

Sustainable Communities Act 2007: Consultation on Draft Regulations and Statutory Guidance



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About this consultation

1. This consultation paper seeks views on the draft Regulations and Statutory Guidance for the Sustainable Communities Act 2007 ('the Sustainable Communities Act' or 'the Act'). The Guidance is being developed by the Government following the Sustainable Communities Act coming into force on 23 October 2007. In preparing this draft the Government has sought the views of those who promoted the Sustainable Communities Bill and supported it during its passage through Parliament.
2. The Regulations and Statutory Guidance relate to the procedure to be followed in relation to proposals made under section 2 of the Act.
3. Communities and Local Government is developing a detailed proposition in relation to the production of local spending reports, which are required by section 6 of the Act. Our current thinking is set out in the "step-by-step" guide to the Act (see Annex 3). We are not consulting on local spending reports in this package. Our overall plans are outlined in the timetable for implementation below.

Related documents

4. Communities and Local Government published Draft Statutory Guidance *Creating Strong, Safe and Prosperous Communities* on 20 November 2007. That guidance is being developed by the Government following enactment of the Local Government and Public Involvement in Health Act 2007 ('the Local Government Act'). It sets out how many of the key measures of the Local Government Act will enable local authorities to engage their citizens, lead their communities and find new and more effective ways to deliver high quality services with their partners.
5. There are clear synergies between the outcomes sought by the relevant provisions of the Local Government and the Sustainable Communities Acts and the processes put in place to achieve them. For this reason we propose to ensure that relevant Guidance for the two Acts is aligned and published jointly. Annex 2 of this document, *Guidance: proposals by local authorities* will therefore be included as an annex to the final version of the *Creating Strong, Safe and Prosperous Communities* Guidance.

Principles of Guidance

6. This Guidance is intended to be light touch, providing the essential information that local authorities and their partners need to enable them to comply with the Act. The Guidance will not overly prescribe the ways in which local authorities and their residents might choose to act. These decisions are best taken locally, and we will leave as much freedom and flexibility for local people and their democratically elected representatives as possible.

How to respond

7. The Government welcomes your views on the proposals set out in this consultation paper. Consultation responses should be submitted by email to:

SCA@communities.gsi.gov.uk

Or by post to:

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

8. Please let us have your comments no later than 12th May 2008

Will my comments be made public?

9. The Government will use responses in finalising the proposals set out in this consultation paper. According to the requirements in the Freedom of Information Act 2000, all information contained in the response including personal information, may be subject to publication or disclosure. Where respondents request that information given in response to the consultation be kept confidential, this will only be possible if it is consistent with Freedom of Information obligations.

The consultation criteria

10. The Government has adopted a code of practice on consultations. The criteria below apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation.
11. Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (e.g. under European Community Law), they should otherwise generally be regarded as binding on UK departments and their agencies, unless Ministers conclude that exceptional circumstances require a departure. The criteria include:
 - 11.1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.

- 11.2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
 - 11.3. Ensure that your consultation is clear, concise and widely accessible.
 - 11.4. Give feedback regarding the responses received and how the consultation process influenced the policy.
 - 11.5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
 - 11.6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.
12. The full consultation code of practice may be viewed at:
www.bre.berr.gov.uk/regulation/consultation/code/index.asp
13. Are you satisfied that this consultation has followed these criteria? If not, or you have any other observations about ways of improving the consultation process please contact:

Communities and Local Government Consultation Co-ordinator
Zone 6/H10
Eland House
London
SW1E 5DU

or by e-mail to:
consultationcoordinator@communities.gsi.gov.uk

Scope of the Regulations and Guidance

14. The Sustainable Communities Act received Royal Assent on 23 October 2007. This consultation document explains the provisions of Sections 2, 3 and 5 of the Act which relate to the process by which local authorities may make proposals to the Secretary of State about promoting the sustainability of their local community.

