

THE IMPLICATIONS OF THE LOCAL GOVERNMENT ACT 2003

PROGRAMME AREA RESPONSIBILITY: CORPORATE STRATEGY AND FINANCE

CABINET

18TH DECEMBER, 2003

Wards Affected

County-Wide

Purpose

To note the effect on Herefordshire of the provisions within the Local Government Act 2003 which received Royal Assent on 18th September, 2003. It is being brought into force on a phased basis.

Key Decision

This is not a Key Decision.

Recommendations

- THAT (a) the report be noted**
- (b) the Council's policies be reviewed to take account of these changes in legislation**

Reasons

To ensure that the Council's policies and practices are reviewed to ensure that the Council does not breach this legislation.

Considerations

1. The Local Government Act 2003 is primarily concerned with financial issues but it also gives local authorities new powers to charge for discretionary services, trade and raise additional income for defined capital improvements through a business-levy.
2. The majority of its provisions have been in force since 18th November, 2003 and its provisions apply to the Council and the Combined Fire Authority. The Cabinet has already considered many of the financial aspects of the Act but they are reported here for completeness.

PART I: Finance

3. This part brought into force on 18th November a number of provisions for the purpose of enabling the new capital finance system to operate in respect of the financial year 2004-5. It scraps the existing system of borrowing controls based on 'credit approvals' and allows local authorities to borrow and take out leases provided

Further information on the subject of this report is available from
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they can afford these commitments without extra government support.

4. It provides for regulations to come into force no later than 1 April 2004, when the remaining provisions in Part I come into force.
5. Local authority decisions on what they can afford to borrow will be guided by a prudential code being produced by the Chartered Institute of Public Finance and Accountancy (CIPFA).
6. Current rules which require local authorities to set aside a proportion of their capital receipts from right-to-buy sales are replaced by a new regime that pools such capital receipts, including those from debt-free authorities, for re-distribution where there is the greatest need. (Section 11)
7. Authorities, which are debt-free when pooling comes into effect on 1 April 2004 will be eligible for transitional assistance. This will be a repayment of up to 75% in the first year of the receipts pooled. This transitional funding will be ring-fenced for housing and must therefore be used for capital expenditure on the authority's housing functions. In the second year, the proportion falls to 50% and in the third year to 25%. Transitional arrangements will cease from 2007-08.

PART II: Financial Management Section 25-29

8. This ensures that local authorities take into account an annual report from its chief financial officer on the robustness of its proposed budget and the adequacy of its financial reserves.
9. The government may impose a minimum level of reserves on any local authority, which is making inadequate provision.
10. The Council must now monitor its budget during each year and consider what action to take if deterioration is identified. Rapid remedial action can be facilitated if the Council faces serious financial difficulties and its chief finance officer has made a formal report to that effect.

PART III: Grants etc

11. This introduces a more flexible central government grant regime allowing Government departments to pay grants without imposing restrictions on the way local authorities achieve their outcomes.
12. This allows new grants to be made to English parish and Town Councils which are already subject to Best Value duties in relation to applications for beacon status and as a reward for achieving that status.
13. This part also allows the Secretary of State to make payment to the Public Works Loan Commissioners to extinguish or reduce English authorities' debts, and section 39 allows the Secretary of State to make payments to English authorities to extinguish or reduce their non-PWLC debts.

PART IV: Business Improvement Districts

14. This introduces a scheme to allow local authorities and local businesses to work together to fund local capital improvements.

15. Such schemes will involve a partnership between councils and businesses to provide such additional services or improvements funded by a levy raised through an addition to the business rate.
16. The introduction of such schemes will be dependent on a positive vote by those businesses, which will be liable to pay the levy.

PART V: Non-Domestic Rates

17. This introduces a small business rate relief scheme to benefit businesses that occupy a single property with an annual rateable value of less than £8,000.
18. Those facing substantial increases as a result of the five-yearly revaluation of business property will have those increases phased and given advance notice of the effects of revaluation, thus allowing businesses to plan ahead with greater certainty.
19. Local authority business group incentives will allow councils to retain some of the additional business rate revenues they collect, to the extent that this is permitted by regulations.
20. Schedule 5 to the Local Government Finance Act 1998 exempts agricultural land and buildings from national non-domestic rates. This part amends this, to reflect modern farming practices so that where farmers work on other agricultural land the exemption will apply. This will commence on 1 April 2004 allowing time to prepare for any administration associated with extending the exemption.

