

Item No. 7.1	Classification: Open	Date: 20/07/2005	Meeting Name: Council Assembly
Report title:		Ninth London Local Authorities Bill - Second Resolution	
Ward(s) or groups affected:		All Wards	
From:		Borough Solicitor	

RECOMMENDATION(S)

1. That the resolution of the Council passed at a meeting held on 20 October 2004 to promote a Bill in the present session of Parliament, pursuant to which the Bills intituled, The Ninth Local Authorities Bill, the Second London Local Authorities and Transport for London Bill and the London Local Authorities (Prohibition of Smoking in the Workplace).
2. That the Borough Solicitor is authorised to take all necessary steps and enter into such arrangements as are necessary in order for the Council to participate in the legislation.

BACKGROUND INFORMATION

3. At its meeting on the 20 October 2004 the Council passed a first resolution to promote a private bill jointly with other London Authorities under to the power to promote local legislation in respect of their areas pursuant to Section 239 of the Local Government Act 1972.
4. The Bills has been split into 3 separate bills -The Ninth Local Authorities Bill, the Second London Local Authorities and Transport for London Bill and the London Local Authorities (Prohibition of Smoking in the Workplace). The split of the original single Bill into three Bills was necessary because existing legislation requires any measures affecting Transport for London to be dealt with separately, and because the smoking bill is potentially contentions and therefore a separate bill is being promoted in order to avoid delay to the main bill.
5. The three Bills were deposited in Parliament on the 26 November 2004. Following the deposit of the Bill all promoting authorities are required to pass second resolutions confirming the initial resolution to promote the Bill. This must be passed by a majority of the whole members, which means that in Southwark at least 32 members must vote in favour of the second resolution.
6. Council Assembly was scheduled to consider this at its meeting on the 27 April 2005, this was cancelled due to general/local election preparation.

KEY ISSUES FOR CONSIDERATION

7. The provisions of such legislation are normally adoptive, i.e. the Council will need to pass further resolutions bringing particular provisions into force once the Bills are enacted. It will thus be for relevant Licensing Committees, Executive, or Council Assembly as appropriate, to consider the implications of the particular provisions

once enacted, and to take any necessary decision as to whether and when to bring them into force in respect of this Borough.

8. Members should note that the procedure governing the promotion of private bill requires all promoters of a bill to pass a second resolution in the same terms. The resolution as set out in paragraph 1 must therefore be passed as set out and cannot be amended. Members option at this stage is to agree in principle to the range of measures included in the bills , or to disagree to the Bills going ahead.
9. A table summarising the issues currently contained in the Bills is attached at Appendix 1.

Policy Implications

10. Many of the proposals for inclusion in the Bill will support the Council's cleaner, greener, safer Southwark agenda and should contribute towards improving the environment for residents, businesses and those who visit the Borough. The proposals will also be consistent with the Community Strategy and other Councils Strategies and priorities.

Resource Implications

11. The current estimate from the ALG of likely total costs of promoting the bill is £20,000, of which £12,000 has already been incurred. The Council has been required to incur additional costs of approximately £1,000 due to the need to re-advertise following the cancellation of the April Council Assembly.
12. The cost of supporting the Bill is being met from within the Environment and Leisure budget, because the bulk of the matters proposed in the Bill relate to the Environment and Leisure's work.
13. Should the Bill be enacted the provisions may have financial implications for enforcement purposes. These will be reported to the appropriate decision making body when detailed consideration of local adoption takes place.

Equal Opportunity Implications

14. This is a technical report simply requiring the necessary statutory resolution to be passed by the Council and as such has no equalities implications. The equalities implications of the substantive provisions should be reported by service departments to the appropriate body when reporting on the provisions of the Bill.