Contents

15. This consultation document has six main sections:

- i. **A quick guide to the Sustainable Communities Act** which provides a very brief introduction to the Act's main purpose and provisions.
- ii. **Proposed timetable for implementation**
- iii. **Questions for consultation**
- iv. **Annex 1: The Sustainable Communities Regulations** which are in draft form for consultation. Following consultation these Regulations will be laid for approval by Parliament and will come into force on 22 October 2008.
- v. **Annex 2: Guidance: proposals by local authorities** which are in draft form for consultation. Following consultation this Guidance will be published as an annex to *Creating Strong, Safe and Prosperous Communities*, which is Statutory Guidance accompanying the Local Government and Public Involvement in Health Act 2007.
- vi. **Annex 3: A step-by-step guide to the Sustainable Communities Act 2007** which is intended as a straightforward description of the Sustainable Communities Act, section by section. This document was first published on 1 February 2007.

i A quick guide to the Sustainable Communities Act 2007

16. The Sustainable Communities Bill was introduced to Parliament as a Private Members Bill. It was sponsored in the House of Commons by Nick Hurd MP, Conservative, Ruislip-Northwood and in the House of Lords by Lord Marlesford. The Bill was supported through Parliament by the Government and all of the main English political parties. It is the result of a five year campaign led by a coalition of organisations under the banner Local Works. Local Works name 85 national supporting organisations reflecting a very wide constituency.
17. The Sustainable Communities Act aims to promote the sustainability of local communities. It begins from the principle that local people know best what needs to be done to promote the sustainability of their area, but that sometimes they need central government to act to enable them to do so. It provides a channel for local people, via their local authority, to ask central government to take such action. It is also a new way for local authorities to ask central government to take action which they believe would better enable them to improve the economic, social or environmental well-being of their area. This could include a proposal to transfer the functions of one public body to another.
18. The scope of the Act is very broad, covering economic, social and environmental issues. It does not limit the type of action that could be put forward, provided the action is within that broad scope. It is for local people to decide what they think needs to be done to promote the sustainability of their area.
19. The Act is designed to strengthen the role of communities. It provides a simple process by which the ideas generated by local communities are fed through their local authority and a body known as the “selector” (which we envisage will be the Local Government Association (LGA)) to central government. It will not be possible for suggestions to be put direct to central government; local authorities and the selector will have a “short-listing” role. The Government will consult the selector and try to reach agreement on which of the proposals on the short-list should be implemented. The Government will respond to all of the suggestions that are short-listed by the selector and will publish an action plan setting out how it will take forward the suggestions that it adopts. As well as enabling local communities and local authorities to make suggestions for government action, the Sustainable Communities Act also ensures that communities are better informed about the public funding that is spent in their area. New “local spending reports” will provide quick and easy access to information about where public money is spent. This will enable local authorities, their partners and communities to take better informed decisions about the priorities they choose to pursue to promote the sustainability of their local community.
20. A step-by-step guide to the Act is included as Annex 3.

ii Approach to implementation and timetable

Approach to implementation

21. The Government will continue to work closely with the Act's supporters and the LGA on implementation. While the Act contains a number of requirements that must be met, we believe that its strength lies in the way that it will encourage central and local government and local people to work together to promote the sustainability of local communities. So our approach to implementation will be "light touch", allowing full freedom to local authorities and local people wherever possible.

Timetable for implementation

22. The Act contains a number of commitments relating to consultations and to timing. There are a number of other measures that we will need to take forward in order to implement the Act effectively. This is the outline timetable that we propose to follow:

- Discussion with Bill's supporters to prepare consultation package by January 2008.
- Agree with the LGA that they will take on the role of the selector by February 2008.
- Formal consultation on Regulations and Guidance: February to May 2008.
- Lay Regulations before Parliament: May 2008.
- Bring together Sustainable Communities Bill Guidance with *Creating Strong and Prosperous Communities* Guidance: May 2008.
- Secretary of State issues first invitation for proposals by October 2008.
- Consultation on Local Spending Reports: Summer 2008.
- Secretary of State makes arrangements for first Local Spending Reports: Autumn 2008 (required by April 2009).

