



Sustainable Communities Act 2007
**Response to Consultation on Regulations and
Statutory Guidance**



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Statutory Guidance**

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Introduction

- 1.** The Sustainable Communities Act 2007 (“the Act”) places a requirement on the Secretary of State to make regulations and publish guidance relating to the procedure to be followed in relation to proposals made under section 2 of the Act. Before doing so, the Secretary of State must consult “the selector” and such other persons who represent the interest of local authorities on the regulations; and local authorities or persons who represent the interests of local authorities on the guidance.
- 2.** On 19 February 2008, Communities and Local Government published a consultation document to meet these requirements. The consultation process followed the Government’s code of practice on consultations¹ and closed on 12 May 2008.
- 3.** We received 57 responses to the consultation and are grateful to all those who provided comments – members of the public, local authorities, parish councils, public agencies, businesses, interest groups and a range of other organisations and associations.
- 4.** A full list of all responses received (other than those who requested anonymity) will be provided on request from Communities and Local Government at the following address:

SCA Consultation
Department for Communities and Local Government
Zone 5/A6
Eland House
Bressenden Place
London
SW1E 5DU

- 5.** This document provides an overview of responses to each consultation question and provides our response to each. It then gives an indication of next steps.

¹ www.bre.berr.gov.uk/regulation/consultation/code/index.asp

Overview

- 6.** Of the 57 responses received, 35 or 61% came from all tiers of local government or their representative bodies. Only 2 responses were received from individuals and the remainder came from a range of public bodies/agencies, business organisations and the third sector.
- 7.** The consultation was made up of four questions concentrating on the policy approach taken in drafting both the regulations and the guidance, rather than asking questions aimed at either document. Consequentially most responses recommended generic action and did not specify whether it should be to either the guidance or the regulations. We have therefore taken the view – set out in more detail in paragraphs 14-16 below – that both documents should remain light touch to enable local authorities to best decide how to implement the Act in their own local circumstances.
- 8.** Overall, responses to the questions show that most people are supportive of the Act and our approach to implementation. Where concerns or questions have been raised we have sought to address these below.

Background

- 9.** Under section 2 of the Act, the Secretary of State must invite local authorities to make proposals which they consider would contribute to promoting the sustainability of local communities. The first such invitation must be made by 23 October 2008. Section 5(1) requires the Secretary of State to make regulations about the procedure to be followed in relation to proposals.
- 10.** Before doing so, the Secretary of State must appoint a selector who will consider the proposals and, in cooperation with the Secretary of State, draw up a short-list of the proposals received from local authorities, for decision by the Secretary of State. Before reaching a decision, the Secretary of State must consult the selector and try to reach agreement. On 14 February 2008 the Secretary of State designated the Local Government Association (LGA) as selector.
- 11.** Section 5(4)(a) of the Act requires local authorities (via the regulations) to establish or recognise a panel of representatives of local persons and consult it about proposals.

- 12.** Section 5(5) requires the Secretary of State to issue guidance to local authorities about making proposals. Local authorities must (via the regulations) have regard to this guidance. This:
- a) must include guidance about the inclusion among representatives of local persons (for the purposes of section 5(4)(a)) of persons from under-represented groups; and
 - b) may include guidance about establishing and consulting a panel of representatives of local persons.
- 13.** Section 6 requires the Secretary of State to make arrangements for the production of local spending reports, which are reports on expenditure by a range of authorities, in an area and over a given period. The first arrangements must be made by April 2009 and the Secretary of State must consult persons likely to be affected beforehand.

Our Approach to Regulations and Guidance

- 14.** Because we believe local authorities are best placed to decide both how to involve local people and how to formulate their proposals under section 2 of the Act, we have taken a fairly minimalist approach in the drafting of the regulations whilst ensuring that the requirements of the Act are met.
- 15.** Therefore, we did not propose to specify in regulations, steps to be taken by the selector in considering proposals and drawing up a short-list (section 5(3)(b)). Following consultation we still believe that this is a matter to be agreed between the Secretary of State and the Local Government Association (LGA), however, further information on these matters may be issued alongside the invitation to submit proposals in October 2008.
- 16.** We have adopted a similar approach to the guidance. Our aim remains to ensure that the guidance is light touch, reflecting the principle that local people and their elected representatives know best what needs to be done to promote the sustainability of their community and how best to meet the requirements of the Act, according to local circumstances. Therefore, we do not propose to amend the guidance to include further details about establishing and consulting a panel of representatives of local persons.