Legal Implications

15. The relevant statutory provisions are section 239 of the Local Government Act 1972, section 87 of the Local Government Act 1985 and Parliamentary Standing Orders which provide that the following procedures must be complied with:
 - (1) the resolution must be passed by a majority of the whole number of members of the council.
 - (2) at a meeting of the Council which is held after 30 clear days notice of the meeting.
 - (3) and the notice of the purpose of the meeting has been given in one or more local newspapers.

- (4) such notice being given in addition to the ordinary notice to be required to be given for convening meetings of the Council.
- (5) is confirmed by a like majority at a further such meeting (convened in accordance with the above stipulations) as soon as may be after the expiry of 14 days after the Bill is deposited in Parliament.
- (6) copies of the Bill must be made available for sale and inspection at the Council Offices.
16. The Council has already complied with the procedures relating to the first resolution. This resolution is the second stage which is seeking confirmation of the first resolution. A notice was initially placed in the Evening Standard by the ALG covering all London Boroughs and TfL which advertised the Council's proposal to consider this report at its April meeting. An additional notice was required because of the cancellation of that meeting and notices were placed in the Evening Standard and South London Press on 17 June 2005.
17. The Borough Solicitor confirms that all procedural steps have been complied with.
18. This confirmatory resolution has to be passed by all authorities by the time the Bill reaches its Committee stage. At the time of writing, the Three Bills are currently at the Second Reading stage and so has not reached its Committee stage.

Community Impact Statement

19. The Council has given due consideration to the effect and impact of the adoption of the Bill on the whole Council. It will foster social cohesion and promote equality and economic well being in the community.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Correspondence with Association of London Government – Copy of Draft Bills	South House, London, SE5 8PX	Gafar Gbadamosi - Tel 0207-525-7560

AUDIT TRAIL

Lead Officer	Deborah Holmes, Borough Solicitor	
Report Author	Gafar Gbadamosi, Lawyer, Southwark Legal Services	
Version	Final	
Dated	6 July 2005	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Borough Solicitor	Yes	Yes
Chief Finance Officer	No	No
Executive Member	No	No
Date final report sent to Constitutional Team	6 July 2005	

LIST OF APPENDICES:

Appendix 1 - Summary table of provisions contained in the Bill

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Summary of provisions in Current Bills

Provision	Comments
1. control of portable advertisements;	Dealing with control of portable hand held advertisements through a designation scheme
2. providing better powers to deal with fly posting and graffiti including powers of seizure, stronger penalties;	Extending powers to deal with confiscate items used in fly posting and graffiti. Including power to disqualify directors of companies responsible for flouting the law including power of enforcement such as removal, storage and disposal of offending materials including power to impose fines
3. dealing with construction noise from underground stations;	
4. dealing with control of noise nuisance from street works;	
5. strengthening Councils' powers as regards the control of waste and the use of street litter control notices;	This extends current power to deal with how receptacles for waste should be placed for collection. This power will deal with both personal and industrial waste
6. prescribing how recyclable waste should be separated, enabling the making of standard regulations about the use of waste receptacles;	
7. charging for additional household waste collections;	
8. dealing with littering from vehicles; controlling the use of civic amenity sites;	
9. dealing with waste transfer notes and licences;	
10. strengthening enforcement against fly-tipping;	This will give extensive power to confiscate items used in fly tipping

Provision	Comments
extending Councils' powers to serve fixed penalty notices to include offences not currently covered;	
11. updating the law on intruder alarms;	
12. to provide for telephone call barring for numbers mentioned in unauthorised advertisements including those placed in telephone kiosks;	This relates to advertisement for prostitution placed on, or the immediate vicinity of a public telephone or structure. This will enable The Council to request the service providers to barred all to call to the numbers displayed in the public structure
13. strengthening powers to deal with abandoned vehicles and providing powers to remove and dispose of nuisance and other vehicles;	This will enhance powers under the previous London Local Authorities Act
14. dealing with bicycle rickshaws or pedicabs;	To deal with health and safety issues
15. strengthening enforcement against illegal "near beer" premises;	
16. dealing with the display or possession for supply of R18 videos in unlicensed sex shops;	To prevent some loopholes in the current legislation which enables supplier to avoid licensing requirements
17. allowing conditions relating to waste and litter to be attached to premises licences under the Licensing Act 2003;	
18. dealing with fees for premises and personal licences in London under that Act;	
19. increasing the number of members who can sit on licensing committees under that Act;	

