

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

## Public Bill Committee

### LOCALISM BILL

*Eleventh Sitting*

*Thursday 10 February 2011*

*(Morning)*

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Written evidence reported to the House.

CLAUSE 66 under consideration when the Committee adjourned till this day at One o'clock.

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PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS  
LONDON – THE STATIONERY OFFICE LIMITED

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**The Committee consisted of the following Members:**

*Chairs:* MR DAVID AMESS, † HUGH BAYLEY

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| † Alexander, Heidi ( <i>Lewisham East</i> ) (Lab)  | † Ollerenshaw, Eric ( <i>Lancaster and Fleetwood</i> ) (Con)   |
| † Barwell, Gavin ( <i>Croydon Central</i> ) (Con)  | † Raynsford, Mr Nick ( <i>Greenwich and Woolwich</i> ) (Lab)   |
| † Bruce, Fiona ( <i>Congleton</i> ) (Con)  | † Reynolds, Jonathan ( <i>Stalybridge and Hyde</i> ) (Lab/Co-op)   |
| † Cairns, Alun ( <i>Vale of Glamorgan</i> ) (Con)  | † Seabeck, Alison ( <i>Plymouth, Moor View</i> ) (Lab)   |
| † Clark, Greg ( <i>Minister of State, Department for Communities and Local Government</i> )            | Simpson, David ( <i>Upper Bann</i> ) (DUP)   |
| † Dakin, Nic ( <i>Scunthorpe</i> ) (Lab)   | † Smith, Henry ( <i>Crawley</i> ) (Con)  |
| † Dromey, Jack ( <i>Birmingham, Erdington</i> ) (Lab)  | † Stewart, Iain ( <i>Milton Keynes South</i> ) (Con)   |
| † Elliott, Julie ( <i>Sunderland Central</i> ) (Lab)   | † Stunell, Andrew ( <i>Parliamentary Under-Secretary of State for Communities and Local Government</i> ) |
| † Gilbert, Stephen ( <i>St Austell and Newquay</i> ) (LD)  | † Ward, Mr David ( <i>Bradford East</i> ) (LD)   |
| † Howell, John ( <i>Henley</i> ) (Con)   | † Wiggin, Bill ( <i>North Herefordshire</i> ) (Con)  |
| † Keeley, Barbara ( <i>Worsley and Eccles South</i> ) (Lab)  |  |
| † Lewis, Brandon ( <i>Great Yarmouth</i> ) (Con)   |  |
| McDonagh, Siobhain ( <i>Mitcham and Morden</i> ) (Lab)   |  |
| † Mearns, Ian ( <i>Gateshead</i> ) (Lab)   | Sarah Davies, <i>Committee Clerk</i>   |
| † Morris, James ( <i>Halesowen and Rowley Regis</i> ) (Con)  |  |
| † Neill, Robert ( <i>Parliamentary Under-Secretary of State for Communities and Local Government</i> ) | † <b>attended the Committee</b>  |

## Public Bill Committee

Thursday 10 February 2011

(Morning)

[HUGH BAYLEY *in the Chair*]

### Localism Bill

#### Written evidence to be reported to the House

- L 81 National Farmers Union
- L 82 Federation of Archaeological Managers and Employers
- L 83 Keighley town council
- L 84 Peter Hayward
- L 85 Age UK, Mencap, National Autistic Society, RNIB, Sense, and Scope
- L 86 Development Trust Association and bassac
- L 87 UK Business Council for Sustainable Energy and Industry
- L 88 NAVCA on behalf of the Real Power for Communities campaign

#### Clause 66

##### DUTY TO CONSIDER EXPRESSION OF INTEREST

9.30 am

**Barbara Keeley** (Worsley and Eccles South) (Lab): I beg to move amendment 88, in clause 66, page 48, line 28, at end insert—

- (c) the relevant authority reasonably believes that, if the authority accepts the expression of interest, the relevant body intends to submit a bid to provide the service in the procurement exercise to be carried out by the relevant authority under section 68(2), and
- (d) the expression of interest provides evidence that a majority of the users of the relevant service, or those otherwise affected by the expression of interest, support the expression of interest.’

**The Chair:** With this it will be convenient to discuss the following: amendment 114, in clause 66, page 49, line 1, after ‘means’, insert

‘a body, the activities of which are not carried on for profit, and which is’.

Amendment 90, in clause 66, page 49, line 7, after ‘authority’, insert

‘who have secured, by ballot, the support of a majority of those employees of the relevant authority whose principal work, in their capacity as employees of the relevant authority, is in the provision of the relevant service’.

Amendment 115, in clause 66, page 49, line 7, after ‘authority’, insert

‘who have formed an organisation for charitable purposes or a community interest company or industrial and provident society’.

Amendment 91, in clause 66, page 49, line 8, leave out paragraph (e).

Amendment 113, in clause 66, page 49, line 13, after ‘voluntary’, insert ‘or community’.

