographically specific or are used by people from a number of local authority areas.

Section 7: Sustainable community strategy

Section 7 simply amends existing legislation to rename “community strategies” as “sustainable community strategies”. This section has no further effect. The aim of this provision is to highlight the key role these strategies play in promoting sustainability.

Sections 8, 9 and 10

These sections contain further definitions (for example of what “local authority” means in this Act), enable funding to be paid out to carry out the functions of the Act, and define the geographical coverage of the Act.

Schedule

The Schedule describes a series of matters to which local authorities must have regard (see above). These are issues which members of the coalition led by Local Works believe have a significant impact on the sustainability of local communities. The Schedule is not intended to be exhaustive or exclusive. It is intended to give local authorities and local people an indication of the type of matters they may wish to address in their proposals.

Implementation

Approach to implementation

The Government will work closely with the Act's supporters to agree a plan of implementation. While the Act contains a number of requirements that must be met, we believe that the strength of the Act lies in the way that it will encourage central and local government and local people work together to promote the sustainability of local communities. So we propose that both the regulations and the statutory guidance will be "light touch" and we do not expect to set out a series of detailed regulations that must be followed. Much of the detailed operation of the Act is subject to consultation, and we will ensure that we follow Cabinet Office guidance on consultation.

Timeline for implementation

The Act contains a number of commitments relating to consultations and to timing. There are a number of other measures that we will need to take forward in order to implement the Act effectively. This is the outline timetable that we propose to follow:

- Discussion with Bill's supporters to prepare consultation package by January 2008
- Appoint the selector (which we envisage will be the LGA) by February 2008
- Formal consultation on Regulations and Guidance: February to May 2008
- Lay Regulations before Parliament: May 2008
- Bring together Sustainable Communities Bill Guidance with Creating Strong and Prosperous Communities Guidance: May 2008
- Secretary of State issues first invitation for proposals by October 2008
- Consultation on Local Spending Reports: Summer 2008
- Secretary of State makes arrangements for first Local Spending Reports: Autumn 2008 (required by April 2009)