



# ***Local Democracy, Economic Development and Construction Bill [HL]: Committee Stage Report***

RESEARCH PAPER 09/68 24 July 2009

This is a report on the House of Commons Committee Stage of the *Local Democracy, Economic Development and Construction Bill*. It complements the two Research Papers, 09/45 on the democracy and involvement aspects and 09/46 on the economic, regional and construction aspects of the Bill, which were prepared for the Commons Second Reading.

The Bill was introduced into the House of Lords on 4 December 2008. Having completed its Lords stages, it had its Second Reading in the House of Commons on 1 June 2009.

The Bill implements a number of community empowerment measures outlined in the white paper - *Communities in control: real people, real power* (Cm 7427). It also implements changes in relation to regional and sub-regional economic development and planning.

The Bill was not amended in Committee.

Christopher Barclay  
Lucinda Maer

## Recent Research Papers

<b>09/58</b>	US Congressional debates on the financial crisis: key players, policy and future regulation	23.06.09
<b>09/59</b>	Holocaust (Return of Cultural Objects) Bill (formerly known as Holocaust (Stolen Art) Restitution Bill): Committee Stage Report	24.06.09
<b>09/60</b>	Members' Allowances	25.06.09
<b>09/61</b>	Parliamentary Standards Bill [Bill 121 of 2008-09]	26.06.09
<b>09/62</b>	Child Poverty Bill [Bill 112 of 2008-09]	30.06.09
<b>09/63</b>	Green Energy (Definition and Promotion) Bill: Committee Stage Report	30.06.09
<b>09/64</b>	Economic indicators, July 2009	07.07.09
<b>09/65</b>	Borders, Citizenship and Immigration Bill [HL]: Committee Stage Report	09.07.09
<b>09/66</b>	Unemployment by Constituency, June 2009	15.07.09
<b>09/67</b>	Health Bill [HL] Committee Stage Report	20.07.09

## Research Paper 09/68

**Contributing Authors:** Christopher Barclay, Planning, Science and Environment Section  
Lucinda Maer, Local Government, Parliament and Constitution Centre  
Keith Parry, Local Government, Parliament and Constitution Centre  
Edward Potton, Economic issues, Economic Policy and Statistics Section  
Wendy Wilson, Housing, Social Policy Section

This information is provided to Members of Parliament in support of their parliamentary duties and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as being up to date; the law or policies may have changed since it was last updated; and it should not be relied upon as legal or professional advice or as a substitute for it. A suitably qualified professional should be consulted if specific advice or information is required.

This information is provided subject to [our general terms and conditions](#) which are available online or may be provided on request in hard copy. Authors are available to discuss the content of this briefing with Members and their staff, but not with the general public.

We welcome comments on our papers; these should be e-mailed to [papers@parliament.uk](mailto:papers@parliament.uk).

## Contents

	<b>Summary</b>	<b>1</b>
<b>1</b>	<b>Introduction</b>	<b>2</b>
<b>2</b>	<b>Second Reading Debate</b>	<b>3</b>
<b>3</b>	<b>Committee Stage – Community Empowerment</b>	<b>5</b>
	3.1 Duty to promote democracy	5
	3.2 Petitions	7
	3.3 Duty to secure involvement	8
	3.4 A National Tenant Voice (NTV)	9
	3.5 Overview and scrutiny	10
	3.6 Powers of National Assembly for Wales	11
	3.7 Areas not debated	12
<b>4</b>	<b>Committee Stage – Economics and Planning</b>	<b>12</b>
	4.1 Local authority economic assessment duty	12
	4.2 Regional strategy	12
	4.3 Leaders' Boards	13
	4.4 Economic Prosperity Boards (EPBs)	13
	4.5 Multi-Area Agreements (MAAs)	14
	4.6 Construction contracts	14
<b>5</b>	<b>Committee Stage – Other issues</b>	<b>15</b>
	<b>Appendix 1 – Members of the Public Bill Committee</b>	<b>16</b>



## Summary

The *Local Democracy, Economic Development and Construction Bill* [HL] is a wide-ranging Bill. Many of its provisions derive from two main sources. The community empowerment white paper of July 2008 – *Communities in control* (Cm 7427) – contained commitments to introduce a number of the measures in parts 1 and 2. Second, parts 4 to 7 of the Bill implement key aspects of the Treasury-led *Review of sub-national economic development and regeneration* (July 2007) which envisaged a stronger role for local authorities in delivering economic development at the local level and within the wider region, as well as a new regional strategy process.

At Second Reading the Government argued that the community empowerment measures, including those relating to petitions and the National Tenant Voice, would increase democracy. Critics argued that there was little point in having them in primary legislation.

The Government argued that the new regional plans prepared by the Regional Development Agencies, in consultation with Leaders' Boards, would be more efficient than the current separation between regional economic and spatial strategies. Critics argued that the new arrangements would be less democratic, with too much attention paid to purely economic aspects. There was also some concern about how Economic Prosperity Boards would work with other regional structures, but Multi-Area Agreements were generally welcomed.

The Bill extends to England and Wales only but some parts apply to England only (and part 8 on construction contracts applies to England, Wales and Scotland).

The Bill was not amended in Committee.

## 1 Introduction

The *Local Democracy, Economic Development and Construction Bill* [HL] was introduced into the House of Lords on 4 December 2008. It received its Second Reading in the Lords on 17 December. After the Bill had completed its Committee and Report Stages, its Third Reading took place on 29 April 2009. The Bill was introduced to the House of Commons on 30 April 2009 and had its Second Reading on 1 June 2009. The Public Bill Committee met eight times between 9 and 18 June.

