

Localism Bill

House of Lords Second Reading

7 June 2011

This briefing sets out the Commission's view on key issues arising from the Localism Bill ahead of its second reading in the House of Lords.

The Bill includes measures for local referendums to be held on a range of issues, including directly elected mayors, council tax increases, certain planning decisions and, following either a local petition or a resolution by the council, any 'local government matter'. Local authorities may also opt to replace their executive arrangements with the Committee System. This would require a further referendum only if the existing arrangements were implemented following an initial referendum.

GENERAL COMMENTS ON THE BILL

Consistency in the delivery and regulation of local referendums

Existing electoral legislation already provides a framework within which certain categories of local referendums or local polls may take place. The legislation includes provision for local referendums on changes to executive arrangements (the rules can be found in the Local Authorities (Conduct of Referendums) (England) Regulations 2007) and local polls (held under section 116 of the Local Government Act 2000).

The Localism Bill provides for various new categories of local referendum to be held, and gives powers to the Secretary of State to make regulations on the conduct of these new referendums. The Commission is keen to ensure that these events are delivered professionally and consistently across all local areas and in a way that meets the needs of voters. This means that, as far as is possible, there needs to be consistency across the various local referendum rules. In this respect, it may be appropriate to develop a generic conduct order for all local referendums, with specific clauses to cover the issues relating to a certain type of local referendum, e.g. how they are triggered, rather than bringing repeated, similar Orders before Parliament.

In particular, we note that while the Bill provides for the Secretary of State to make regulations about the limitation of expenditure in connection with referendums on executive arrangements, council tax increases and planning decisions, it specifically prohibits the Secretary of State from making regulations on this matter in relation to local referendums following a petition or resolution by the Council.

We note that the referendums proposed in the Bill mostly follow the approach for local government referendums, which are not regulated by the Commission. While it may be appropriate for many such referendums to be regulated at a local level, Parliament may wish to consider whether in cases where the proposed referendums are likely to attract significant levels of donations and expenditures, the regulatory framework found in the Political Parties, Elections and Referendums Act may be more appropriate.

We would welcome clarification on the Government's approach in this area, and in particular how it intends to ensure appropriate regulation of expenditure in relation to local referendums following a petition or resolution in council, and in cases where the level of expenditure is expected to be high.

We would also welcome further information about how the Government intends to ensure that the questions for any local referendums are intelligible and neutral. The Commission is currently required to comment on the intelligibility of the question included in a Bill or draft Statutory Instrument for any referendum under the Political Parties, Elections and Referendums Act 2000. The Commission is also currently required to be consulted on the intelligibility of a question for any referendum on local authority executive arrangements, before regulations are laid before Parliament. We have published question assessment guidelines to help people draft intelligible, unbiased referendum questions, which is available on our website.¹

Coordination

Effective coordination of any additional local referendums with existing scheduled elections will also be important, particularly given the increasing frequency and range of elections. We would support the development of a framework which can support planning for the new local referendums to provide overall coordination, consistency of practice and the monitoring of any difficult issues.

Resources

The potentially significant increase in the frequency of local referendums could risk increasing pressure on Returning Officers and electoral services teams in local authorities. We would welcome assurances from the Government that appropriate funding and resources will be made available to meet these additional responsibilities.

Consultation

The Bill provides that the Electoral Commission must be consulted before any conduct rules for all of these new types of local referendums are laid before Parliament for approval. We welcome this approach, which is consistent with our current role in relation to local government election rules.

FURTHER INFORMATION

For further information, please contact Caroline Bolshaw, Public Affairs Manager on 020 7271 0632 or cbolshaw@electoralcommission.org.uk

¹ See <http://www.electoralcommission.org.uk/elections/upcoming-elections-and-referendums/uk/referendum/>