

EAST AYRSHIRE COUNCIL

POLICY AND RESOURCES COMMITTEE – 22 FEBRUARY 2001

CONSULTATION PAPER : A POWER OF COMMUNITY INITIATIVE AND COMMUNITY PLANNING

Report by Depute Chief Executive/Director of Corporate Resources

0.0 PURPOSE OF THE REPORT

To propose a council response to the Scottish Executive Consultation on a Power of Community Initiative and Community Planning.

1.0 BACKGROUND

- 1.1 In November 2000, the Scottish Executive launched a consultation paper in relation to proposals flowing from the Executive's commitment to legislate on a number of issues raised in the McIntosh report.
- 1.2 The consultation under discussion relates to a Power of Community Initiative for Local Government and, a statutory basis for Community Planning. It also considers a relaxation on the restrictions on council employees becoming councillors in their employing council and amendments to the statute governing those council employee posts that are designated as 'politically restricted'. This final element of the consultation has already been considered by the council's Personnel and Property Sub-Committee.
- 1.3 A summary of the consultation document is attached along with a proposed response by East Ayrshire Council.
- 1.4 A full copy of the consultation paper is available in the members library.

2.0 LEGAL, POLICY, AND FINANCIAL IMPLICATIONS

- 2.1 None arising from this report.

3.0 RECOMMENDATIONS

- 3.1 The Policy and Resources Committee is asked to:-
 1. Agree the response to the consultation paper on a Power of Community Initiative and Community Planning as detailed within appendix A.

Fiona Lees
Depute Chief Executive/Director of Corporate Resources

BACKGROUND PAPERS

1. Scottish Executive Consultation Paper : A Power o Community Initiative; Community Planning, and Political Restraints on Council Employees.

For further information on this report please contact Douglas I Campbell, Head of Corporate Development and Communication on (01564) 576165.

EXECUTIVE SUMMARY

Introduction

1. This consultation paper considers proposals flowing from the Executive's commitment to legislate at the earliest opportunity on a number of issues raised in the McIntosh Report on local government and the Scottish Parliament. It asks for views on how the following statutory proposals should be framed:

- A statutory power of community initiative for local government (Part II of the paper).
- A statutory basis for community planning (Part III of the paper).
- A relaxation in the restrictions on council employees becoming councillors in their employing council (Part IV of the paper).
- Amendments to the statute governing those council employee posts which are designated as 'politically restricted' (Part IV of the paper).

A power of community initiative

2. Introducing a statutory power of community initiative will change the legal framework within which local authorities operate. Local authorities currently may only do those things which they are empowered to do by specific statutory powers, duties and functions (such as delivering education, social services and so on). A statutory power of community initiative will change this legal basis by empowering local authorities to do anything for the benefit of their communities which is not specifically reserved or prohibited or already provided for through other legislation.

3. This power will allow councils to develop a broader community leadership role which goes beyond the delivery of specific services, promoting the well-being of their communities through the development of cross-cutting strategies and the pursuance of effective partnerships with other agencies. It will help underpin a more innovative culture leading to the delivery of better services.

4. A similar power, the 'power of community well-being', has already been introduced in England and Wales.

5. In broad terms a power of community initiative would empower local authorities to do anything which promotes the economic, social and environmental well-being of their communities. However in framing the detail of the legislation there are a number of key issues which need to be carefully considered and on which this paper invites comments. These are:

- a) **What, if any, existing statutory limitations or prohibitions might be lifted or relaxed to facilitate the exercise of a power of community initiative?** We want to examine current statutory constraints on local government and, where there are good grounds for doing so, amend or remove them, thus allowing councils to take full advantage of the new power. This links closely to the Executive's proposals on Best Value, which seek to provide councils with the freedom of action to address innovative options that can deliver more effective outcomes.
- b) **What provisions, if any, should the statute include to ensure that the power is used to the maximum benefit of communities?** These might include limitations on using the power to raise money and a provision to provide for a reserve power of Ministerial intervention, to be used only *in extremis*, if at all.

- c) **How should local authorities' exercise of the power of community initiative relate to the functions of other statutory bodies?** Councils need to work in close and effective partnership with various other local agencies (Health agencies, the Enterprise Networks, and so on) and to dovetail with the remits of those agencies in exercising a power of community initiative. There may be specific relationships which would benefit from some guidance in this regard.
- d) **Would there be merit in drawing up statutory (or non-statutory) guidance for councils on the exercise of the power of community initiative?** Would this be helpful for councils and their partners in making the most of the power, or would it cut across the grain of the legislation, which is about giving local authorities greater freedom of action to act on their own initiative?

A statutory underpinning for community planning

6. Community planning is a process whereby a local authority and other local agencies, including community, voluntary and private sector interests, come together to develop and implement a shared vision for promoting the well-being of their area. This is expressed in a jointly-agreed strategy called a community plan. Community planning rests on four key concepts:

- *Community leadership* - provided by local authorities, which have a key role in facilitating the community planning process.
- *A strategic vision for the whole area* - creating a holistic approach to the social, economic and environmental needs of the area and its communities.
- *Community involvement* - community planning should not be an exclusively top-down process. It should involve the genuine participation of the many constituencies which exist in the community and respond to the needs of local community and voluntary interests.
- *Partnership working* - this should be at the heart of community planning. To be effective it requires commitment from all the partners, not just through agreement to a strategic vision, but also through action on the ground.