Detailed information on the provisions in the Bill and the background to them can be found in the following Library Research Papers prepared for Second Reading:

- Research Paper 09/45, [Local Democracy, Economic Development and Construction Bill \[HL\]: Democracy and involvement aspects](#)
- Research Paper 09/46, [Local Democracy, Economic Development and Construction Bill \[HL\]: Economic, regional and construction aspects](#)

Further material and links to the proceedings on the Bill can be found on the [Library's Bill Gateway](#) pages.<sup>1</sup>

The 2008 draft Queen's Speech had included a draft Government Community Empowerment, Housing and Economic Regeneration Bill. However, that Bill has not appeared and a PQ of 7 May 2009, replying to Baroness Hamwee, explained how that idea related to the current Bill:

**The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Andrews):** The White Paper *Communities in Control* was published in July 2008. The overall aim is to pass power into the hands of local communities, to generate vibrant local democracy in every part of the country and to give real control over local decisions and services to a wider pool of active citizens.

These reforms require widespread changes in policy and practice by the whole range of public sector agencies, and most do not require legislation. For those proposals where legislation is required, the major provisions are included in the *Local Democracy, Economic Development and Construction Bill*, which is currently before Parliament. They include the proposed new duty on local authorities to promote democracy, measures to boost the role of petitions in local democracy, an extended duty on public authorities to secure the involvement of persons in their functions, steps to strengthen local authority overview and scrutiny procedures, provisions on local freedoms and honorary titles, and changes to Widdicombe rules on politically restricted posts in local authorities.

Given the scope of this Session's Bill, we have decided not to publish further draft provisions on empowerment for pre-legislative scrutiny during the current Session. We will discuss with key stakeholders how best to take forward any remaining proposals where legislation may be required. In particular, we will consider our response to a recent consultation on *Changing Council Governance Arrangements*, which raised issues on elected mayors, and will discuss with the National Association of Local Councils how best to take forward proposed reforms to parish governance. We do not currently propose to take forward a number of more minor proposals, namely on remote attendance and voting by councillors, payments for councillors on loss of office, and incentives to vote in local elections.

---

<sup>1</sup> External users can find information at Bills before Parliament 2008-09 webpage: [Local Democracy, Economic Development and Construction Bill \[HL\]](#)

Substantial progress has been made over the past nine months on major commitments from Communities in Control. We plan to publish a communities progress report soon.<sup>2</sup>

The Government published the [Communities Progress Report](#) on 1 June 2009.

## 2 Second Reading Debate

Opening the Second Reading Debate on 1 June 2009, the then Secretary of State for Communities and Local Government, **Hazel Blears**, set out the themes of the Bill:

First, it continues the drive towards stronger local democracy, empowering both local authorities and individuals by implementing the principles set out in the White Paper “Communities in control”. Secondly, it promotes economic recovery and encourages future growth and development by implementing the proposals set out in the review of sub-national economic development and regeneration. A healthy and vibrant democracy is the foundation of a secure and prosperous society. In the past decade, local authorities have taken on an increasingly important role in driving change and improving the lives of local people: we have given them increased freedom and flexibility so that they can make the most of their local strength and knowledge and connect with local people. It has become clear, particularly in the past few weeks, that many people feel cut off or inhibited from taking part in the democratic process. It is vital that we try to overcome those barriers and to create the thriving, healthy and vibrant local democracy that would give people every possible opportunity to speak up and get involved in their local services. Side by side with the Second Reading of the Bill, we have today published a review of the evidence base, which looks at the various ways we can try to empower people—whether that involves the transfer of assets, participatory budgeting or the right to use petitions. The review reinforces exactly what we are trying to achieve through the Bill.

The Bill introduces new measures to strengthen local democracy further by, first, giving councils new duties actively to promote democratic engagement and civic participation and, secondly, giving local people stronger rights and more opportunities to have their say, through increased and enhanced scrutiny and—for the first time—through legal rights to get a response to their petitions. (...)

The second theme of our Bill is economic development, both promoting recovery in the short term—real help now for communities—and, crucially, promoting growth and prosperity in the longer term. Over the past year we have been working with local government, regional development agencies and local community groups to try to determine the best arrangements for driving economic growth in future and to identify how the relevant powers and responsibilities should be distributed among the local, regional and national levels. The results of our consultations have been largely welcomed and endorsed, and the Bill will now put the arrangements in place.<sup>3</sup>

**Caroline Spelman**, for the Conservatives, opposed the Bill:

Far from being a local democracy Bill, it is a charter that snatches power away from people. It is about taking power away from locally elected decision makers and giving it to regional quangos, combined authorities and economic prosperity boards—the gobbledegook ... that makes people feel distant from the political process.

(...)

---

<sup>2</sup> HL Deb 7 May 2009 cc133-4WA

<sup>3</sup> HC Deb 1 June 2009 cc22-5

I invite hon. Members to admit that half the contents of the Bill are things that most decent local authorities are doing anyway. Why are we using valuable time in the Chamber, in Committee and in the other place debating legislation that dictates when, where and how councils go about promoting democracy? On the evidence of the Bill, I venture to suggest that Ministers should not be giving advice to anyone about how to promote democracy. Why not trust councils, which have to secure their own mandate, to manage their own ways of promoting democracy, and let them be judged by the voters?

(...)

The problem with prescribing processes, such as those for petition-handling by councils, in tiny detail by statute is that one ends up creating an expensive new compliance industry, with town hall officials chasing targets and ticking boxes. The same applies to the requirements for economic assessments in part 4 of the Bill. Is the Secretary of State honestly trying to tell me that she thinks that local authorities do not already carry out local economic assessments? At best, that is a textbook example of what my noble Friend Baroness Warsi described in another place as “prescriptive overdrive”. At worst, it is an example of Ministers using legislation to strengthen Whitehall’s whip hand over the town hall. I did not hear an answer to the question posed by my hon. Friend the Member for North-East Bedfordshire (Alistair Burt) about what happens when authorities do not carry out the new duties that the Secretary of State has in mind.

