

a jekyll and hyde localism bill?

Robin Hambleton looks at the the implications of the Localism Bill for the English system of local governance

The Localism Bill opens up new possibilities for local government in England, but these opportunities are heavily constrained. It is tempting to view developments at Eland House as a localist 'Dr Jekyll and Mr Hyde' story.

In this new version of Robert Louis Stevenson's tale, Greg Clark, Minister for Decentralisation, is Dr Jekyll, striving to introduce positive reforms designed to enhance the 'Big Society' agenda and reduce the dominance of central government in public policy-making. Before becoming an MP, Mr Clark worked in the Conservative Policy Unit, and it is clear that the report he co-edited with James Mather in 2003 – *Total Politics: Labour's Command State* – has shaped much of the thinking on the governance aspects of the Bill. However, his good intentions are threatened by some of the actions of his 'other half' – Eric Pickles, Secretary of State for Communities and Local Government, who appears willing to take on the negative mantle of Mr Hyde at the drop of a hat.

In our new version of the drama, Mr Hyde allows Dr Jekyll to write a nice story about localism reshaping the political landscape, while spending his own time in the Eland House laboratory inventing new concoctions designed to slash away the funding for local government. In addition, he slips into the Bill various potions (or clauses) strictly limiting the actual powers to be exercised by elected local authorities.

An unfair caricature? Certainly. But, even if we leave the personalities out of this analysis, it is difficult not to conclude that the Coalition Government is deeply ambivalent about the powers it wants to see exercised by local government in the modern governance of England.

The changes to planning, set out in Part 5 of the Bill, are discussed elsewhere in this issue. This article focuses on the implications of the Bill for the English system of local governance.

The first point to emphasise is that discussion of the Bill cannot be divorced from consideration of the gloomy financial settlement for local

government. At the same time that he introduced the new proposals for legislation, Mr Pickles announced truly swingeing cuts in local government spending.

The average reduction to councils' formula grant is to be 10% in 2011/12, compared with a rise of 2.6% in the current year. This is the sharpest single-year reduction in financial support to local government in modern times. It will be followed by a 6% spending cut in 2012/13. Further cuts, yet to be announced, will be imposed for the next two years. This can only be described as a disastrous financial settlement for local government, and we can anticipate significant cuts in front-line services in the coming period.

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Indeed, it is possible that local government will become the major battleground in national politics as the impact of these cuts comes to be felt in communities up and down the country. Ed Miliband, Leader of the Labour Party, is now mounting a strong attack on the Coalition's plans to eliminate the structural deficit over the course of this Parliament. Not surprisingly, he contrasts this approach with the Labour proposal to halve the deficit over four years.

Critics of the Government can legitimately point out that poor areas will suffer disproportionately in the cuts to local government. The 2011/12 reductions vary across councils from 17% to 5%. On average, councils in the top quintile on the Government's Index of Multiple Deprivation are facing a 12.9% cut – well above the national average cut of 10%.

Turning to the Localism Bill, it is important to note that the Government has failed to publish a White Paper setting out the intellectual arguments justifying the proposals in the legislation. This approach departs from good practice, and it does the Government a significant disservice. It creates the firm impression that the Government lacks a clear and coherent vision for the future of local democracy in England.

Instead, the Department for Communities and Local Government (DCLG) issued a curious document – *Decentralisation and the Localism Bill: An Essential Guide* – to be read alongside the Bill. This guide claims to make the case for a radical shift of power from the centralised state to local communities, and ‘describes the six essential actions required to deliver decentralisation down through every level of government to every citizen’ – see Box 1.

Labour Government’s regime shifted power away from local communities. Instead of being accountable ‘downwards’ to citizens, councils were forced to give far too much attention to being accountable ‘upwards’ to Ministers.

Getting rid of top-down interference is desirable but, as discussed elsewhere in this issue, the Bill proposes the abolition of Regional Strategies. This will create a strategic vacuum and could foster parochial decision-making in relation to urban development. Cutting bureaucracy does not mean abandoning planning.

Empowering communities

The Government is to be congratulated on introducing a ‘general power of competence’ allowing councils to do anything that is not specifically prohibited by law. This power should have been granted long ago.

Box 1

Localism – ‘the six essential actions’

1 Lift the burden of bureaucracy

The first thing that Government should do is to stop stopping people from building the Big Society.

2 Empower communities to do things their way

Getting out of the way is not enough, Government must get behind the right of every community to take action.

3 Increase local control of public finance

Government must will the means, as well as the ends, of community power.

4 Diversify the supply of public services

Local control over local spending requires a choice of public service providers.

