

putting people first

cutting through the green tape

the powers councils have to tackle climate change

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foreword: small change, big difference

“Local government is uniquely placed to tackle climate change with a democratic mandate for action, close proximity to citizens, and a strategic role leading other public, private and voluntary sector partners.”

A Climate of Change: Final Report of the LGA Climate Change Commission,
LGA, London, UK, November 2007

Climate change issues have risen in the concerns of international bodies, practically all national governments and the industrial and scientific communities. This has resulted in a number of top down initiatives, but we must always recognise that the community at large has a vital role to play. Consequently in March 2007, the Local Government Association (LGA) established the Climate Change Commission to critically review and evaluate local government's track record on climate change. In their final report, the commission found that while there were some outstanding examples of local government leadership and innovation, a more urgent and consistent authority-wide response was required by each and every local authority.¹

The LGA welcomed the scrutiny and challenge of the report. We responded in March 2008 with the launch of our national campaign on climate change *Small Change, Big Difference* as part of our wider Putting People First campaign.

This campaign encourages councils to take responsibility for reducing carbon emissions; to prepare for the consequences of more extreme

weather in their areas; and persuade decision-makers and householders to see councils as central to tackling climate change

To play this role, councils must lead by example. In their buildings, transport and operations, councils can promote energy efficiency and smarter choices. Their purchasing is a powerful lever – in England councils spend over £70 billion a year – which provides an opportunity to encourage energy efficiency throughout the supply chain. The way councils exercise their planning and building control powers also offer significant opportunities to ensure that new development is low carbon and adapted to more extreme weather.

The LGA would like councils to have more flexibility to tackle climate change in these areas. Through the Small Change, Big Difference campaign we have been calling on partners to help us do more. We need to see much greater recognition of the role that local government must play in tackling climate change through all our national agreements and frameworks – local government must be recognised as a force for change.

Against this challenge we must demonstrate that we can do more within the existing legislative and financial framework. A key area for improvement identified by the commission was for local authorities to make more effective and diligent use of existing powers. There is however a lot of environmental legislation (aka green tape) for local authorities to understand. In recognition of this, and the growing consensus that councils should be leading the national effort to tackle climate change², the LGA and key partners have developed this guidance: *Cutting through the green tape: the powers councils have to tackle climate change*.

It is our hope that this document will be of use to local authorities in stimulating new thinking by showing the potential of the existing range of powers. We feel that councils have a vital role to demonstrate their own commitment to tackle climate change and energise the community to make a contribution to this most vital of issues. We offer this challenge to you.



Regards

A handwritten signature in black ink that reads "Paul Bettison". The signature is written in a cursive, slightly slanted style.

Cllr Paul Bettison chair of
the LGA environment board

acknowledgments

We would like to thank all those colleagues and organisations who contributed to this publication, and in particular the following, who provided valuable advice and support : Nabarro LLP, the Nottingham Declaration Partnership, Joan Bennet, Kelly Lee, Tina Surman, Mike Peverill, Caroline Green, Sandra Brown, Ruth Lucas, Jen Williams, Louis Patrick, Stephen Cirell, David Haygarth and Sheri Baruwa.

executive summary

“The powers in section 2 of the Local Government Act 2000 permit a local authority to do anything that is likely to have the effect of promoting or improving the economic, social or environmental wellbeing of its area. Having fought for so long to obtain these powers which may be equated to powers of general competence... it is something of a surprise that local authorities are not using the powers to the full....However, this can soon be remedied...”

Charging and Trading in Local Government, John Bennett and Stephen Cirell, Sweet & Maxwell, London, UK 2006

There are numerous powers which give local government the ability to formulate and implement initiatives which can help tackle climate change. This document is the result of an extensive review of existing initiatives already taken by local authorities throughout the country.

In this document we:

- highlight the key powers (some popular and some less well known) that local authorities can use to tackle climate change, for both mitigation and adaptation activity;

- signpost tools, organisation(s) and resources which can offer local authorities further help and support in tackling the green tape issue;
- offer practical examples of those councils that have successfully applied some of these powers.

Not all powers are listed, and in some cases the powers discussed will only be applicable to certain tiers of government. It is good practice to check any legal implications have been cleared by your legal services.

wellbeing powers

Section 2 of the Local Government Act 2000³ introduced a power to promote 'wellbeing'. In short, this discretionary power enables a local authority to do anything it considers likely to promote or improve the economic, social or environmental wellbeing of its area, provided that such action is not expressly forbidden elsewhere in legislation. This allows for expenditure, financial assistance, co-operation with others and the provision of staff, goods, services or accommodation, but cannot be used to raise finance. The wellbeing power is intended to be a 'power of first resort', and provides

significant scope for climate change based initiatives.

examples

case study 1 – Islington Borough Council Climate Change Fund

In 2007, Islington Borough Council invoked the wellbeing power to create a £3 million Climate Change Fund (CCF) to support green energy and transport capital projects that will reduce carbon dioxide emissions throughout the borough. The CCF was set up to help achieve the targets set by the council's climate change partnership, which was created as part of their local area agreement (LAA).

In addition, it is a stipulation that CCF applicants must also join the Islington climate change partnership, which includes a pledge for organisations to reduce their carbon emissions by 15 per cent by 2010. The partnership provides ongoing help, support and advice to members to help them achieve this. Contact the Climate Change Fund programme manager for further information via contact@islington.gov.uk



case study 2 – Watford Borough Council use of wellbeing powers

In 2005, Watford Borough Council used wellbeing powers to initiate a scheme with Powergen Retail Ltd aimed at improving the energy efficiency of all properties in Watford through substantial discounts for loft and wall insulation.

The scheme ran for almost two years and during this period, approximately 4000 homes received insulation measures. The scheme used approximately £150,000 of council funds and levered in approximately £850,000 through EEC funding and 'able to pay' residents. The ongoing total saving to households is estimated at an average of £800,000 per year.

A process and benefits report highlighted important secondary and tertiary economic, health and social benefits, such as greater disposable income. High-level political support was secured from both the mayor and deputy mayor (who held the relevant portfolio).

For further information, please contact David Haygarth on 020 7641 6913

case study 3 – North East councils improving environmental wellbeing at a regional level

North East councils have placed the promotion and protection of the environment and the environmental wellbeing of the people and communities in its region at the heart of its vision for change.

A recent report for the Association of North East Councils made 45 recommendations on how local authorities can work together to tackle climate change. The report categorises local government's role into four key themes. The report:

- considers how local government can best communicate the message about climate change to citizens and communities to influence attitudes and behaviour.
- focuses on local government being estate managers, as well as being major consumers of energy and other resources.
- also takes into account local government's role as service providers and as procurers and commissioners of services, as well as facilitators of local partnerships, involving public and private agencies and the wider community.

