

The Localism Act (2011) – Mencap briefing

The Government introduced the Localism Act to give more freedom and decision making powers to local authorities and local communities. This Act covers a wide range of policy areas which the Government believes should be dealt with at the local level, including housing.

This briefing gives an overview of the Act and will explore the policy areas that will have a major impact on the lives of people with a learning disability and their families. Most of the changes introduced in the Act will come into effect in 2012. The Act only deals with England only.

Background

The Localism Act was passed by parliament in November 2011.

The Government introduced the Act to give more freedom to local authorities to make decisions and to give local communities more ways to be involved in the local decision making. The Act covers a wide range of areas that are split into the following 4 policy areas:

- new freedoms and flexibility for local authorities
- new rights and powers for communities
- reform of the planning system to make it clearer, more democratic and more effective
- changes to the way decisions about housing are made locally.

When the Act was going through parliament (then referred to as the Localism Bill), Mencap campaigned to make sure that the rights of people with a learning disability were protected. Mencap believed that it presented both risks and opportunities for people with a learning disability. The Government needs to ensure that Localism is for everyone, not just for those who wield the most influence.

What issues are most important for people with a learning disability?

Whilst the Act impacts everyone in the local community, there are 3 areas of policy which have a significant impact on the lives of people with a learning disability. All 3 areas are related to changes to social housing provision, including:

- social housing allocation reform
- housing tenure reform
- reform of homelessness legislation

Social housing provides accommodation cheaper than the private rental sector. Figures show that 13,620 people with a learning disability live in social housing, this represents around 10% of people with a learning disability known to social services.

At a time where there is not enough social housing to provide a home to everyone who needs it, the Government felt that there were some reforms needed of the system. The Government believed that the system was too rigid and did not have enough flexibility at the local level. As such, the Act includes a number of reforms of social housing.

Social housing allocation reform

Before this Act, almost anyone could apply to live in social housing. As there are many people who apply for social housing and priority is given to those in most need, many people do not have a realistic chance of being housed. This has led to very long waiting lists.

The Act gives local authorities greater freedom to set their own policies about who should qualify to go on the waiting list. Local authorities will have to continue to ensure that social homes go to the most vulnerable in society and those who need it the most.

What does Mencap think?

Mencap hears from individuals and families on a regular basis of how difficult it is to find a suitable home. It is for this reason that many people with a learning disability live with their parents, often into late adult life.¹¹

While the 'reasonable preference' groups, which guide local authorities in their decisions as to who should be housed as a priority, highlight that people who need to move on medical and welfare grounds, including disability, should be given priority, people with a learning disability still struggle to be regarded as in urgent need of housing. It is at this point that living with parents puts them in the position of being in 'settled accommodation' and therefore a lesser priority, both in terms of 'homelessness' and for medical reasons.

Mencap urges local authorities to prioritize people with a learning disability and to ensure that any need for housing that has been identified should be met, including housing needs identified by social service departments.

Mencap is worried that some local authorities will not consider the needs of people with a learning disability when setting local priorities.

Social housing tenure reform

Under the previous system, social landlords were normally only able to grant lifetime tenancies. This meant that people could live in that home for as long as they would like. The Government believes that this has made the waiting lists longer as some people, who get their house when they are in crisis, will continue to live there after the crisis has ended.

Following the Act, social landlords will be able to grant tenancies for a fixed length of time for all new tenants. The minimum length of tenancy will be 2 years, but it is expected that most people will be given a tenancy for 5 years or more. Landlords can still offer lifetime tenancies after the act, as there is no upper limit on the length of a tenancy.

This change will not impact people who are currently living in social housing, even when they move to another social housing property. It will only affect people who get social housing from April 2012.

What does Mencap think?

It is often hard for people with a learning disability to find appropriate accommodation, which meets their needs. This can be due to physical access, needing a room for overnight support staff or finding a housing option which offers stability in their lives. We are concerned that this policy may see people with a learning disability continuously moving around, even though the original property meets their needs.

