UNIVERSITY OF BIRMINGHAM

Institute of Local Government Studies

The World Will Be Your Oyster?

Reflections on The Localism Act 2011

Chapter Ten

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The Implications for local economic development
and Local Enterprise Partnerships

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The Localism Act: The implications for local economic development and Local Enterprise Partnerships

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Introduction

There is nothing much more or less in the provisions for local economic development and Local Enterprise Partnerships (LEPs) in the Localism Act than there was in the Localism Bill in regard to local economic development and LEPs[1]. The LEPs were afforded no statutory role in the Bill; there is no statutory role given to the LEPs by the Act. Nevertheless, the Act does touch on economic development.

The Localism Act received Royal Assent on 15 November 2011. Much of the debate in the press, other publications and in the House[2] on the Bill was about planning matters. There was, however, some debate on economic development and there are a number of matters that are worth commenting on about the local economic development agenda and Local Enterprise Partnerships.

The first part of this chapter looks at the provisions in the Act in relation to economic development. It then highlights some questions with regard to the localism agenda in relation to local economic development and Local Enterprise Partnerships. The chapter goes on to explore the extent to which LEPs are localist and whether LEPs will be sufficiently empowered to secure private sector led growth. While LEPs and local authorities may be empowered to do what is necessary, this is on the basis of a constrained freedom to secure outcomes. Central Government appears to remain in control, in particular over funding. Nonetheless, there is some evidence that LEPs are able to undertake innovative actions and that the future may be bright for LEPs.

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[1] Bentley G, (2011) Local economic development and local enterprise partnerships in Raine J and Staite C eds The World Will Be Your Oyster? Perspectives from INLOGOV on the Localism Bill Birmingham: INLOGOV University of Birmingham
[2] House of Commons (2011) Localism Bill: Committee Stage Report Research Paper 11/32 London: House of Commons

Localism Act: Provisions for Local Economic Development

One thing the Localism Act does is finally to abolish Regional Strategies and bring the axe down on regional governance institutions. The whole regional tier concerned with economic development has gone: Regional Development Agencies (RDAs); Government Offices for the Regions; the Regional Observatories; the Regional Ministers; Regional Select Committees; and the Leaders' Boards. Regional Statistics are disappearing, to be replaced by statistics for LEP localities. The loss of the regional tier of administration caused some consternation and bewilderment to the European Commission. Given that the Structural Funds are disbursed and administered by the regional tier in Member States, it posed the question - at what level would the Structural Funds be administered in this country? Lengthy negotiations would be required before another level of government, a lower tier, could be considered as a proper authority to act as managing agent for the funds. There is only one case in the EU where a sub-regional tier authority disburses the Structural Funds. At first, it seemed also that there would be a Single Programme for England and that it would be managed by the Department of Business Innovation and Skills. However, that scenario has been averted by the retention of 'regional teams', reporting to the Department of Communities and Local Government.

No Statutory Role for LEPs

LEPs have taken up the economic development baton. LEPs are "joint local authority-business bodies brought forward by local authorities themselves to promote local economic development".[3] There was nothing in the Bill about the empowerment of LEPs[4] and there is nothing in the Act about them. The Decentralisation Minister, Greg Clark, had said that LEPs were not to be defined in legislation[5]. Unlike the RDAs, which were given a statutory role and tasked to carry out certain functions, LEPS do not have a statutory role; they are asked to do what is necessary to secure economic prosperity. The Act enshrines this principle in the General Power of Competence which is afforded to local authorities. Instead of being able to act only where the law says they can, at risk of being *ultra vires*, local authorities are now free to do anything - provided they do not break other laws[6]. A local authority is to do anything "that individuals generally may do", including "things unlike anything that other public bodies do."[7]

However, while the Act does not give a statutory role to LEPS, a new clause in the Act (Section 15) gives the Secretary of State power to transfer local public functions to *permitted authorities* and, in particular, those that (a) promote economic