Consultation Question 1

What do you think are the advantages and disadvantages of this approach [to regulations and guidance, described above]? Do you think that this approach will ensure that the policy objectives of the Sustainable Communities Act can be met? If not, what approach do you think would better meet the policy objectives of the Sustainable Communities Act?

- 17.** We received 43 responses to this question, the highest response of the exercise. The majority of responses were positive about the approach proposed above. The following quotations reflect the range of positive comments received:

“The approach set out is helpful in being non-prescriptive and allowing councils to build on their own existing principles and methods of developing and supporting sustainable communities”.

“The light touch, minimalist approach in regulation-making is welcome”.

- 18.** Only 12 respondents expressed reservations. The key concern was raised by parishes who felt that to achieve the policy envisaged by the Act they should be enabled to exercise its powers, or that the regulations/guidance should require their involvement in panels. We have therefore amended the guidance to more clearly define parish involvement.
- 19.** Other comments included that the process seemed potentially bureaucratic and asked for further details about the processes to be followed especially around the submission and consideration of proposals. We will meet these concerns by publishing further information alongside the first invitation to make proposals in October 2008.

Consultation Question 2

Do you agree with this approach [to regulations and guidance, described above]? Are there other ways in which we could integrate the implementation of the two Acts [the Sustainable Communities Act 2007 and the Local Government and Public Involvement in Health Act 2007]?

- 20.** 36 responses were made to this question. 30 respondents were in broad agreement with our approach and saw it as a good way to join up two sets of legislation with over-lapping objectives.
- 21.** However a few respondents felt the regulations and guidance were not prescriptive enough and registered concern that the requirements of the Act and how they linked with other legislative requirements were not clear – especially around the composition and remit of panels.
- 22.** After careful consideration, we do not plan to make either document more prescriptive as this goes against our general commitment to make all secondary legislation and guidance to local authorities and other agencies as light touch as possible and not limit local solutions. However, we have amended the definition of “representative” to more closely follow the definition in the main Strong, Safe & Prosperous Communities guidance and included some more detail about the intentions of the Act in the guidance, including a link to the previously published Guide to the Act. Further information about the process to be followed will be published alongside the invitation to make proposals.
- 23.** The following quotations give a flavour of the responses received:

“Welcome the planned publication of one integrated set of guidance.... integrated guidance will ensure maximum flexibility”.

“We would agree that integrating the implementation of the two Acts is the right approach to take, especially in that the outcomes of the Sustainable Communities Act (in terms of engagement) and the outcomes of the Local Government and Involvement in Public Health Act are quite similar”.

Consultation Question 3

Do you have further comments about this consultation document?

- 24.** Most of the 33 comments in response to this question related to the processes around the short listing and development of proposals, how panels might be composed and the difference of timing between the submission of proposals and production of local spending reports.
- 25.** In response to these comments, together with the LGA, we plan to develop the whole approach from submitting proposals through to implementation so that the process, including roles and feedback on successful or unsuccessful proposals, is clearly understood and disseminated alongside the invitation to submit proposals in October.
- 26.** In relation to the comments about using existing representative panels to consider proposals, the guidance now provides further clarification that proposals can be met either by establishing new panels or by using existing arrangements that meet the requirements of the Act.
- 27.** A few respondents welcomed the production of local spending reports but suggested that the timing of arrangements for producing local spending reports (by April 2009) should be aligned with those for issuing the first invitations (by October 2008). The production of local spending reports is potentially a complex and time consuming exercise. We have said we will consult on the approach to this in summer 2008 and in the meantime will give further thought as to how local spending reports can support proposals that are made under the Act.

Consultation Question 4

What further information would help you meet the policy objectives of the Sustainable Communities Act?

- 28.** The 22 responses to this question mainly reiterated comments dealt with in earlier responses and focused around greater clarity, more detail and language used. There were also some comments about the need for guidance to be issued as soon as possible and some helpful comments about the role of the selector, which we will discuss with the LGA.

Next steps

- 29.** We have published the associated guidance, as part of the statutory guidance on the Local Government and Public Involvement in Health Act 2007 – *Creating Strong, Safe and Prosperous Communities*.
- 30.** Our intention is to lay the regulations before Parliament in the near future
- 31.** We will consult on the approach to producing Local Spending Reports during the summer.
- 32.** The Secretary of State will issue first invitations for proposals to local authorities by 23 October 2008 and will make arrangements for the first Local Spending Reports by 23 April 2009.

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