7. Community planning is closely linked to a power of community initiative. The power will provide the broader legal competence for local authorities to pursue with others the joint strategies that flow from community planning.

8. Community planning is already taking root in localities across Scotland and the Executive wishes to take it forward as a key mechanism which can help deliver the renewal of our communities. It has the potential to make public policy and service provision more coherent by streamlining, integrating and improving partnership working and by developing more effective means of community involvement. In this way it can do much to help local partners deliver on European, national and local policy priorities.

9. As well as introducing a statutory basis for community planning the Executive is establishing a community planning task force to help guide the development of the process.

10. This consultation seeks views on a number of questions arising from the commitment to legislate on community planning:

- a) **Should there be a statutory *power* or a statutory *duty* of community planning?** A statutory power would not change the legal position under which community planning currently operates, insofar as local partners already have an unwritten power to pursue the process. A statutory duty would be stronger because it would make the pursuance of community planning obligatory.
- b) **Should statutory provision for community planning go wider than local authorities?** If there were to be a duty of community planning should it apply only to local authorities, or should it apply also to other key partners, thus obliging local bodies such as Health Boards and LECs to engage in the process?
- c) **Should the statute be framed in terms of producing a strategy, or in terms of facilitating the preparation of a strategy?** To what extent should the legislation focus on facilitating a *process* of bringing partners together to work up a joint strategy, rather than simply concentrating on the production of a plan?
- d) **Should there be guidance (statutory or non-statutory) on the exercise of a power/duty of community planning?** Should the statute include an option to draw up statutory guidance on how community planning should be taken forward by localities?
- e) **If there were to be a statutory duty of community planning what, if any, arrangements should there be for monitoring its implementation?** Should there be any formal external evaluation, inspection and/or monitoring of progress on community planning? If so, how might this be carried out?
- f) **Should the statute include powers to remove existing statutory constraints or requirements which are unreasonable obstacles to the effective exercise of a power/duty of community planning?** Should the proposed legislation include a power to repeal or amend obligations to produce local plans or strategies which may have become redundant and should be either revised or removed?
- g) **Would there be merit in making arrangements to help streamline and rationalise the number of new strategies, plans and/or partnerships which impact on communities?** There is a general consensus that communities are finding it hard to sustain the recent growth in the number of local partnerships and strategies. There is a widespread perception of overlap and duplication between these bodies and scope for streamlining and rationalisation. Community planning offers a tool to help communities tackle this agenda. There may also be scope for the Executive to introduce more formal administrative arrangements to assess the degree to which any new partnership, strategy or plan which it wishes to establish is congruent with other Executive strategies and whether it could best be undertaken by existing mechanisms.

Political restrictions affecting council employees

11. Employees of local authorities are currently restricted from engaging in political activities in the following ways:

- a) All employees are prohibited from standing for election to their employing council and must first resign their job on being nominated as a candidate.
- b) Employees in certain 'politically restricted' posts (deemed to be politically sensitive in nature) are barred from standing for election to any local authority or from otherwise engaging in a range of political activities. The rules currently define certain chief officer, senior officer, media and policy advisory posts as politically restricted, plus all posts over a salary threshold of £28,104.

12. These rules can discourage many local government officers, with the skills and abilities to make excellent councillors, from standing for election. As part of our efforts to widen access to council membership we want to make it easier for council employees to make a decision on whether to stand for election. We also want to ensure that only posts which are genuinely sensitive are designated as 'politically restricted.'

13. We are therefore proposing to relax the statutory restrictions which currently apply, as follows:

- a) We propose to maintain the ban on employees also being councillors in their employing council. However we envisage a change in the rules so that an employee would no longer be obliged to resign his/her post until after knowing whether or not he/she had been successfully elected as a member of the council. We would welcome views on this proposal.
- b) On the designation of 'politically restricted posts' we have decided to abolish the use of the salary threshold, which is an ineffective way to determine the sensitivity of a post. The nature of each post will therefore become the sole determinant of political restriction. There is now a need, over and above the abolition of the salary threshold, to examine the types of post designated as 'politically restricted' in current legislation (see Annex C) to decide whether they require any amendment, and we would welcome views on this point.

14. We would also welcome views on whether explicit commitments to political impartiality should be incorporated into the terms and conditions of employees in the 'politically restricted' class.

CONSULTATION PAPER PROPOSED COUNCIL RESPONSE

INTRODUCTION

1. East Ayrshire Council welcomes this consultation. Community Planning and the power of community initiative described within the consultation document is a process that the council is familiar with, given its commitment to, and good track record of, partnership working.

