CIH briefing on the Localism Bill

January 2011
Introduction

On 13th December 2010, the government published the Localism Bill which sets out the legislative framework for government proposals previously announced in the Budget, Comprehensive Spending Review and in the government paper, Local decision: a fairer future for social housing.

At the heart of the Bill is the government's stated objective to decentralise power from the centre to local government and local communities. The measures contained in the Bill will have significant implications for social housing and local government across many areas as they include reform of social housing, the planning system and council house finance. This will affect the business and practice of housing organisations, professionals and their partners both strategically and operationally and also the interaction with their tenants and residents and local communities.

This CIH briefing sets out the key features of the legislative framework which are relevant to housing and communities. The briefing, a unique and valuable resource, offers more than a narrative of the Bill as it provides a comprehensive yet clear summary of the main legislative procedures which local government and housing organisations will need to operate by.

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Local government

Local authority’s general power of competence
- Local authorities will have a general power of competence so that they have the same power to act that an individual with full capacity generally has so that the power may be used in innovative ways
- The general power does not enable local authorities to do anything which is prohibited or restricted by law
- The general power does not enable local authorities to make arrangements for the discharge of its functions or for governance beyond what currently exists
- Local authorities are able to charge for a service that is not a statutory provision
- The local authority is restricted in what it does for commercial purposes using the general power
- when the local authority does things for a commercial purpose it must do so through a company
- local authority means: a county council in England; a district council; a London borough council; the Common Council of the City of London in its capacity as a local authority; the Council of the Isles of Scilly or an eligible parish council.

Governance
- Local authorities in England can operate different forms of governance which include executive arrangements, a return to the committee system of governance or prescribed arrangements.

Elected Mayors
- Areas in England will have a right to have an elected Mayor – an individual elected by local government electors in the local authority area
- Following Royal Assent the Government will make an order so that council leaders in Birmingham, Bradford, Bristol, Coventry, Leeds, Leicester, Liverpool, Manchester, Newcastle upon Tyne, Nottingham, Sheffield and Wakefield would become shadow mayors and be given the powers available to existing council mayors
- These cities and any other area that calls for a mayor will hold mayoral referendums on local Election Day in May 2012
- For areas that vote in favour, mayoral election would then be held on local Election Day in May 2013
- Mayors will be elected for four year terms.

Community empowerment

Local referendums
Duty to hold local referendum

- A principal local authority must hold a referendum if certain conditions are met which include a petition that complies with certain requirements and that the authority determines that it is appropriate to hold a referendum.

- The requirements for a petition for local referendum include: it is signed by the requisite percentage of people (5%); the petition contains the question that petitioners want to be asked in the referendum and it is held in a relevant area of the local authority.

- The local authority can however, hold a local referendum if the requisite number of signatures is not reached.

- A signatory to a petition must state their name and their address within the relevant area and date it which must be within six months ending with the date the local authority receives the petition.

- The local authority may provide an electronic facility for making petitions.

- A relevant area includes: the whole of the authority’s area; or in the case of an authority other than the Greater London Authority, a part of the authority’s area consisting of i) a single electoral area or ii) two or more electoral areas, each of which adjoins at least one other electoral area in the part.

- A principal local authority may determine that it is not appropriate to hold a local referendum on the following grounds including:
  - the authority thinks that action taken to promote or oppose the referendum question is likely to lead to contravention of an enactment or rule of law.
  - the authority thinks that the referendum is not a local matter, i.e. it does not relates to the economic, social or environmental well-being of the area; it does not have a particular connection to the area and the authority cannot influence a matter in their area.

- If a local authority has determined that it is appropriate to hold a referendum and it has resolved that it should take place, the authority must make arrangements for the referendum to take place in accordance with certain requirements.

- The principal local authority must decide the question to be asked in the local referendum, the question being the one contained in either the petition, the request for petition or the resolution for the referendum though it may substitute its own wording if the question is considered misleading.

- The local authority decides the date for the referendum which must not be held within two months from the trigger date but must be held within 12 months from the trigger date. The trigger date is the date on which the local authority:
  - received the petition that led to the referendum
  - Received the request that led to the referendum
  - Passed the resolution that led to the referendum.

- The local authority must publicise that the referendum is to take place, the date of it and the question to be asked.
Those eligible to vote in the referendum are those people who would be eligible to vote for members in the area in which the referendum is taking place and are registered in the register of local government electors at an address in the referendum area.

Regulations may make provisions about: when, where and how voting in a local referendum is to take place and how the votes should be counted.

The principal local authority must publish the results of the referendum in what it believes to be an appropriate way and must also consider what steps (if any) it will take regarding the referendum.