Amendment 92, in clause 66, page 49, line 17, at end insert—

‘(8A) For the purposes of subsection (5) the meaning of “body” is restricted to a body whose principal activities are carried out in the area of the relevant authority.’.

Amendment 93, in clause 66, page 49, line 18, leave out subsection (9).

**Barbara Keeley:** It is a pleasure to take part in day four of this Committee’s work, Mr Bayley. I thank you, Mrs Davies and her team in the Public Bill Office, the *Hansard* Reporters, the Doorkeepers and the House officials and police, who worked such a long day with us on Tuesday. It takes a lot to keep the House running efficiently when MPs are working, and I appreciate that.

I turn to this large group of amendments. As can be seen, amendment 88 adds two considerations to which a local authority must have regard under its duty to consider an expression of interest. Proposed new paragraph (c) would add a provision that the organisation expressing an interest must be realistic in its intentions. Proposed new paragraph (d) would add the consideration that the organisation expressing an interest must include evidence that the majority of the users of that service support the proposal. The users of a service are an important group, and should be considered if there is to be a bid for an alternative provider to run the service. The amendment could prevent the making of vexatious requests to put services out to procurement by ensuring that such requests were truly supported by the users.

Amendment 114 would add a straightforward definition, so that a “relevant body” under the community right to challenge had to be a body whose activities were not for profit. Amendment 90 would add the requirement that expressions of interest in running a local public service could be submitted by two or more employees of a local authority only if they had secured the support by ballot of a majority of the relevant employees whose principal work was in that service.

Concerns have been expressed about the proposal that a small number of employees should be able to make such a request. There is nothing in the Bill to say that the employees in question should have a major involvement in the service concerned. Another worry is that an expression might result from a disagreement between employees, which would be detrimental to the service. The biggest concern—I shall come back to this later—is about services being taken over by multinational companies. It would clearly be possible for a company to persuade two or more employees of an authority to submit an expression of interest, which would mean that the company, not the employees, was behind the bid.

We believe that there is a precedent for dealing with such situations in the right-to-request system that operates in primary care trusts. There, any proposal to set up a social enterprise must be supported by the staff, who have the right to request a social enterprise and the right to refuse. A ballot takes place, and those directly affected can decide their fate. We believe that that example should be followed in the Bill. Amendment 90 represents a safeguard.

Amendment 115 is an alternative to amendment 90. It would ensure that where two or more employees of a local authority submit an expression of interest, they have already set up a charitable organisation for the purpose. Amendment 91 would remove the power of the Secretary of State to specify by regulation the bodies—presumably not voluntary or community bodies—that could submit an expression of interest. The Secretary of State's power is a cause for concern. It would open the door to using the community right to challenge to privatise public services. Why do the Government want the Secretary of State to have the power to allow other persons or bodies the right to require a service to be put out to tender? What do they wish to achieve? Another concern is developing that the Government could start cherry-picking public services, and there is even the possibility of asset stripping.

Amendment 113 clarifies subsection (7), so that the definition of a not-for-profit body also applies to community bodies. We are engaged in an awful lot of defining in these provisions. Amendment 92 specifies that the meaning of “body”—a community or voluntary body—would be restricted to bodies whose principal activities were local. There is a desire to support local community bodies and voluntary bodies, and the provision is an important localist measure, but without that change, non-profit-making bodies with no connection with an area, such as large charities from other parts of the country that knew nothing about the area, could run local services.

Many of the best charities that I know and work with in Salford have separate, locally based organisations. For example, Salford Carers Centre is part of the Princess Royal Trust for Carers network, and Age UK Salford is part of the Age UK network. Local bodies really know the area, and it should be those bodies that express an interest in either delivering services or assisting in delivering services.

**Fiona Bruce** (Congleton) (Con): Many organisations have a national umbrella registered charity for ease of administration, and I would not want them to fall foul of the hon. Lady's proposal.

**Barbara Keeley:** Indeed. The thinking here is to ensure that there is a local connection. Clearly, networks and partnerships could be set up, but it is important that there is that local link.

Let me turn to amendment 93. Here we come back to the powers of the Secretary of State. The amendment relates to the power of the Secretary of State to amend or repeal definitions in subsections (5) to (8), or to make any other amendments to the chapter—a power that causes concern. In some ways, there is no point in either scrutinising the Bill or considering the amendments if the Secretary of State can later come along and amend or repeal the important definitions that are under debate.

Amendment 89 removes the power of the Secretary of State to specify additional persons or bodies as “relevant authorities” who would have to consider expressions of interest. For the Secretary of State to apply the right to request to any other body carrying on functions of a public nature—

**The Chair:** Order. Amendment 89 stands alone in a separate group.

**Barbara Keeley:** I was not sure, Mr Bayley, because the group is so large. Going back to the amendments apart from amendment 89, I have to say that even for community organisations and charities that welcome the community right to challenge—and of course they welcome it, as do the Opposition—there have to be safeguards. There are major concerns. The first and most obvious is to avoid privatisation by the back door, or privatisation by the order-making power of the Secretary of State. The Secretary of State wants the power to specify relevant bodies, and he wants to take the power to amend or repeal the definition in subsection (5) of a relevant body that can submit an expression of interest.

