

# Local Government: The Modernising Agenda

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## Introduction

“Among all our public institutions councils have a special status and authority as local directly elected bodies. They are uniquely placed to provide vision and leadership to their local communities. They are able to make things happen on the ground—where it really matters.”

These are the words with which Deputy Prime Minister John Prescott introduced *Modern Local Government: In Touch with the People*—the government’s white paper on local government. Published in July 1998, the paper set out what the government has called the modernising agenda for local councils.

The government’s approach was based on the premise that change was needed in local government for four reasons:

- to strengthen the links between councils and local people;
- to deliver high standards for local people everywhere;
- to spread best practice;
- to tackle serious failure.

The key elements of the programme heralded by the white paper were:

- the introduction of a statutory duty on councils to obtain best value;
- a requirement on councils to introduce new models of political management;
- a new ethical framework for councillors and officers;
- a new power to promote the economic, social and environmental well-being of their areas together with a new duty to consult and engage with their communities;
- changes to the local government finance system, including the abolition of universal capping and the introduction of a local element to the business rate;
- the promotion of beacon councils as centres of excellence.

Much of this agenda was welcomed by councils—indeed key elements of it had been lobbied for by local government before the general election. But it is important to emphasise two other aspects of the government’s approach to local councils. First, it is very much a carrot and stick approach. Councils are promised more freedom and responsibility once the way in which they work has been reformed. And the concept that well-performing councils should have benefits which others don’t is a theme which has bubbled below the surface of government policy and statements over the last three years.

Secondly, it is important to stress that this is very much a DETR agenda led by the local government Minister, Hilary Armstrong. Other aspects of government policy have seen more centralised approaches to policy-making and the by-passing of local councils. Examples range from the literacy hour through the establishment of learning and skills standards, to the erosion of local discretion in education expenditure and detailed standard setting in areas such as libraries. It is difficult to discern a coherent approach to the role of local councils across the current government as a whole.

Local government’s response to this agenda, articulated through the LGA, has been three-fold:

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- to demonstrate a real commitment to change and improvement in local government through, for example, the establishment of local government's Improvement and Development Agency and the Local Government Improvement Programme;
- to build on the positive aspects of the DETR agenda, to help the government work them up and to press for as much flexibility and discretion as possible in the way they are implemented;
- to press for and build alliances in support of the broader case for more freedoms and flexibilities for local councils.

This paper will:

- explain in more detail the key elements of the government's modernising agenda;
- flesh out the government's broader approach to local councils;
- briefly explain the LGA's response to all this;
- identify some issues relevant to planning, planners and the development industry.

### **The modernisation agenda**

#### *Best value*

Best value has done wonders for the conference and rough guide industry. This paper will not add to the piles of material available on the subject. However it is worth highlighting four aspects of the best value regime, which was introduced by the Local Government Act 1999 and is progressively coming into operation during the current year.

First, the emphasis of the best value regime is on continuous improvement.

Secondly, key features of the best of the best value infrastructure are local performance plans, national and local performance indicators and local targets for improved performance.

Thirdly, the four main elements of a best value review are the 4cs: challenge, compare, consult and compete, with public consultation forming a key part of the process.

Finally, the government's approach to best value makes it clear that, in the view of Ministers, councils have two sets of accountabilities: to local people and, in the words of the white paper "to central government in its role as representative of the broader national interest".

#### *New ethical framework*

This paper will not deal with this aspect of the package, which was put onto the statute book by the Local Government Act 2000, in any great detail. In brief the legislation requires every council to adopt a local code of conduct for councillors and to establish a Standards Committee. It also provides for the establishment of national Standards Boards for England and Wales which will investigate and adjudicate on alleged breaches of local codes by councillors. A statutory code of conduct for council officers completes the package.

#### *Political structures*

To the extent that there has been any public debate about the modernisation programme it has focused on the changes Ministers are requiring councils to make to their political structures. Interest has concentrated on the introduction of directly elected mayors, but the core of the government's approach is that councils should clearly distinguish between the executive and backbench roles of councillors.