The Secretary of State may by regulations make provision about the holding of polls or referendums by parish councils.

**Community right to challenge**
- The community right to challenge gives a relevant body—voluntary and community bodies, parish councils, local authority employees and social enterprises— a right to express an interest in running a service or assisting to provide a service provided by the local authority.
- The local authority must respond to the expression of interest and consider whether by accepting the expression of interest it would promote or improve the social, economic and environmental well-being of the authority’s area.
- If the local authority accepts the expression of interest it must carry out a procurement exercise relating to the service.
- The relevant authority can modify the expression of interest if it thinks that in its original form it is unacceptable and then only with agreement of the relevant body who has submitted it.
- The relevant authority may reject the expression of interest only on one or more grounds specified by the Secretary of State by regulations.

**Community right to buy**

- A local authority in England and Wales must maintain a list of land in its area that is land of community value known as the list of assets of community value.
- Assets included in the list must be removed from the list five years after first appearing on it.
- The local authority can determine the form and content of the list subject to any specific requirements set out in regulations.
- Regulations made by an appropriate authority (the Secretary of State in England or in Wales the Welsh Minister) will determine if a building or other land is land of community value.
- Land which is of community value may be included by a local authority in its lists of assets in response to a community nomination which can be nominated by a parish council in England, by a community council in Wales or by a person specified in regulations made by an appropriate authority.
• Land can also be determined as land of community value in response to a nomination that is not a community nomination and by the local authority acting on its own initiative
• The local authority must consider and accept a nomination if the nominated land is in the authority’s area and is of community value
• A local authority must publish its list of assets of community value and its list of land nominated by unsuccessful community nominations and make both lists available for free inspection at a place in its area
• A local authority must also provide a free copy of the list of assets of community value and the list of land nominated by unsuccessful community nominations to any person who asks for either copy
• An owner of land included in the list of assets of community value can only dispose of the land under certain conditions: the owner has notified the local authority of their intention to enter into a relevant disposal; the interim or full moratorium periods have ended that the protected period has not ended
• The Secretary of State and the Welsh Minister have the power in regulations to specify the lengths of the interim, full and protected periods
• A relevant disposal is one with vacant possession of a freehold estate or the grant, assignment or the surrender of a lease of at least 25 years
• The owner of any listed land will be either the freeholder or qualifying leaseholder who can give vacant possession to a purchaser – a qualifying leasehold estate must have been granted for at least 25 years
• The Secretary of State and the Welsh Minister have the power to make compensation payments.

Referendums relating to council tax increases
• The public will be given the power to approve or veto excessive council tax rises – any local authority and larger parishes setting an increase above a ceiling set by the Secretary of State and approved by the House of Commons will trigger a referendum of all registered electors in their area
• A billing authority, a major precepting authority and a local precepting authority have a duty to determine whether its relevant basic amount of council tax for a financial year is excessive and if it is excessive the principles in relation to a referendum apply
• A set of principles determined by the Secretary of State will be used to decide if the local authority’s relevant basic amount of council tax is excessive and must include a comparison between the authority’s relevant basic amount of council tax for the year under consideration and the relevant basic amount of council tax in the previous year
• The Secretary of State may also determine principles for categories of local authorities and the principles must apply for all authorities in the same category. Should an authority not fall within any of the categories, then it’s relevant basic amount of council tax cannot be excessive
The Secretary of State may make a report specifying an alternative notional amount which is an amount which should be used as the basis of any comparison in place of the authority’s relevant basic amount of council tax for the previous year.

Planning reform

Plans and strategies
- The Bill provides for the abolition of Regional Strategies through the repeal of primary legislation which sets the basis for Regional Strategies and the bodies responsible for maintaining those strategies.
- Local planning authorities and prescribed persons and public bodies will have a duty to co-operate in relation to the planning of sustainable development by engaging constructively and actively in an on-going process to the preparation of development plan documents, other local development documents and other activities that support the planning of development.

Local Plan Reform
- Independent planning inspectors will continue to assess development plan documents at public examination and inspectors will only be able to suggest changes if requested by the local authority.
- Local authorities will be able to suggest changes during the examination and withdraw development plan documents before their adoption without seeking clearance from central Government.
- Local authorities will also have to publish up to date information direct to the public on what planning documents they are preparing while central government powers to direct changes will be more limited.