For further information on please go to www.northeastcouncils.gov.uk

further information

LGA guidance Get In on the Act: Local Government Act 2000 explained (LGA, Nov 2007)

www.lga.gov.uk/lga/publications/publication-display.do?id=515529

Statutory guidance covering the wellbeing power was issued in 2001 (HMSO, 2001)
www.communities.gov.uk/documents/localgovernment/pdf/155514.pdf

The Energy Saving Trust (EST) website has a number of useful resources in relation to wellbeing:

Local authority power of wellbeing – England and Wales (EST, Aug 2006) – This briefing note examines the power of wellbeing in England and Wales and how it could be used to deliver sustainable energy objectives
www.energysavingtrust.org.uk/uploads/documents/housingbuildings/wellbeing_england_wales_bn.pdf

Local authority power of well-being – Scotland (EST, Dec 2007) – This briefing note examines the power of well-being in Scotland and how it could be used to deliver sustainable energy objectives.
www.energysavingtrust.org.uk/download.cfm?p=2&pid=1231

case study 4 – Ebbw Vale re-development

The EST has also developed a case study on the Ebbw Vale development in Wales. This looks at the sustainable energy strategy for the redevelopment of the former steelworks and describes how the Welsh Assembly government and Blaenau Gwent County Borough Council intend to meet the ambitious carbon reduction targets set in the strategy.

further information:

www.energysavingtrust.org.uk/uploads/documents/housingbuildings/epbc_ebbw_val_e_cs.pdf

powers to change own estate and operations

There are a number of legislative and performance drivers which are compelling local authorities to become more sustainable and climate adapted organisations. However local authorities can take the initiative and review the management of their own estate (ie council buildings such as civic offices, leisure centres, schools, council owned housing, community facilities and council transport) and operations in terms of climate change. Local authorities can achieve this through:

- investing in more efficient and alternative energy systems that will reduce carbon emissions;

- ensuring that buildings are maintained and operated to optimise their environmental performance;
- changing staff behaviour in both their practices within the work place, how they travel to work how they interact with customers and colleagues. (See also transport powers)

examples

There are already countless examples across the country of councils making a real impact:

case study 5 – ‘Switch off for Essex’

‘Switch off for Essex’ is part of Essex County Council’s ongoing activity to encourage residents to think about the amount of energy that they use, emphasising that small behavioural changes can have a big impact. By switching off unnecessary lights, not leaving electrical appliances on standby and turning down the temperature on thermostats just a degree or two, residents can not only help to conserve the environment, but can also save money - as much as £570 a year on their electricity bill through energy reduction techniques. More information:

www.essexcc.gov.uk/greeneressex



case study 6 – Brighton and Hove City Council sustainable in-house postal and courier service

Brighton and Hove City Council operate an in-house postal and courier service. When a vacancy arose in 2005, the council decided to use the available finances to procure the services of 'The Bike's The Business,' a local worker's co-operative which provide cycle courier services across the city. Using the co-operative's services, the council reduced the number of motor vehicles in its own courier service by a seventh; thereby reducing green house gas emissions. It has also improved the speed of the service. 'The Bike's The Business' was able to expand after securing the council contract, taking on six additional contracts. Brighton and Hove's procurement of the service therefore not only helped reduce CO₂ emissions and improve air quality, but has also supported the development of a small, local, low-carbon business.

More information: www.thebikethebusiness.co.uk

case study 7 – Welsh Assembly government sustainable offices

Within the Welsh Assembly government, the new Merthyr Tydfil offices in development in Aberystwyth and Llandudno Junction all meet the Building Research Establishment Environmental Assessment Method (BREEAM) Excellent standard. The main offices in Cathays Park, Merthyr and Carmarthen have all achieved the highest level of environmental certification through the Green Dragon scheme. A project is due to be rolled out to ensure the other 13 offices achieve Level 5 accreditation as well by 2009.

More information: <http://new.wales.gov.uk/>

case study 8 – Shropshire County Council corporate climate change strategy

Shropshire County Council has reduced CO₂ emissions from corporate buildings by 57 per cent – from 29,650 tonnes CO₂ per annum in 1990 to 12,694 tonnes CO₂ per annum in 2005. The council has also initiated successful pool car and car-share schemes for staff, and has undertaken studies on the efficiency and environmental impacts of taxi fleets, community buses, community cars, school buses and mobile library route planning. Cost-effective energy efficiency measures are installed as standard in building maintenance work, and new building projects seek to maximise energy efficiency.

More information www.shropshire.gov.uk/energy.nsf

Decentralised energy generation – a way forward

The LGA *Small Change Big Difference* campaign is looking at ways of encouraging decentralised energy generation – both community scale and micro-generation making more use of combined heat and power, biomass, solar PV (photovoltaic) panels, groundsource heat, as well as wind and hydro generation. Where communities can see a direct relationship between the generation and consumption of energy in their area, they are more likely to accept new energy generation schemes in their locality as well as take energy efficiency measures at home and in the workplace.

further information

- Carbon management from the Carbon Trust provides technical and change management support to help local authorities realise carbon emissions savings. The aim is to reduce emissions under the direct control of councils – whether caused by energy use in buildings, street lighting, landfill waste or vehicle fleets. More information: www.carbontrust.co.uk
- The EST recommends that for every million pounds that a local authority spends on energy (excluding street lighting) they should have one member of staff dedicated to energy management. Furthermore, ten per cent of the council's total energy expenditure should be spend on energy efficiency. More information: www.est.org.uk
- Beacon councils for both sustainable energy and tackling climate change. More information: www.beacons.idea.gov.uk
- The Sustainable Development Commission (SDC) is the government's independent advisory body on sustainable development. The SDC is engaging at central, regional, and local levels to enable and support the delivery of local sustainable development. The SDC have hundreds of examples of green housing developments, sustainable transport, waste, procurement and clean energy projects from contributors across the UK. More information: www.sd-commission.org.uk

community leadership powers

“An average county council produces at least 30,000 tonnes of CO₂ per annum from its corporate activity – but its community can generate in the order of 10 million tonnes. For districts the figures are around 3,000 tonnes corporately – and 300,000 tonnes in the local area”

Strengthening local action on climate change, 'LGA Climate Change Commission, LGA, London, July 2007



As the democratically elected body charged with community leadership, local authorities have the power to shape community-scale action and can make it easier for individuals to make low-carbon and climate resilient choices. (See also power of the people and joint working powers)

Section 4(1) of the Local Government Act 2000⁴ requires every local authority to prepare ‘community strategies’, for promoting or improving the economic, social and environmental well-being of their areas and contributing to the achievement of sustainable development in the UK. The Local Government and Public Involvement in Health Act 2007⁵ widened the requirement for community strategies to relate them more directly to sustainable development, sustainable communities and the local development framework (LDF).

“Communications are at the heart of the challenge on climate change – the need to win hearts and minds and to create, influence and sustain changes to life style, attitudes and behaviour that contribute to tackling climate change. As councils, we must lead, set an example and work together to clear objectives that are effectively communicated to the people we want to influence.”

Cllr Mick Henry, Chair of the Association of North East Councils and leader of Gateshead Council.