Moreover, there is real concern—Members may have read this in the briefings submitted to us—about the fact that services subject to challenge include services that are already run by voluntary groups or community bodies on behalf of the local authority. In many local authority areas, services are already contracted out. Those bodies worry that other organisations will come along and tender. Examples of such services include carers organisations that assess need on behalf of the local authority, and lots of children's services are run by organisations such as Barnardo's or the Children's Society. Those organisations are genuinely concerned that their services may be put out to tender and subject to bids from outside, or from bodies specified by the Secretary of State. Bassac, a development trust with a lot of experience of developing new organisations, particularly ones that undertake procurement and take over assets, was concerned. In its evidence to the Committee, it said:

“It could in fact, be used by large national agencies or private sector organisations to take contracts away from local community bodies...As it stands the expression of interest could be used by local authority employees setting up a private company; this loophole needs to be closed.”

As I said earlier, there needs to be consideration of the needs and views of service users. Consumer First reckoned that service users sometimes prefer the organisation that currently delivers their service, be that the local authority or another provider.

A final but important consideration is that a number of third sector organisations say that putting the measures into legislation will be ineffective unless it is combined with extra support for community groups and local authorities that will be changing their commissioning processes. Let me return to the impact assessment, which we have only had for a week. There is an estimate in the impact assessment of funding for that support, and it is put at £14.5 million between 2011-12 and 2014-15, which is less than £5 million a year across all local authorities and third sector organisations. That amounts to £15,000 per local authority, which does not seem to be stretching support very far. Funding to help community organisations acquire an asset is given as £500,000 a year over three years; 60% of that will be loans, and 40% will be grants. If you divide that across the country, it is £1,500 per local authority area. That will not buy many pubs, post offices or other services.

I find the assumptions about the cost to local authorities of dealing with the new community right to challenge somewhat naive. That view is shared by Henry Peterson, who was an adviser to the Department for Communities and Local Government and the Local Government Association. In his evidence, he told us:

[Barbara Keeley]

“The assessment on the community ‘right to challenge’ is thin on evidence and acknowledges the impossibility of monetising many of the anticipated benefits and costs. The case for applying this measure initially only to local government services is stated as being to ‘ensure that local authorities are an exemplar for this right’.

Many would argue that local government already achieves better value for money in its commissioning, and is more open to provision through the independent sector, than much of central government.”

The impact assessment states that there will be additional burdens on local authorities, the main cause of which will be assessing expressions of interest and, if they are accepted, undertaking procurement exercises.

It is guesstimated in the impact assessment that 331 services may be subject to expressions of interest from relevant bodies or authorities’ employees in each of the first three years, with an estimated cost to local authorities of £120,000 to £140,000 a year. There is a further guesstimate that 60% of expressions of interest will lead to a procurement exercise, the cost of which has been put at £9,100 each, or just less than 5% of contract value. The total additional burden on all local authorities is judged to be just less than £3 million, based on one procurement exercise per local authority. I do not trust those figures, and I think we should question them here.

In his evidence, Henry Peterson said:

“Practical implementation costs of the community empowerment proposals in the Bill, as forecast in Impact Assessments, are likely to prove under-estimates in terms of the additional workloads and bureaucracy generated.”

That is of interest, because it sounds to me as though either the guesstimates in the impact assessment are woeful underestimates or the policy will not have any impact. We need to know which one it is.

If there will be only one procurement exercise per local authority—and many of the proposals will not be accepted—could the Minister tell us what impact he thinks the policy will have? Or does he, like me, think that there will be many more procurement exercises? In that case, there will be a bigger burden on local authorities, which, as we know, are already struggling to manage the swingeing front-loaded cuts imposed on them by his Government.

As was the case for other measures in the Bill, I have moved these amendments to make the new process more manageable for local authorities, more supportive of voluntary and community organisations—for whom, let us remember, it was designed—and fairer to service users, the staff currently delivering those public services, and the third sector. They are sensible, practical amendments, and I hope that the Committee supports them.

We must bear in mind as we work through this large group of amendments that the provisions have had no proper scrutiny—this is the first scrutiny that they have had. The Department issued its consultation document on the proposals only last Friday; that is something else that we received very late. There should have been more scrutiny of the Bill before it was brought before the House, and we will do the best we can. Again, on behalf of fellow Labour Members, let me say that I object to consultation documents being issued while we are in Committee.

**Heidi Alexander** (Lewisham East) (Lab): I support the amendments, but I would like to make some general comments about the clause. Please pull me up, Mr Bayley, if I stray into elements that I should not be talking about at this stage.