The white paper argued that the separation of an executive has three advantages:

- a small executive is efficient;
- it will be clear to the public who is responsible for decisions;
- that the “increased transparency” that results will “sharpen local political debate and increase the interest in elections to the council”.

Three models for the executive area set out on the face of the Act:

- a directly elected mayor and cabinet;
- a leader and cabinet;
- a mayor and council manager.

A proposal for a mayor has to be approved by a referendum and the bill requires a council to hold a referendum if 5 per cent of the electorate support a petition calling for one.

The Act provides for other models to be approved by regulation, but must include the so-called executive-scrutiny split. A last minute amendment intended to help secure support for the legislation in the Lords excluded councils with a population of less than 85,000 from this requirement. Councils have until June 2001 to draw up their proposals and copy them to the Secretary of State.

Five aspects of the political structures package are worth exploring in a little more detail.

First, where does planning fit in? Two detailed aspects of the government’s proposals are important:

- development control and similar decisions are included in the draft regulations specifying those functions which cannot be the responsibility of the executive;
- responsibility for the development plan is to be shared between the executive and the council.

Secondly, the most controversial aspect of the proposals: directly elected mayors.

The arguments for and against mayors rest on two key issues. On the one hand it is argued that elected mayors will stimulate more interest, involvement and participation in local government, including increased turnout at elections. On the other concern is expressed that the concentration of power in the hands (or office) of one individual is undemocratic.

One thing is certain: there will be early referenda on the mayoral option in a number of towns and cities. A number of councils are seriously considering the option, prompted to do so in some cases by independent democracy commissions. A ginger group, the New Local Government Network, is encouraging activity, including the submission of petitions to prompt a referendum at a local level. It is difficult to gauge the extent of support for directly elected mayors across government—the deputy Prime Minister, for example, having put his reservations on the record—but it is known that the DETR is working on a petitioner’s kit.

Many people point to the London experience in this context. But there are at least two key differences between the arrangements in London and elsewhere. There are important legal and technical differences between the relationship between the mayor and the assembly in London and between the mayor and council elsewhere. It is also important to remember that an elected mayor in a city such as Birmingham would have responsibility for major policy areas such as education, housing and social care which are not within Ken Livingstone’s remit.

Two final points on directly elected mayors.

As has already been pointed out, some aspects of government policy have by-passed or sidelined local

councils. But it is simply inconceivable to imagine a powerful elected mayor of a city such as Birmingham or Liverpool not expecting to make a major impact on, for example, education and training for 16 to 19 year-olds. Yet as the legislation currently stands she or he has no locus in that area. Could mayors begin to reverse the marginalisation of councils?

Secondly it is interesting, particularly from the LGA's perspective, to speculate about the combined impact a group of directly elected mayors from the major cities could have on government and parliament.

One reason for the scepticism about this framework in councils has been the lack of emphasis given by Ministers and others to the role of councillors other than those who serve on an executive. The use of pejorative phrases such as "back bench" and "non-executive" has not helped; nor has a proposal to make pensions available to cabinet members and not others.

It is, however, possible to envisage an important and fulfilling role for these members which goes well beyond a narrow definition of "scrutiny", and this is now being reflected, albeit belatedly in government statements and draft guidance. Examples include:

- developing policy proposals for consideration by the executive as well as scrutinising the implementation of existing policies;
- building on the councils' community leadership role to scrutinise and explore issues that fall outside the council's remit;
- participating in area committees.

The potential role of non-executive members in relation to planning needs to be explored further.

An important plank in the case for the government's proposals is that they will make decision-making in local government more transparent and end the process by which committees rubber stamp decisions that have in reality been taken elsewhere—in what would, until recently, have been smoke-filled rooms.

Against this background it is ironic that the strongest challenge to the legislation has come from the Campaign for Freedom of Information and Guild of Editors who were alarmed about the ability of executives to meet and take decisions in private without prior publication of the decisions to be taken. Following strong lobbying the government amended the package to require executives to:

- publish a forward plan identifying the "key" decisions they know are forthcoming;
- publish papers on key decisions at least three days before the executive meets;
- take the key decisions in public.