Local authorities can:

- introduce land use policies that encourage balanced communities which operate as locally as possible, minimising the need for travel to work, shops, schools and services;
- encourage food policies that help match gardeners with potential gardening space or promote markets for local produce;
- raise energy efficiency standards in homes, commercial and retail premises;
- change behaviour in energy use in homes, transport and businesses;
- analyse vulnerability to help communities develop capacity and plans to adapt to the impacts of climate change;
- increase the use of low-carbon energy through

the promotion of micro and larger scale renewable generation combined heat and power (CHP), wind, ground source, heat pumps, solar thermal and solar PV (photovoltaic) panels.

example

- The EST's community action for energy (CAfE) initiative is a network of people who share a common interest in community energy projects and ideas. This enables them to access free training and to receive advice and information on how to engage their local communities in sustainable energy projects. Membership of the network is free and by joining, officers can keep up to date with news on community-based energy initiatives, as well as hearing about funding opportunities, training sessions and other news from the network. Officers can view most of this site without a member login, but to access all areas they need to become members. See: www.energysavingtrust.org.uk/cafe/welcome/

further information

- *The English guidance on community strategies* states that councils should 'take account of the way in which national and global concerns, such as the mitigation of climate change, can be addressed through local action'.
www.communities.gov.uk/documents/localgovernment/rtf/156564.rtf
- *A very English revolution: delivering bolder and better Local Area Agreements*, LGA/IDEA, March 2007 www.idea.gov.uk/idk/aio/6027016
- The sustainable energy aspect of integrating climate change into community partnerships and other aspects of the improvement agenda are provided in *Guidance on the Role of Community Partnerships in Sustainable Energy Issues* (EST, 2006) see: www.energysavingtrust.org.uk/housingbuildings/localauthorities/
- The LGA set out an illustrative vision in *Anytown 2025* as part of its *Leading the Way* document (LGA, 2005). This illustrates how policies and actions at a local level can enable us to live well in 20 years time with significantly less use of environmentally damaging energy and with much reduced vulnerability to climate change.
www.lga.gov.uk/lga/publications/publication-display.do?id=22001
- See also *Community involvement in town and country planning*, *National Planning Forum Good Practice note 1* (LGA, 2005) which collates a series of attributed references from government planning policies and other official sources. See www.natplanforum.org.uk
- *Get in on the Act: the Local Government and Public Involvement in Health Act 2007* (LGA, 2007) This guide explains the key provisions in the Local Government and Public Involvement in Health Act 2007. It is designed for those interested in gaining an overview of the Act and its implications for local authorities.
www.lga.gov.uk/lga/publications/publication-display.do?id=515529

power of the people

The involvement of local people is central to the effective development and implementation of sustainable community strategies, and key to change in the longer term. An important element of local democracy is that people have opportunity to engage in and influence the local decision making process. Councils have the power to make this happen. Elected councillors support this, for example, through establishing neighbourhood forums, taking part in workshops and community conferences, encouraging public participation in scrutiny enquiries and commissioning surveys of public opinion.

In January 2008 as part of the Small Change, Big Difference campaign, the LGA commissioned detailed opinion polling of different groups' attitude towards climate change and what the role of local government should be in tackling the problem.

These polls show that candidates for the local elections and general elections ignore policies to combat climate change at their peril. There is clear support across the county and all age groups for action to be taken at a local level to tackle global warming. The surveys found that most MPs and the public agree that:

- climate change is happening and is linked to human behaviour;
- councils have a key role to play in reducing greenhouse gas emissions and adapting to the effects of climate change;
- climate change is a hot topic at the local ballot box and general elections;
- there is clear support for financial incentive schemes to encourage people to reduce their carbon footprint – and penalties for those that refuse to do so.

See politics of climate change box overleaf for detailed results.



further information

- For more information on LGA climate change opinion polling please contact info@lga.gov.uk
- Communities and Local Government (CLG) and the LGA have jointly produced an action plan to increase community empowerment. *An Action Plan for Community Empowerment: Building on success (CLG/LGA, Oct 2007)* highlights what can be done to build on the examples from around the country of local authority best practice in community empowerment. Many councils are already empowering their communities and residents as the case studies in the plan show. The action plan can be downloaded from the CLG website:
www.communities.gov.uk/publications/communities/communityempowermentactionplan
- *Votes and voices: the complementary nature of representative and participative democracy* (NVCO/LGA, July 2008) Greater participation by people in the local political process is vital for a healthy democracy, and is the key theme of *Votes and Voices*, a collection of nine essays published jointly today by NCVO and the LGA.
www.lga.gov.uk/lga/publications/publication-display.do?id=840088

The politics of climate change

The evidence is compelling.

80 per cent of MPs and 74 per cent of the public believe that climate change is happening and can be directly attributed to greenhouse gas emissions resulting from human activity.

Local government is central to the solution.

82 per cent of MPs and 76 per cent of the public agree or agree strongly that councils have a key role in tackling climate change. Out of those respondents 97 per cent of MPs and 77 per cent of the public envisage local council's role as 'helping to reduce greenhouse gas emissions in their area'. Similarly 91 per cent of MPs and 66 per cent of the public see local council's role as 'ensuring their area is adapting well to climate change already taking place'.

The ballot box is king (or queen)

At a local election, a candidate with policies to tackle climate change would likely get the vote of 62 per cent of the public.

Support for the carrot and the stick

Our surveys found that two thirds (64 per cent) of public agree that 'councils should introduce financial incentives to encourage people to reduce greenhouse gas emissions'. While over half (53 per cent) of public believe that penalties should be introduced to encourage people to reduce their greenhouse gas emissions.

joint working powers

A range of powers exist to facilitate joint working between local authorities and/or the wider public and private sector. The partnership working and shared agenda of the sustainable community strategy provides an excellent mechanism through which local authorities can work with business, health authorities and others to address climate change.

The Local Government and Public Involvement in Health Act 2007⁶ put LAAs on a statutory basis, and introduced a duty on 'named partners' to cooperate'. LAAs and multi area agreements

(MAAs) have potential to pool activity, including budgets, around common aims to achieve outcomes that cut across sectors.

The local strategic partnership (LSP) can provide a framework for joint work on climate change including joint training, information and awareness-raising campaigns, and for dialogue between councils, other public services, the voluntary sector and local businesses.

Another example of joint working is the power to set up joint committees with other local authorities for the discharge of functions. This is contained within Section 101 and Section 102 of the Local Government Act 1972.⁷ Similarly, Section 28 of the Planning and Compulsory Purchase Act 2004⁸ allows local authorities to jointly prepare joint local development documents.

This could be applied, for example, in an adaptation context to create a single planning framework for an area crossing council boundaries with a shared climate risk; or to underpin an MAA promoting distributed energy by identifying preferred sites for infrastructure.



examples

case study 9 – Birmingham’s LSP climate change strategy and action plan

Climate change represents a new way of looking at issues and connecting the agendas of different organisations. Birmingham was one of the first LSPs to develop a partnership based approach to both reducing emissions and helping the city prepare for a changed climate.

‘Be Birmingham’, the LSP for Birmingham, was established in 2001. It has since been actively promoting initiatives which reduce climate change emissions in Birmingham, for example through its recently launched sustainable procurement compact.

