

Government Consultation: “Inspiring the Big Society: a consultation on regulations under the Sustainable Communities Act.”

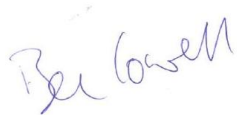
Response by the following Local Works coalition organisations:



Mervyn Kohler, Special Advisor
Age UK



Ruth Bond, Chair
Women’s Institute



Ben Cowell, Assistant Director
National Trust



Stuart Etherington, Chief Executive
National Council for Voluntary Organisations



John Walker, National Chairman
Federation of Small Business



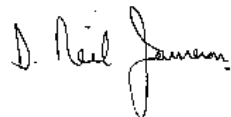
Paul Foote, Managing Director
Conservative Environment Network



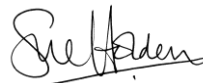
Mike Benner, Chief Executive
CAMRA - the Campaign for Real Ale



David Babbs, Executive Director
38 Degrees



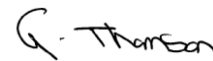
Neil Jameson, Executive Director
Citizens UK



Sue Holden, Chief Executive
Woodland Trust



Malcolm Shepherd, Chief Executive
Sustrans



George Thomson, Chief Executive
National Federation of SubPostmasters



Parminder Singh, President
National Federation of Retail Newsagents



Peter Facey, Director
Unlock Democracy



Mike Jeram, National Secretary
UNISON



Julian Grocock, Chief Executive
SIBA - the Society of Independent Brewers



Chris Baugh, Assistant General Secretary
Public and Commercial Services Union



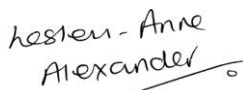
Debbie Tripley, Chief Executive
Environmental Law Foundation



Phil Orford, Chief Executive
Forum of Private Business



Tom Franklin, Chief Executive
Ramblers



Lesley-Anne Alexander, Chief Executive
Royal National Institute for the Blind



Stephen Fishwick, Head of External Communications
National Pharmacies Association



Kenneth Parsons, Chief Executive
Rural Shops Alliance



Andy Atkins, Executive Director
Friends of the Earth



Dot Gibson, General Secretary
National Pensioners Convention



Ruth Cartwright, Manager
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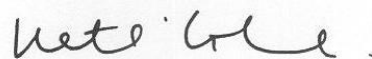
David Tyler, National Director
Community Matters - National Federation of
Community Organisations



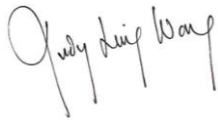
John Findlay, Chief Executive
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Nick Randle, Chief Executive
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Katie Ghose, Chief Executive
Electoral Reform Society



Judy Ling Wong, Chief Executive
Black Environment Network



James Cathcart, Chief Executive
British Youth Council



Stephen Joseph, Director
Campaign for Better Transport



Tony Armstrong, Executive Director
Living Streets



Peter Brooker, Head of Corporate Affairs
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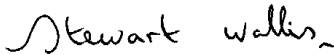
Steve Wyler, Chief Executive
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Jenny Saunders, Chief Executive
National Energy Action



Kevin Curley, Chief Executive
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Stewart Wallis, Executive Director
New Economics Foundation



Terry Edis, Chair
National Federation of Tenant Management Organisations



Michelle Reid, Chief Executive
Tenant Participation Advisory Service



Michael Gelling, Chair
Tenants and Residents Organisations of England



Billy Hayes, General Secretary
Communication Workers Union



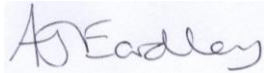
Paul Kenny, General Secretary
GMB



Ruth Scott, Head of Policy
Scope



John Bird, Founder and Editor in Chief
The Big Issue



Alison Eardly, Policy Manager
Action for Market Towns



Derek French, Honorary Director
Campaign for Community Banking Services



Helen O'Brien, Chief Executive
Caritas Social Action



Paul Bodenham, Chair
Christian Ecology Link



Heidi Seary, Co-ordinator
Community Recycling Network



Rebekah Hoyland, Chair
Community Composting Network



Neal Lawson, Chair
Compass



John Goodman, Head of Policy and the Regions
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Elaine Brooks, Education Co-ordinator
Gaia Partnership

Simon Burall

Simon Burall, Director
Involve

Grace

Grace Bennett, Head of Policy
Micropower Council

Richard Mehmed

Richard Mehmed, Managing Director
National Wood Recycling Project



Dr Keith Tyrell, Director
Pesticide Action Network UK



Richard Angell, Deputy Director
Progress



Toby Blume, Chief Executive
Urban Forum



Stephen Shaw, National Co-ordinator
Local Works

Introduction

Local Works welcomes the commitment of the Minister to ensure that the vital concept of 'trying to reach agreement' remains at the centre of the implementation of this Act and of the new regulations. We also welcome the co-operative approach taken by the Minister in the drawing up of these draft regulations. We have fed ideas into his thinking and been grateful to have been listened to.