iii Consultation: Issues for consideration

Background

23. Under section 2 of the Act the Secretary of State must invite local authorities to make proposals which they consider would contribute to promoting the sustainability of local communities. Section 5(1) requires the Secretary of State to make regulations about the procedure to be followed in relation to proposals. A draft of the Sustainable Communities Regulations 2008 ('the Regulations') is set out at Annex 1.
24. Section 5(4)(a) of the Act requires local authorities (via the Regulations) to establish or recognise a panel of representatives of local persons.
25. Section 5(5) requires the Secretary of State to issue guidance to local authorities about making proposals. Local authorities must have regard to this guidance. The guidance:
 - a) must include guidance about the inclusion among representatives of local persons (for the purposes of subsection 5(4)(a)) of persons from under-represented groups, and
 - b) may include other guidance about establishing and consulting a panel of representatives of local persons.

A draft of the guidance, which assumes that the draft Regulations will be made in their current form, is set out at Annex 2.

Our approach to Regulations and Guidance

26. Because we believe local authorities are best placed to decide both how to involve local people and how to formulate their proposals under section 2 of the Act, we have taken a fairly minimalist approach in the drafting of the Regulations whilst ensuring that any relevant requirements of the Act are met.
27. We do not propose to specify in Regulations steps to be taken by the selector in considering proposals and drawing up a short list (section (5)(3)(b)). At present we believe that this is more a matter to be agreed between the Secretary of State and the selector (namely the LGA) than it is a matter for legislation.
28. We have adopted a similar approach to the Guidance. Our aim is to ensure that the Guidance is light touch, reflecting the principle that local people and their elected representatives know best what needs to be done to promote the sustainability of their community and how best to do it.
29. We do not propose to issue guidance about establishing and consulting a panel of representatives of local persons (section (5)(5)(b)). Section (5)(1) of the draft Regulations sets out how a panel must be constituted. Beyond this, we believe that it is more a matter for local authorities

themselves to determine, according to local circumstances, than it is a matter for legislation.

Links to the Local Government and Public Involvement in Health Act 2007

Consultation Question 1

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

Consultation Question 2

Do you agree with this approach? Are there other ways in which we could integrate the implementation of the two Acts?

30. We have made reference in this document to the links between provisions in the Sustainable Communities Act 2007 and the Local Government and Public Involvement in Health Act 2007 and earlier legislation. In particular: section 1 of the Sustainable Communities Act was drafted to reflect the well-being powers that local authorities were granted by the Local Government Act 2000; and wording in section 5 of the Sustainable Communities Act is intended to reflect the wording of the new duty on best value authorities, introduced in the Local Government and Public Involvement in Health Act, to inform, consult or involve representatives of local persons in the exercise of their functions.

Consultation Question 3

Do you have further comments about this consultation document?

31. The reason for making these links is to ensure that the Sustainable Communities Act supports the role of local authorities as community leaders and contributes to the broader agenda for partnership working at local level, including development of Sustainable Community Strategies and negotiation of Local Area Agreements.

Consultation Question 4

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

32. Communities and Local Government has recently consulted on *Creating Strong, Safe and Prosperous Communities*, which is draft Statutory Guidance relating to the Local Government Act. While we are consulting separately on the two sets of Guidance we believe that there is a strong case to publish the final guidance as an integrated package. We propose to do so in May 2008. This will enable local authorities to be clear both about their duties under each Act to engage local persons, and about the opportunities to ensure that their operation is integrated.

DRAFT

iv. Annex 1: The Sustainable Communities Regulations 2008

STATUTORY INSTRUMENTS

2008 No.

LOCAL GOVERNMENT, ENGLAND

The Sustainable Communities Regulations 2008

<i>Made</i>	- - - -	2008
<i>Laid before Parliament</i>		2008
<i>Coming into force</i>	- -	2008

The Secretary of State makes the following Regulations in exercise of the powers conferred on her by section 5 of the Sustainable Communities Act 2007(1) and after having consulted—

- (a) the selector, and
- (b) such other persons who represent the interests of local authorities as the Secretary of State thinks fit,

in accordance with section 5(2) of that Act:

PART 1

General

Citation, commencement and application**1.** These Regulations—

- (a) may be cited as the Sustainable Communities Regulations 2008,
- (b) come into force on [a date on or before 22nd October 2008], and
- (c) apply in relation to England only.