Be Birmingham launched its climate change strategy and action plan on World Environment Day (5th June 2008) as part of Birmingham’s week-long climate change festival. The strategy and action plan aims to reduce carbon emissions in Birmingham by 60 per cent from 1990 levels by 2026. The Action Plan sets out three yearly targets as part of Birmingham’s LAA. Birmingham will be seeking to reduce emissions by 100,000 tonnes by March 2009.

More information: www.bebirmingham.org.uk

case study 10 – Suffolk County Council – joint purchasing for sustainability

Suffolk County Council is a member of the Central Buying Consortium (CBC) which is one of the largest local authority based consortia in the UK with 17 local authorities in membership and a spend of £900m . Many contracts for general requirements are conducted via CBC providing suppliers with the potential to develop relationships with other member authorities.

The council is seeking to improve its environmental performance by working with suppliers to reduce the environmental impact of the goods and services it uses.

Some initiatives undertaken to date include purchase of 100 per cent recycled paper in county offices, low energy light bulbs, LPG fuelled vehicles and larger vehicles fitted with wind deflectors to reduce fuel consumption.

More information: www.cbconline.org.uk/

case study 11 – local authorities working with businesses on sustainability

Formally recognising local achievement can be an effective way of encouraging sustainable businesses. A number of local authorities have done this via Green Award Schemes including: The London Boroughs of Sutton, Croydon, Kingston and Wandsworth:
www.yourlocalguardian.co.uk/green/greenawards/greennominate/greenbusiness/

and Chichester District Council:

www.chichester.gov.uk/index.cfm?articleid=4865

The Association of Town Centre Management runs the Business Climate Champions project which aims to inform and inspire companies, providing them with all the information and support they need to save energy and tackle climate change. Ensuring that local authorities' town centre managers are informed of this project could help engage businesses in this area. Further information: www.businessclimatechampions.org/

further information

- *Sustainable procurement strategy for local government* (LGA/IDeA/NECE, Nov 2007) by the Improvement and Development Agency (IDeA), the LGA and the North East Centre of Excellence. This strategy is intended to provide a clear steer to councils seeking to respond to the challenge of sustainable procurement.
www.idea.gov.uk/idk/core/page.do?pagelid=5246448
- *Sustainable procurement- making it happen* (SOLACE, 2003) The Society of Local Authority Chief Executives and Senior Managers (SOLACE), the IDeA and the Waste and Resources Action Programme (WRAP) offer a guide to implementing sustainable procurement in local authorities. The document sets out basic steps for converting policy objectives into results, and signposts more detailed advice.
www.idea.gov.uk/idk/aio/69979
- *EST report for Defra Mapping Policy on Climate Change: local government and the third sector* (EST, May 2007). This provides a comprehensive map of the policy background to local authority and third-sector action to mobilise community action on climate change mitigation.
www.defra.gov.uk/environment/climatechange/uk/individual/pdf/study4-0707.pdf
- *Get in on the act: the Local Government and Public Involvement in Health Act 2007* (LGA, 2007) www.lga.gov.uk/lga/publications/publication-display.do?id=515529

planning powers

Local authorities' planning function gives them important leverage, both over the energy consumption and the location of new development. Such powers, set out in the Planning and Compulsory Purchase Act 2004⁹, could and should be used to support initiatives designed to tackle climate change. Section 39 states that regional planning bodies and local planning authorities (LPAs) "have a statutory duty when preparing the regional spatial strategy and local development documents to exercise their functions with the objective of contributing to the achievement of sustainable

development." Aside from the powers to compulsorily purchase land to facilitate climate change infrastructure projects, planning powers can also be used to impose climate change 'improvements' as part of other large scale capital projects.

The above legislation also requires local planning authorities to proactively engage with their many communities in the development control and plan making process and to set out in a statement of community involvement how this will be achieved.

What's in the future? The Planning Bill 2007/08 places a new duty on local authorities to incorporate climate change mitigation and adaptation into LDFs. Developer contributions raised either through the Community Infrastructure Levy (planning charge) or traditional Section 106 agreements could help local authorities finance the infrastructure needed to help adapt to climate change, such as flood defences.

example

case study 12 – The Merton Rule

Pioneered by the London Borough of Merton, this policy stipulates that "the council will encourage the energy efficient design of buildings and their layout and orientation on site. All new non-residential development above a threshold of 1,000 sqm will be expected to incorporate renewable energy production equipment to provide at least 10 per cent of predicted energy requirements."

See: www.themertonrule.org/



did you know?

Councils have considerable powers to control development in their area through two important planning roles: strategic planning and development control (local planning). County, metropolitan, and unitary councils are responsible for the strategic plans which set out the authority-wide policies for the location of new development such as housing, industry, shopping and leisure facilities and the transport to serve all these. They also deal with planning applications for mineral and waste sites. Metropolitan, district and unitary councils deal with local planning in their area and all applications for development are made through these authorities. Other duties include protecting listed buildings, advertisement control and some nature conservation issues.

case study 13 – Enfield council's sustainable design and construction policy

Enfield council, working in partnership with outside bodies, advanced a set of measures to secure sustainable design and construction at all levels of development activity. Successes so far include significant water conservation due to use of low-flush toilets in development proposals; two buildings with green roofs; a new school building with a sustainable drainage system; and private sector housing with photovoltaic cells and solar thermal heating.

Enfield has also developed a guide, entitled *Greening Your Home*, targeted at householders who are thinking about building extensions or converting lofts or are simply undertaking renovation and DIY projects.

The guide explains how householders can make 'green and environmentally sound' choices for energy use and efficiency in buildings, water conservation, waste minimisation, construction materials and landscaping. It also includes useful information about services provided by various council departments which relate to home improvements. These include planning and building control applications, listed buildings, waste recycling and grants available to private homeowners for improving their homes including energy efficiency.

[www.enfield.gov.uk/880/Sustainable per cent20Design per cent20and per cent20Construction.htm](http://www.enfield.gov.uk/880/Sustainable%20Design%20and%20Construction.htm)

case study 14 – Uttlesford District Council

Uttlesford District Council's Supplementary Planning Document (SPD) on home extensions represents an example of best practice in using the planning system to reduce carbon dioxide emissions from existing buildings. The SPD sets out a requirement for cost effective energy efficiency measures to be carried out throughout the existing building as a condition of planning consent for a home extension. It is the first of its kind in the UK.

See: www.uttlesford.gov.uk

further information

- A number of planning policy statements help to define the key role of local and regional planning in helping shape places with lower carbon emissions and resilience to expected climate change impacts. Tackling climate change is identified as a priority in *PPS1: Delivering Sustainable Development*. Further reference is made in *PPS7: Sustainable Development in Rural Areas*; *PPS9: Biodiversity and Geological Conservation*; *PPS11: Regional Spatial Strategies*; *PPS12: Local Development Frameworks*; *PPS22: Renewable Energy and PPS23: Planning and Pollution Control*. See www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance
- See also *Inspiring planning: planning for climate change – Quickfile*, National Planning Forum Good practice note 5 (LGA, 2005) www.natplanforum.org.uk/NPF_5_F388__8PP__environmental.pdf
- The EST has developed an online resource for planners here: www.energysavingtrust.org.uk/housingbuildings/localauthorities/planners/. This includes briefing notes on how the planning system can be used to improve sustainability in both new and existing buildings. There are also case studies on how the Merton Rule and the Code for Sustainable Homes have been used around England. In addition, a Scottish planners support pack can be found online here: www.energysavingtrust.org.uk/housingbuildings/calculators/plannersupportpack
- *Planning at the heart of local government* (LGA, 2008). This guide focuses on the action that councils can take to make the most of opportunities presented by changes to national policy and achieve measurable success in meeting its own objectives and providing beneficial change for communities. www.lga.gov.uk/lga/publications/publication-display.do?id=814744

transport powers

“Transport accounts for around a quarter of the man-made greenhouse gas emissions from the UK.”