Community Infrastructure Levy
- Local authorities are able to set their own charges which must comply with drafting requirements including the use of appropriate evidence.
- The charge set by local authorities will be subject to examination by independent examiners who must consider whether the drafting requirements have been complied with and can reject the draft charging schedule, recommend modifications to remedy non-compliance or recommend approval of the draft.
- CIL can be used to fund initial infrastructure costs and for the ongoing infrastructure costs.
- A requirement that some of the CIL monies are passed to neighbourhoods in which development has taken place.
- Other regulations make provision for the timing of payments, monitoring and accounting.
Neighbourhood planning

Neighbourhood development orders

- Neighbourhood development orders will enable local communities to allow development in their neighbourhood area without the need for planning permission if supported by 50 percent of people in a local referendum.
- Parish councils and neighbourhood forums (as designated by local authorities) can initiate the process to require local planning authorities in England to make a neighbourhood development order.
- The authority does not have to make an order if it considers it to be in breach or incompatible with any EU obligation or any of their rights under the European Convention of Human Rights.
- Parish councils and designated bodies are authorised to act on behalf of their neighbourhood areas for the purposes of obtaining a neighbourhood development order.
- A local planning authority has the power to designate a neighbourhood area where either a parish council or neighbourhood forum makes an application for an area to be designated as such by the local authority.
- A local planning authority must give parish councils and neighbourhood forums appropriate advice or assistance (but not financial assistance) to facilitate the making of proposals for neighbourhood development plans.
- Before a proposal for an order is submitted to a local planning authority, regulations can make provisions for compliance with certain requirements including: giving notice and publicity and consultation with and participation by the public.
- When the local planning authority is satisfied that the proposal for the neighbourhood development order meets all required measures, the draft order and related documents must be submitted for independent examination.
- The independent examiner must consider if the draft order meets some basic conditions including: having regard to national policies and advice issued by the Secretary of State and if it conforms with the strategic policies contained in the authority’s development plan for the area or any part of that area.
- The examiner must make a report on the draft order recommending that it is: submitted to a referendum; modified to enable it to go to referendum or that the proposal for the order is refused.
- A local planning authority must hold a referendum on the making of a neighbourhood development order if it is satisfied that the draft order meets all the basic conditions, is compatible with the Convention rights and all other provisions.
- If the authority’s decision differs to the examiners because of new information or because it thinks differently on a particular fact the authority must notify prescribed persons and invite representations and may refer the issue to an independent examination.
- The referendum as a minimum must take place in the neighbourhood area which relates to the proposed order but the authority can extend
A relevant council (district council, London borough council, metropolitan district council, county council in which there is no district council in England) must make arrangements for the referendum to take place.

Eligible voters include any person entitled to vote in an election of any councillors of a relevant council any of whose area is in the referendum area and the person’s qualifying address for the election is in the referendum area.

Regulations may make provision about referendums including on: the date by which the referendum must be held by, as to when, where and how voting in the referendum is to take place and about certification on the numbers of voters and the number of those voting in favour of a neighbourhood development order.

An order can be made in relation: to all of the land in a neighbourhood area; part of the area or a particular site within the area.

Planning permission granted by a neighbourhood development order may be granted: unconditionally or subject to conditions and limitations specified in the order.

The Secretary of State is able by order to revoke a neighbourhood development order and the local authority if it has the consent of the Secretary of State.

Neighbourhood development plans
- A neighbourhood development plan sets out the policies in relation to the development and use of land in a particular neighbourhood area.
- A parish council or a designated neighbourhood forum is entitled to initiate a process to require a local planning authority in England to make a neighbourhood development plan.
- A local planning authority must make a plan if a referendum on a neighbourhood planning order has been supported by more than 50 per cent of the local community.
- A plan must set out the time period for when it is valid and a plan is applicable to only one neighbourhood area and cannot include provision around excluded development.
- The authority is exempt from making a plan if the making of it breaches or is incompatible with any EU obligation or any of the Convention rights.
- The Secretary of State can make regulations on neighbourhood development plans that: restrict the provision that may be included in plans about the use of land; require plans to include matters which are prescribed in the regulations and also prescribe the form of neighbourhood development plans.

Community right to build orders
• A community right to build order will give local communities the power to take forward development in their area without the need for planning permission subject to meeting certain safeguards and securing 50 per cent support of the community through a referendum.

• A Community right to build order is a particular type of neighbourhood development order and is considered as one when:
  o An order is made following a proposal from a community organisation
  o the order grants planning permission for specified development in relation to a specified site in the specified neighbourhood area
  o the specified development does not exceed prescribed limits

• A community organisation is one which is set up to specifically to help meet the social, economic and environmental well-being of persons that live or want to live in a particular area.

• A community organisation when seeking a community right to build order will be authorised to act on behalf of a neighbourhood area when at the time the proposal for the order is made, more than half of the members of the organisation live in the neighbourhood area.

• An authority can decline a proposal for an order if another proposal has been made and both proposals are similar in terms of development and site and the other proposal has yet to be considered.