By seeking to codify, monitor and sanction areas of activity where local authorities have been creating successful new ways of doing things, the Government are regressing further and further into defensive, top-down centralising. How telling is it that in its original form, the Bill gave the Secretary of State the power to change any economic assessment with which she disagrees? That gives the lie to the phrase, “Whitehall knows best.” How on earth does that stack up with devolving more power to local communities? It does not.<sup>4</sup>

**Julia Goldsworthy**, for the Liberal Democrats, criticised the lack of accountability of the regional economic institutions:

Let me draw on my experiences of the accountability and accessibility of the regional development agencies. I get letters about once a month from my local RDA telling me how difficult its funding situation is, and how it is having to review its programmes because it is not sure that it can deliver everything that it initially thought that it could. When all of Cornwall’s MPs wrote to the RDA to say that we were very worried about that, given the impact that it could have on regional funding and big regeneration projects, we did not even get an answer, let alone an offer of a date on which to meet. In terms of having open and accountable organisations, a lot of people think that the current set-up leaves an awful lot to be desired, and we Liberal Democrats will certainly make the most of any opportunity to re-open that debate that is presented by the Bill.

Exactly the same is true of the economic prosperity boards. Once again, there are the same concerns. Functions currently undertaken by locally accountable bodies are to be transferred to a new quango that individuals and businesses will have to get their head around. It will not be closer to the people, and, again, there is no guarantee that everybody on the board will be directly elected. The Government should pay heed to the concerns of the CBI, which said that it already finds it very difficult to engage with

---

<sup>4</sup> HC Deb 1 June 2009 cc39-43



regional bodies, and was worried about additional responsibilities being transferred to the board.<sup>5</sup>

**Graham Stringer** said that the Bill did not deal with the fundamental democratic deficit, but offered a fig leaf for the regional development agencies rather than allowing people a say through the ballot box. **Nick Raynsford** considered it an important Bill with a range of useful measures, but regretted that the Government had not implemented the Lyons Report on Local Government. **David Curry** feared that unless parts were removed in Committee, the Bill would “become yet another oppressive instrument that militates against what we are all trying to do”. **Dr Whitehead** said that the Bill attempted to make clearer some reasonable working mechanisms for specific local government functions. **Peter Lilley** argued that the Bill’s aims were undermined by a loophole allowing one council to meet its housing targets by building houses in another council’s area. **Keith Hill** noted that the *Planning and Compulsory Purchase Act 2004* laid a duty upon the responsible planning body when drawing up the regional strategy to seek advice of county councils or unitary authorities as appropriate, with a reciprocal duty on those authorities to give advice. The Bill should not remove that duty, which had worked well. **Sir Paul Beresford** considered clause 29 a retrograde step. It would remove the restriction on senior local authority employees undertaking political activities such as standing for election or speaking publicly in support of a particular political party.

**Kelvin Hopkins** wanted the return of direct labour organisations (DLOs) to build houses for the local authority, which would be able to retain its capital receipts. **Peter Luff** said that DLOs had been inefficient. People felt powerless in the face of an over-mighty executive and the Bill would make that problem worse because it added to the duties and obligations on local authorities. **Martin Horwood** argued that the Bill would make regional government less democratic, less accountable and even more vulnerable to diktat from the Secretary of State and Ministers. **Edward Garnier** said that we did not need an Act of Parliament to tell a local authority how to give a civics lesson but the early part of the Bill was designed to do precisely that. **Alistair Burt** argued that local authorities should be allowed to choose appropriate levels of housebuilding and whether to have Gypsy camp sites, rather than being forced to comply with targets set by unelected regional bodies. **John Gummer** objected to the Bill’s requirement that the principal local authority had a duty to promote understanding of the democratic arrangements of the strategic health authority. He argued that that body had no democratic arrangements.

**Paul Goodman** wished that the Bill had taken power away from central Government, made a bonfire of diktats and controls, as well as scrapping capping process targets etc. **John Healey**, Minister for Local Government, said that the UK had regional economies of about 5 million people, as big as some European Union Member States. They would lose out on important inward investment unless they had serious economic plans.

The Bill was opposed by both the Conservative Party and the Liberal Democrats. The House divided on the Second Reading, 276 in favour, 154 against.

### 3 Committee Stage – Community Empowerment

The Committee had eight sessions between 9 and 18 June 2009.

#### 3.1 Duty to promote democracy

Clauses 1 to 4 of the Bill set new duties on local authorities to promote understanding of: (1) their own functions and “democratic arrangements”, (2) those of connected bodies, and (3)

---

<sup>5</sup> HC Deb 1 June 2009 c61

similar information on magistrates and various other bodies involved in the administration of justice. Each clause was opposed by opposition parties but was agreed following a division. Indeed, the Committee divided on every clause in chapter 1 of part 1 but, in each case, the clause was agreed. The following is a summary of the main issues raised in debate.

Clause 1 sets a new duty on local authorities to promote understanding of their functions and democratic arrangements. **Dan Rogerson**, Liberal Democrat Shadow Communities and Local Government Minister, said:

Clearly these are things that good local authorities are dealing with anyway and could therefore be covered by best practice.<sup>6</sup>

**Paul Goodman**, Conservative Shadow Communities and Local Government Minister, said that promoting such understanding was a noble aim regardless of who did it, but “why on earth do we need this on the statute book in the first place?”<sup>7</sup>

**Rosie Winterton**, Minister for Regional Economic Development and Co-ordination, accused opposition Members of displaying “an extraordinary level of complacency” over the importance of ensuring that people understand the functions of councils and other public bodies, and how they can help to shape the services they receive.<sup>8</sup>

Among the other issues raised in debate were:

- how precisely the duty would work in practice. The Minister said that it would be for authorities to decide how best to implement the duty but that the Government would give suggestions through guidance;<sup>9</sup>
- how council performance on this matter would be judged;
- costs and funding involved.