Interpretation**2.** In these Regulations—

“the Act” means the Sustainable Communities Act 2007;

“panel” means a panel of representatives of local persons; and

“representative” means a representative of local persons.

Meaning of under-represented groups

3. In section 5 of the Act “under-represented groups” means, in relation to a local authority, those groups of local persons who in the opinion of the local authority are under-represented in civic and political activity in the authority’s area.

PART 2

Proposals by local authorities: procedure

Local authorities: steps before making proposals

4.—(1) Before making any proposal under section 2 of the Act a local authority must comply with this regulation.

(2) The authority must have regard to any guidance that the Secretary of State has issued under section 5(5) of the Act.

(3) The authority must also—

- (a) establish or recognise a panel,
- (b) consult the panel about any proposal, and
- (c) try to reach agreement with the panel about proposals.

Constitution of panels

5.—(1) A panel established or recognised by a local authority under regulation 4(3)(a) must be constituted in accordance with this regulation.

(2) Sufficient representatives must be involved in the panel so that, in the opinion of the authority, local persons are adequately represented by the panel.

(3) Paragraph (4) applies where—

- (a) a local authority takes reasonable steps to involve a group of local persons in a panel, but
- (b) no representatives of that group become so involved.

(4) There is no breach of this regulation merely because of the lack of involvement of the group.

Report by the selector

6.—(1) The selector must prepare a written report on the proposals, which must include—

- (a) a list of any proposals that it has rejected; and
- (b) a statement of its reasons—
 - (i) for selecting the proposals on the short-list, and
 - (ii) for rejecting any other proposals made by local authorities.

(2) The selector must send the report to the Secretary of State at the time it sends the short-list.

John Healey
Minister of State

2008

Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. **Regulation 1** is a standard commencement, citation and application provision.
2. Section 2(5) of the Act requires the Secretary of State to issue her first invitation under section 2 within the period of one year beginning with the day on which the Act is passed, so currently the Regulations simply state that they will be made on or before 22nd October 2008 (regulation 1(b)).
3. Consistent with the Act, the Regulations only apply in relation to England (in relation to the scope of the Act, see section 10(2) and the definition of ‘local authority’ in section 8 of the Act).
4. **Regulation 2** defines certain terms which are used elsewhere in the Regulations. The definitions are consistent with terms used in the Act.
5. **Regulation 3** defines the term “under-represented groups”, which the Secretary of State is required to do by virtue of section 5(8) of the Act.
6. The approach we have taken is to define under-representation by reference to civic and political activity in a local authority’s area, concepts which are expressly referred to in section 1(3) of the Act. We believe that local authorities are best placed to know their areas and so the identification of under-represented groups is primarily a matter for those authorities (see the words “in the opinion of the local authority” in regulation 3). However, any opinion which a local authority holds in this regard will be need to reasonable.
7. **Regulation 4** sets out certain requirements that local authorities must comply with before making any proposal under section 2 of the Act. The Secretary of State must make provision for certain procedural matters by virtue of section 5(4) of the Act and regulation 4 fulfils this requirement.
8. We have not gone beyond the requirements in section 5(4), since we consider that local authorities are best placed to decide the process by which their proposals are made.
9. **Regulation 5** concerns the constitution of panels of representatives of local persons. Section 5(8) of the Act defines a “panel” as a panel constituted in accordance with the regulations and this regulation contains the necessary requirements.
10. **Regulation 5(2)** requires that sufficient representatives are involved so that local persons are adequately represented by the panel. Again it is primarily the local authority that decides whether this test is met (see the words “in the opinion of the authority” in regulation 5(2)). Again any opinion which a local authority holds in this regard will be need to reasonable.
11. Paragraphs (3) and (4) of regulation 5 contain what we think is a necessary proviso to the requirement in regulation 5(2). Clearly it is right that local authorities make genuine efforts to involve representatives of all groups of local persons in panels, but as a matter of simple practicality a local authority cannot require representatives of particular groups to participate in a panel if they are unwilling to do so.
12. Paragraphs (3) and (4) of regulation 5 provide, therefore, that where a local authority takes reasonable steps to involve representatives of a group in a panel, there is no breach of regulation 5 merely because no representatives of that group become so involved.
13. It is worth making the point that we consider there is nothing in the Act or the Regulations which prevents a local authority from using more than one panel. The operative provisions in the Act and the Regulations refer to “panel” in the singular, but by virtue of section 6(c) of the Interpretation Act 1978 we consider that these references include the plural.
14. **Regulation 6** requires the selector to prepare a report which must be sent to the Secretary of State at the same time as the short-list of proposals. The short-list will contain the proposals that the selector has chosen. The report will contain the following additional information-
 - the proposals that the selector has rejected, and
 - the selector’s reasons for its decisions.