It is in this spirit – one of constructive dialogue rather than criticism - that we make the following comments that point out some unintended shortcomings of the current draft. We emphasise that we do not blame anybody for this. Indeed, as these shortcomings are the unintended consequence of what has been a collaborative process, we must accept, therefore, that we share some responsibility for them.

Summary of our position

1. The Local Works coalition welcomes the plan for the following to be a part of the Sustainable Communities Act regulations:

- That the Secretary of State be required to consult and try to reach agreement with the Selector before he decides whether or not a proposal made under the Act can be implemented, or implemented in part, and how proposals will be implemented.

2. However, there are two ways in which the current regulations would actually **lessen** the rights of citizens and communities and so lessen local empowerment under the new arrangements in comparison to how they were under the previous arrangements.

- (i) firstly because there is no longer a requirement on local authorities to try to reach agreement with their communities on proposals that they submit;
- (ii) and secondly because under the new regulations the Selector can only take up proposals submitted by councils, whereas in the past the Selector could take up any proposals – so communities could, via the panels, submit ideas, get the agreement of their council and then it would go to the Selector.

Both of these empowerment opportunities are now missing. So we have the unintended situation whereby the current government has actually taken away these opportunities for communities.

3. Therefore we take the view that the changes to the regulations suggested in the next section of this response are needed:

- (i) That local authorities be required to continue to try and reach agreement with their communities on proposals that they will submit.
- (ii) That the Selector is given the power to take up and try to reach agreement with the Secretary of State on **any** proposals submitted under the Act, as stated by the Minister in Parliament on 28th March this year – see paragraph (v) below for the exact words of Greg Clark.
- (iii) That the Secretary of State and the Selector must each publish their account of how they tried to reach agreement with each other on each proposal the Selector asks the Secretary of State to reconsider.

- (iv) That the Secretary of State must fully deal with any proposal submitted within a fixed period of time, e.g. 6 months, except in the case where the Secretary of State is inundated with a very large amount of proposals over a short period of time.
- (v) That community groups, Parish and Town Councils and County Associations of Parish and Town Councils can submit proposals under the Act. This would give effect to the promise made to Parliament by the Minister (Greg Clark) on 28th March this year when he said:

“We are very keen indeed for parish and town councils, which represent their communities so successfully, to submit suggestions and proposals under the 2007 Act... We will ensure that the duty to "try to reach agreement" with the selector will apply to requests from parish councils, not just higher or upper-tier authorities, as they are referred to.” (Hansard House of Commons, col. 149, 28th March 2011)

The Value and Importance of the Sustainable Communities Act

Local Works is the coalition of national organisation that campaigned for over five years for the Sustainable Communities Act 2007 to become law. We also campaigned for the Sustainable Communities Act Amendment Act 2010 to become law. Since the passing of the original Act we have campaigned to promote its use and proper implementation.

The Sustainable Communities Act has done something never done before. It has set up a ‘bottom-up’ process where local people and their councils can drive government action to reverse community decline and promote local sustainability. This new process has already inspired involvement from one hundred local authority areas and thousands upon thousands of citizens.

Given that we face a grave reality of a national trend of community decline, disengagement in politics and an unsustainable society it is crucial that this involvement in the Act is nurtured, so that it may continue and flourish.

The Reaching Agreement Process: what we welcome

At the heart of the Sustainable Communities Act is the duty on the government to ‘try and reach agreement’ with the Selector on proposals put forward by communities and councils. It is this process that makes the Act a new way of doing governance and that has inspired so many people to already get involved.

We welcome the plans for the regulations to require the Secretary of State to consult and try to reach agreement with the Selector before he decides whether or not a proposal made under the Act can be implemented, or implemented in part, and how proposals will be implemented.

The Reaching Agreement Process: our concerns

We are very concerned that the plans for the regulations will mean that communities are less empowered by the Act than they were under the last government. This is because two key empowerment rights that were in the original Act are now missing.

Firstly, there is no longer a requirement on local authorities to try to reach agreement with their communities on proposals that they submit. This requirement therefore must be in the regulations.

This will ensure that the collaborative relationship between councils and communities seen under the Act so far continues, rather than the Act becoming just another consultation exercise for councils.

We note that the government has invited councils to consult and try to reach agreement with their communities before submitting proposals, via a letter sent to all local authorities on 15th December 2010. However, this letter does not have the same force as regulations under an Act of Parliament. Local communities do not have recourse if their councils did not try to reach agreement with them before submitting proposals.

Given government's position is that "This concept of 'trying to reach agreement' remains at the heart of the Act, both at a local and central government level," this requirement needs to be included in the regulations.