My biggest problem with the community right to challenge is that it will not do what the Government want it to do. My hon. Friend the Member for Worsley and Eccles South was completely right to express our concerns about the possible unintended consequences of the proposals. The idea of a community right to challenge is politically and conceptually very attractive, but I have a great number of fears about how it will work in practice. I fear that it is designed to generate headlines. We could end up with a lot of frustration and disappointment among community organisations over what has been heralded in the clause.

9.45 am

Where do Ministers think the expressions of interest will come from in the current climate? This is an incredibly difficult time for the community and voluntary sector. This week, Dame Elisabeth Hoodless was quoted in *The Times* as saying that “massive” council cuts will make it harder for people to do things in their communities. On the “Today” programme, she said simply that the Government’s approach to the big society and to getting community organisations to do more in public service delivery is characterised by

“one hand not appreciating what the other hand is doing”.

Last week, Liverpool city council pulled out of the big society project due to council cuts.

I would love to think that there are community organisations across the country chomping at the bit—I am sure that there are some—and I applaud Ministers’ proposals in that respect, but they misunderstand the fact that a huge amount of capacity building and financial support will be needed if the proposals are to come to fruition and the Government are to realise their aim of new models for service delivery. The Centre for Local Economic Strategies’ bulletin on the Bill says:

“If government is serious about community delivery, this commitment needs to be accompanied by grant and capacity building support. After all, only about 80% of all voluntary and community sector organisations actually deliver public service contracts.”

That quote played through my mind during the Communities and Local Government Committee’s visit to Devon last week. Other members of this Committee were there, and we met some wonderful people from the Torbay Coast and Countryside Trust, which runs more than 1,700 acres of country park, woodland and nature reserve on that beautiful stretch of coastline. As I sat there, I thought, “This is probably the sort of thing that the Government would like more of,” so perhaps that is what clause 66 is designed to encourage. However, the chairman of trustees said, “We couldn’t do the job without the council.” The environment commissioner from Torbay talked about the process of setting up the trust and said that it was a collaboration between the council and the community—it was their idea. He explained that it would be incredibly difficult to set up the community-led trust in the way it operates today, given the huge financial constraints that we are under.

Having seen that example in Devon, I ask whether we need the clause to encourage community organisations to get involved in public service delivery. I can think of

an example in my local authority. Due to the scale and speed of the cuts that Lewisham faces, it is considering closing five out of its 12 libraries. It was up front about that possibility, unlike other local authorities that kept their intentions well hidden and announced them at the last minute. Lewisham has enabled a long period of consultation with the community on alternative models of provision. Fantastic community organisations are coming forward, and I am pleased to say that we might have five workable alternatives for the community to take on the running of those libraries.

Two libraries in my constituency are affected: one is in Blackheath, which is a relatively affluent part of the area, and the other is in Grove Park, which is not such an affluent part. The Blackheath Society is involved, and Sir Ian Mills in Blackheath has led a fantastic piece of work on bringing forward a proposal to move the library out of a rented building into a community building—an Age Exchange building, which is a local charity—in the constituency of my right hon. Friend the Member for Greenwich and Woolwich. There is differential capacity among communities to introduce such proposals.

**Fiona Bruce:** I would like to talk about capacity building in relation to youth services. The contrary was true in the local authority with which I was involved, because youth provision provided by the voluntary sector was far more effective and had far greater capacity than that provided by the local authority itself. The local authority acknowledged in its own report that it was not succeeding in reaching young people who needed assistance. Would the hon. Lady like to comment on that?

**Heidi Alexander:** I do not dispute that there are many fine examples of community-run youth activities and facilities. Indeed, I have been involved in many such organisations and was a member of a board for a considerable time. I recognise that such initiative comes from many different parts of the community.

**Ian Mearns (Gateshead) (Lab):** Yesterday, I had the pleasure to be at a sitting of the Education Committee at which we were taking evidence from youth service organisations. The broad swathe of opinion from those organisations—including the YMCA, a couple of London organisations, and the Scout movement, which has more than 100,000 volunteers nationally—is that a mixed economy is the best approach, but that we need the backup of local authority services to meet the greatest needs.

**Fiona Bruce** *rose*—

**Heidi Alexander:** I see that the hon. Member for Congleton is trying to catch my eye again, but perhaps I should respond first to the intervention from my hon. Friend the Member for Gateshead. I agree with his comments. What I was going on to say in response to the hon. Member for Congleton was that, in my experience, there are many times when the relationship between the community sector and the council—the local authority—is absolutely critical. I do not therefore consider it to be a case of either/or; it is about both sectors working together.