Provision	Comments
20. dealing with charitable collections on the highway and public places;	
21. amending the law relating to street trading including dealing with shop forecourts, bridges over the Thames and the South Bank;	
22. introducing the licensing of proprietary clubs;	
23. amending and extending the law relating to parking and parking enforcement including dealing with repeat offenders;	
24. dealing with abandoned bicycles and other bicycles left in public places;	
25. enabling Councils to provide "wi-fi" technology;	
26. dealing with filming on the highway and in open spaces and making further provision about filming in London;	
27. dealing with cycling on the pavement;	
28. dealing with chairs and tables placed on the highway;	
29. altering the law relating to overhanging vegetation on the highway;	
30. providing exemptions from traffic restrictions for waste collection and road sweeping vehicles; removal of articles attached to street furniture and other objects on or abutting the highway;	

Provision	Comments
31. removal of disused telephone kiosks and other disused apparatus and street furniture;	
32. the decriminalisation of low emission zone enforcement;	
33. providing for the registration of second-hand dealers; the provision of consumer advice;	
34. altering the concessionary fares schemes;	There is potential issue of consent being withheld by the Mayor of London because of likely failure to agree on costing
35. the registration of businesses who provide mail forwarding services;	To complement the power under Postal Services Act 2000
36. enabling Councils to obtain the names and addresses of people whose telephone numbers are publicised in connection with unlawful activity, including unlawful street trading of vehicles;	
37. further decriminalisation of offences prosecuted by local authorities and the introduction of a penalty charge notice regime akin to parking;	This is necessary to prepare Council for future extended powers to deal with enforcement of more decriminalised and new offences through the use of penalty charges
38. sharing of information to combat benefit fraud and for other purposes;	
39. co-operation on pension fund management;	Current power exist under national legislation
40. altering the London Boroughs Grant Scheme;	Association of London Government grant review has overtaken this proposal
41. altering the planning cycle on schools admission;	This should be a matter for national legislation.

Provision	Comments
42. amending the law relating to pipe subways;	Proposed by the Corporation. This will enable Councils to charge telecommunication companies for the use of pipe subways
43. extending Councils' powers to charge for services;	This should be left for national discussion/legislation.
44. enabling zoning powers within which higher fines can be imposed in relation to certain offences;	
45. delegating the issuing of fixed penalty notices and further flexibility in relation to fixed penalty notices procedures, including provision for early payment and service of notices on those aged 16 and above;	
46. the change of use of residential property under Town and Country Planning law;	This is necessary to deal with unlawful/ unauthorise change of use . This will deal with offences and enforcement. It strengthen power under the Greater London Council (General Powers) Act 1973
47. enabling schemes of information to be provided;	
48. authorising the disturbance of human remains to enable existing graves to be used for further interments;	Necessary to deals with shortage of land in around London. This should include 75 years rule before it can be re-used. Provisions should be made for Consultation requirements and protections for relatives.
49. implementing security arrangements in housing estates;	
50. strengthening the law relating to short- term letting	
51. providing for the registration of persons able to accept service of notice on behalf of landlords;	
52. in the case of the London Borough of Camden) removing restrictions on the placing of temporary structures in Lincoln's Inn Fields;	To address ancient anomaly that restricts placing of marques or other temporary structures in Lincoln's Inn Field
53. the regulation of bonfires;	Part III of the Environmental Protection Act 1990 already adequately caters for this measure
54. the further regulation of use of fireworks	Firework Act 2004 has already catered for this.