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[3] HMG [HM Government] (2010c) The Coalition: our programme for government London: Cabinet Office

[4] ibid

[5] HM Government (2010b) Local growth: Realising every place's potential [Cm 7961], London: The Stationary Office

[6]DCLG (2011) A plain English guide to the Localism Act London: DCLG

[7] Eversheds (2011) Local Government briefing note 82/2011: The General Power of Competence 21-December https://www.eversheds.com/uk/home/articles/index1.page?ArticleID=templatedata%5CEversheds%5Carticles%5Cdata%5Cen%5CLocal_government%5CLG_briefing_note_82_211211 [Date accessed 17/01/2012]

development or wealth creation or (b) increase local accountability in relation to each local public function transferred by the order[8]. The first is a clear function of the LEPs and it would appear to potentially afford them some statutory role in the sense that if powers were transferred to LEPs, they would be executing some statutory public function; albeit, what exactly it is, is not laid down in the Act. Their powers would be those that are transferred. This is different from the situation for the RDAs. The *Local Democracy, Economic Development and Construction Act* 2009 (passed by the previous Labour Government) set out clear roles and functions for the RDAs.

The new clause was inspired by the Core Cities Group. Led by the leaders of Birmingham, Bristol, Leeds, Liverpool, Manchester, Newcastle, Nottingham and Sheffield councils, this group describes itself as aiming in partnership 'to enable each City to enhance their economic performance and make them better places to live, work, visit and do business'[9]. The core cities want to exploit the general power of competence and this to be given concrete expression in the transfer of local public functions. The provision also may have some implications for LEPs. Some have been set up as private companies, but with very limited staff. They might formally take on local public functions, were LEPs to be classed as a permitted authority. Whether a LEP would constitute a permitted authority does not seem to have been raised during debates on the Bill. Legal opinion is uncertain whether a LEP can be a permitted authority and whether government can transfer powers to private companies.[10] The discussion has focused on whether local authorities can form companies. However, given most LEPs will be serviced by local authorities in their locality this would seem rather to safeguard local authorities' key role in economic development.

Economic Prosperity Boards?

The Government seems keen to promote joint working among Councils, as indicated by the duty to cooperate, set out in the Act. However, it could be argued this is more to save costs than secure synergy. Indeed, as the *Plain English Guide to the Act* [11] points out, the general power gives councils more freedom to "work together with others in new ways *to drive down costs*" (our emphasis). This is tied in with thinking underpinning the 'Total Place' pilots under the last government and the Community Budgets pilots under the current government. Greater public service cohesion is to be encouraged by rationalising and streamlining elements of public sector funding in a particular area[12]. However, in addition, the Act gives "the Secretary of State the power to remove unnecessary restrictions and limitations" to Councils' actions. Moreover, it says it will give them "increased confidence to do creative, innovative things to meet local people's needs". This would seem to encourage thinking outside the box and could engender synergy and policy integration.

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[8] http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted [Date accessed, 20/01/12]
[9] Dobson, N (2011) Localism Act –The Work Begins. Local Government Lawyer http://localgovernmentlawyer.co.uk/index.php?option=com_myblog&show=localism-act-the-work-begins.html&Itemid=111
[10] Eversheds (2011) op cit
[11] DCLG (2011) A plain English guide to the Localism Act London: DCLG
[12] Dobson (2011) op cit

Perhaps not surprisingly, among the ‘permitted authorities’ mentioned in the Act that the Government wants to work together are ‘combined authorities’ and, a new provision, Economic Prosperity Boards. The Act enables this by making additions to the Local Democracy, Economic Development and Construction Act 2009, to give general powers to the Boards and the combined authorities. Economic Prosperity Boards however are not new and are, as described in the Consultation Document published by the Labour Government when it was still in power in 2010, “designed for groups of relevant authorities that wish to work closely together to deliver improvements in economic development, regeneration”. In relation to matters of concern for combined authorities, transport across a sub-region is added to the list. “Economic Prosperity Boards are intended to support improved strategic decision making on economic issues, and better coordination and delivery of economic development interventions by local authorities”.[13]