To return to the example of the Lewisham libraries, the costs of enabling the introduction of such proposals are significant. A substantial amount of capital investment

is needed if the community is to take on the running of the library in Blackheath. A number of senior council officers have spent a huge amount of time working with those community organisations. There have been frustrations during the process and I am sure that sometimes the community organisations would have liked a quicker and different response from the council, but nevertheless the process has been about partnership. That brings me to my final point: are we framing the question about the community right to challenge correctly? I see the legislation as being about working together, collaborating and co-operating.

**Gavin Barwell (Croydon Central) (Con):** When the hon. Lady starting giving her example of the libraries in her borough, she was trying to question whether we need the legislation because such things are evolving naturally in her area anyway. She then made a telling point, however, because she contrasted Lewisham with other local authorities that have not taken the same approach. Does not that suggest that perhaps not all local authorities are as enlightened as hers, and that there might need to be legislation to ensure that residents in those councils have access to the same opportunities as her residents?

**Heidi Alexander:** I am sure that there are other ways for the Secretary of State to give local authorities a prod on these issues. He certainly is not shy of doing that for things such as bin collections.

**Jack Dromey (Birmingham, Erdington) (Lab):** A nudge.

**Heidi Alexander:** A nudge, indeed. I question whether we need very prescriptive, lengthy legislation on this issue.

**Fiona Bruce:** I endeavoured to give my local authority a nudge for an excellent charity that I felt could improve youth provision in our town. I brought forward representatives of the charity to demonstrate what they were doing in other areas. The value-for-money element was indisputable: for some £30,000, which was more or less the equivalent of one youth worker's salary plus add-on costs, that organisation would provide 10 youth workers who were committed to 20-plus hours a week and to going out on the streets to deliver really good, detached youth work and to getting involved in the most deprived area in the town. Despite all that evidence and endeavour, however, the local authority would not commit to that amount of money, and that is why we need this kind of legislation.

**Heidi Alexander:** Obviously, I cannot comment on the individual decisions made by the hon. Lady's authority, but by raising value for money, she brings me on to another set of questions that I would like to put to the Minister. In the hon. Lady's example, the case for the community provision was predicated on it being a better deal for the taxpayer as well as delivering a better service overall—the two combined. Although I appreciate that this relates to a later clause and we have not yet discussed it very much, I think that when local authorities consider expressions of interest, they must make several considerations about how to run their services overall.

[Heidi Alexander]

With these expressions of interest coming forward, I am not clear about how local authorities might best deal with the fragmentation of service that then takes place.

If I may beg the Committee's indulgence once again, I would like to talk about a practical example from my experience on Lewisham council. A couple of years ago, I was approached by a community group based on a large estate in Deptford. The Pepys estate covers about 1,000 properties. The Pepys community forum, as it was then, did a huge amount of good work, but it led a hand-to-mouth existence and did not have much core funding. It came to me to say, "What we would like to do is run a composting and recycling service for the 1,000 flats on the estate."

The proposal sounded great—it sat very well with what the Government are proposing—but there were several problems. The first one was that the council had just signed a huge contract with Veolia to take all the waste away, so we would have had to renegotiate that contract. I understand that it sounds ludicrous that the council was paying a private company to take away its waste when that recycle could have been a resource. The food waste could have been made into compost, and the tin cans and the paper could have been sold. Even the then Minister of State, my right hon. Friend the Member for Lewisham, Deptford (Joan Ruddock) came down to encourage me, as the deputy mayor of Lewisham, to support such an initiative.

While we might have been able to overcome the contractual issues, even though the council would have incurred some cost, the local authority had to consider other aspects, one of which was the problem that taking out part of the service would set a precedent, so compost and recycling services run by community organisations could operate on every single estate. What would that do to the residual service that the council must provide for the collection and composting of waste, and what would be the effect on any economies of scale? The local authority also had to take account of risk and liability. As much as the project may have been managed incredibly well—I know the people in the Pepys community forum and am sure that they would have done a fantastic job—what would happen if it involved a small operation with a couple of men or women in a white van collecting the food waste, but then the van broke down and they did not turn up for a couple of days? We have lots of high-rise flats and huge amounts of food waste can be produced. If it were the responsibility of the local authority, it would have other vans and other men or women who could collect the waste. Obviously, there are serious risks, perhaps including environmental health risks, but liabilities are also involved?

10 am

The Committee might think that is an example of a Labour council giving all the reasons why it cannot do stuff, but what happens if the guy in the van knocks down a child on the estate? There are questions for local authorities about the risk and liability that they are prepared to accept when services are delivered differently. I am not saying that such problems cannot not be overcome, but we should recognise that there is a whole raft of legislation that makes it incredibly difficult for

community organisations—the grass-roots organisations that the Government want to come forward—to deliver services.

**Brandon Lewis** (Great Yarmouth) (Con): Will the hon. Lady give way?

**Heidi Alexander:** I am drawing my speech to a close. I have been generous in taking interventions, so I hope the hon. Gentleman will forgive me if I do not take another one.

This aspect of the Bill promises much but could deliver little, and what it does deliver might be different from the kind of thing that the Government envisage.