Department for Transport Annual Report 2005-06

An effective and efficient transport system is central to a prosperous economy and to the development of sustainable communities. Local authorities are responsible for the vast majority of roads and streets and already have a duty to plan ahead for local transport. Successful local authorities have incorporated transport policies within wider carbon or energy strategies – taking advantage of linkages both within council service delivery and working with partners to deliver reductions in emissions.

What's in the future? As highlighted in earlier sections, the recently strengthened statutory framework presents a real opportunity for local authorities and their partners to tackle this trend. The Local Transport Bill 2007/08 offers more powers related to buses and the opportunity to deliver better public transport alternatives to the car, where challenges cut across council boundaries.

examples

Tackling congestion and improving local transport services will require a fully integrated and coherent approach to transport networks across all modes. The solutions must be decided and delivered locally and strong local leadership will be essential. There are a number of ways local authorities can achieve this.

did you know?

Local authorities provide, manage and maintain more than 96 per cent of roads in England and Wales, as well as maintaining major parts of the motorway and trunk road network for the Department of Transport, a service which costs almost a billion pounds a year. However, there is much more to this than just constructing and maintaining this network, its bridges, lighting and drainage systems.

Local authorities are responsible for many other functions associated with the use of our highways. Traffic regulation and management, road safety and on-street parking all come within their remit. In all these tasks, local authorities are striving to pursue ever more environmentally sustainable transport policies with the promotion of public transport a top priority.

Local government expenditure on transport in England rose from £5.8 billion in 2002/3 to £8.6 billion in 2005/06.



- **Car, bike, or van sharing** – local authorities across the country are supporting the development of car clubs as they recognise their potential to tackle issues such as traffic congestion, pollution, parking and social exclusion.
- **Fixed Penalty Notices for stationary idling** – Regulation 98 of the Road Vehicles (Construction and Use) Regulations 1986, as amended, created a requirement for drivers to switch off their engines in parked vehicles, and sets out the exceptions. The Road Traffic (vehicle emissions)

(fixed penalty) (England) Regulations 2002¹⁰ and the Road Traffic (vehicle emissions) (fixed penalty) (Wales) Regulations 2003¹¹ provide councils with the powers to tackle this problem. Councils can request drivers to turn off their engines and issue a Fixed Penalty Notice to those who refuse to cooperate, which will result in a fine of £20. If the fine is not paid within 28 days, it increases to £40. Councils are permitted to retain income generated for further emissions enforcement work.

- **Congestion Charging and Workplace parking levy schemes** – Sections 162 to 200 and Schedules 12 and 13 of the Transport Act 2000 contain the powers for local authorities to introduce road user charging and workplace parking levy schemes. It was intended that the powers to impose road user charges or the workplace levy should be part of much wider packages of complementary measures to address the problems of congestion and pollution. The Act requires that any local authority introducing a scheme must, for at least 10 years, use the net revenues from the scheme solely to take forward the policies in its Local Transport Plan (LTP). These powers have so far been used to set up one road-user charging scheme, in the centre of the city of Durham. This is a relatively small scheme, but since its start at the beginning of October 2002, traffic levels in the centre of Durham have been reduced by up to 90 per cent. Under separate powers in the Greater London Authority Act 1999, the Mayor of London introduced a charging scheme in central London in February 2003.

- **High occupancy vehicle (HOV) lanes** are specially designated lanes that can only be used by vehicles carrying two or more people. They give priority to those travelling together (by car sharing, for example) thus reducing the number of cars on the road and cutting overall journey times. HOV lanes could be included in your local transport plan or air quality action plan. HOV lanes are likely to be most successful if combined with the introduction and promotion of a car sharing scheme. HOV lanes may be introduced using existing legislation, such as an *experimental traffic regulation order (TRO)*¹² without public consultation, or a permanent TRO with formal consultation. (See also environmental powers)
- **Smarter driving** – also known as eco-driving, smarter driving is the adoption of

environmentally conscious driving techniques and environmentally optimal vehicle operation. Many motorists waste money because of the way they drive or the way they use and maintain their car. Simply offering advice to motorists could help them to change the way they behave and reduce their motoring costs, whilst also reducing greenhouse gas emissions and emissions of air pollutants.

- **Park and ride** – a park and ride scheme allows you to park your vehicle in a car park outside town, and then use a special, frequent bus service to get into the town centre or other destination. These schemes provide a cheaper and faster way for visitors to get into areas such as town centres, which are often congested and where parking may be both scarce and expensive.
- **Section 106** of the Town and Country Planning Act 1990¹³ allows a local planning authority (LPA) to enter into a legally-binding agreement or planning obligation with a land developer over a related issue. It often requires them to minimise the impact on the local community and to carry out tasks which will provide community benefits. Possible examples of Section 106 agreements relating to transport could be planning the location and adequacy of public transport to encourage residents out of their cars and onto buses, trams or trains or cycling and walking.

case study 15 – The Nottingham Workplace Levy (WPL)

The Workplace Parking Levy has been part of Nottingham City Council's transport policies since 2001. In May 2008, Nottingham City Council decided to progress plans for a Workplace Parking Levy (WPL) in Nottingham. Subject to Dft confirmation, the WPL scheme could be implemented in Nottingham from April 2010. Further information:

www.nottinghamcity.gov.uk/sitemap/wtwpl.htm

further information

- Many of the earlier suggestions are adapted from the LACORS *Climate Change Toolkit for Regulatory Services* (LACORS, June 2008). For detailed information on suggestions please see www.lacors.gov.uk
- The EST has published *Transport: an introduction* (EST, Mar 2008). This briefing note highlights which transport legislation is relevant to the climate change agenda and offers suggestions for local authority action to reduce its own emissions and those from the local community. Download: www.energysavingtrust.org.uk/download.cfm?p=2&pid=1264
- The EST, in conjunction with CarweB Ltd, has developed 'Ecopark', a software package that offers a simple and effective means for a local authority to implement emissions-based parking. www.energysavingtrust.org.uk/download.cfm?p=1&pid=262
- *Meeting Targets Through Transport* (HMSO, Jul 2008). This booklet has been produced by the Department for Transport (DfT) in conjunction with Sustrans, Campaign for Better Transport and the LGA. It is designed to help local authorities when planning and delivering local transport schemes within their community. See www.dft.gov.uk/pgr/regional/ltp/guidance/targets available at: www.dft.gov.uk/pgr/regional/ltp/capital/ltpsettle06
- Five local authorities have been designated beacons for accessibility planning. See www.beacons.idea.gov.uk
- *Breaking the gridlock: moving the road pricing debate forward* (LGA, Jul 2007). This report looks at the reasoning behind road pricing and how it fits with other aspects of transport policy and delivery. See www.lga.gov.uk/lga/publications/publication-display.do?id=21373