We believe that a 2 year tenancy is definitely not long enough and for many 5 years is still too short. We urge the Government to provide statutory guidance which provides strong protections to people who require stability and long term tenancies. Lifelong tenancies in the social housing sector should therefore remain the norm for these groups.

Reform of homelessness legislation

Councils have a duty to house people who are eligible, who are in the priority need group and were unintentionally made homeless, in other words are homeless for a reason out of their control. The Localism Act will keep this duty.

The Government wanted to give local authorities more opportunity to meet this duty and to deal with the increasing demand on social housing and as such the Act gives local authorities powers meet their homelessness duty by providing good accommodation in privately rented homes.

This is not something new, however, under the previous rules, people who became homeless were able to refuse offers of accommodation in the private rented sector and insist that they should be housed in temporary accommodation, until a social home becomes available. The Government felt that this rule made it harder for people who really needed long term housing to get accommodated and as such, people who are offered housing in the private sector have the same refusal process to follow for the rest of social housing.

What does Mencap think?

Mencap, along with other disability organisations, were concerned about this policy change. When first proposed, the Government's impact assessment showed that disabled people will be more adversely affected by this change. This is because there are many reasons why disabled people do not consider accommodation offers in the private rented sector, including insecurity over tenure, higher rents and the fact that in many cases the suggested housing does not meet the needs of that individual e.g. access for wheelchairs.

Mencap believes safeguards should be in place to ensure that accommodation for disabled and older people is appropriate, affordable and provides some form of security of tenure.

What are the other issues in the Act?

The Act covers several more areas of policy, which have an impact on local communities – whilst not specifically impacting people with a learning disability.

1. New freedoms and flexibility for local authorities

The Act is designed to give more freedoms and flexibility for local authorities.

Before the Act, local authorities could only make decisions when the Government said they could. The Government said that this stopped local authorities from trying new things because they were not sure whether they are allowed to by law.

Now local authorities will be able to act and make decisions on anything, so long as they do not break any other laws. The Act refers to this as the 'General power of competence' which gives local authorities the legal right to make these decisions. There are some areas which local authorities will not be able to have full freedom as these are areas of national concern, and they will not be allowed to create new taxes. The Government is now looking at how this will work in practice.

The Act also introduces the following:¹

a) Abolish the Standards Board

The Government found this national body ineffective in preventing the abuse of power and misuse of public money, by elected councillors. Instead local authorities will draw up their own codes of conduct and it will become a criminal offence for councillors to deliberately withhold or misrepresent a financial interest and local authorities will have to investigate complaints.

b) Clarifying the rules on predetermination

Before the Act, there were tight rules to make sure that councillors made decisions with an open mind. The Government believed that this prevented important local discussion from happening and stopped councillors from taking part in campaigning. The Act makes it clear that councillors are able to play an active part in local discussions, and would not be liable to legal challenge as a result.

c) Greater local control over business rates

The Government wanted to give local authorities more power to make decisions that will benefit the local economy. The Act gives councils more freedom to offer business rate discounts to attract new firms to the area. However, the council will need to meet the cost of any discount from local resources.

d) Directly elected mayors

¹ For further information on the Act and its reforms see – Department for Communities and Local Government: A plain English guide to the Localism Act (2011)

Using the powers in the Act, the Government intends to trigger a referendum in the largest cities outside London, to ask local people if they would like a directly elected mayor.

2. New rights and powers for communities

The Government believed that before the Act, people in the community and voluntary groups had many good ideas about improving their community but that they had very little power to make it happen. The Act provides new rights for communities and individuals to make it easier to get things done. These include:

a) Community right to challenge

The Government believe that community groups and social enterprises have the ideas of how to run a better and cheaper local authority service. The Act gives these groups, as well as parish councils and local authority employees, the right to express an interest in taking over the running of a local authority service. Where this happens the council will have to consider the offer and where they accept it, run a procurement exercise – so that other organisations have the chance to compete.

b) Community right to bid for assets of community value

The Government believe that there are community assets which local life would not be the same without, including; community centres, libraries, swimming pools, village shops, markets and some pubs. In some areas of England, where one of these buildings have closed down, community groups have taken them over. However this has been a difficult process as it usually takes a long time to get organised, or they lose out to private business.