Clause 2 places on local authorities a duty to promote understanding of the functions and democratic arrangements of connected bodies. **Paul Goodman**, for the Conservatives, said that, again, the idea of promoting such understanding was a good one but there was no need to make it a statutory duty. **Julia Goldsworthy**, Liberal Democrat Shadow Communities and Local Government Secretary, said that the problem with many quangos was not so much a dearth of information as a belief among local people that active participation would have no effect on the decisions taken.<sup>10</sup>

Conservative Members echoed the argument made by **John Gummer** on Second Reading that some of the bodies on the list did not have democratic arrangements.<sup>11</sup> The Minister responded:

First, anybody with a strong local presence in the area has democratic arrangements as per the definition in the Bill. There are opportunities for the public to influence or take part in the making of decisions. That includes attending public meetings,

---

<sup>6</sup> PBC Deb 9 June 2009 c8

<sup>7</sup> *Ibid*, c10

<sup>8</sup> *Ibid*, c 16

<sup>9</sup> *Ibid*, c17

<sup>10</sup> *Ibid*, c29

<sup>11</sup> HC Deb 1 June 2009 c117

contributing to consultation forums, making representations to elected representatives on the body, or standing for a role themselves.<sup>12</sup>

Opposition spokespersons also objected to the provisions in clauses 3 and 4 which set a duty on local authorities to promote understanding of the work of monitoring boards, courts boards, youth offending teams and lay justices. The Minister, **Rosie Winterton**, was asked if there would be a reciprocal duty on such bodies to promote understanding of their own arrangements as well as those of local authorities. She replied that these measures did not take away the responsibility of such organisations to promote public participation in their own work. But, she said, it would help to ensure that civic roles of this nature were promoted even more widely.<sup>13</sup>

### 3.2 Petitions

Clauses 10 to 22 of the Bill create a statutory duty on local authorities to run a petitions scheme and respond to petitions which fall under the scheme. The Committee considered the clauses relating to petitions at its second sitting, on the afternoon of 9 June 2009.

Clause 11 requires local authorities to make, publicise and comply with petition schemes. **Julia Goldsworthy**, for the Liberal Democrats, asked why this provision needed to be in primary legislation:

If No. 10 can introduce an e-petition system on its website without the need for primary legislation, it begs the question of why we need to have this set-up for local authorities in primary legislation. I doubt whether anyone in this room thinks that it is best practice for councils not to respond to petitions. Everyone thinks it is a good idea to ensure that councils are as responsive as possible in whatever way possible.<sup>14</sup>

**Stewart Jackson**, Conservative Shadow Communities and Local Government Minister, suggested that clause 11, like the chapter was “similar to the previous one in its complete vacuity”.<sup>15</sup> In response, the Minister, **Rosie Winterton**, stated:

I want to draw the Committee’s attention to a Local Government Associate survey of 102 councils in England – something like a quarter of the sector – which found that only 28 per cent. of councils guarantee an automatic response to petitions. However, at the same time a YouGov poll found that, if a response were guaranteed, 84 per cent of people would be more likely to sign a petition to their council and more than half of people would be more likely to organise a petition.<sup>16</sup>

An amendment to the clause was withdrawn, but the Committee divided on a stand part motion with 8 in favour and 5 against.

Clause 12 sets out the requirements for petitions in order for them to be dealt with under the legislation. Amendments were tabled which sought clarification from the Minister about the intention of the Bill, particularly in relation to petitions submitted concerning planning or licensing matters. **Rosie Winterton** explained that the Government wanted to minimise the issues that were excluded but did not want to set up parallel routes for considering planning and licensing applications.<sup>17</sup> The amendment under consideration was withdrawn.

---

<sup>12</sup> PBC Deb 9 June 2009 c34

<sup>13</sup> This discussion at: PBC Deb 9 June 2009 cc41-7

<sup>14</sup> PBC Deb 9 June 2009 c59

<sup>15</sup> PBC Deb 9 June 2009 c56

<sup>16</sup> PBC Deb 9 June 2009 c62

<sup>17</sup> PBC Deb 9 June 2009 cc64-5

Clause 14 requires principal local authorities to take one or more steps in response to active petitions. The Committee divided on an amendment which would have added a requirement that, when relevant, petitions received by local authorities should be forwarded to the relevant central government department.<sup>18</sup> **Rosie Winterton** stated that in some cases, the aims of the amendment were already achieved and in others it would not be useful, and that therefore there was a danger of placing an unnecessary burden on local authorities.<sup>19</sup> The amendment fell with 8 Members voting against and 5 voting for.

Concerns were raised about clause 16 which allows for a petition to ask for an officer to be called to account by an overview and scrutiny committee. **Dan Rogerson**, for the Liberal Democrats, spoke to an amendment which would have removed the ability of local authorities to specify officers in their own petitions scheme, rather it would just include those listed on the face of the Bill.<sup>20</sup> **Rosie Winterton** stated that the Government intended to issue guidance that would mean that junior officers would not necessarily be subjected to inappropriate pressure as a result of the clause.<sup>21</sup> The amendment was then withdrawn.

