

LOCAL GOVERNMENT (REVIEW OF DECISIONS) BILL

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Local Government (Review of Decisions) Bill. They have been provided by the Department for Communities and Local Government, with the consent of Baroness Eaton, the peer in charge of the Bill, in order to assist the reader of the Bill and to help to inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.

2. The notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require any explanation or comment, none is given.

BACKGROUND AND SUMMARY

Background

3. Lord Young of Graffham's October 2010 report "*Common Sense, Common Safety*" followed a cross-Whitehall review of the operation of health and safety laws and the growth of the compensation culture.

4. The report made a number of recommendations, about the compensation culture, low hazard workplaces, raising standards, insurance, education, health and safety legislation and local authorities.

5. Lord Young's recommendations with regard to local authorities and health and safety, were as follows:

- Officials who ban events on health and safety grounds should put their reasons in writing.
- Enable citizens to have a route for redress where they want to challenge local officials' decisions. Local authorities will conduct an internal review of all refusals on the grounds of health and safety.
- Citizens should be able to refer unfair decisions to the Ombudsman, and a fast track process should be implemented to ensure that decisions can be overturned within two

weeks. If appropriate, the Ombudsman may award damages where it is not possible to reinstate an event. If the Ombudsman's role requires further strengthening, then legislation should be considered.

6. The Government accepted the recommendations of the report. The Department of Communities and Local Government's Business Plan states that the Department will introduce legislation to allow the public to hold councils to account for cancellation or banning of events on health and safety grounds so that local authorities conduct an internal review of all refusals on the grounds of health and safety, and officials who ban events on health and safety grounds should put their reasons in writing.

7. The Bill makes provision for this commitment.

Summary

8. The Bill is intended to ensure councils think carefully about any refusals issued on the grounds of Health & Safety, by requiring them to put their decision in writing, and carry out a review where requested following their decision (and then put the outcome of that review in writing), and to allow the Local Government Ombudsman to 'fast-track' complaints related to such decisions.

9. The Bill will insert new provisions into the Local Government Act 1974 requiring local authorities to provide the event organiser, or person applying for a decision, with written notification of a decision when the authority stops an event or imposes conditions or restrictions upon the event on the grounds of health and safety. The provisions enable the applicant or event organiser to request a review of that decision, which the authority is required to carry out as soon as reasonably practicable and in any event within 15 days. The provisions also put it beyond doubt that the Local Government Ombudsmen may identify categories of cases (for example, complaints about local authorities' decisions about events) that are to be investigated faster than other cases.

TERRITORIAL EXTENT AND APPLICATION

10. The main provisions of the Bill only apply in England. Clause 4 of the Bill does, however, give the Secretary of State power to make consequential amendments of other legislation. Some legislation relating to English matters is set out in enactments that, as well as forming part of the law of England and Wales, also form part of the law of either or both of Scotland and Northern Ireland. Therefore, to facilitate all consequential amendments that may prove to be necessary, clause 4 extends not only to England and Wales but also to Scotland and Northern Ireland.

COMMENTARY ON CLAUSES

11. Clause 1 inserts a new section 22A (decisions invoking health or safety: notification, reasons for review) in the Local Government Act 1974.

12. The new section 22A provides that where a local authority takes a decision relating to health and safety at an event that stops the holding of the event, imposes restrictions upon the event or imposes conditions upon the event, that decision must be given in writing to the organiser of the event or the applicant who caused the decision to be made. The written decision must be given if not on the day the decision is taken then the next working day. If the decision stops, restricts or places conditions on the event, the written notification must record these details and give reasons.

13. If the event organiser or the person given notification of the decision requests it, the local authority must undertake a review of the decision, that review to be completed as soon as reasonably practicable and in any event within 15 days of receipt of the request. The review may result in the decision being confirmed, withdrawn, replaced by any other decision that could have been taken in the first instance, or varied. Subsection (7) provides that any existing right of appeal against a decision also applies in relation to any decision following a review.

14. Clause 2 amends section 28 of the Local Government Act 1974 (procedure in respect of investigations under Part 3 by local Commissioners) making provision for the Local Government Ombudsman to ‘fast track’ certain categories of complaint, allowing (for example) the Ombudsman to quickly investigate complaints that decisions about events have constituted maladministration so that the Ombudsman can determine the outcome of the complaint and make a recommendation before the event takes place.

15. Clause 3 recognises that, as matter of House of Commons procedure, a Money resolution needed to be agreed for the Bill.

16. Clause 4 gives the Secretary of State power to make an order amending other legislation in consequence of the Bill. For example, this power might need to be used if the provisions under clause 1 that apply to an event are not wholly in step with provisions that apply to the event under other legislation.

FINANCIAL EFFECTS AND PUBLIC SECTOR MANPOWER

17. The costs associated with putting decisions to ban or restrict events on health and safety grounds in writing are likely to be marginal, as requiring local authorities to put a decision in writing is simply requiring them to do what they already do in practice. There are likely to be costs to councils of carrying out internal reviews of such decisions. These costs are expected to be negligible. The Bill does not change the remit, role or responsibilities of the Local Government Ombudsman.

IMPACT ASSESSMENT

18. As the Bill does not regulate or deregulate business, and the Bill will not restrict the ability of local authorities to block local events on justifiable health and safety grounds, no Impact Assessment is required.

COMPATIBILITY WITH THE EUROPEAN CONVENTION ON HUMAN RIGHTS

19. In the Government's view the Bill is compatible with the European Convention on Human Rights.

COMMENCEMENT

20. The Bill provides that its provisions come into force at the end of two months beginning with the day on which it is passed.

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*These notes refer to the Local Government (Review of Decisions) Bill
as brought from the House of Commons on 26th January 2015
[HL Bill 88]*

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