PART VI: Council Tax

21. This will allow local authorities to reduce council tax discounts on second homes and long term empty property and introduce their own locally defined discount.
22. This part also creates a statutory cycle for council tax revaluation and makes minor changes to council tax enforcement and to the number of valuation bands.
23. This amends sections 6(4) and 9(2) of the Local Government Finance Act 1992 to remove students from joint and several liability. This is where they are a spouse or living with someone as husband and wife, or where they have an equal legal interest in the dwelling, for financial years beginning on or after 1 April 2004.
24. With the aim of improving local accountability by making it clear to local council tax payers what the costs are for providing fire and rescue services, Combined fire authorities (CFAs) are made major precepting authorities from the financial year 2004-05.
25. This part inserts a new paragraph 18A into Schedule 2 to the Local Government Finance Act 1992 to allow billing authorities to use information obtained for the purpose of carrying out its council tax functions in order to help in identifying vacant dwellings or taking steps to bring vacant dwellings back into use. The extent of personal information which may be shared is limited to an individual's name or an address or telephone number for communicating with them.

PART VII: Housing Finance

26. This removes rent rebates from Housing Revenue Accounts (HRAs) making the HRA a pure landlord account.

27. It also removes perceived obstacles to rent restructuring and puts housing strategies and HRA business plans on a statutory basis.
28. English local authorities deemed to be performing well under their comprehensive performance assessments will not be required to submit their strategies.

PART VIII: Miscellaneous and General

29. All best value authorities are given a general power to charge for discretionary services, but only on a break-even basis.
30. Councils categorised as 'excellent', 'good' and 'fair' under their CPA assessments will be given additional powers to trade commercially and with a view to profit but only through a company structure.
31. New provisions will ensure that when local authority services are contracted out, existing staff are transferred automatically to their new employer and on employment terms no less favourable. This will include continued membership of the Local Government Pension Scheme or a broadly comparable scheme.
32. This part will also enable the government to move the date of local government elections to make them coincide with European parliamentary elections. A rolling system of electoral registration will also be introduced extending the rights of electors to a postal vote.

Section 112 and 113: Standards Board for England: delegation and Standards committees and monitoring officers: delegation

33. Section 112 allows the Standards Board for England to delegate its functions to a committee or sub-committee established by the Board, individual member of the Board, or an officer or servant of the Board.
34. Section 113 amends the Local Government Act 2000 so as to enable standards committees of local authorities to appoint sub-committees for the discharge of any of their functions.
35. This will enable standards committees to establish sub-committees of a suitable size to hear allegations of breaches of the code of conduct.
36. The section also amends the Local Government Act 2000 so as to enable a monitoring officer to whom an allegation of a breach of the code of conduct has been referred by an ethical standards officer to nominate another person to investigate the allegation.

Section 115: Overview and scrutiny committees: voting rights of co-opted members

37. This enables local authorities to grant voting rights to co-opted members of an overview and scrutiny committee, if it wishes. Local authorities may grant such voting rights, but will not be required to do so.

Section 116: Local Polls

38. This confers express statutory powers on local authorities to hold advisory polls to help them provide good community leadership and engage with their local communities.

Section 119

39. This will allow local authorities to retain fixed penalties from litter and dog fouling offences and to utilise those receipts in combating such anti-social behaviour.

Section 120

40. This amends the Local Government (Miscellaneous Provisions) Act 1982 to allow local authorities to require cosmetic body piercing and micropigmentation businesses to register and observe byelaws on hygiene and cleanliness.

Section 122

41. This repeals the controversial section 28 of the Local Government Act 1988 which prohibited local authorities from intentionally promoting homosexuality or publishing material with the intention to do so or promoting teaching of the acceptability of the homosexuality.

Risk Management

To ensure that the Council's policies and practices take account of these changes so as to avoid any risk of legal challenge.

Consultees

None.

Background Papers

None identified.