We consider that it is important for the Secretary of State to have this information so that she can consider the short-list properly and give reasons for the decisions she makes.

v. Annex 2: Draft Guidance: Proposals by local authorities

The context

1. The Sustainable Communities Act 2007 ('the Act') introduces a new procedure for local authorities to make proposals to the Secretary of State that they believe would contribute to promoting the sustainability of their local communities. Panels of representatives ('panels') are an important part of that procedure.
2. This document contains guidance about certain aspects of this procedure. In particular, in accordance with section 5(5)(a) of the Act guidance is given about the inclusion of persons from under-represented groups in panels.
3. The procedure for making proposals under the Act needs to be seen in the wider context of the fundamentally changed relationship between central government and local authorities and their partners introduced in the Local Government White Paper 2006 and the Local Government and Public Involvement in Health Act 2007. The Statutory Guidance explains in more detail what this new local performance framework will mean in practice. It is entitled *Creating Strong, Safe and Prosperous Communities* and consultation has recently finished. It is our intention to link the final versions of these two sets of guidance.
4. *Creating Strong, Safe and Prosperous Communities* covers:
 - Local Strategic Partnerships and their key role in developing a shared set of priorities and co-ordinating delivery against them;
 - Sustainable Community Strategies which set out that shared vision;
 - The new Local Area Agreements that form the heart of the new local performance framework and are the only place in which central government will agree targets with local government and its partners;
 - The new duty to involve which will ensure that local people have greater opportunities to influence decision-making;
 - The continuing duty to secure best value and what this means for collective activity to deliver on an area's shared priorities.

The following is the text of the draft Guidance:

Inclusion of persons from under-represented groups

- a. The intention behind section 5(5)(a) of the Act is to ensure that representatives of persons from under-represented groups are included on panels. This guidance describes the reasonable steps that local authorities should take to do so.
- b. Following the principle that local authorities are best placed to know which groups are under-represented in their area and how best to engage them, this guidance does not prescribe which groups should be included, how panels should be constituted or how many panels a local authority may choose to establish or recognise.
- c. In order to ensure that they have taken reasonable steps to identify and include representatives from under-represented groups local authorities should, if they are establishing a new panel:
 - Identify communities of interest in their area and ensure that people who are broadly representative of these groups are invited to join the panel.
 - Work with council colleagues, third sector representative groups and other agencies providing services to individuals and groups to take a view on which communities of interest may be under-represented in civic and political activity, in particular those who are hardest to reach, and invite people who are representative of these communities to join the panel.
 - View, once the panel is established, as to whether under-represented groups are sufficiently represented. Local authorities may establish their own criteria to determine whether or not this is the case. For example, subject to sufficient willing representatives being available, they may notionally allocate a certain number of places on the panel to people who represent the interests of under-represented groups. Alternatively, provided there are willing representatives they may identify particular under-represented groups that they believe ought to be represented in their own right on the panel.
- d. Local authorities may choose to recognise an existing panel or panels rather than establish a new panel. If they do so, then they will need to take the same steps as described above to ensure that they have taken reasonable steps to identify and include representatives from under-represented groups.