The Act requires local authorities to maintain a list of assets of community value which have been nominated by the local community. When listed assets come up for sale or change of ownership, community groups will have the time to develop a bid and raise the money to buy the asset.

c) Right to approve or veto excessive council tax rises

Before the Act, Government had the power to 'cap' rises in council tax if they were too big. The Government has used the Act to allow local people to decide whether to accept an excessive council tax increase. The Government will set a limit for council tax increases. If an authority proposes to raise taxes above this limit, they will have to hold a local referendum.

d) Transparency over senior council officials' pay

The Act will force councils to produce a policy on staff pay and this will include the salaries of senior staff.

e) Fines and charges for rubbish collection

The Localism Act has removed the powers given to councils (under the Climate Change Act 2008) to fine people because of their level of recycling.

3. Reform of the planning system

The planning system helps decide who can build what, where and how. The Government believe that a major problem of the current system is that members of the public do not get enough say. Here are some provisions that the Act makes to improve this.

a) Abolition of regional strategies

The previous Government introduced regional strategies to address needs for housing in each part of the country and included housing targets set by the Government. The Government believes that this is bureaucratic and undemocratic. The Act will abolish these strategies.

b) Duty to cooperate in planning

There are many reasons why neighbouring councils or groups of councils would work together in planning, including flood prevention, public transport networks (trams) or new retail parks. This was done under the regional strategies. As the Government is abolishing them, the Act places a duty on local authorities and other public bodies to work together on planning issues.

c) Neighbourhood planning

The Act gives local people greater chance to influence the future of the place where they live, including a say on where new houses, businesses and shops should go. It introduces a new right for communities to draw up a neighbourhood plan. These plans will be created by parish councils or neighbourhood forums, making proposals for the local authority.

d) Community right to build

Alongside the plan above, the Act gives power to local people to deliver the development that their local community wants. Where plans fulfil national criteria and have been put to referendum in the local area, they can go ahead without application of traditional planning.

e) Other planning reforms

A requirement on local developers to consult with local people before submitting planning applications, greater powers for local authorities to tackle abuses of the planning system and greater flexibility in the levy on developers to pay for local amenities, like schools and roads.

4. Other housing reforms

Alongside the areas above, the Localism Act also brings in change to a number of other social housing policy areas that have an impact to the wider community.

a) Reform of council housing finance

Again the Government wanted to pass more decision making powers to the local authorities and has introduced reforms to change the way that social housing is funded.

Before, social landlords collected rent from tenants and then sent on the money to central Government. Then the Government would give a sum of money to local authorities to pay for the upkeep and repair of social housing. Now, the landlords will give all the collected money to local authorities to use to maintain their homes.

b) Home swap scheme

Some people need to or want to move home, just like anyone else, but are unable too as there is no housing available. The Act introduces a scheme where people who want to move can access the details of other social housing tenants who may be in a suitable home. From this tenants can swap their social homes.

c) Reform of social housing regulation

The Act changes the way social housing is regulated, which has been designed to give tenants more tools to hold their landlord to account.

The Act also changes the way complaints are handled. Currently there are two separate ombudsmen who hears complaints (the Local Government Ombudsman and the Independent Housing Ombudsman). In the future it will only be the Independent Housing Ombudsman who will hear the complaint.

When will the Act come into effect?

Different parts of the Act will come into effect at different times. In many cases, the Government will need to set out further details.

In some case the Government will hold consultations to see what organisations and individuals think about their plans. Mencap will highlight all consultations which have an impact on the lives of people with a learning disability.

The Government has estimated that the big policy measures will come into effect in April 2012, including the reforms to social housing and council housing finance.

Rossanna Trudgian, Senior campaigns and policy officer
January 2012