The collaborative relationship that developed between councils and communities during the first round of the Act has been one of the great successes of the Act so far. Many inspiring examples of it are detailed in the Local Works Best Practice Guide for Councils.¹

Including the requirement within regulations for councils to try and reach agreement with their communities on proposals they will submit will allow this collaborative relationship to continue and grow, and would provide security to communities that their voices will be heard.

Under the new regulations the Selector can only take up proposals submitted by local authorities, whereas before the Selector could take up any proposals. This meant that communities could, via local panels, submit ideas, get the agreement of their council and then those ideas would go to the Selector.

The regulations therefore must give the Selector the power to try to reach agreement with the Secretary of State on any proposals submitted under the Act. Anything less will mean that the Act will be weaker in terms of empowerment and localism than it was when it became law in 2007.

Other changes to the regulations that are essential

There are two key reasons why we view the changes to the regulations that we detail below are essential:

- Those using the Act will want to be sure that the time and effort they spend becoming involved in the Act and submitting proposals is going to be worthwhile. They are much more likely to have confidence in this if the powers of the Act are defined in regulations rather than dealt with via mechanisms that are less enforceable and therefore carry less weight.
- Putting matters in regulations gives them greater solidity and leaves them less open to change in the future, whether due to a change of government or for any other reason. Including items only in the Selector's terms of reference or the Memorandum

¹ <http://www.localworks.org/files/localworks.org/The%20Sustainable%20Communities%20Act%20-%20Best%20Practice%20Guide%20for%20Councils.pdf>

of Understanding means they could be easily changed or removed without recourse to Parliament or public consultation.

These are the three further specific changes that we regard as essential to the regulations, and the reasons for each.

1. That the Secretary of State and the Selector must each publish their account of how they tried to reach agreement with each other on each proposal the Selector asks the Secretary of State to reconsider.

The reaching agreement process is a new approach to governance. It goes beyond consultation - which people often view as a sham where decisions are made in advance and people's views are ignored - and actually requires government to negotiate and compromise.

The negotiations between the Secretary of State and the Selector on the first set of proposals made under the Act in response to the first invite were largely carried out in secret. This was detrimental to the public's perception of what is heralded as a 'bottom-up' process.

Explanation of the workings of this process will inspire more people to get involved in it and ensure it is conducted well. The government has stated it will "extend transparency to every area of public life" and we believe publication of how it and the Selector reach agreement under the Act is an important part of fulfilling that aim.²

We believe it is important that this requirement is placed within regulations as it will provide a clear duty on both parties to publish details of their negotiations. As stated above, the Memorandum of Understanding would be subject to change at the end of an agreed period and would not provide any right for the parties to be challenged by any outside body should they not abide by its terms.

2. That the Secretary of State must fully deal with any proposal submitted within a fixed period of time, e.g. 6 months, except in the case where the Secretary of State is inundated with a very large amount of proposals over a short period of time.

This will encourage involvement in the Act as it will provide guarantees to participants that they will receive an answer to their requests within a specified period. Those who put forward proposals during the first round of the Act had to wait around 18 months for a response to their proposals and did not know when those proposals would be dealt with as there was no established timetable.

This led to a degree of frustration and disillusionment amongst participants. If those intending to put forward proposals do not have the security of knowing when they will receive a response to their requests, they may be discouraged from becoming involved in the first place, or if they do become involved and are left waiting indefinitely for a response they may become disillusioned.

The government has stated one of its key goals is for "a radical redistribution of power for democratic decision making and public service delivery from Westminster and Whitehall to people, neighbourhoods, communities and local institutions". It is vital that those putting

² The Coalition Agreement

forward proposals under the Act receive a response within a specified period of time in order for this goal to be achieved.³

This matter cannot be adequately dealt with via the Memorandum of Understanding as the government, not the Selector, has control over the time in which submitted proposals are dealt with.

3. That community groups and County Associations of Parish and Town Councils can submit proposals under the Act.

This was one of the explicit intentions of the Sustainable Communities Act Amendment Act 2010 which received full cross-party support in Parliament.

We welcome government's aim for the Act to "be open to anyone in the country, anyone in the community, to suggest directly to the Government things that are in place, but should be done in a different way."⁴ However, at the moment, proposals submitted by community groups and County Associations of Parish and Town Councils via the government's Barrier Busting website are not formally recognised under the Act.

Including this power within the regulations will give these groups the right to be able to submit proposals under the Act and will ensure that the clear intentions of the Sustainable Communities Act Amendment Act 2010 are enacted.

It is also crucial that the will of a council must prevail as the democratically elected body. So, if a council objected to a proposal from a community group in its area that had been agreed to be implemented by the government, then that proposal would not be implemented.

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³ Letter from Greg Clark to Local Authorities in England dated 10th December 2010, available here: <http://www.communities.gov.uk/documents/localgovernment/pdf/1798823.pdf>

⁴ Greg Clark, speech given at Sustainable Communities Act Parliamentary Reception, 15th December 2010