- e. Local authorities may also choose to establish or to recognise more than one panel. Again, if they do so, then they will need to take the same steps as described above to ensure that they have taken reasonable steps to identify and include representatives from under-represented groups.

Definitions

- f. **“Local person”** refers to those likely to be affected by, or interested in, a particular proposal. It should be noted that the term “local persons” is not simply a reference to local residents. It also covers those who work or study in the area (including those who work for the authority); visitors; service users; local third sector groups; businesses; bodies such as parish councils; and anyone else likely to be affected by, or interested in, the proposal.
- g. **“Panel”** means a panel constituted in accordance with the regulations required under section 5(1). The Act requires local authorities before making any proposal to establish or recognise a panel of representatives of local persons and consult it about the proposal.
- h. While the Act requires local authorities to establish or recognise a panel, it does not prescribe the number of panels, the make-up of panels or the way in which local authorities must consult their panels. This is because circumstances vary between each area and local authorities are best placed to determine how to engage local people.
- i. In many cases local authorities will already have established panels which meet the requirements of the Act. Most local authorities already consult panels of local people to help identify and shape their priorities. In addition, the new “duty to involve”, in section 138 of the Local Government and Public Involvement in Health Act 2007 requires authorities to take those steps they consider appropriate to involve representatives of local persons in the exercise of any of their functions, where they consider it appropriate to do so.
- j. There are a range of existing requirements on authorities to engage with users or citizens, including the new “duty to involve”. The requirement to consult panels does not replace these existing requirements. Instead, it needs to be considered alongside them, i.e. authorities need to determine how best to ensure that they engage local people in a consistent, coherent and effective way. This may well mean, for example, that when a local authority consults local people on the development of its Sustainable Community Strategy it may also consult about proposals to be made under the Act.

- k. **“Representatives of local persons”** means, in relation to local persons, a person who appears to the local authority to be representative of the local persons. The phrase “representatives of local persons” refers to a mix of “local persons”, ie a selection of the individuals, groups or organisations the authority considers likely to be affected by, or have an interest in the authority function. In this context the term “representative” is not restricted to formally elected or nominated members of the community, such as councillors.
- l. **“Under-represented groups”** means, in relation to a local authority, those groups of local persons who in the opinion of the local authority are under-represented in civic and political activity in the authority’s area. This definition recognises that people may be under-represented because they are part of a group within society which is under-represented in civic and political activity or because their personal circumstances. Ensuring that local authorities seek the views of such people is one way to remedy their under-representation.
- m. We recognise that many authorities are well aware of the need to engage a diverse range of groups within the community. This will vary in each area, and it is for local authorities to determine which people are under-represented in their area. It is particularly important that in establishing or recognising panels, local authorities include representatives from all relevant parts of the community – including those who are hardest to reach.

vi. Annex 3: A step-by-step guide to the Sustainable Communities Act

Section 1: Sustainability of local communities

The aim of the Act

1. Section 1 describes the principal aim of the Act as being to promote the sustainability of local communities. In the Act, references to promoting the sustainability of local communities are references to encouraging the economic, social or environmental well-being of the authority's area, or part of its area. This includes participation in civic and political activity.
2. Section 1 was written in this way to reflect the well-being powers that local authorities were granted by the Local Government Act of 2000. The reason for making this link is to ensure that the Act supports the role of local authorities as community leaders and contributes to the broader agenda for partnership working at local level, including the development of Sustainable Community Strategies and the negotiation of Local Area Agreements.

The power of well-being

3. The well-being power enables local authorities to do anything they consider likely to promote or improve the economic, social or environmental well-being of their area. The breadth of the power is such that councils can regard it as a 'power of first resort'. Rather than searching for a specific power elsewhere in statute in order to take a particular action, councils can instead look to the well-being power in the first instance; if what they propose to do is likely to promote or improve the well-being in their area and does not involve raising money. And if what they propose is neither explicitly prohibited, nor explicitly subject to limitations and restrictions, on the face of other legislation then a council can proceed.
4. The references to well-being are designed to be inclusive and are deliberately drawn broadly. This means that there is a very wide range of activity which falls within the scope of the Act. It is for local authorities - and local people - to make the case for which activities they think will contribute to the economic, social and environment well-being of their area when making proposals under section 2 of the Act.