The extent to which this compromise leads to open and transparent decision-making remains to be seen.

Finally it has been argued by the LGA and others that the package represents undue interference by central government in what are essentially local matters. Why should Ministers in Whitehall worry about whether or not South Hams Council has committees? The exclusion of the smallest authorities from the requirement to have a separate executive represents an important concession on the part of government. But the range of detailed issues to be covered in regulations, the size and scope of the proposed statutory guidance and the fact that the Act deals with issues such as the maximum size of an executive is indicative of an administration which is not sure whether or not to trust local councils and local democracy.

The challenge to which councils are rising however is to consult the public on the options the Act

makes available and to make sure that the new structures they adopt help to strengthen the links between the council and the communities it serves.

*Community leadership and the new power*

Making the case for a general power of competence for local councils has become something akin to the search for the holy grail. The Local Government Act 2000 doesn't quite deliver that prize but it has provided councils with an important opportunity to develop a meaningful and substantive community leadership role.

The Act:

- gives councils a new power to promote the economic, social and environmental well-being of their area;
- gives the Secretary of State the power to remove legal obstacles to the use of that power;
- places a duty on councils to develop comprehensive community strategies;
- gives the Secretary of State the power to remove the statutory requirement to produce plans and strategies where they stand in the way of more effective ways of meeting local needs.

Government guidance is likely to require strategies to have four key components:

- a long term vision for the area;
- an action plan;
- clearly identified short term priorities and activities;
- a shared commitment between local partners to implement the action plan.

In this context two aspects of the approach are worth stressing. First the strategies are intended to provide the context in which the whole gamut of local agencies and organisations work, as well as the council itself. And secondly, councils are being advised to treat the community strategy as what in the jargon is described as a "strategic umbrella" under which the other plans and strategies produced by a council and its partners would sit.

A key issue for planners and the development industry is the nature of the relationship between the community strategy and the development plan. It is too early to give any clear answers, but questions which need to be addressed include:

- the extent to which development plans currently cover issues which would best be dealt with in the community strategy;
- whether development planning will, over time, focus on a neighbourhood or local area rather than an authority-wide scale;
- whether it is possible to envisage the Secretary of State using his power to remove a council's responsibility to produce a statutory development plan on the grounds that local needs were better met in other ways.

The new power is not a power of general competence, but it does give councils an unprecedented degree of freedom to act, where appropriate in partnership with other organisations, to meet the needs of their communities. It allows them to spend money and give financial assistance, to enter into agreements and partnerships with people, to exercise functions on behalf of others and to provide staff, goods, services or accommodation to others.

Authorities can't use the new power to:

- do anything which other legislation stops them doing;

- raise money.

The Act also gives the Secretary of State the power specific other things councils could not use the power to do.

The Act contains what may at first sight be an arcane provision allowing the Secretary of State to use an order to repeal, amend or revoke legislation which prevents councils taking steps to promote the well-being of their communities. This is potentially extremely significant and could, over time, significantly reduce the burden of restrictions preventing the use of the new power and inhibiting councils' freedom to act.

The LGA is encouraging councils to start thinking about how they can use the new power. It should mean the end to any "can't do" culture in local government. The excuse that rules and regulations stop councils from acting is no longer valid. Planners and their partners in the private sector and other agencies need to consider how the new power can be applied in their field. Could it, for example, help to overcome some of the problems which have bedevilled the contribution councils can make to land assembly in major regeneration schemes?

The potential is enormous, but there is a danger that the broader community leadership role will be seen either as a glib phrase or a justification for a return to old-fashioned municipalism. There are a number of vivid examples of community leadership in action, but they tend to be councils acting in response to events. Examples include: Reading's response to the Paddington rail crash; and Hertfordshire's reaction to the run-down in defence industries. Manchester's Olympic bid is another more proactive example.