Smarter Choices are techniques for influencing people's travel behaviour towards more sustainable options such as encouraging school, workplace and individualised travel planning. They also seek to improve public transport and marketing services such as travel awareness campaigns, setting up websites for car share schemes, supporting car clubs and encouraging teleworking. DfT has also published a range of guidance and research documents:

Smarter Choices – Changing the Way We Travel
www.dft.gov.uk/pgr/sustainable/smarterchoices/ctwwt/

Making Smarter Choices Work
www.dft.gov.uk/pgr/sustainable/smarterchoices/makingwork/

Making Residential Travel Planning Work (mini-guide also available) www.dft.gov.uk/pgr/sustainable/travelplans/rpt/mrtpw

You can find many more practical examples of actions taken by local authorities in *Delivering Better Local Transport* (HMSO, Dec 2006)

Making Car Clubs and Car Sharing Work
www.dft.gov.uk/transportforyou/roads/planning

Making In Town Without My Car Work!
www.dft.gov.uk/pgr/sustainable/awareness/itwmc/

Travelling to School: a good practice guide
www.dft.gov.uk/pgr/sustainable/schooltravel/travelling/travellingtoschoolgoodpract5762

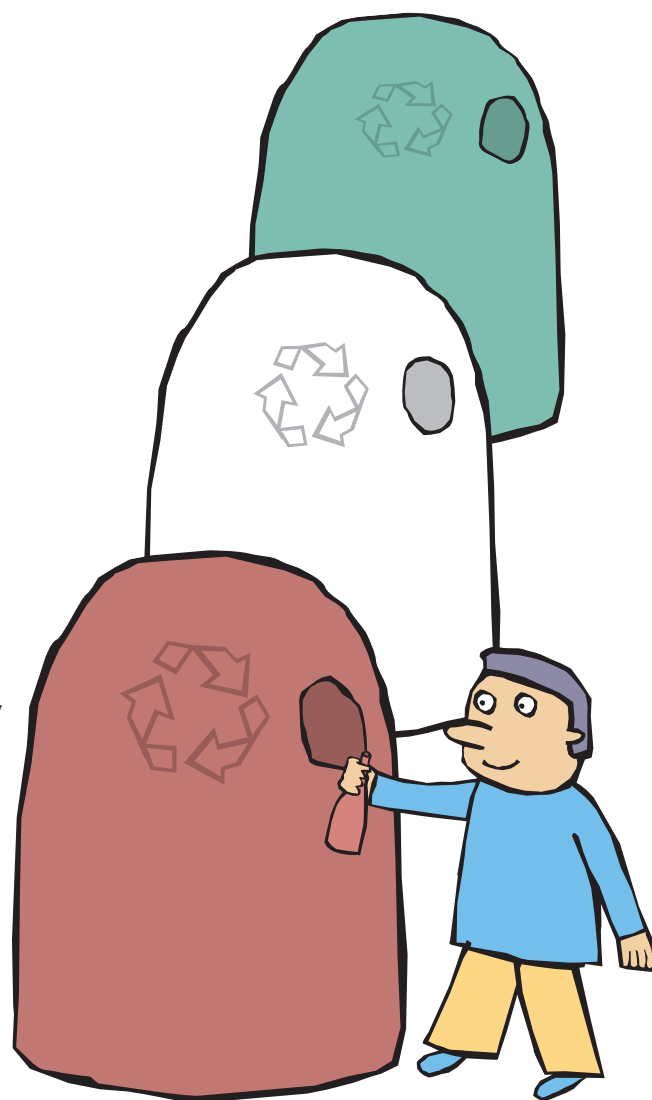
The Kerbcraft Manual
www.dft.gov.uk/pgr/roadsafety/child/kerbcraft

Guidance on Transport Assessment
www.dft.gov.uk/pgr/regional/transportassessments/guidanceonta

The Essential Guide to Travel Planning
www.dft.gov.uk/pgr/sustainable/travelplans/work/

Making Personal Travel Planning Work – research report and case studies
www.dft.gov.uk/pgr/sustainable/travelplans/ptp/makingptpworkresearch

Manual for Streets
www.dft.gov.uk/pgr/sustainable/manforstreets/



housing powers

“In the housing sector, councils have a wealth of knowledge of their local housing stock and residents’ needs. Councils work with all parts of the housing sector, with their local registered social and private landlords, with the tenants of their own housing stock as well as with people who own their own homes”

Switch off, Switched on: How to cut every household’s carbon footprint and energy bill, LGA, London, UK, March 2008



Councils have important powers to enable them to tackle climate change across both social and private sector housing.

housing provision

Social housing provision is a key function of local housing authorities ie districts, metropolitans, London boroughs and unitary authorities. County councils are not responsible for social housing, though they are responsible for planning. The functions and duties of local authorities in this area are contained within the Housing Act 1985¹⁴ and Housing Act 2004¹⁵. These acts also contain a number of useful powers which could be used more widely to promote environmental sustainability and the prevention of climate change. These include powers to provide shops/recreation grounds/other buildings in connection with housing provision (by councils, other social housing providers, private sector), to lay out

did you know?

The housing service in some areas takes a strategic role in ensuring local authority housing needs are met throughout their area with a mixture of housing association and private sector stock. Housing the homeless is a responsibility of the local authority.

Although the housing service has undergone a great deal of change it still has a total expenditure of around £12 billion and provides around 3.5 million homes in England and Wales.

case study 16 – Woking Borough Council

Woking has been working to implement energy efficiency projects throughout the borough. The projects have been varied and wide reaching, for example Energy conservation grants were provided to 3,026 households in Woking living in fuel poverty between 1996/97 and 2001/2002. The council has earmarked £325,000 from the housing investment programme for 2000/01 to 2004/05 to implement a similar scheme in conjunction with the new Home Energy Efficiency Scheme (HEES) relaunched as the 'Warm Front Team'. As part of Woking Borough Council's climate change strategy, consideration will also be given to addressing fuel poverty in private homes by 2010/11. More information:

www.woking.gov.uk/test/environment/climate/Greeninitiatives/sustainablewoking/tfp.pdf

streets/roads/open spaces in connection with housing provision, and to provide assistance for the purpose of improving living conditions. Authorities could, for example, look to build in energy efficiency initiatives (such as a combined heat, cooling and power plant) as an integral part of all housing developments.

tackling fuel poverty in private housing

Councils have powers under the Housing Act

2004¹⁶ to tackle poor conditions in private sector housing. The *Housing Health and Safety Rating System* (HHSRS) is the tool that local authorities use to assess risks to the health and safety of occupants in residential properties. One of the new hazards under the HHSRS is 'excess cold', which covers the threat of illness and risks to health from cold homes. Local authorities should consider HHSRS inspections where properties are being considered for improvements to tackle fuel

case study 17 – switched off switch on

The LGA *Small Change Big Difference* campaign produced the report *Switch off, Switched on: How to cut every household's carbon footprint and energy bill* (LGA, Mar 2008). This report calls for a national home insulation programme which would save around 10 million householders over £200 a year on their energy bills, cut household carbon emissions by over 20 per cent and help eradicate fuel poverty.

www.lga.gov.uk/lga/aio/314882

poverty, or to increase the proportion of vulnerable people living in decent homes. Using the HHSRS, councils can focus on health improvements for their residents as well as tackle climate change.