Section 2: Proposals by local authorities

Invitation to make proposals

5. Section 2 describes one of the key new measures introduced by the Act. It requires the Secretary of State to invite local authorities to make proposals which they consider would contribute to promoting the sustainability of local communities. Other than the reference to sustainability there is no limit placed on the types of proposals that local authorities can make. The details of how these proposals are to be made are covered in subsequent sections.

Transfer of functions from one body to another

6. Section 2 also states that proposals may include a request for a transfer of functions from one body to another. Broadly speaking, this provision recognises that local authorities may believe that the functions of some public bodies may be better performed by another. They may, therefore, propose that those functions be transferred. This may be a transfer from a national body to a local body, or it could be a transfer from one local body to another. Clearly, if a local authority decides to request that the functions of one body are transferred to another they may also request that responsibility for the funding that is linked to that function is also transferred.
7. If a local authority makes such a proposal it must first consult both the body which currently performs the function and the body which the local authority proposes to transfer the function to. The functions that could be in scope are limited only by the principal aim of the Act, which is to promote the sustainability of local communities.

Matters in the Schedule

8. Before it makes a proposal a local authority must have regard to the matters specified in the Schedule to the Act. "Having regard to" means that the local authority needs to consider or take into account these matters. The matters described in the Act's Schedule reflect some of the key concerns of Local Works and its partners. They are designed to help local authorities and their residents form a view of the types of activity that could promote the sustainability of their local community.

Timing of first invitation

9. The Secretary of State must issue the first invitation to local authorities to make proposals on or before 22 October 2008, which is one year after the Act was passed. While the Act does not specify a time at which the Secretary of State must issue further invitations, the intention is to do periodically. The Government will work with the local government sector to agree the frequency and timing of further invitations.

Section 3: Decision on short-list

Appointment of a “selector”

10. Section 3 requires that before inviting proposals the Secretary of State must appoint a “selector” to consider the proposals. The selector must represent the interests of local authorities. The Secretary of State envisages appointing the Local Government Association as the selector. The selector must draw up a short-list of proposals and it must do so in co-operation with the Secretary of State. The selector must follow the procedure laid down in regulations (see section 5 below).

Co-operation between the Secretary of State and the selector

11. On receiving the short-list the Secretary of State must decide which of the proposals should be implemented. Before doing so, the Secretary of State must consult the selector and try to reach agreement about which of the proposals to implement. Although the Secretary of State and the selector must try to reach agreement, the final decision on whether or not to implement any proposal rests with the Secretary of State.

Section 4: Action plans

Publication of decisions

12. Section 4 requires the Secretary of State to publish the decision under section 3, and the reasons for it. The Secretary of State must also publish a statement of the action they propose to take to implement any proposal. This statement will be known as an “action plan”.

Reports to Parliament

13. Each year the Secretary of State must publish and lay before Parliament a report which describes the progress that has been made in relation to each action plan.

Section 5: Proposals: regulations

Regulations

14. Section 5 requires the Secretary of State to make regulations about the procedure to be followed by local authorities and the selector in relation to proposals. Before making regulations the Secretary of State must consult the selector – and others who the Secretary of State believes represent the interests of local authorities – on their contents.

14.1. The regulations **may**:

- specify, or authorise the selector to specify, steps to be taken by a local authority before making proposals;
- specify steps to be taken by the selector in considering the proposals and drawing up the short-list;
- require the selector to prepare and provide a report on the proposals.

14.2. The regulations **must**:

- require a local authority, before making any proposal, to establish or recognise a panel of representatives of local persons and consult it about the proposal;
- require a local authority to try to reach agreement about proposals with the panel;
- require a local authority to have regard to any guidance issued by the Secretary of State – see below

15. The regulations may include requirements intended to ensure the clarity, workability and quality of the overall process. The objective is to design a system that captures the best ideas from communities.