The LGA is determined to work with councils to turn community leadership from rhetoric to reality. It is promoting a vision of community leadership which:

- adds value to services such as education, health and social care;
- gives councils a new meaningful role in areas such as housing and neighbourhood renewal;
- involves councillors and councils acting as the people's champion in relation to all local public services;
- provides a sharper focus for the new power of well-being and community planning.

### **The broader agenda**

This paper has concentrated so far on the DETR's modernisation agenda. As has been explained, councils have concerns about aspects of the package, but it is clearly intended to strengthen local councils (although there are naturally differences of opinion about whether or not it will achieve that objective). It is less clear that other parts of government share the DETR's commitment to strong local government.

There is a crucial important tension within government between a commitment to devolution on the one hand and a belief in centrally-driven service targets and objectives on the other. Ministers overlook the importance of councils identifying local needs and priorities and adopting policies to respond to them. Too often they talk of councils delivering the government's agenda.

This tension was best illustrated by the government's promotion following the budget of what it called *frontline first*. This phrase was used to push the case for increased ring-fencing and earmarking of resources with cash being directed straight to individual institutions such as schools, hospitals and the ubiquitous "bobby on the beat". Middlemen, such as councils, were to be by-passed.

This trend is most acute in the work of the Department for Education and Employment. But across

government there is a tendency for Ministers to rely on national levers of power rather than to trust the diversity and innovation which exists at a local level. Ministers have also resisted the LGA's campaign for councils to have a statutory right to scrutinise the activities of quangos and other local agencies.

But this conflicts with another strong strand of thought within government which supports the case for the flexible pooling of resources at a local level in response to local needs and circumstances. The approach has been promoted in recent reports from the Cabinet Office's Performance and Innovation Unit and the Social Exclusion Unit.

The role of councillors in representing communities is also under threat. The new local learning and skills councils, being set up to give a much-needed boost to post-16 education, will include minimal local authority representation. The contribution councillors can make to health authorities and trusts has been completely overshadowed by the issue of party affiliation. And government is increasingly looking to chief executives rather than members as the preferred local authority representative.

It is significant, for example, that some Ministers have been prompting a debate about the future of civic society with little or no reference to local government. The ground was staked out most starkly in a speech earlier in the year by Scottish Secretary John Reid. He referred several times to what he called the "balance between the individual, the community and the state". Reliance on the state had, he argued, squeezed out the community. Voluntary initiative had become "unnecessary, even undesirable".

The Labour Government, Reid claimed, was changing this. It is "building a new civic society based on rights and responsibilities".

In a key section, he continued:

"The building of a strong civic society requires a new balance in the relationship between the individual, the community and the state . . . Achieving such a balance involves a re-definition of the state's role. In future, the state's role will be much more limited. People and communities will look to themselves as much as to the state to solve their problems. The state's task will be to enable and empower those individuals and communities."

It is all too easy to dismiss this as a side show. The speech was not reported outside Scotland and was, by all accounts, delivered to a rapt audience of one. But it is being discreetly pointed to by those close to the Millbank machine, and there is no doubt that it reflects an important strand of thought emanating from the heart of government.

There are strong echoes in Reid's words of a speech given by Gordon Brown to the National Council for Voluntary Organisations in February. In his contribution, which also attracted minimal media attention, the Chancellor called for "a new and stronger relationship between individual community and government—for the renewal of British civic society—a great British society which not only defines anew the importance of voluntary organisations, but engenders a civic patriotism".

This focus on civic society and community is welcome to those who are concerned about local government and local democracy. It represents a new departure for a government which has previously been criticised for its single-minded interest in delivery. What is worrying in the short-term from a local government perspective, however, is the absence of any reference to local councils or councillors in any of these speeches.

This is deeply strange given the local government agenda being promoted by the Department for the Environment, Transport and the Regions. Community leadership is, we are told by DETR Ministers,

the future for local councils. Community planning and the new power to promote the social, economic and environmental well-being of communities are the tools which give real teeth to that role. And the new political structures will free up councillors to be more active in their communities.

Can there be a starker illustration of the absence of a collective discussion across government about the future of local democracy?

Over the last 12 months the LGA has given priority to promoting the case for councils to have the freedom and flexibility they need to meet the needs of the communities they serve.