The addition of EPBs to the legislation is puzzling as the question arises: where does this leave the LEPs; it is not clear. Do Economic Prosperity Boards supersede LEPs? Or do they sit alongside LEPs? As noted above, authorities may well be expected to work together in line with the ‘Total Place’ and ‘Community Budgets’ concepts and they may wish to work together as a combined authority in any case, but it is not clear how this relates to the position of the LEP. It is possible that a group of local authorities will chose to work together and will serve a LEP, such as they do in the Greater Birmingham and Solihull LEP and the Black Country LEP. In the latter case, local authorities in the area had already formed the Black Country Consortium and are now working together with and for the Black Country LEP. However, it seems clear that ‘combined authorities’ will mean a rationalisation of city governance structures.

Transfer of Public Functions

One key question is whether the Act will mean that the LEPs and local authorities will obtain greater autonomy from central government and whether the government will decentralise powers to the local level, as the localism agenda would suggest. The answer appears to be yes. Accordingly, “the Act enables Ministers to transfer local public functions from central government and remote quangos to local authorities, combined authorities and economic prosperity boards - in order to improve local accountability or promote economic growth.”[14] The government says that authorities will be encouraged to come forward with innovative proposals.

The new powers - included in the Act again at the request of the Core Cities group - representing the largest cities in England outside of London - enable Government to empower the major cities and other local authorities to develop their areas, improve local services, and boost their local economy. How this relates to LEPs is unclear. But it suggests that local authorities can work together, be constituted as an Economic Prosperity Board and take on central government functions. However, this implies that the LEPs will be bypassed. Powers are devolved to local authorities and

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[13] DCLG (2010) Economic prosperity boards and combined authorities. Consultation on draft statutory guidance London: DCLG
[14] DCLG (2011) A plain English guide to the Localism Act London: DCLG

not to the LEPs. It can be seen also that this is also likely to result in different places accessing different powers over different timescales.[15] This is likely to be exacerbated, if the major cities choose to have an elected mayor; the Act provides the scope for referenda on whether areas want to have an elected mayor. The option is attractive to decision makers since the Mayor would have considerable powers as does the Mayor of London, to set up a Development Corporation, to ensure the development of the locality covered by the Mayoralty.

While the Act states that a minister of the Crown may delegate to a permitted authority any of the minister's eligible functions, it is not clear that the government truly intends to decentralise some national government functions to local authorities. What the Act does do, however, is give councils more control over local business rates which they can use for economic development purposes. This is in the form of the freedom to offer business rate discounts. This it is argued would attract firms, investment and jobs to a locality. However there is a sting in the tail, as councils will be expected to meet the cost of any discount from local resources. The Plain English Guide to the Act[16] says Councils "may decide that the immediate cost of the discount is outweighed by the long-term benefit of attracting growth and jobs to their area". Thus LEPs will continue to have relatively few resources at their direct disposal to secure economic development in their localities. This point is returned to below as the next section presents an assessment on the progress on the localism agenda in relation to LEPs.

Local enterprise partnerships and the Localism Agenda

The question arises of whether there has been any progress made on the Localism agenda in relation to Local Enterprise Partnerships and economic development. Do the LEPs represent a move towards greater localism? It has been argued that LEPs represent nothing of the kind.[17] Localism, of course, can be defined in several ways. The principles of localism underlying the Act are rooted in the concept of 'Six Actions of Decentralisation' highlighted in the *Essential Guide to the Bill*. [18] These are: 1) Lift the burden of bureaucracy; 2) Empower communities to do things their way; 3) Increase local control of public finances; 4) Diversify the supply of public services; 5) Open up government to public scrutiny and; 6) Strengthen accountability to local people. The Conservative Party attests to shifting control and power down to local government and local communities, as part of its 'Big Society' programme.[19] IPPR[20] , the RTPI[21] and CLES have also contributed to the debate about what localism