Provision	Comments
55. the control of storage and use of acetylene cylinders;	This is a measure suggested by LFEPA
56. further power to deal with abandoned shopping trolleys and luggage trolleys;	This should strengthen power under Schedule 4 of the Environmental Protection Act 1990 to deal recovery of costs for the removal, storage and disposal of abandoned trolleys form the persons the Councils believe to be the owner at the time the trolley was abandoned
57. allowing charging for discretionary services	This will give Councils power to charge for service not already provided for by the legislation
58. relaxing VAT partial exemption restrictions on Councils;	Matter for national legislation and public policy. Treasury/Exchequers area of designation
59. removing certain existing capital finance restrictions on Councils	This is a matter for National Legislation. Very likely to be opposed by the Treasury
60. enabling Councils to provide services to wider market;	
61. relaxing requirements to relating to tramlines in road;	Powers already exists to specify requirements in the Transport and Works Act Order for tramway projects
62. providing for the control or prohibition of smoking in public places or the work place	This is necessary to promote good health and living awareness in the community
63. dealing with overgrown vegetation in private premises;	
64. strengthening the law relating to spitting in public places	There is a power to deal with this head
65. further regulating the location of telecommunication masts and base stations to ensure telecommunication operators share sites;	To strengthen Council's power to deal with problem associated with this measure.
66. strengthening planning law relating to siting of the masts	There is already in place powers to deal with masts
67. stop vehicles for emission testing	There is already in place powers to deal with this matter
68. mandatory consultation by water companies with Councils about mains water pressure	This is necessary to ensure water companies consult local council when water pressure in particular area would be lowered or there in is an intention to lower water pressure. For example in high rise/ tower blocks building. This will strengthen duties under Section 65 of the Water Act 1991, which requires water undertakers to maintain water pressure for domestic consumption.
69. altering the law relating to the licensing of special treatment premises, to include dealing with nail art, mobile premises and premises under the mobiles	

Provision	Comments
home Act;	
70. Making further provision about vehicle crossovers and driving off the carriageway;	
71. strengthening and extending the law relating to litter	This will give Council extensive power to deal with problem of litter and related issues
72. providing stronger power to deal with noise nuisance	Power already existed in other legislation
73. enabling charging for the re inspection of premises under certain statutory regimes;	There is already in existence power to deal with this head
74. enabling the provision of cleaning up conditions at licensed special events;	This will give Council's powers to impose and enforce conditions relating to cleaning after conclusion of special events
75. making minor amendments to the London Local Authorities and Transport for London Act 2003 and other local legislation	To correct some matters in the light of operational requirement and matters of drafting
76. providing further power to deal with waste on private land;	If granted will alter the application of section 45 of the Environmental Protection Act 1990, by enabling Councils to require measures to be taken to prevent land becoming defaced by litter and or such other waste
77. removing the requirement to provide signs indicating the overnight parking ban for commercial vehicles;	This will establish a new regime for prohibiting parking of goods vehicles in London, It provides that within specified areas there shall be a general prohibition on parking, if the vehicle exceeds a specified weight. The prohibition would be in force only during specified times
78. extending Councils power to make byelaws;	To widen the extent of local laws the Council could make
79. enabling Councils to impose a local levy on plastic bags, takeaway food packaging,	This will amount to additional charge/tax on consumers, as this would amount to granting powers to vendors to charge more for the use and supply of these items.
80. to alter powers of entry of Council officers. Particularly those of trading standard officers;	To enhance powers of entry for the Council's/ authorised officer acting in the exercise of his/her powers
81. to enable Court to make orders to disqualify persons from holding company Directorships if repeatedly found guilty of certain offences relating to the degradation of the amenity of an area or the unlawful sale of products to underage persons	To give court extensive powers over control of anti social behaviour against owners of business concerns
82. enabling Council to impose a local levy on chewing gum and cigarette packet wrappers	This is necessary to deal with problem caused by cleaning up and maintenance of the area as result of discriminate disposal of chewing gum

Provision	Comments
	and cigarette wrapper