Clause 19 gives the appropriate national authority certain powers. **Julia Goldsworthy**, for the Liberal Democrats, tabled an amendment which would have removed the power of the appropriate national authority to make provisions by order as to what the petition scheme must or must not contain. However, she admitted that other aspects of the clause were helpful, such as the publication of a model petitions scheme and the publication of guidance.<sup>22</sup> **Rosie Winterton** replied that the clause meant that if it were necessary for Government to intervene in petition handling, this could happen. She also clarified that the Government intended to stipulate a 5 per cent figure to trigger a debate in councils on petitions. The amendment was negated by 8 votes to 5.<sup>23</sup> The Committee divided on a stand-part motion, which was won by 8 votes to 5.

A number of stand-part divisions were held on the clauses relating to petitions. In addition to those outlined above, the Committee also divided on clause 15 (requirement to debate); clause 17 (review of steps); clause 18 (supplementary scheme provisions); clause 20 (handling of petitions by other bodies); and clauses 21 and 22 (Orders and Interpretation). For each, the clause was agreed by 8 votes to 5.

### 3.3 Duty to secure involvement

Clause 23 requires a number of public bodies to involve service users and other interested persons in their decision-making processes. This is an extension of the ‘duty to involve’ placed on local authorities by the *Local Government and Public Involvement in Health Act 2007*. **Paul Goodman**, for the Conservatives, objected to the imposition of yet another “burdensome” duty, albeit one with a low degree of compulsion. **Julia Goldsworthy**, for the Liberal Democrats, objected to the inclusion of regional development agencies in this clause and not in the list of “connected authorities” in clause 2 whose democratic arrangements must be promoted by local authorities.<sup>24</sup>

**Sarah McCarthy-Fry**, Under-Secretary of State for Communities and Local Government, explained that the organisations listed in clause 23 are essentially the partner organisations listed in the 2007 Act. As such, they are under a duty to co-operate with councils in agreeing and working towards relevant local area agreement targets. She said the measure

---

<sup>18</sup> PBC Deb 9 June 2009 c66

<sup>19</sup> PBC Deb 9 June 2009 cc67-8

<sup>20</sup> PBC Deb 9 June 2009 cc69-70

<sup>21</sup> PBC Deb 9 June 2009 c71

<sup>22</sup> PBC Deb 9 June 2009 c72

<sup>23</sup> PBC Deb 9 June 2009 c73

<sup>24</sup> *Ibid*, cc75-6

represented a “simple logical extension” of a community’s ability to have more say in the provision of local services.<sup>25</sup> The Committee divided on both this clause and clause 24 (government guidance) but in both cases the clauses were agreed.

### 3.4 A National Tenant Voice (NTV)

Chapter 4 of the Bill contains provisions that will enable the establishment of the NTV.

Clause 25 makes provision for the Secretary of State to establish and give financial or other support to “a body” that will represent the interests of housing tenants in England at a national level. Clause 26 would add a new section to the *Housing and Regeneration Act 2008* to give the Secretary of State power to nominate a body representing the interests of social housing tenants for the purposes of consultation in connection with certain functions carried out by the social housing regulator (the Tenant Services Authority).

These clauses were not amended in Public Bill Committee. A probing amendment to Clause 25 was moved by **Stewart Jackson**, for the Conservatives, which resulted in a wide ranging debate around the establishment and role of the NTV. **Mr Jackson** focused on the “open-ended” nature of the financing of the NTV by the Secretary of State<sup>26</sup> while **Peter Lilley** questioned the representative nature of the NTV given that its members will be appointed rather than elected. He argued that if the members are to be appointed it should be local councils and not the Government that should take on this role.<sup>27</sup> **David Curry** asked for reassurances on how the NTV would function in practice:

If the Minister can reassure us about the practicality of how this will function, how it will represent the tenants, how its members will be chosen, how it will report back, and how it will be accountable to their tenants, and the nature of the interlocutors, there may be a case for not opposing the clause. However, a huge amount hinges on how the Minister responds to those points.<sup>28</sup>

**Sarah McCarthy-Fry**, the Minister, responded:

We are now coming to the issue of how the new body will be composed and who will choose its board. As the new body will be publicly funded, Cabinet Office guidelines require that the Secretary of State must choose the board. However, the Secretary of State will have no power to implement policy. Tenants will form a majority of the board members and will put forward names for the board to the Secretary of State. We also have a project board advising on the remit and composition of National Tenant Voice, and we are holding tenant awareness events this summer so that we can achieve the maximum involvement of tenants in the process.

...Our intention is that tenants will propose names to the Secretary of State so that the latter can choose the board. I have explained the reasons behind the legal requirement on the Secretary of State to choose the board. We will conduct a formal recruitment service, which will be informed by tenancy groups.<sup>29</sup>

The Minister confirmed that the NTV, once established, would have the power to give a voice to tenants in the private rented sector. This led to questions on how the NTV would raise awareness of its existence amongst tenants in the private rented sector:

---

<sup>25</sup> *Ibid*, cc80-1

<sup>26</sup> PBC Deb 11 June 2009 c82

<sup>27</sup> PBC Deb 11 June 2009 cc84-6

<sup>28</sup> PBC Deb 11 June 2009 c88

<sup>29</sup> PBC Deb 11 June 2009 c89

We have provided for flexibility so that the national tenant voice can include private sector tenants if it so wishes; however, its core focus will be social housing. The awareness-raising, which we will do in the summer, will probably be done through those groups, although it will not exclude private sector groups from having an input and proposing names.<sup>30</sup>

**Stewart Jackson**, for the Conservatives, pressed the Committee to vote on his amendment to Clause 25 on the basis that the Minister's response had not assuaged his concerns:

We were waiting for the Minister to assuage our significant concerns. I fear that the clause is an example of mission creep from the Housing and Regeneration Act 2008. We have some serious concerns on a number of bases.