• A local planning authority must refuse a proposal for a community right to build order when the specified development falls within Annex 2 to the EIA directive and is likely to have significant effects on the environment because of factors such as its nature, size or location.

Charges for meeting costs relating to neighbourhood planning
• The Secretary of State with Treasury permission can make regulations allowing charges to be made to cover the expenses of local planning authorities in meeting their neighbourhood planning functions.

Financial assistance in relation to neighbourhood planning
• The Secretary of State may provide or make arrangements for financial assistance to any body or other person to help publicise, promote or to make proposals for a neighbourhood development order or neighbourhood development plan.
• Financial assistance means the assistance by any means including a loan or giving a guarantee or indemnity.

Consultation

Consultation before applying for planning permission
• A prospective developer proposing to make a planning application for certain types of developments specified in a development order must consult on the proposed application.
• The consultation must be carried out so that the majority of people who live near to the proposed development are aware of it
• The prospective developer must have regard to any advice given by the local planning authority and also to responses received to the consultation when deciding whether to make any changes to the application before submitting it
• Provisions can be made by a development order on a proposed application to include for example, provision around publicising the proposed application and the ways of responding to the publicity.

**Nationally significant infrastructure projects**

**Abolition of Infrastructure Planning Commission**
• The Bill abolishes the Infrastructure Planning Commission and transfers its property, rights and liabilities to the Secretary of the State
• The Secretary of State can give direction on applications or proposed applications received by the Commission following the abolition of the Commission.

**National policy statements**
• A national policy statement is designated as one following consultation, publicity and parliamentary scrutiny and approval from the House of Commons
• Likewise, a national policy statement may be amended only following consultation, publicity and parliamentary scrutiny as well as approval from the House of Commons
• Consultation and scrutiny requirements are considered to have been complied with if they were complied with in an earlier proposal and the Secretary of State is of the view that the modifications do not materially affect the policy set out in the earlier proposal.

**Secretary of State’s directions in relation to projects of national significance**
• The Secretary of State is able to direct that a development is to be treated as a development for which development consent is required
• this is exercisable only in response to a qualifying (written) request which specifies the development concerned.

**Pre-application consultation with local authorities**
• An applicant is required to consult certain local authorities about a proposed application for an order granting development consent
• Where a development is sited in a two-tier local authority area, lower tier district authorities will only need to be consulted if they share a boundary with the lower-tier district authority in which the development is sited.
Reform of duties to publicise community consultation statement

- An applicant must make available a statement for inspection for local communities setting out how the local community will be consulted
- The applicant must publish a notice in a local newspaper stating where and when the statement can be inspected.

Other Planning matters

Powers of the National Assembly for Wales

- The National Assembly for Wales will be able to pass laws (known as Assembly Measures) in relation to various aspects of development management in Wales, including applications for planning permission, the exercise of local planning authorities' functions and enforcement of restrictions under town and country planning legislation.

Housing

Allocations

- Local authorities will have the freedom to determine who should qualify to go on their housing waiting list. The rules on eligibility will continue to be set centrally
- There will be no changes i.e. the new rules will not apply to existing secure, introductory or assured tenants
- The new rules will apply to transferring tenants who are given reasonable preference; existing social tenants who are not in housing need will be moved out of the allocation rules
- Local authorities should notify applicants that are ineligible for an allocation of their decision and the grounds for it
- Local authorities must have a scheme - their allocation scheme – which determines priorities and the procedure to be followed, including the descriptions of persons who take decisions
- The scheme should be framed in such a way that it secures reasonable preference for:
  - people who are homeless
  - people who are owed a duty by any local housing authority
  - people occupying insanitary or overcrowded housing or living in unsatisfactory housing conditions
  - people who need to move on medical or welfare grounds (including any grounds relating to a disability)
  - people who need to move to a particular locality in the district of the authority, where failure to meet that need would cause hardship (to themselves or to others)
- The scheme may also be framed so as to give additional preference to particular descriptions of people from above (described as persons with urgent housing needs).
- Other factors which the scheme may allow to be taken into account include:
the financial resources available to a person to meet his housing costs
- any behaviour of a person (or of a member of his household) which affects his suitability to be a tenant
- any local connection between a person and the authority’s district

- An applicant for an allocation:
  - has the right to request information;
    - on how his application is likely to be treated under the scheme (including whether he is likely to be given preference
    - whether housing appropriate to his needs is likely to be made available to him and, if so, how long it is likely to be before such accommodation becomes available
  - has the right to request information on any decision about the facts taken into account when considering whether to allocate housing accommodation to him

- Before adopting an allocation scheme or modifying it a local authority must consult private registered providers with which it has nomination arrangements.