**Mr David Ward** (Bradford East) (LD): I should start by saying how much I welcome this aspect of the Bill—[HON. MEMBERS: "Hear, hear."] However—[*Laughter.*]

We have received the Local Government Association briefing. I could read it out, but I agree with almost every word of it about centralised control. Our discussion has been interesting, however, because it reflects the different standpoints when discussing what a good authority does. Government Members have said, "Yes, that's fine if you have an authority that is doing that, but if you don't, it's not fair on the electors of the area." In my view, that is what they vote for, as I have rehearsed.

I have two objections to that approach. First, there is a basic underlying assumption that central Government actually know what is best and should prescribe it across the land. The second thing is that each time that is done, we move further away from local government—both words are important—and towards local administration, and then we get back to the question of, "Why vote for anyone; you're all the same?" We need to differentiate between forward-looking, entrepreneurial, innovative councils and other authorities—or, indeed, other parties in such a council—that do not believe that they should be like that.

I very much approve of the general thrust of opening up the possibility for challenging local authority services. I accept the points about terminology—I am not sure that "challenge" is the right approach or philosophy—but it seems that there is general agreement on both sides of the Committee that services should be opened up to voluntary or community bodies. Amendment 114 would exclude the awful word "profit" from any consideration. I am not opposed to profit, depending on what the profit is used for. Social enterprises make profits—that is why they are in business—but the difference is that that profit is reinvested in social and community benefits. Voluntary organisations and charities also make profits and have trading arms. Anyone who visits an Oxfam shop is in part of the trading arm of that particular charity.

That is the only point that I want to make. Perhaps we can clarify that we are not opposed to bodies making a profit from running council services, provided that that is reinvested in social and community wealth or benefits.

**The Parliamentary Under-Secretary of State for Communities and Local Government (Robert Neill)** Will my hon. Friend give way?

**Mr Ward:** I thought that I had finished my speech.

**Robert Neill:** I wanted to link that point to the one made by the hon. Member for Lewisham East, because a good example of such a social enterprise operates in Liverpool. It effectively and efficiently does exactly the sort of thing to which the hon. Lady referred: the recycling and collection of household rubbish and other goods. The profit is recycled to public services and the enterprise is also involved in training some 30,000 unemployed people. It happens to go by the name of Bulky Bob's. Does my hon. Friend the Member for Bradford East agree that we want to make plenty more room for more Bulky Bobs?

**The Chair:** As that was an intervention, the hon. Member for Bradford East needs to say either yes or no.

**Mr Ward:** I want to say how much I welcome that intervention.

**The Chair:** The intervention has been saved, as such. If no more Members are trying to catch my eye, I will let the Minister of State give the whole Committee a nudge.

**The Minister of State, Department for Communities and Local Government (Greg Clark):** Or indeed a shove, Mr Bayley.

I am all in favour of more Bobs—bulky, svelte or otherwise—playing a greater role in our national life.

This aspect of the Bill is important. Indeed, it is a competitor for being one of the most important aspects of a really important Bill. However, I do not think that we can claim credit for it because it is unfinished business that has resulted from the campaigning of many organisations over a number of years. That campaigning reached fruition most recently through the Sustainable Communities Act 2007, which the previous Parliament enacted with all-party support.

The 2007 Act introduced the idea into our national conversation that two principles should apply: first, that members of the public and communities should always be able to know what their elected bodies and representatives are doing on their behalf, and that there should be transparency around how much is spent and on what—that important principle is reflected in various parts of the this Bill—and, secondly, that on the basis of that information, it should be possible for members of communities to challenge the way in which things are being done and to suggest alternative ways of doing things that might be able to deliver better services than at present. Crucially, under that second principle, it should not be possible to sweep such ideas aside or for them to be dismissed without proper consideration only because the people in power find it inconvenient to think in a more open way.

The 2007 Act was a private Member's Bill, and hon. Members on both sides of the Committee know what happens as such Bills progress through the House: they get watered down, and compromises are suggested that must be taken on board if the Bill is to make progress. Such Bills all too often become a diluted version of their original intention. In the case of the 2007 Act, the essence of its intent was preserved, but we now have the opportunity to revisit that matter and go further.

**Barbara Keeley:** Will the Minister acknowledge the great lengths to which the then Secretary of State went to support the Sustainable Communities Act as it was going through the House? I am promoting a private Member's Bill, so I know that the Minister is right about how difficult it is for them make progress. It should be acknowledged, however, that the previous Government and the former Secretary of State gave a lot of support to the Bill that became the 2007 Act.

**Greg Clark:** I am happy to reflect on what the hon. Lady says. I do not want to be churlish, and there was cross-party support, as I said. Were it not for support from Government Front Benchers, the Sustainable Communities Bill would not have been enacted, and although I would like to think that some of the watering down might have been avoided and that the Bill might have reached the statute book in a more robust form, I give the former Secretary of State two cheers.