We have to ask whether the body is truly independent. Listening to the good fist that the Minister made of a sticky wicket, I suspect that the answer is no. Next, we are being asked to make a carte blanche commitment to financial assistance to a body whose efficacy we are not entirely convinced of. We have significant concerns on the basic, practical issue of the database. Who will maintain it? Is it possible to maintain a private sector tenant database to feed opinions to the independent body?

As I said right at the outset in my remarks on Tuesday, if the clause did not exist, would we need to invent it? Would housing be demonstrably any worse without it? I do not think that it would. As the Minister will know, many registered social landlords have effective and successful communications with their tenants. I suspect that the body may not be needed.

It is bizarre and surreal to measure the vulnerability, or otherwise, of private sector tenants. Surely, it is not for a Minister or an organisation to measure how vulnerable tenants feel, by making a value judgment under primary legislation. That point was raised by my right hon. Friend the Member for Skipton and Ripon. We have serious concerns.<sup>31</sup>

The amendment was rejected by 10 votes to 5.

### 3.5 Overview and scrutiny

The Committee considered the clauses relating to overview and scrutiny committees at their fourth sitting, on the afternoon of Thursday 11 June.

Clause 30 requires local authorities, other than district councils in areas where there is a county council, to designate one of their officers as a scrutiny officer. A stand part motion was debated. **Paul Goodman**, for the Conservatives, argued:

In summary, obviously the role of scrutinising what takes place in local councils is extremely important. We on the official Opposition Benches say that the correct balance must be struck between proper scrutiny and the need not to overburden local authorities with so many scrutinising duties from the centre that makes it difficult for them to run affairs with flexibility.<sup>32</sup>

The Minister, **Sarah McCarthy-Fry**, stated that if the clause was passed, the resources would be made available within the funding process to support the role. She said that she believed the clause recognised the important role officer support plays in driving scrutiny, but

---

<sup>30</sup> PBC Deb 11 June 2009 c91

<sup>31</sup> PBC Deb 11 June 2009 c91

<sup>32</sup> PBC Deb 11 June 2009 cc102-3

that this was balanced with the need to allow local flexibility.<sup>33</sup> **Julia Goldsworthy**, for the Liberal Democrats, questioned why the duty should not apply to a district authority, and shared the scepticism which had been expressed.<sup>34</sup> The Minister responded that the Government was trying to ensure the quality of scrutiny in councils responsible for local area agreements was raised. The Committee divided on the question and found in favour by 8 votes to 6.

Clause 31 is about the remit of joint overview and scrutiny committees. A number of amendments were tabled to this clause. **Paul Goodman**, for the Conservatives, argued that the effect of these amendments would be to remove unnecessary burdens on local authorities.<sup>35</sup> **Julia Goldsworthy** added that although the Liberal Democrats supported joint overview and scrutiny committees, she could not see “why the process should be determined by the Secretary of State”.<sup>36</sup> **Nick Raynsford** argued that:

If central Government do not create a clear, legal framework under which it is absolutely clear as to local authorities that they can set up joint overview and scrutiny committees, there will inevitably be variations in interpretation of what is within their power and what is not... It does not impose obligation on local authorities, the powers are permissive.<sup>37</sup>

**Sarah McCarthy-Fry** agreed with **Mr Raynsford**. The Minister stated that wherever possible, guidance should take the form of sector-led best practice guidance, and that the Government was working with the Centre for Public Scrutiny to issue guidance to accompany the new overview and scrutiny powers, thereby limiting the need for statutory guidance. She said that the regulations simply ensured a broad framework and flexibility to address key questions relating to area scrutiny committees.<sup>38</sup> The Committee divided on the amendment, which was lost with 5 in favour and 8 against. The Committee then divided on a stand part motion, which was agreed to.

### 3.6 Powers of National Assembly for Wales

Clause 32 extends measure-making powers to the National Assembly for Wales in respect of (a) executive arrangements and (b) overview and scrutiny arrangements. **Paul Goodman**, for the Conservatives, considered the clause significant especially in the light of what he understood to be the policy intentions of the Welsh Assembly Government (WAG).

He quoted from a WAG briefing paper and referred to an informal briefing meeting at which a WAG minister had outlined measures that were envisaged should the clause be enacted. He asked for an explanation of how the process between the WAG and the Westminster Parliament was supposed to function. Among his policy concerns in respect of Welsh local government were the following:

- Possible appointment of non-elected members to joint scrutiny committees;
- The implications of a proposed “duty to scrutinise” across the whole public sector;
- The implications of a proposal to abolish whipping in scrutiny committees.

---

<sup>33</sup> PBC Deb 11 June 2009 cc103-4

<sup>34</sup> PBC Deb 11 June 2009 c103

<sup>35</sup> PBC Deb 11 June 2009 c105

<sup>36</sup> PBC Deb 11 June 2009 c105

<sup>37</sup> PBC Deb 11 June 2009 c107

<sup>38</sup> PBC Deb 11 June 2009 cc109-10

The Minister, **Sarah McCarthy-Fry**, promised to write to him with the information requested and to ask the WAG to write to him. The clause was agreed without division but **Mr Goodman** said that they might return to the matter at Report Stage.

### 3.7 Areas not debated

Clauses 33-51, Audit of Entities connected with Local Authorities, were not debated, nor were Clauses 52-56, Local Government Boundary Commission for England. Clause 57 had a very short debate. Clauses 58-65 were not debated.