**Homelessness**

- The Bill will give local authorities the flexibility to bring the homelessness duty to an end with an offer of accommodation – which the authority is satisfied is suitable for the applicant - in the private rented sector without requiring the household’s agreement. Tenancies must for a minimum fixed term of 12 months
- An offer of private sector housing will only bring the duty to an end if the accommodation is suitable for the whole household (same as now).
- The duty would recur if, within 2 years, the applicant becomes homeless again through no fault of his or her own and re-applies
- When formulating or modifying a homelessness strategy, a local authority shall have regard to:
  - its allocation scheme
  - its tenancy strategy
  - in the case of an authority that is a London borough council, the London housing strategy.

**Social housing: Tenure reform**

**Tenancy strategies**

- The bill will place a new duty on local authority to publish a tenancy strategy setting out, in high-level terms, the matters to which all registered providers should have regard when framing their own tenancy policies including:
  - the kinds of tenancies they grant
  - the circumstances in which they will grant a particular tenancy
  - where they grant tenancies for a certain term, the lengths of the terms
o the circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy

- A local authority must publish its tenancy strategy within 12 months of enactment
- Before adopting a tenancy strategy or modifying it the authority must consult with private registered providers and with other persons prescribed by the Secretary of State
- The Secretary of State may direct the social housing regulator to set a standard on tenure.

**Flexible tenancies**

- Local authorities have the power to offer flexible tenancies to new social tenants. A flexible tenancy is a secure tenancy of a fixed term (not less than two years).
- Tenants can request a review of a landlord’s decision as to the length of the term of the tenancy only on the basis that the length of the term does not accord with the landlord’s policy on the length of the terms of the flexible tenancies it grants
- A request for a review must be made within 21 days from the day on which the tenant first receives the offer or notice
- The Secretary of State may by regulations make provision about the procedure to be followed in connection with a review
- The right to improve and to be compensated for improvements will not apply to a flexible tenancy
- A tenancy that ceases to be an introductory tenancy and becomes a secure tenancy becomes a flexible tenancy when prior written notice has been served on the tenant advising them that the tenancy will become a flexible tenancy and specifying the length of the term of the tenancy
- When a flexible tenancy is demoted, the tenancy will revert to being a flexible tenancy on successful completion of the period of demotion.

**Other provisions relating to social housing tenancies**

- Existing secure and assured tenants will be able to retain a similar level of security on exchanging their property with a tenant of a secure tenancy that is a flexible tenancy, or an assured shorthold tenancy under the conditions that the existing tenancy is a secure tenancy that is not a flexible tenancy, or an assured tenancy which is not an assured shorthold tenancy. They must have requested in writing to their landlord
- Only spouses and partners have the right to succeed to a secure tenancy.
- Landlords can grant additional succession rights for assured tenancies. Tenancies commenced before these clauses come into force are not affected by these changes.
• If an assured shorthold tenancy becomes a Family Intervention Tenancy (FIT), and a new tenancy is granted after the FIT, then that tenancy will become an assured shorthold tenancy
• A court cannot make an order for possession of a property let by a private registered provider of social housing with a fixed term of at least two years, unless the landlord has given the tenant at least six months’ notice in writing stating that they do not intend to grant another tenancy and informing the tenant how they can obtain help and advice
• Tenants of private registered providers with assured shorthold tenancies will have the right to acquire their property subject to the same conditions applicable to assured tenants and further exclusions made by way of regulation
• Repairing obligations on the landlord are extended to include flexible tenancies and assured shorthold tenancies granted by registered providers with a fixed term of seven years or more.

Housing finance
• The Housing Revenue Account Subsidy system will end and councils that operate a Housing Revenue Account will keep all of their rental income and use it to support their own housing stock
• To implement the new system some LAs will be required to make a payment to Government and others will receive a payment. A framework will be used to calculate the values of the payments, known as “the settlement payment”, the details of which will be provided in a determination by the Secretary of State
• The determination of the settlement may provide for an assumption about an amount whether or not the assumption is, or is likely to be, borne out by events
• The Secretary of State can issue a further determination if there has been a change in any matter that was taken into account when the settlement payment was calculated
• The Secretary of State may charge a local authority interest, at rates and for periods of time defined by the Secretary of State, on any sum payable by the local authority that is not paid by a time determined under this section for its payment
• The Secretary of State can set a maximum amount of housing debt that can be held by each LHA
• The Secretary of State must consult with representatives of local government and relevant professional bodies as the Secretary of State thinks appropriate before making a determination.