The EST also highlights the example of the Beacon housing estate in Falmouth, once a severely disadvantaged area of Cornwall, which has now been transformed through a programme of housing improvements. A 'community action for energy' case study provides an overview of the energy-related elements of a major community-wide regeneration project.

further information

- The Energy Efficiency Partnership for Homes has published an enforcement framework and procedure, *Tackling fuel poverty using the Housing Health and Safety Rating System (HHSRS)*. Councils are encouraged to use the guide to take action whenever landlords refuse to have grant-funded energy efficiency measures installed, without good reason. This will help to support vulnerable tenants. The full report and

executive summary, as well as guidance, can be downloaded from the www.eeph.org.uk/resource/hhsrs

- In addition, the EST has published a briefing note on HHSRS (EST, Mar 2008), describing how it can be used to improve energy efficiency and reduce fuel poverty. More information: www.energysavingtrust.org.uk/uploads/documents/housingbuildings/HHSRS_bn.pdf
- LACORS has published a series of worked examples on the excess cold hazard under the HHSRS. These support the information provided in the HHSRS Operating Guidance. Councils can use them to help benchmark their cases and decide on remedial action to address the hazard in their private sector housing stock. More on this and other useful information, including council case studies, to help councils reduce carbon emissions from private housing can be found in LACORS' climate change toolkit (LACORS, June 2008) at: www.lacors.gov.uk

In response to a recommendation by the Climate Change Commission, the LGA has set up a the **Carbon Reduction One Stop Shop** (CROSS) funding partnership to provide a new auction-based way for councils and registered social landlords to access CERT funds to improve the energy efficiency of the housing stock in their area. The scheme simplifies the process of accessing *Carbon Emissions Reduction Target* (CERT) funding from energy suppliers. Energy suppliers currently have an obligation to reduce domestic energy demand through funding energy efficiency measures. Through the CROSS scheme, local authorities will estimate what level of carbon dioxide emission reductions will be achieved by any given project. Auctions will then be held to allow energy companies to submit a bid for those energy savings. In this way, housing organisations and energy suppliers will work together to ensure that energy savings are maximised. More information is available on the CROSS website: www.funding.org.uk



financial powers

prudential borrowing

The Local Government Act 2003¹⁷ introduced prudential borrowing for local government. This power enables local authorities to raise finance for capital expenditure (in line with principles set out in a professional prudential code) provided that they can afford to service the debt. Prudential borrowing can be used to fund investment in service transformation, such as schemes designed to increase energy efficiency in the council's own estate and operations. Some local authorities are already relying on prudential borrowing powers to fund waste projects (as an

did you know?

Local authorities in England and Wales employ over 2.1 million staff and spend over £70 billion a year, which accounts for around 25 per cent of public spending. Of this, only a quarter is funded by the council tax.

case study 18 – Prudential Borrowing – Adur Borough Council and Worthing Borough Council

The two neighbouring councils of Adur Borough Council and Worthing Borough Council agreed to merge their direct services – refuse, recycling, street cleaning and vehicle maintenance into a single service depot to release savings and help achieve government's targets.

The project called *Partnering Adur and Worthing Services (PAWS)* started in 2001. The councils used prudential borrowing to fund the service which will help both authorities to meet their recycling targets.

By working in partnership they are also able to take advantage of economies of scale as well as reduce the amount they have to pay in landfill charges.

For full details see:
www.communities.gov.uk/localgovernment/efficiencybetter/nationalprocurementprogramme/strategicservicedelivery/theknowledgeprogramme/strategicpartnering/caseexamples/jointworkingcase/218243



alternative to finance initiatives) and the powers could be similarly used to fund other types of capital projects relating to climate change mitigation or adaptation.

trading and charging

Local authorities' trading and charging powers are currently under-utilised, according to the recent report from the Audit Commission, *Positively Charged* (January 2008) and could be used more widely in the field of climate change. The powers are contained within Section 93 and Section 95 of the Local Government Act 2003¹⁸ and the Local Government (Best Value Authorities) (Powers to Trade) (England) Order 2004¹⁹. These powers allow certain authorities to trade commercially in activities related to ordinary functions. Trading must be through a company in which the authority has an interest and the companies' activities cannot be subsidised.

housing assistance

Previously local authorities did not have the necessary legal powers to offer loans directly. However, the Regulatory Reform (Housing Assistance) Order 2002²⁰, which came into force in England and Wales changed this. The general power provided by the order enables local authorities to consider offering loans to householders to undertake improvements to their housing.

case study 19 - Chichester District Council interest free loans to residents installing renewable energy technologies.

Residents can apply for a renewable interest-free loan from the district council of up to £4,000 to encourage them to install a household technology system. The aim is to also provide residents with information on making changes to their lifestyle in order to help reduce both energy use and carbon dioxide emissions, to help tackle climate change. As part of this scheme, the council is also helping residents to apply for a grant from the government's Low Carbon Buildings Programme, which will help to reduce their costs.

For further information, or to request an application pack, please visit the energy efficiency section of the district council website www.chichester.gov.uk, or contact the Home Energy Efficiency Officer, on (01243) 534690, or email energy@chichester.gov.uk

further information

- *Positively charged: Maximising the benefits of local public service charges* (Audit Commission, 2008)
www.audit-commission.gov.uk/reports/NATIONAL-REPORT.asp?CategoryID=&ProdID=132207AE-6E66-4d54-9549-9EB3A71077B0&SectionID=sect1

example

case study 20 – Woking Borough Council energy and environmental service company

Although pre-dating the trading and charging power, this is a useful example of a local authority exercising the principle behind this power. Woking Borough Council's wholly owned energy and environmental service company, Thamesway Limited, developed its own public/private joint venture energy services company known as *Thamesway Energy Ltd (TEL)*. De-centralising the energy sources creates energy right where it is used so that transmission losses are minimised and efficiency is increased. A combination of sustainable and renewable energy installations along with energy efficiency measures has succeeded in reducing CO2 emissions within the council's own buildings by 82 per cent and energy consumption by 52 per cent. Since 1990, the town has saved £5.4 million in municipal energy bills.

www.woking.gov.uk/environment/climate/Greeninitiatives/sustainablewoking/thamesweyenergy.pdf