These key measures in the Localism Bill will represent a striking change. The hon. Lady said, perfectly reasonably, that authorities should not be bogged down with pages of legislation on this topic, but there are in fact only three pages. This chapter of the Bill is striking, economical and resonant. It is clear about what it establishes, namely the right to be heard.

**Mr Nick Raynsford (Greenwich and Woolwich) (Lab):** Does the Minister think that the lack of clarity about the definition of "relevant body" and "relevant authority"—simply because we have not got the details of what the Secretary of State intends to prescribe by order—removes exactly the clarity that he argues should be part of the Bill? We have not got it, and we cannot properly scrutinise the provisions without that information. Why have we not got it?

**Greg Clark:** I do not, but I will explain why in a second. The drafting is empowering, rather than the reverse. I draw the Committee's attention to the evidence given by Sir Stephen Bubb, the head of the Association of Chief Executives of Voluntary Organisations. Sir Stephen is not always a fan of the Government, but he said:

"the right to challenge and the right to buy are so important. We strongly support those rights, and we hope that Ministers will resist the blandishments of local authorities that we should not have terribly enforceable guidelines and trust them."

He went on to say:

"I want to see the guidelines drawn widely in terms of the services that we could challenge."—[*Official Report, Localism Public Bill Committee*, 27 January 2011; c. 148, Q246.]

That is a clear request that we ensure that we do not hedge around the clarity of the rights that are available.

I am a little disappointed about the raft of amendments that the hon. Member for Worsley and Eccles South has tabled, given that she spoke encouragingly about the existence of such a right and of local groups' ability to challenge. Out of the 17 amendments that she tabled, including the 14 that we are considering, three set up obstacles to voluntary groups taking up these rights. Another three set up restrictions on the organisations that can take up the contracts. Another five are, in effect, wrecking amendments that would prevent a recalcitrant local authority from stymieing this process—they would remove the safeguards. Two would remove

[Greg Clark]

the flexibility to keep definitions up to date and ensure that the legislation does not become fossilised, while one would impose a burden on local authorities. I am worried that if one looks at the thrust of the amendments rather than noting the tone of the hon. Lady's speech, one can reach a different view about her position.

**The Chair:** Order. May I remind the Minister that the 14 amendments to which he has referred have been arranged into five different groups? It would help the Committee if we could restrict ourselves to debating the group of nine that we are currently considering.

**Greg Clark:** I will certainly follow your advice, Mr Bayley. The same point is reflected in these nine amendments, however.

This reminds me of when I was first elected to the House and I supported a private Member's Bill on sustainable energy. On one of the first Fridays I had attended the House, the right hon. Eric Forth, who was the predecessor of the Under-Secretary of State for Communities and Local Government, my hon. Friend the Member for Bromley and Chislehurst, made an impassioned speech in favour of sustainable energy. I was rather taken with it, but it turned out to be a very long speech indeed, and it became evident that the words that he was using might have been at variance with his intentions for that sitting. I hope that that is not the case with the hon. Lady and her colleagues—the impression might be inadvertent—but the amendments would curtail and to circumscribe the very important rights that will be available.

**Barbara Keeley:** If the Minister is going to liken me to the former Member for Bromley and Chislehurst—I heard him do the same thing in the Chamber on Fridays—I must point out that I spoke for only 15 minutes.

10.15 am

**Greg Clark:** I take the hon. Lady's point, and I am grateful that we will not be kept here all afternoon hearing about the amendments.

Amendment 88 would require authorities to decide whether a relevant body should compete in any procurement exercise before they considered its expression of interest. We are consulting on the potential for that. There are two parts to the amendment. Proposed new paragraph (c) actually reflects something that we intend to do, so I am sympathetic to it. We suggest in the consultation document mentioned by the hon. Lady that the relevant bodies should make a case that they would be able to participate in any exercise for the awarding by a relevant authority of a contract for the provision of the relevant service, so that is very much envisaged.

The second aspect of the amendment, however, would require anyone who expressed an interest to commission a poll of service users in advance, but that would clearly be liable—whether intentionally or not—to block the take-up of this important right. Such a provision would fall squarely into the type of measures that Sir Stephen Bubb warned us against.

**Nic Dakin (Scunthorpe) (Lab):** I do not fully understand how involving local people to check whether there is a local interest blocks the process. I would have thought that that was completely in line with the principle of checking local feelings on an issue, and that it is therefore solid localism.

**Greg Clark:** This is about expressing an interest in the first place. There are further provisions on take-up and when a procurement process should be triggered, which we might talk about this afternoon. Those measures take into account social value and so on. I hope that hon. Members will concede that it would be onerous—though perhaps unintentionally so—to require a ballot of service users in advance of expressing a view that things could be done differently. That would fall into the trap of making it difficult for people to take up these rights, as the hon. Member for Lewisham East mentioned.