Housing Mobility
• The regulator of social housing will have the power to set a standard for registered providers in respect of assisting tenants with regard to mutual exchanges
• Tenants who are shareholders of their landlord organisation can benefit from payments which will assist them to move out of their social rented property into owner occupation of another dwelling.

Regulation of social housing
• The Tenant Services Authority will be abolished and its functions transferred to the Homes and Communities Agency through the creation of a regulation committee
• The role of the regulator in relation to consumer matters will be different. This includes provision to ensure the regulator may only use its monitoring and enforcement powers if it has reasonable grounds to believe that there has been a serious failure affecting tenants (or if there is a risk that there will be such a failure without the intervention of the regulator).

Housing Ombudsman
• The way tenants can make complaints about their social landlord to a housing ombudsman will change
• A complaint to the housing ombudsman is duly made if presented in writing and by a referral from a member of the House of Commons, a Councillor or a designated tenant panel which is a group of tenants recognised by a social landlord for the purpose of referring complaints
• The Secretary of State has the power to authorise the housing ombudsman to apply to a court or tribunal for a determination against a social landlord to be made enforceable
• A unified service for investigating complaints about the provision of social housing will be created. Under existing arrangements tenants of a local housing authority make their complaints to the Local Government Ombudsman and tenants of private providers of social housing make their complaints to the Independent Housing Ombudsman. The Housing Ombudsman’s remit will be extended to cover local authorities in their capacity as registered providers or managers of housing services.

London

Housing and regeneration functions
• The GLA has the power to do anything which supports its three purposes of promoting economic development and wealth creation, promoting social development and improving the environment in Greater London. The GLA may therefore carry on activities in the field of economic development and regeneration, which the London Development Agency and HCA would otherwise have undertaken
• The bill gives the GLA the power to incur expenditure in providing housing or other service – removing a previous prohibition
• In addition to housing and regeneration functions the bill gives the GLA functions in relation to land
- It empowers the GLA to compulsorily acquire land and new rights over land for housing and regeneration purposes, subject to authorisation by the Secretary of State.
- It applies the standard procedural model to the compulsory acquisition of land by the GLA and makes provision for the extinguishment of private rights over land, with compensation to be paid.
- The bill enables the GLA to override easements; it enables the GLA to apply to the Secretary of State for a public right of way to be extinguished and prescribes the statutory procedure that must be followed; it enables the GLA to use land that is, or forms part of, a burial ground, consecrated land and other land connected to religious worship, and includes power for the Secretary of State to make regulations prescribing requirements about the disposal of such land and about the removal and reinterment of human remains.
- It makes provision for powers in relation to, and for, statutory undertakers including when notices can be served and the representations made to the Secretary of State and appropriate Minister for an extension or modification to the functions and obligations of statutory undertakers.
- The GLA may not dispose of land held for housing and regeneration purposes for less than the best consideration which can reasonably be obtained unless the Secretary of State consents (with the exception of certain disposals by way of a short tenancy). The Secretary of State may give consent, generally or specifically.
- The GLA may authorise a person to enter and survey land in connection with a proposal by the GLA to acquire that land or other land for housing and regeneration purposes, or a claim for compensation in respect of the acquisition of such land.
- The bill places duties on the GLA in relation to social housing when it acquires, constructs or converts any housing or land for use as low cost rental accommodation and when it disposes of housing or land, where it provides infrastructure or gives financial assistance, on condition that low cost rental accommodation is provided. This is to ensure that when the accommodation is made available for rent the landlord is a “relevant provider of social housing” and thus subject to regulation. In relation to social housing located in Greater London, repayments of grant are made to the GLA and not the HCA and that repaid grant monies received by the GLA may only be spent by it on providing social housing financial assistance to registered providers.
- The Regulator is given the power to direct the GLA not to give financial assistance in connection with social housing to a specified registered provider. This is to prevent that financial assistance is given to a registered provider where there are serious concerns about mismanagement or about the viability of the organisation.
- It empowers the GLA to deal with certain property, rights and liabilities, previously held by the HCA or an urban development corporation, or prior to being held by the HCA, by the Commission for the New Towns, and which are transferred to the GLA.
• It provides that the Secretary of State may, with the consent of Treasury, pay grants to the GLA for its housing and regeneration functions. A grant may be paid in such instalments and at such times as the Secretary of State may determine, and may be subject to such conditions as he may determine.

London housing strategy
• The GLA is responsible for exercising housing functions in Greater London rather than the HCA

Modification to HCA functions
• The bill provides a definition of England in respect of the HCA’s objects which excludes Greater London.

Transfer of property of the HCA
• The Secretary of State may make a scheme transferring the property, rights and liabilities of the HCA or the Secretary of State to the GLA, a functional body, the Secretary of State, a London Borough or the Common Council of the City of London. The Secretary of State may also specify by order any other persons to whom the property, rights and liabilities may be transferred.