A POWER OF COMMUNITY INITIATIVE

2. East Ayrshire Council welcomes the introduction of a statutory power of community initiative. The council is of the view that all current statutory limitations or prohibitions on councils should be lifted or relaxed unless the case can be made that they remain necessary. While it has been possible to identify specific restrictions as part of this consultation e.g. in relation to the Local Authority (Goods and Services) Act 1970, and parts of the CCT legislation, it will not be possible to identify all existing statutory limitations that would require to be appealed in any new legislation anticipated for consideration in early course by the Scottish Parliament. The council therefore supports a provision that would allow Ministers to repeat existing legislation without the need for primary legislation (similar to that which has been introduced in Westminster in relation to Best Value in England and Wales). This would allow councils to request Ministers to use their power to amend any existing legislation where this proves to be a barrier to effective partnership working and prevented councils achieving community wellbeing.
3. The power of community initiative should be subject to the general duty of Best Value. However, the council accepts that it would not be reasonable to use the power of community initiative to raise money. While we can accept the case that there should be a reserve power of Ministerial intervention in circumstances where the power of community initiative is not being used for maximum benefit of communities, this should only be used as a last resort and subject to parliamentary approval.
4. The council made a similar point in relation to the consultation on the long-term arrangements for Best Value and we believe that a similar progressive approach to intervention should be adopted rather, than a punitive approach.
5. The council believes that it is natural that local authorities should take on a community leadership role that seeks to ensure that the actions of local agencies are properly co-ordinated. The power of community initiative will give councils the discretion to pursue cross-cutting actions on behalf of the area as a whole.
6. However, other agencies must play a full part on the Community Planning process. There must be a mutual understanding of roles and responsibilities. Given the range of agencies that should be part of the Community Planning process, and the array of legislation that governs all of their functions and actions, it would be unrealistic to expect a full definition of relationships and responsibilities to be made in statute. The council therefore believes that the Community Planning Task Force (which is to be established this year) should take responsibility for drafting

guidelines that will underline the importance of full participation by all partners in the Community Planning process. It is important that these guidelines make it clear that the Community Planning process is the overarching mechanism that is to be used to deliver renewal in our communities and integrate the work of all agencies. Initially, this guidance should be non-statutory.

7. Special consideration must be given on the exercise on the power of community initiative to the relationship with national agencies that operate in Scotland (such as the Benefits Agency, DSS, and Employment Service) which are sponsored by Whitehall Departments.

A STATUTORY UNDERPINNING FOR COMMUNITY PLANNING

8. East Ayrshire Council believes that there should be a statutory duty on local authorities, rather than a statutory power. This would underline the importance of Community Planning as the key mechanism for securing strategic governance within our communities.
9. Such is the importance of Community Planning, the council believes that a duty should be placed on Ministers to give statutory direction to the Executive agencies and the Non-Departmental Public Bodies they sponsor, and to other public partnerships, to participate in the Community Planning process. In time, a duty of Community Planning could be placed directly on these organisations. However, this would require more wide ranging changes to legislation than those that could be completed in early course.
10. These measures will help to ensure that partners understand that their engagement in the process is not optional (although there is no suggestion that this attitude has surfaced in East Ayrshire and in its partnership initiatives).
11. The statute should be framed in terms of a process rather than the production of a specific plan. While community plans will be important documents by which the overall process can be managed, the prime focus of the statute should be in securing a Community Planning process.
12. The council believes that any guidance on the exercise of a duty of Community Planning should be non-prescriptive and should be prepared by the Community Planning Task Force. Any guidance on the resolution of conflict should ensure that this takes place wherever possible at a local level with any items referred to Ministers for determination only in extreme circumstances.
13. The responsibility for monitoring the implementation of Community Plans should lie with Community Planning partners. Good precedence exists within the Best Value Regime for monitoring and evaluation and for public performance reporting. Progress and continuous improvement in Community Planning could be monitored by the Community Planning Task Force and COSLA's Improvement Network.

14. For Community Planning to be effective then many existing statutory constraints or requirements should be removed to allow the effective exercise of the duty of Community Planning. It is important that Community Planning becomes the vehicle for securing progress within communities, rather than an additional service planning framework. However, such is the range of statutory responsibilities placed upon local authorities and community planning partners at the moment, it will be impossible to identify each and every constraint that should be removed in order to make detailed legislative change. It is therefore this council's view that a power should be created to remove any existing statutory constraints that prevent Community Planning, without the need for primary legislation. This power would be similar to one which was created in the Local Government Act 1999 in relation to Best Value in England and Wales.
15. Another important step would be to make arrangements to streamline and rationalise the number of new strategies, plans and partnerships that impact on communities. Many existing initiatives (Community Learning Strategies, Social Inclusion, Listening to Communities, Community Schools, Healthy Living Centres) will impact on Community Planning on a local level and it is important that they are placed under a Community Planning umbrella.
16. the overlap and duplication that exists in service planning at the moment is the result of a lack of a cross-cutting and co-ordinated policy direction from the Scottish Executive.
17. Community Planning will provide the framework within which to secure proper co-ordination and rationalisation of these initiatives. Local Outcome Agreements will provide the Scottish Executive and its departments with the reassurance that progress against the key national agenda is maintained.

AGENDA