## 4 Committee Stage – Economics and Planning

### 4.1 Local authority economic assessment duty

Clause 66 places a duty on upper-tier local authorities,<sup>39</sup> and in London the boroughs, to prepare an assessment of economic conditions in their area. **Paul Goodman**, for the Conservatives, introduced an amendment that sought to remove the element of compulsion so that authorities may rather than must carry out an assessment. He argued that “any reasonably sized local authority worth its salt” would already be reviewing local economic conditions.<sup>40</sup> He also queried why the Government was placing so much emphasis on economic rather than social, environmental or sustainability assessments

The Minister, **Rosie Winterton**, said:

The whole point of getting councils together and emphasising economic development is to ensure that they make the assessment needed to get consistency that can be fed into the overall strategy on the regional approach to stimulating the economy.<sup>41</sup>

**Julia Goldsworthy**, for the Liberal Democrats, had voiced concern that economic assessments “must stick rigidly to the boundaries of a local authority, even though they might bear no relation to the boundaries of economic experience.”<sup>42</sup> The Minister countered that there was flexibility for principal authorities to collaborate across boundaries. In two-tier areas, counties would have to consult with the districts which could, if they wished, carry out their own assessments.<sup>43</sup>

The Conservative amendment was supported by the Liberal Democrats but rejected on division. The Committee went on to debate two further issues in relation to economic assessments: the role of district councils in two-tier areas and the nature of Government guidance.<sup>44</sup> Conservative amendments on both matters were rejected on division. The clause was agreed, despite Conservative opposition, by 9 votes to 4.

### 4.2 Regional strategy

Clause 67 provides for a regional strategy for each region outside London, to combine the regional spatial plan with the regional economic strategy.

**Dan Rogerson**, for the Liberal Democrats, proposed several amendments: to allow for boundary changes; to put sustainability at the heart of regional strategy; to require the

---

<sup>39</sup> i.e. county councils, metropolitan district councils and shire unitary councils.

<sup>40</sup> PBC Deb 11 June 2009 cc117-8

<sup>41</sup> *Ibid*, cc124-4

<sup>42</sup> *Ibid*, c119. David Curry (Conservative) took up this argument, referring to the diversity of economic circumstances within the county of North Yorkshire (cc120-2).

<sup>43</sup> *Ibid*, cc125-6

<sup>44</sup> *Ibid*, cc128-32



regional strategy to be supported by all participating authorities within the region. They were all defeated.

### 4.3 Leaders' Boards

During the stand part debate on clause 68, which deals with Leaders' Boards, it was clarified that membership of the Leaders' Boards was not limited to Local Authority Councillors or Leaders, and that as is proposed in the North West, representatives from business, the voluntary sector, trade unions and others can be involved. The Minister clarified in the debate that their advice would be that the "inner leaders' board", responsible for directly making decisions with RDA boards, would be made up of elected representatives.<sup>45</sup>

Opposition amendments to clause 71 to remove the powers of the Secretary of State to request a revision to the regional strategy and also to set a timetable for this revision were defeated at division.<sup>46</sup> An amendment to clause 72 to specify local councils and authorities that must be consulted was also defeated.<sup>47</sup> An amendment to make Examinations in Public mandatory was debated and withdrawn.<sup>48</sup> The debate on clauses 75 and 76 sought clarification from the Minister on the use of the powers of the Secretary of State.<sup>49</sup>

New clause 14 *Delegation of functions by regional development agencies* was debated with clause 80. New clause 14 sought to amend the *Regional Development Agencies Act 1998* so that RDAs had the power to pass functions down to local authorities; and that these should be proposed within six months of the Bill coming into force and at yearly intervals thereafter. **Stewart Jackson**, for the Conservatives, argued in favour of the amendment, and noted that it could be "designated as the Local Government Association new clause and amendment."<sup>50</sup> The new clause was defeated at division and clause 80 was agreed on a division.<sup>51</sup>

### 4.4 Economic Prosperity Boards (EPBs)

**Paul Goodman**, for the Conservatives, noted that the Bill contained "a series of halfway houses that are extremely confusing" and that "economic prosperity boards [EPBs] are a part of that" raising concern over how the EPBs would work with the other regional structures. He also raised concerns over the power of the Secretary of State in the clauses relating to EPBs.<sup>52</sup> **Dan Rogerson**, for the Liberal Democrats, moved an amendment to clause 88 which aimed to enhance the importance of sustainable development in the aims of EPBs. The Minister stated that the statutory guidance would be clear on this and the amendment was defeated in a division.<sup>53</sup> Concerns were also raised that EPBs may be passed planning powers, but the Minister said that this would be "very unlikely".<sup>54</sup>

---

<sup>45</sup> PBC Deb 16 June 2009 cc176-8

<sup>46</sup> *Ibid*, cc183-6

<sup>47</sup> *Ibid*, cc190-1

<sup>48</sup> *Ibid*, cc191-3

<sup>49</sup> *Ibid*, cc195-200

<sup>50</sup> *Ibid*, c202 and LGA briefing for 2<sup>nd</sup> Reading

<sup>51</sup> *Ibid*, c205

<sup>52</sup> *Ibid*, c207-8

<sup>53</sup> PCB Deb 18 June 2009 cc217-8

<sup>54</sup> *Ibid*, cc218

#### 4.5 Multi-Area Agreements (MAAs)

MAAs were broadly welcomed by opposition parties although **Julia Goldsworthy**, for the Liberal Democrats, questioned whether they required primary legislation and the powers of the Secretary of State.<sup>55</sup> The Liberal Democrats moved an amendment to include parish councils as a local authority for the purposes of MAAs but it was later withdrawn.<sup>56</sup> Amendments removing the Secretary of State as a partner authority in the legislation were also moved and withdrawn.<sup>57</sup> Further amendments relating to the power of the Secretary of State from the proposal to the approval stages of MAAs (clauses 121-9) were moved by **Julia Goldsworthy**, for the Liberal Democrats, but defeated in a division.<sup>58</sup>