Abolition of the London Development Agency
• The LDA will be abolished on enactment
• The Secretary of State may make schemes for the transfer of the property, rights and liabilities of the LDA. A scheme may be made in favour of the GLA, a functional body, the Secretary of State, a London borough council, the Common Council of the City of London or any body specified by order made by the Secretary of State. The Secretary of State is required to consult the Mayor about the contents of a transfer scheme.

Economic development strategy for London
• The Mayor shall prepare and publish the “Economic development strategy for London”
• The Economic development strategy must contain an assessment of the economic conditions of London and the Mayor’s policies and proposals for the economic development and regeneration of London. In preparing the strategy, the Mayor is required to consult representatives of employers and employees in London. The functional bodies must have regard to the strategy in the exercise of their functions
• The Secretary of State may issue guidance about the matters to be covered by the strategy and issues to be taken into account in preparing or revising it. The bill also empowers the Secretary of State to direct the Mayor to revise the strategy if it is inconsistent with
General provision about transfer schemes

- This includes provision applying the Transfer of Undertakings (Protection of Employment) Regulations 2006 to contracts of employment transferred by a transfer scheme (whether or not they would otherwise be transferred under those Regulations). It also allows provision to be made in a transfer scheme to enable s36(3)(c) of the London Olympic Games and Paralympic Games Act 2006 to continue to apply to any land transferred: this is to ensure no enactment regulating the use of commons, open spaces or allotments prevents or restricts the use, for Olympic purposes, of land transferred.

Consequential provision

- The Secretary of State may make consequential, transitory or transitional provision or savings. An order may, in particular, provide for the continuation, of things started by or in relation to the HCA or the LDA, by the GLA or another recipient of property, rights and liabilities under a transfer scheme.

Mayoral development corporations

Establishment and areas

- The Mayor can designate any area of land in Greater London, including separate parcels of land, as a mayoral development area provided he has consulted the individuals and bodies specified in the Bill. If the Mayor designates a mayoral development area, the Mayor must publicise the designation and notify the Secretary of State of both the designation and the name of the Mayoral Development Corporation (MDC) for the area.
- If the Secretary of State is notified of the designation of a mayoral development area, the Secretary of State must establish an MDC for the area giving it the name notified by the Mayor. An MDC will be a body corporate
- The Mayor can alter the boundaries of a mayoral development area to exclude any area of land. Prior to this, the Mayor must consult the London Assembly and any other person the Mayor considers appropriate
- The Secretary of State may make a scheme transferring property, rights and liabilities of the persons specified in the Bill, once the Secretary of State has consulted with the persons concerned and the Mayor. The Mayor can make a scheme transferring the rights and liabilities of the Greater London Authority or a functional body, other than the MDC, to an MDC property.
Object and main power
- The object of an MDC’s is to secure the regeneration of its area. It may do anything it considers appropriate for that purpose or incidental purposes. An MDC can also have specific powers, which must be exercised for that purpose or incidental purposes.

Planning and infrastructure functions
- The MDC may become the LPA, for the purposes, separately or collectively, of plan-making, development control and neighbourhood planning.
- The MDC may make arrangements for the discharge of its development control functions in whole or part, by the relevant council(s). The MDC may also seek the relevant council(s) or councils’ assistance in the discharge of its plan-making functions.
- If an order establishing an MDC has been made, the Mayor may decide to remove an MDC’s planning functions or apply restrictions to their use.
- An MDC may provide or facilitate the provision of infrastructure. It may do so by way of acquisition, construction, conversion, improvement or repair.

Land functions
- An MDC may carry out or facilitate a range of specified activities including the regeneration or development of land and bringing about the effective use of land.
- An MDC can acquire land within its area or elsewhere by agreement. With the authorisation of the Secretary of State, and the prior consent of the Mayor, an MDC can acquire compulsorily land or new rights over land within its area or elsewhere within Greater London.
- An MDC has the powers to override easements and extinguish public rights of way, powers in relation to burial grounds and consecrated land, and powers in relation to, and for, statutory undertakers.
- Where an MDC wishes to extinguish rights of way, it should require the Mayor’s agreement.
- An MDC is not permitted to dispose of land for less than best consideration, unless the Mayor consents, but this does not apply to granting or assigning a short tenancy of seven years or less.
- An MDC can authorise a person to enter land in connection with a proposal by the MDC to acquire that land or other land, or a claim for compensation in respect to the acquisition of land; and exercise this power for the purposes of surveying land or estimating its value.