[15] ibid
[16] ibid
[17] [17] Bentley, Gill, Bailey, David and Shutt, John (2010) From RDAs to LEPs: A New Localism? Case Examples of West Midlands and Yorkshire, Local Economy, 25: 7, pp535-557
[18] HM Government (2010a) Decentralisation and the Localism Bill: an essential guide London: DCLG
[19] Conservative Party (2009) Control Shift: Returning Power to Local Communities. Responsibility Agenda Policy Green Paper No.9
[20] Cox, Ed (2010) Five Foundations of Real Localism Newcastle Upon Tyne: IPPR North
[21] Royal Town Planning Institute (2010) Decentralisation & Localism Bill: 12 Tests for the Localism Bill London: the Royal Town Planning Institute

means. Here we take the view that it refers to local autonomy. Pratchett[22] suggests three separate ways in which autonomy is manifest: as freedom from central interference; as freedom to effect particular outcomes; and as the reflection of local identity.

One of the important ways in which autonomy can be demonstrated is by reference to the availability of resources and having power to take decisions over expenditure. The question is whether LEPs have a budget and do they have control over the budget; do they have the freedom to effect outcomes. The answer is clearly no. Most of the funding at the disposal of LEPs for economic development goes to the private sector or through local authorities or is controlled by central government. Of course, €3.2bn of ERDF was available 2007-13 for local projects through the European Commission but these have to be bid for; they are not in the gift of the LEPs. The RDAs were managing agent for these funds; this is now in the hands of local teams, as part of DCLG.

New financial instruments are to become available for economic development. However these will be channelled through local authorities. These include the Community Infrastructure Levy (CIL), which enables funds to be raised on development projects to build infrastructure and Tax Increment Financing (TIF). This enables borrowing against future increases in business rate but this is still the subject of debate as part of the Local Government Finance Bill 2010-12 as is the amount of business rates which local authorities will be able to retain. In addition, there is Local Sustainable Transport Funding, with £560m being made available to encourage the uptake of sustainable modes of transport.

Waving a Magic Wand?

The government has announced a number of different infrastructure schemes with developments being proposed for different areas in England, which LEP localities are benefiting from although not controlling. While LEPs can bid for projects under the schemes or can advise government about who should get funding, the schemes are ultimately under the control of central government. These include Enterprise Zones, where businesses can get up to 100% discount on rates and tax breaks on capital investments in advanced manufacturing, this funding going to businesses not LEPs; the Regional Growth Fund, through which £1.4bn up to 2014 is going to support projects and programmes that lever private sector investment creating economic growth, where the funding goes from government to businesses; and the recently announced Growing Places Fund, a £500m revolving fund to address infrastructure constraints to economic growth and the delivery of jobs and houses allocated by central government.

There are a number of government initiatives to be delivered via the private sector. These include the Business Growth Fund in which the banks have set aside a fund of £2.5bn to invest in fast-growing UK businesses, as part of Project Merlin. It is difficult not to be cynical about this and to say, given this name, that these schemes give the impression that the Government is acting like a magician waving a magic wand and expecting projects to spring up, in a cloud of sparkling dust, and to lead to

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[22] Pratchett L (2004) Local Autonomy, Local Democracy and the 'New Localism' Political Studies 52, 2, pp 358–375

economic recovery. A Green Investment Bank is also to be set up in 2015 with £3bn to be set aside to lend to Green businesses; and the Big Society Bank (now called Big Society Capital Group) which sets aside £600m for social investment intermediaries. As can be seen, the LEPs do not have control over these funding streams. This means that is it difficult for them to utilise and rely on such funding to achieve strategic aims for the development of the LEP area.