There are two dimensions to the LGA's work on this theme.

The first hinges on the premise that it is legitimate for Ministers to set objectives and targets nationally in areas of particular public concern such as educational attainment, employment and crime. But uniform national programmes are unlikely to succeed in delivering those objectives at local level. Circumstances differ, the strengths of the various agencies differ and the ways in which forces such as social exclusion and crime interact vary from place to place. The LGA's case is that councils and their partners should be able to develop locally designed strategies and programmes to meet national objectives and targets.

This is the focus of the LGA's *Local challenge*. Launched in the run-up to the 1999 autumn party conferences, the *Local challenge* has been discussed with Ministers and civil servants across government as well as with the association's leading national partners.

The second dimension focuses on the importance of councils identifying local needs and priorities and adopting policies to respond to them. Too often, Ministers talk only of councils delivering the government's agenda. The LGA is determined to convince the government to give equal weight to the role of councils in developing a locally-driven agenda.

This work is being taken forward on two fronts. It underpins the LGA's successful campaign to get a statutory power for councils to promote the social, economic and environmental well-being of their area. And it is the main objective of the LGA's *New commitment to regeneration*.

Now being piloted with 22 pathfinder partnerships, the *New commitment* provides a coherent framework for local partnerships. Key features include a locally-owned strategy, and agreements between the partners on who contributes what towards its implementation. At its most radical the *New commitment* would enable partnerships to influence how all the public expenditure going into an area is spent.

Government has backed the *New commitment* pathfinders—albeit with different degrees of commitment across Whitehall. And it has been heralded as a model for local strategic partnerships by the Social Exclusion Unit. At the same time the Cabinet Office's Performance and Innovation Unit, in a report critical of zone-itis and initiative overload, has called for more integration and co-ordination at a regional and local level.

The approach set out in the *Local challenge* sparked an enormous amount of interest within government. This culminated in an extremely important but little reported outcome of the spending review 2000—the government's announcement that it is inviting councils to enter into local public service agreements with it.

The basis of the local PSA initiative, which is based on the LGA's local challenge proposal, is that participating councils will have the chance to sign up to challenging targets to deliver key national and local priorities in return for operational flexibilities and incentives, with rewards for success. Around 20 councils are to be involved in the pilot in 2001–02, ahead of a planned wider roll-out in 2002–03.

Councils are being invited to focus their proposed PSAs on 12 outcomes reflecting a mix of national and local priorities. They are expected to propose ways in which they could exceed the relevant national standard, and are being encouraged to give priority to education and personal social services. Councils are also being invited to identify a smaller number of outcomes linked with local priorities, with a particular focus on cross-cutting issues such as social inclusion.

Finally, it is important not to overlook the government's urban and rural white papers which are due to see the light of day later in the autumn. The extent to which these address the issues raised in the Rogers report—for example of fiscal measures to promote brownfield regeneration—will be an indication of the Government's commitment to the regeneration agenda and the role of councils in delivering it.

### **Conclusion**

There are inevitably different views within local government about the modernisation agenda. But most people agree that elements of it present significant opportunities for local councils. That is particularly so in relation to community leadership and the new power. But many people also agree that the new political structures offer the scope for councils to build new relationships with their local communities.

The challenge for local government is to make the most of these opportunities: to consult openly on new structures, to make the most of the new power and to turn the concept of community leadership from rhetoric into reality. Given its importance to local people and to the *social, economic and environmental well being of communities* planning should be central to all this.

But it is equally clear that some within government do not trust local councils and that others simply prefer centrally driven approaches to policy-making and delivery. Central prescription simply cannot deliver in many of the issues of concern to Ministers, such as social exclusion, education, health and employment. The task facing local government is to challenge centralist approaches, to secure the trust of Ministers and to show that councils lead the delivery of a joined up agenda at local level.

Demonstrating a commitment to improvement is central to this. So is making the most of the new legislative framework. Crucially important, however, is the opportunity presented by local PSAs. They could transform the relationship between central and local government. Councils should make the most of them.