#### 4.6 Construction contracts

**Stewart Jackson**, for the Conservatives, while raising the concerns of a number of construction bodies, noted:

... The Opposition believe that the Housing Grants, Construction and Regeneration Act 1996 needs updating to tackle the continuing problem of late and unreasonably disputed payments in the sector. We believe in the decision to legislate, and support strengthening the adjudication system. We consistently lobbied for that with the last three construction Ministers. We support the aims of the clauses on payment, and we hope that the Minister takes on board the significant amount of lobbying that the construction industry has put in place.<sup>59</sup>

On the adjudication scheme, and a possible single statutory scheme, the Minister, **Sarah McCarthy-Fry**, noted:

On the wider point about a single statutory adjudication scheme, it would introduce greater clarity and simplicity but it would also represent a much more significant intervention into freedom of contract and would prevent parties from agreeing the best process for resolving disputes under their particular form of agreement. It could also curtail any future innovation in the adjudication process. We have decided that the balance falls on the side of maintaining parties' freedoms. However, the point is not an unreasonable one, and we have made the offer to industry that we will conduct a thorough review of the existing adjudication system set out in secondary legislation when we amend it as a consequence of the changes we are making to the 1996 Act.<sup>60</sup>

In the debate on clause 137 **Nick Raynsford** noted the proposal from the Royal Institution of Chartered Surveyors that adjudicators should be allowed to apportion costs; the Minister said that while they were "sympathetic to the views", they have decided not to legislate at this time.<sup>61</sup> Amendments reducing the payer's role in issuing payment notices (clause 139) were moved by **Dan Rogerson**, for the Liberal Democrats. In response the Minister pointed out that the Bill actually extends the ability to issue a payment notice to the payee or a third party as well as the payer.<sup>62</sup> The amendment was defeated at a division.<sup>63</sup>

---

<sup>55</sup> *Ibid*, c220

<sup>56</sup> *Ibid*, cc222-6

<sup>57</sup> *Ibid*, cc225-6

<sup>58</sup> *Ibid*, cc228-31

<sup>59</sup> *Ibid*, c235

<sup>60</sup> *Ibid*, cc237-8

<sup>61</sup> *Ibid*, c240

<sup>62</sup> *Ibid*, c241-2

<sup>63</sup> *Ibid*, cc244

New clause 21 was moved by **Dan Rogerson**, for the Liberal Democrats, and aimed to remove the insolvency exception to the prohibition of ‘pay when paid’ clauses but was defeated at division.<sup>64</sup>

## 5 Committee Stage – Other issues

A series of new clauses, introduced by Conservative and Liberal Democrat Members, were debated during the Committee’s final sitting on 18 June. Among the subjects covered were the following:

- Local authority referendum schemes (introduced by **Paul Goodman**, for the Conservatives, but withdrawn after discussion);<sup>65</sup>
- A power of general competence for local authorities (introduced by **Mr Goodman** and withdrawn after discussion);<sup>66</sup>
- Abolition of Comprehensive Area Assessments (introduced by **Stewart Jackson**, for the Conservatives, and withdrawn after discussion);<sup>67</sup>
- Provisions concerning targets in Local Area Agreements (introduced by **Paul Goodman** and withdrawn after discussion);<sup>68</sup>
- Methods of making payments by parish and community councils. This, too, was introduced by **Mr Goodman** and withdrawn following discussion. However, the Minister, **Rosie Winterton**, agreed that there was a case for reform of the current rules on parish payments and said that she would seek a suitable legislative vehicle for such reforms;<sup>69</sup>
- Abolition of the Standards Board for England and the Adjudication Panel for England (introduced by **Mr Goodman** and withdrawn after discussion);<sup>70</sup>
- Local authority targets for building new homes (introduced by **Peter Lilley** and withdrawn after discussion);<sup>71</sup>
- Local freedoms (introduced by **Dan Rogerson**, for the Liberal Democrats, and withdrawn after discussion).<sup>72</sup>

---

<sup>64</sup> *Ibid*, cc274-5

<sup>65</sup> PBC Deb 18 June 2009 cc247-50

<sup>66</sup> *Ibid*, cc250-4

<sup>67</sup> *Ibid*, cc254-8

<sup>68</sup> *Ibid*, cc258-9

<sup>69</sup> *Ibid*, cc259-61

<sup>70</sup> *Ibid*, cc262-7

<sup>71</sup> *Ibid*, cc267-72

<sup>72</sup> *Ibid*, cc273-4

## **Appendix 1 – Members of the Public Bill Committee**

### ***Chairmen***

Mr. Eric Illsley, Mr. David Amess

### ***Members***

Cooper, Rosie (*West Lancashire*) (Lab)

Curry, Mr. David (*Skipton and Ripon*) (Con)

Dunne, Mr. Philip (*Ludlow*) (Con)

Efford, Clive (*Eltham*) (Lab)

Gardiner, Barry (*Brent, North*) (Lab)

Goldsworthy, Julia (*Falmouth and Camborne*) (LD)

Goodman, Mr. Paul (*Wycombe*) (Con)

Heppell, Mr. John (*Nottingham, East*) (Lab)

Jackson, Mr. Stewart (*Peterborough*) (Con)

Lilley, Mr. Peter (*Hitchin and Harpenden*) (Con)

McCarthy-Fry, Sarah (*Parliamentary Under-Secretary of State for Communities and Local Government*)

Raynsford, Mr. Nick (*Greenwich and Woolwich*) (Lab)

Rogerson, Dan (*North Cornwall*) (LD)

Stewart, Ian (*Eccles*) (Lab)

Watts, Mr. Dave (*Lord Commissioner of Her Majesty's Treasury*)

Winterton, Ms Rosie (*Minister for Regional Economic Development and Co-ordination*)

### ***Committee Clerk***

Mick Hillyard, *Committee Clerk*