Funds that LEPs have at their direct disposal are the £5m Start-up Fund and the Capacity Fund. However, these relate to LEP operations and operational costs, not for economic development projects. To obtain Start-up funding, LEPs had to show that they were without sufficient existing institutional capacity; what their co-funding activity would be; that they would become self-sustaining and not need further central government funding; that the funds were essential to the ability of the LEP to set priorities to drive private sector led growth and jobs in their area; and that activities would achieve the maximum efficiency. The Capacity Fund amounts to £4m over four years which is to be made available to a LEP. It is to be used to address gaps in intelligence on business needs and barriers to growth; to facilitate business engagement; or to boost board capacity to prioritise actions which will support business-led growth and jobs within the LEP area. The fund is to be used for research not secretariat support. However, the LEPs do not get this funding automatically; they have to bid for it.

This raises issues about the funding of LEPs. The operational costs of LEPs are being carried by local government which is providing secretariat support and is carrying our work on behalf of the LEPs. Few LEPs have staff; they were not set up on this basis. On the other hand, the issue is what funding is available to enable LEPs to secure the development of business and enterprise in their locality? Most is coming through sources over which they have no control. LEPs do not have a budget for economic development and very little for their running costs. Overall, LEPs have relatively few resources at their direct disposal to secure economic development in their localities.

It is understood that funding and in particular business development grants at the time the RDAs were in place was also under the control of and the gift of central government. However, the RDAs had assets which could be utilised in development projects. These are not being transferred to LEPs or local authorities, to be put at their disposal. RDA Land Assets have been transferred to the Homes and Communities Agency and to Central Government. The Venture Capital Loan Fund has been transferred to Capital for Enterprise and Grants for Business investment and R&D Grants transferred to BIS and the TSB.

Doing things their way?

This all indicates that LEPs are limited in their scope to effect outcomes. Concern has also been expressed about whether they are an effective mechanism for promoting local economic growth[23] and are able to do things their way, undertaking innovative actions. The Centre for Cities'[24] report suggests that it has taken time for

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[23] Bolton T & Coupar K (2011) Cause célèbre or cause for concern? Local enterprise partnerships one year on London: Centre for Cities.
[24] ibid

LEPs to gain approval for their Board. At the time of writing of their report, October 2011, of the original 24 LEPs announced, eight had not had their boards recognised. They also say that it took on average at least six months for the other 16 to obtain approval for their boards. Without a Board in place, actions cannot be identified, still less can the LEP catalyse action. The report also points to the lack of progress in work on strategies. In their research they found that only two of the original 24 LEPs had published a full long-term strategy. Most were at the stage of consultation and development with some not indicating publicly how far they had progressed. Centre for Cities also makes the point that the strategies that have been published “represent lengthy activity lists rather than identifying projects where they can realistically make a difference”. The most that had happened was that LEPs had bid for and been awarded Enterprise Zones. In addition, the report seems to be suggesting that LEPs might be as bureaucratic as it was argued RDAs were, by pointing out that “one LEP has fourteen focus groups and at least 160 people involved in developing its work”. The report also says that ‘go-to’ organisations ought to have websites up and running – they highlight that 5 did not have one – considered essential to present a public face and make information available to potential developers and business.

Whether the LEPs are fit for purpose can be questioned. We have already suggested that control over funding for projects is an issue. From the point of view of the Localism agenda, the LEPs do not have total scope to effect outcomes and they are not free from Government interference. However, LEPs need to be made to work, to be enabled to undertake innovative actions to secure economic development in their localities.

Fit for Purpose: A Bright Future for LEPs?