**Barbara Keeley:** This is a large group of amendments, so it will probably be easier if we deal with points as we go along. Does the Minister think that the proposal should be considered for any sorts of services? In social care, the identity of the personnel who make home visits or who give intimate personal care to a service user makes a difference, so that is an important consideration. Nothing is more frightening to an elderly, frail or vulnerable person than the notion of a different person turning up. Does the Minister therefore think that the proposal should be considered for any of the services that might be tendered?

**Greg Clark:** The hon. Lady's concerns are misplaced. This is about an expression of interest, and the appropriate time to consider the effect on users and the community is when that expression is taken up in a tender exercise. That is the point for an assessment, which we will talk about later. There is no obligation on the authority to trigger a procurement exercise. As I think Sir Stephen said, the guidelines for the services that could be challenged should be widely drawn, and that is important at this stage.

Amendment 92 would restrict the right to express an interest to local bodies. It overlooks the potential of many national organisations to provide a useful service, as my hon. Friend the Member for Congleton pointed out. There is an increasing trend towards national organisation. For example, many age-related charities are moving towards having a national core with local operations.

**Gavin Barwell:** May I give my right hon. Friend a perfect example of the point he is making? The local branches of the Alzheimer's Society are now all part of a national federation. My father passed away from Alzheimer's disease and I know how much people who suffer from the condition value the services provided by the society. The amendment would prevent the Croydon branch of the Alzheimer's Society from expressing an interest in services.

**Greg Clark:** It would indeed. My hon. Friend is a great campaigner for the Alzheimer's Society, and I have been involved with my local branch of that national

organisation. It is important that we have such structures. This relates to the point made by the hon. Member for Lewisham East about differential capacity. Our concern to make sure that different people can take up the rights, if they are established, clearly runs through the Bill. One of the principal ways in which well-motivated national charities can help communities where capacity is more limited is to follow their vocation and pay particular attention to those areas where their mission is most needed. To cut them out of that would be a great mistake.

**Heidi Alexander:** Does the Minister think it would be localism in action if we took the example that the Under-Secretary of State for Communities and Local Government, the hon. Member for Bromley and Chislehurst, gave in Liverpool—I think its name was Bonkers Bob—

**Robert Neill:** Bulky Bob's.

**Heidi Alexander:** Bonky Bob? [*Interruption.*] Forgive me; that was a genuine mistake.

**Robert Neill:** I can tell the hon. Lady that I have heard worse.

**Heidi Alexander:** Does the Minister of State think it would be an example of localism in action if Bulky Bob's grew from Liverpool into a national social enterprise and took over the service on the Pepys estate in Deptford? That would seem to be a national social enterprise taking on local service delivery, so I am trying to get whether that is localism straight in my head.

**Greg Clark:** The hon. Lady trod the tightrope but she managed to avoid the path of Jim Naughtie and the Culture Secretary.

This is a good example of how capacity can be built in communities around the country and how something that works particularly well in one part of the country can be spread to another. There is an interesting contrast with what happens in the private sector, where a good idea transmits itself like wildfire and is taken up in every community in the country. That has been more difficult for voluntary organisations so far. There can be a brilliant idea, such as Bulky Bob's in Liverpool. It may have something to offer, but it might also have

something to offer to the Wirral, Manchester, Leeds or London. It is correct that we build the right for such an idea to be made available to other communities.

**James Morris** (Halesowen and Rowley Regis) (Con): I think that the director of the London Civic Forum said in his evidence to the Committee that he thought that these provisions would help to close the gap in differential capacity, particularly in areas of deprivation. In Sandwell in my constituency, there are low levels of community capacity, and the measure would enable and drive capacity building.

**Greg Clark:** My hon. Friend is absolutely right. Building capacity is really important and one way to do that is to make sure that a successful charity or voluntary organisation can operate in other areas with the consent of the local community.

**Barbara Keeley:** I do not think there is a great divide between members of the Committee. Amendment 92 was tabled on behalf of the Development Trust Association and Bassac, which said in their written evidence:

“There should be a requirement that the expression of interest can only be initiated by a local organisation. If for example a national charity is interested in submitting an expression of interest, they would have to do so via a local community partner. This will encourage locally-driven small/large and local/national partnerships”.

I gave the example of the Princess Royal Trust for Carers, which set up a Salford carers centre that then became the local organisation.

This leads me on to the Big Lottery Fund. There is one ward in my constituency that has done so badly out of lottery funding, because it has no capacity to apply for funds, that it has set up one of these extra funds involving £1 million over 10 years. There is no capacity in that one area. There has to be something that stops all the national charities bidding, which they can do successfully again and again, but then never setting up something in a local area. We are arguing—

**The Chair:** Order. Interventions should be fairly short, and we have reached the end of the sitting.

10.25 am

*The Chair adjourned the Committee without Question put (Standing Order No. 88).*

*Adjourned till this day at One o'clock.*

