

Item 6

Sustainable Communities Act – Role of Selector

Purpose of Report

For decision.

Summary

The Department for Communities and Local Government (DCLG) has indicated an intention to give Sustainable Communities Act powers to town and parish councils to enable them to submit proposals direct to government. This will potentially have a significant impact on the LGA in its role as Selector. This paper recommends an LGA response to such a decision.

Recommendation

That notwithstanding the disadvantage highlighted in paragraph 7 below, in the event that DCLG extend Sustainable Communities Act powers to town and parish councils, the Chairman of the Selector Panel write to the Parliamentary Under Secretary of State for DCLG on behalf of the LGA offering to continue in the role of Selector for proposals re-submitted by principal councils, but not for re-submissions from town and parish councils.

Action

LGA officers draft a suitable response for the Chairman of the Selector Panel to send to the Minister.

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Sustainable Communities Act – Role of Selector

Background

1. In February last year DCLG issued a consultation on extending powers under the Sustainable Communities Act 2007 (SCA) to town and parish councils to enable them to submit barrier busting proposals directly to the Secretary of State under the Act without having to go through their principal councils. The LGA's response to the consultation was not to support the proposal for the following reasons:
 - 1.1. In round one, proposals received by the Selector showed that principal councils proactively consulted, encouraged and considered presentations from town and parish councils thus enabling the successful submission of their proposals without recourse to a change in the regulations. Changing the SCA process could discourage dialogue and joint working between tiers of local government and in a climate of public austerity could lead to an unaffordable and undesirable increase in bureaucracy.
 - 1.2. In round one, over three hundred submissions were received by the Selector from over one hundred principal councils. If the nearly 10,000 town and parish councils were to be allowed to submit directly, the number of submissions could be thirty times greater with several thousand possibly duplicative submissions. Although in the current round the Selector will not be brought into play until DCLG has considered and rejected initial applications, the numbers of re-submissions to be considered by the Selector could be significant and overwhelm the LGA capacity to process and make recommendations to the Selector Panel. Processing the three hundred plus proposals in the last round required support from all members of what is now the Policy and Finance Division.
2. On being made aware of the DCLG intention to respond to the consultation by extending SCA powers to local councils, the Chairman of the Selector Panel, Cllr Keith Mitchell CBE, wrote to Don Foster MP, the Parliamentary Under Secretary in DCLG, at the end of November last year, re-iterating LGA reservations over his proposals. In addition he described a potential conflict of interest for the LGA arising from the Selector having to consider a town or parish council proposal resubmitted against the advice or wishes of its principal council, almost certainly an LGA member. In his response the Minister confirmed the intention to extend powers under the SCA to town and parish councils, because of its perceived contribution to the Government's decentralisation agenda.

Options for a way forward

3. Broadly there are three possible options for the LGA in the event that DCLG do indeed announce an extension of SCA powers to town and parish councils.

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- 3.1. Advise DCLG of its wish to withdraw from the role of Selector.
- 3.2. Accept any DCLG decision, maintain the status quo and accept the risks around the administrative burden and conflict of interest.
- 3.3. Offer a compromise position to DCLG whereby the LGA retains its role as Selector for re-submissions from principal councils, but withdraws from acting as Selector for re-submissions from town or parish councils.

Option 1 – Withdrawal from role of Selector

4. This would give a clear indication to DCLG of the LGA view of its proposal, but if the Minister intends to go ahead anyway, and he has said that he does, it would be little more than a gesture and risk damaging the LGA's reputation, potentially presenting the organisation in a negative light.

Option 2 – Do nothing

5. This would be the easy option and the one that DCLG would like the LGA to take. However the risks to the organisation from taking this approach cannot be ignored. Even if DCLG were to provide additional funding to cover the additional administration costs of processing a potentially significant increase in resubmissions, we would still be faced with an unwelcome additional administrative burden that could be difficult to cost and therefore charge to DCLG. The question of conflict of interest would not go away.

Option 3 - Compromise

6. In previous communications with DCLG, the Chairman of the Selector Panel has indicated to ministers that he couldn't guarantee continued LGA support if the LGA's role as sole Selector were to be diluted and we were to become part of a larger grouping. Any proposal to compromise therefore would require a change of approach. However unless the Leadership Board decides to take the do nothing option, a compromise approach might be preferable. It would avoid accusations of negativity from DCLG and a conflict that we stand little chance of winning. A compromise could be to offer to continue as Selector for resubmissions from principal councils only. This would mean that whatever the DCLG decision, the volume of work would be unchanged from that originally envisaged and it would remove any question of conflict of interest. In addition it is likely that this approach would be acceptable to DCLG and certainly preferable to a full withdrawal. It would also reflect the Parliamentary Under Secretary's wish, expressed in his most recent letter to the Chairman of the Selector Panel, to explore an acceptable way forward.

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7. The disadvantage of this compromise is that the Selector role would then be likely to be awarded to an organisation whose ability to understand the reasons behind principal authorities' positions is uncertain and could be biased against principal authorities.

Financial Implications

8. As DCLG funds the operation of the role of the Selector, there are no direct financial implications for the LGA, as such. A decision to adopt the do nothing option however could have hidden costs through having to manage an additional administrative burden that would be difficult to clearly identify and therefore charge to DCLG. We also need to recognise that DCLG reimburses the LGA for staff time which would have been spent doing something else: within a fixed headcount, there is an opportunity cost in carrying out the Selector role even if there is no financial disadvantage.

Recommendation

9. Notwithstanding the disadvantage highlighted at paragraph 7, the Leadership Board is recommended to adopt Option 3 and in the event that DCLG extend Sustainable Communities Act powers to town and parish councils, ask the Chairman of the Selector Panel to write to the Parliamentary under Secretary of State in DCLG on behalf of the LGA offering to continue in the role of Selector for proposals re-submitted by principal councils, but not for re-submissions from town or parish councils.