Gibbons[25] criticises the Centre for Cities report and argues that the criteria they have chosen are not good measures by which to assess progress. She points out that Boards are in place, even though they might not have been approved, activity is taking place. Strategies have been produced which do give a focus to LEP priorities and actions. The lack of a website is also not deemed to be a good measure of the lack of progress, and thus fitness for purpose. She considers that there is much to be excited about with LEPs and points out that the “partnerships are currently spending their start-up fund drawing up business plans, recruiting and training boards, putting communications strategies in place and other first tasks”. Things are happening. While some LEPs did not win a bid for an Enterprise Zone and this may mean that a two-tier LEP structure is developing, it should not be taken as an indication of failure as the decision will have been made on sound planning grounds and not because of any lack of competency in the LEP.

In relation to LEPs having scope for innovative actions, she points out that a tranche of the Growing Places Fund has been allocated to each LEP and that they will be able to determine the use of the funds, albeit it is to be spent on infrastructure projects. LEP sector groups are also being established, including a rural network and an aerospace group – some of which have already met and it can be seen that these

[25] Gibbons L (2011) Local Enterprise Partnerships have a bright future – don't write them off yet Guardian Professional, Thursday 1 December

will facilitate exchange of ideas. Recent work[26] has shown that LEPs are undertaking innovative actions (See Table 1). It remains to be seen if LEPs can do it their way and make a difference.

Table1: Innovative practice in LEPs

LEP	Innovative practice
Greater Birmingham and Solihull	Identified the chief issues in relation to local regulation via a survey of businesses and focus groups throughout the area, and held a workshop between businesses, local and national regulators to identify key areas where a number of 'quick wins' can be made by changing the approach to regulatory enforcement.
Coventry and Warwickshire	The LEP office is located in Jaguar Land Rover at Gaydon. Local authorities and other partners have provided funds to resource two members of staff. A Delivery Board has been set up and a 'LEP Access to Finance Group' is facilitating interactions between businesses and financiers.
Humber	A group of 16 businesses have joined with the University of Hull, Hull and Humber Chamber of Commerce, Humber Chemical Focus, and four local authorities to pledge £2,500 each to help the new body get up and running.
Leeds City Region	Use of social media as a communication tool including a Youtube video and an excellent website and approach to networking.
Greater Manchester	Manchester's inward investment agency, MIDAS, acting on behalf of the LEP, has signed a Memorandum of Understanding with UK Trade and Investment (UKTI), linked to the new national inward investment contract. Other LEPs have since signed similar memoranda.
York, North Yorkshire and East Riding	Collaborating with local banks and the British Banking Association to develop a Certificate in Business Growth.

Source: Pugalis et al (2012)[27]

Conclusion

LEPs were not to be defined in legislation and accordingly there is nothing in the Localism Act which gives a statutory role to the LEPs. However as this chapter has shown, there are some provisions in the Act which concern economic development and the LEPs. The Act enshrines the General Power of Competence which means local authorities are now freed to do anything - provided they do not break other laws[28]. But, new clauses in the Act give the Secretary of State power to transfer local public functions to *permitted authorities,* namely those that promote economic development or wealth creation. The Act also says that a minister of the Crown may delegate to a permitted authority any of the minister's eligible functions, the permitted authorities being 'combined authorities' and Economic Prosperity Boards. This would suggest the decentralisation of economic development policy to the LEPs and local authorities is possible. This provision was sought by the 'Core Cities Group' and it can be seen while this would encourage and formalise cross authority working, it may also lead to the rationalisation of authorities to drive down costs. The Act does support localism in economic development to a certain extent. However, LEPs and

[26] Pugalis L, Shutt J and Bentley G (2012) LEPs – living up to the hype? Critical Issues in Economic Development. Institute of Economic Development
[27] Ibid.
[28] DCLG (2011) A plain English guide to the Localism Act London: DCLG

the local authorities that serve them do not have complete control over the funding for economic development that is available; central government is in control and, given that LEPs have to bid for some of the funds, it is government that is taking the decisions on how monies will be used. Nonetheless, there is some indication that LEPs are 'doing things their way' and there is evidence that they are undertaking some innovative actions and are not subject to central government interference. There may be a bright future for LEPs.

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