5 Open up Government to public scrutiny

Public service providers should be subject to transparency not bureaucracy.

6 Strengthen accountability to local people

Public services shouldn’t just be open to scrutiny, but also subject to the individual and collective choices of active citizens.

Source: Decentralisation and the Localism Bill: An Essential Guide. DCLG, Dec. 2010. www.communities.gov.uk/documents/localgovernment/pdf/1793908.pdf

The six overlapping actions amount to an ambitious agenda for reform. But the devil is in the detail – and there is very little detail in this flimsy guide. In relation to the future governance of localities in England, we can, however, use the headings in the guide to highlight some of the most striking features of the Bill.

Cutting bureaucracy

The Bill builds upon the earlier DCLG decision to scrap the Comprehensive Area Assessment and Local Area Agreements. The guide is correct in noting that the system of central performance indicators built up by the previous Government was hugely complex and expensive. Worse than that, the

However, there is a catch – Clause 5(3) allows the Secretary of State to make an Order preventing local authorities from doing anything he/she puts in the Order. And Clause 5(4) enables the Secretary of State to impose conditions on the exercise of the general power. In other words, central government has retained the power to stop local authorities using the power to do things the Government dislikes. How can this add up to a bold step in the direction of community empowerment?

The Bill will give communities power to save local assets threatened with closure. Dubbed the ‘community right to buy’ this power may turn out to be significant – see the supply of public services section below.

Increasing local control of public finance

This is the most disappointing part of the Bill. As I noted in these pages in 2009,¹ the Labour Government spent 13 years avoiding doing anything constructive about local government finance, and it looks as if this Government is about to follow suit. This is troubling, as the mismatch between Ministers' expressed desire to promote community empowerment and the trivial proposals on local tax-raising set out in the Bill are spectacular.

Even a cursory examination of local democracy in other countries reveals that the best way to promote decentralisation and localism is to strengthen the financial power of elected local authorities. For example, local authorities in the USA have discretion to create taxes suited to their local situation, and they also have the right to set local tax at any level they think fit. Local voters shape their local service levels and tax levels. This, surely, is what Ministers say they want. So why are they not introducing radical proposals to strengthen local government finance?

Diversifying the supply of public services

The new right for community groups and other bodies to challenge and take over council services provides a flashback to the Compulsory Competitive Tendering (CCT) of the Thatcher era.

Once again, the details of how the 'community right to challenge', set out in Part 4 of the Bill, will operate in practice are to be set out by the Secretary of State in subsequent regulations. In theory, however, the new right, by triggering change in procurement processes for council services, could open the door for private companies to cherry-pick council services.

Opening up government to public scrutiny

In principle, the measures in the Bill relating to enhancing transparency can be welcomed. But the problem is that nearly all the data that will be revealed relates to expenditure, not outcomes. A consequence is that the publication of data will provide an unbalanced picture of public service efforts for the 'army of armchair auditors'. For example, the Bill suggests that local authorities will be required to publish every item of expenditure over £500. Fair enough. But what about the data on what public spending achieves?

Publishing the 'expenditure' side of the balance sheet without the 'results' side is not going to enhance informed public scrutiny of council activities.

Strengthening accountability to local people

The Bill contains a package of democratic reforms. For example, Clauses 39-55 give residents the power to instigate, via a petition, local referendums on any issue. A potentially exciting provision relates to the leadership of the major

cities outside London. The Bill provides for the introduction of directly elected mayors in 12 cities in England. These cities – including Birmingham, Bristol, Leeds, Liverpool, Manchester, Newcastle and Sheffield – will be able to adopt this form of civic leadership from 2012, subject to referendums.

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On the down side, it is disappointing that the Government has decided to shy away from city-region mayors (along the lines of the successful London model) and has opted for mayors to be introduced in 12 existing unitary local authorities.

This is to miss a major opportunity, which is surprising given that the Greater London Authority has worked well. The metropolitan leadership provided by the directly elected Mayor of London has attracted a high level of interest from other countries, as it involves the creation of a strategic city-region leader with the democratic legitimacy to lead. The new mayors envisaged in the Bill will lack this city-region electoral base.

On the plus side the Government has said that it intends to give these new mayors 'significant clout'. It may be that, subject to experience with the 'community budget' pilots currently under way in 16 local authorities, the Government will grant elected mayors significant authority over all public services delivered locally.

Open question...

The Localism Bill is a big bill – it has 207 sections. Whether it has a big impact on the task of strengthening localism in English society remains an open question.

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Note

- 1 R. Hambleton: 'Strengthening local democracy?'. *Town & Country Planning*, 2009, Vol. 78, Sept., 355-6