Guidance

16. The Act requires local authorities to consult and try to reach agreement with local people via a panel of representatives before they make a proposal. Beyond this requirement, the Act does not specify how local authorities should consult or who they should consult.

17. The Secretary of State is, however, required to issue guidance to local authorities relating to the proposals. This:

- **must** include guidance on the inclusion of persons from under-represented groups; and
- **may** include guidance about establishing and consulting a panel of local representatives.

18. Before issuing this guidance the Secretary of State must consult local authorities – or persons who represent the interests of local authorities – on their contents.

Definitions

19. The Act defines what is meant by:

- **local** person: a person who is likely to be affected by or interested in a proposal
- panel: a panel constituted in accordance with the regulations made by the Secretary of State
- representative: a person who appears to the local authority to be representative of local persons
- **under-represented groups:** to be defined in the regulations.

Links to the new “duty to involve”

20. Aspects of this section are very similar to the new ‘duty to involve’ which applies to best value authorities, introduced in the Local Government and Public Involvement in Health Act 2007. Best value authorities are defined in the Local Government Act 1999. The duty to involve requires best value authorities to inform, consult or involve representatives of local people in the exercise of their functions. Where authorities are proposing to use panels as part of their implementation of the duty to involve, they may find it sensible to use the same panels in relation to the Sustainable Communities Act where the panels meet the requirements of the Sustainable Communities Act.

Section 6: Local spending reports

Local spending reports

21. Section 6 requires the Secretary of State to make arrangements for the production of local spending reports. A local spending report provides information about public expenditure in relation to a particular area. This will help promote the sustainability of local communities by providing access to high quality information about the public funding that is spent in the area.

Arrangements

22. The Act requires the Secretary of State to consult on the arrangements but leaves discretion about the details to the Secretary of State. It does not specify what information must be included in a report, or the way in which the information must be presented. Bodies whose expenditure may be included in the local spending report include local authorities, government departments and any other person exercising public functions. The area covered by a report must be one or more local authority areas, one or more parts of a local authority area or any combination of these. Reports can cover past, current or future expenditure and the Secretary of State can provide different reports for different areas. The first arrangements must be made on or before 22 April 2009, which is 18 months after the Act was passed, but we intend to do so well before this date. We plan to update the information provided in local spending reports as it becomes available.

Purpose

23. The aim of this section is to support local authorities, their partners and local people in their work to promote local sustainability. This provision will inform local authorities' consultations with local people, strengthen local democracy and enhance the operation of the new Local Area Agreements by ensuring that there is greater accountability and transparency. We intend to ensure that local spending reports are closely linked with the regular and accessible information on local services that we have committed to provide for local communities.
24. Local spending reports will enable local authorities, their partners and communities to take better informed decisions about the priorities they choose to pursue to promote the sustainability of their local community. They will also enable local people and local authorities to identify which functions (and funding) they might propose should be transferred from one body to another.
25. While the aim behind local spending reports is to identify where public money is spent, it will not be possible or cost effective to map all public expenditure. For example, some public funding supports services which are not geographically specific or are used by people from a number of local authority areas.

Section 7: Sustainable community strategy

26. Section 7 simply amends existing legislation to rename “community strategies” as “sustainable community strategies”. This section has no further effect. The aim of this provision is to highlight the key role these strategies play in promoting sustainability.

Sections 8, 9 and 10

27. These sections contain further definitions (for example of what “local authority” means in this Act), enable funding to be paid put to carry out the functions of the Act, and define the geographical coverage of the Act.

Schedule

28. The Schedule describes a series of matters to which local authorities must have regard (see above). These are issues which members of the coalition led by Local Works believe have a significant impact on the sustainability of local communities. The Schedule is not intended to be exhaustive or exclusive. It is intended to give local authorities and local people an indication of the type of matters they may wish to address in their proposals.