Other functions
- If street works in an MDC’s area are needed and involve a private street, the MDC can serve an adoption notice on the street works authority – making the street (or part of it) a highway maintainable at public expense. The authority may appeal against a notice and ask the Secretary of State to decide how to proceed.
• An MDC may carry on any business and, if the Mayor agrees, set up or take a stake in bodies corporate. MDC subsidiaries cannot take part in activities which MDCs themselves cannot. A subsidiary of an MDC cannot borrow from, or raise money by issuing shares or stock to, a person other than the MDC without the Mayor’s approval.
• With the Mayor’s consent, an MDC can give financial assistance to any person and in any form.
• The Mayor may decide, subject to prior consultation, that the power to grant discretionary relief from business rates should be transferred from the relevant local authorities to the MDC.

Dissolution
• The Mayor is obliged to review, from time to time, the continuing existence of an MDC.
• The Mayor can transfer any MDC property, rights or liabilities to: the Greater London Authority; a functional body of the Greater London Authority other than the MDC; or a London borough council; the Common Council of the City of London or any other body - with their agreement.
• The Mayor can ask the Secretary of State to revoke the order that established the MDC, provided the MDC has no property, rights or liabilities. The Secretary of State must make an order giving effect to any such request from the Mayor.

General
• The Mayor can following consultation, issue guidance or revoke or vary previous guidance to MDCs. An MDC must have regard to any guidance issued to it by the Mayor.
• The Mayor can give directions or revoke or vary previous general or specific directions to an MDC.
• The Mayor can give his consent unconditionally or subject to conditions; and generally or specifically. He may vary or revoke such consents, subject to various conditions and limitations.

Greater London Authority Governance
• Government Ministers have the power to delegate certain functions to the Mayor of London. The functions which can be delegated are those which do not consist of a power to make regulations or other instruments of a legislative character, or a power to set fees or charges and which the Secretary of State considers can appropriately be exercised by the Mayor. Section 409 of the GLA Act 1999 enables a Minister to transfer associated property, rights or liabilities and the bill amends that section to enable these to be transferred back if a delegation is revoked.
• The six statutory environmental strategies which the Mayor must publish are consolidated into a strategy known as “the London
The duty on the Mayor to publish four-yearly reports on the state of environment in Greater London is repealed

The Mayor when preparing a strategy must have regard to the need to ensure consistency with the UK’s EU obligations and other international obligations as well as national policies. The Mayor must also have regard to the strategies listed in section 41(1) of the GLA Act 1999

The duty on the Mayor to carry out a two-stage consultation process in relation to each of his statutory strategies, is removed by removing the obligation to consult the Assembly and functional bodies first, before conducting a wider public consultation

The London Assembly has the power to reject any of the Mayor’s statutory strategies if a two-thirds majority of Assembly members vote against its publication. No power of veto applies, however, if a change to a strategy is made to comply with a direction from the Secretary of State

The provisions of Part 5A of the Local Government Act 1972 are extended – they provide for access to meetings and documents of most local authorities, to Transport for London, bringing that body into line with the position of the Greater London Authority. The application of Part 5A to Transport for London is modified in two respects: the requirement to disclose the addresses of members is removed; and the requirement to list the titles of officers to whom functions are delegated is limited to those officers who have a function delegated to them directly by Transport for London or a committee of Transport for London (and does not include any further sub-delegations).

CIH is working for you

CIH is working actively with its members, the housing sector and other stakeholder to gather views, including through a survey and through a series of regional discussions on the proposed social housing reforms, to respond to government and to help shape the final programme for social housing reform. The Bill will receive its second reading in the House of Commons on 17th January 2011. We will also be working with parliamentarians as the Bill progresses through Parliament.

You can also share your thoughts and discuss the proposals with others using the discussion forum on our Housing Futures website.
Essential tools

CIH offers a range of analysis to help you understand the government’s proposed social housing reforms and how they could affect your tenants and your organisation. The following documents provide further analysis and information.

- Widening the rental housing market
- Allocating social housing: opportunities and challenges
- Tenant insight, a guide for landlords
- Rethinking housing
- HRA consultancy services
- Housing Futures discussion and information website
- Planning for Housing

CIH also offers a range of tools to help you ensure the effectiveness of the social housing services you provide:

- Practice online – is our information resource for housing professionals. This is written by experts and updated regularly. Each topic is supported by useful downloads and links to relevant websites and publications.

- The best in the UK - Project summaries of finalists from the UK Housing Awards 2010, including a number of initiatives which demonstrate excellence in delivery of housing services, including:
  - Championing customer services and choice (Parkway Green)
  - Involving and empowering communities (Salix Homes)
  - Innovation in housing finance and development (L&Q)