- *Decentralised Energy: business opportunity in resource efficiency and carbon management*, report by the UK government's Business Taskforce on Sustainable Consumption and Production. See [www.cpi.cam.ac.uk/pdf/Decentralised per cent20Energy.pdf](http://www.cpi.cam.ac.uk/pdf/Decentralised%20Energy.pdf)
- The following *CIPFA guidance on Prudential Borrowing*, *CIPFA The Prudential Code for Capital Finance in Local Authorities*; and *The Prudential Code for Capital Finance in Local Authorities – Guidance Notes for Practitioners* is available from www.cipfa.org.uk/pt/prudential_framework.cfm
- Supported by CIPFA, the LGA and the IDeA, Financing Local Futures is a web-based resource designed to help those involved in local government financial decision-making to develop their own organisations' contributions to sustainable development. www.sd-commission.org.uk/pages/financinglocalfutures.html

incentivising households to reduce their carbon emissions

The LGA *Small Change Big Difference* campaign has commissioned work on how councils can use their financial powers to tackle climate change more effectively by incentivising households to reduce their carbon emissions and improve the energy efficiency of their homes. Where people are using energy more carefully and taking energy efficiency measures in their homes, we need to find ways to reward for their actions.

emergency planning powers

Local authorities' emergency planning powers could be used to plan for and be better prepared for the effects of climate change.

The Civil Contingencies Act 2004²¹ contains duties on local authorities to assess, plan and advise on civil emergencies. Section 138 of the Local Government Act 1972²² also contains powers to incur expenditure and make grants or loans where an emergency or disaster involving destruction of or a danger to life or property occurs or is imminent or where there is reasonable ground for apprehending such an

emergency or disaster. Subject to a few minor limitations. These powers could be used to facilitate investment in areas where potential climate change incidents (such as flooding, heatwaves or storms) are likely.

Various parties are responsible for water and flooding related issues, including the Environment Agency, internal drainage boards and local authorities. Who is responsible for a particular watercourse is laid down in legislation but it depends primarily on the status of the watercourse involved and whether it is a 'main river'.

There are various statutes that deal with water and flood risk management. For local authorities, the key legislative provisions are found in the Land Drainage Act 1991.²³



did you know?

Local authorities are responsible for civil defence and other emergency planning.

Co-ordination is the key to combating disasters across a wide area. That is where the local authority emergency planning service comes in. It plans for the continued efforts of the police, fire brigades and other emergency services to respond to disasters as diverse as flooding, chemical emissions and even terrorist attacks. Constant preparedness are their watchwords in protecting the public.

examples

case study 21 – Cambridgeshire County Council guidance on flood prevention and flood resilience for local business

Local authorities, in discharging their responsibilities under the Civil Contingencies Act 2004 to promote business continuity, should encourage the take-up of property flood resistance and resilience by businesses.

Cambridgeshire County Council is a partner in FLOWS, a European programme which includes a range of initiatives looking at how communities can begin adapting to climate change and dealing with flooding.

One project within FLOWS led to a booklet, targeted at small and medium-sized businesses. It provides practical ideas about making existing flood-risk buildings less vulnerable and includes a case study describing the process Cambridgeshire County Council followed. The booklet *Is your business at risk of flooding?* is available to download and also points to other sources of advice and guidance on flood prevention and flood resilience.

www.cambridgeshire.gov.uk/environment/water/flooding.htm

case study 22 – Hampshire County Council proactive reinterpretation of existing powers under the Civil Contingencies Act 2004

Evidence presented to Hampshire County Council's Commission of Inquiry has led to a proactive reinterpretation of existing powers under the Civil Contingencies Act 2004.

In November 2006 the leader of Hampshire County Council established a commission of inquiry to investigate the impacts of climate change in Hampshire and to identify and prioritise actions to build resilience to these impacts. Evidence was presented by external experts, and key findings were agreed by commissioners. A meeting of the council considered a report and recommendations in November 2007 and identified priorities for action.

As a local authority, Hampshire County Council has a statutory duty under the Civil Contingencies Act 2004 to prevent emergencies from occurring as far as is reasonably practicable and to continue to deliver its services to the population of Hampshire during times of emergency.

Evidence submitted led the Commissioners to conclude that:-

climate change is in its own right a foreseeable emergency and the Civil Contingencies Act 2004 places a statutory duty upon the council to integrate climate change factors into emergency planning systems.

Existing emergency plans and disaster recovery plans need to be reviewed to ensure that they are fit for purpose. As a priority corporate risks and business continuity plans need to be reviewed to ensure that they take account of any additional risks.

The county council has a leading role in Hampshire to work with other organisations who share responsibility under the act.

A review of the current emergency planning process has already begun and some useful opportunities for change have come to light. For example, by creating a more proactive system of reviewing the plans, looking forward beyond the annual cycle, a longer-term time horizon can be included. The risk assessment process could be greatly improved by taking account of climate change impacts at a local level when considering likelihood and impact rather than relying solely on national data.

The impact of the occurrence of multiple events or a sequence of linked events needs further consideration.

Hampshire County Council will incorporate the forthcoming UKCIP 08 scenarios to form the basis for using probabilistic data, specific to Hampshire, to support the development of this work.

More information: info.centres@hants.gov.uk

The recent Pitt Review *Learning Lessons from the 2007 Floods* (HMSO, June 2007) comments that the government has committed to consult on a proposed **floods and water bill** in 2009.

The Pitt Review criticised the “confusing landscape with related statutory powers being

spread over different acts” and recommended that “the forthcoming flooding legislation should be a single unifying act that addresses all sources of flooding, clarifies responsibilities and facilitates flood management” – so this is an area where local authorities’ powers could change in the future.

further information

- More extreme weather is one of the unavoidable consequences of climate change and it is essential that local authorities take a strategic leadership role on the environment to ensure they and their communities actively combat the causes and effects of climate change and adapt to any increased risk of flooding. The floods of 2007 were a wake-up call for all areas and highlighted the implications of extreme weather for all local authorities. One lesson gained from the floods (and indeed of other extreme weather events) is the need to give a greater priority to risk management. The LGA, Environment Agency and the United Kingdom Climate Impacts Programme (UKCIP) jointly produced the guidance *Be aware be prepared take action*. (LGA/EA/UKCIP, June 2008)

This guidance signposts tools and resources which local authorities can draw upon in developing their adaptation strategies, including the Nottingham Declaration Action Pack and the UKCIP climate impacts profile (LCLIP). It suggests ways to systematically manage these risks across local authorities' functions, outlines the new legislative context for adaptation and offers examples of innovation and best practice in the field. This information will be applicable to all member and officer communities not just those focused on environmental issues.
www.lga.gov.uk/lga/publications/publication-display.do?id=566301

- *Learning lessons from the 2007 floods – the Pitt Review Final Report – LGA briefing* (LGA, June 2008). This LGA briefing gives an outline of the

main recommendations, implications for local authorities and LGA views for Sir Michael Pitt's independent Review into the summer 2007 floods. The report calls on the government to take a more 'strategic role' in making the case for adaptation to climate change and highlights the role of local authorities in improving adaptation to cope with extreme weather.
www.lga.gov.uk/lga/aio/762789

- To deal with the impacts of climate change in the UK, the government set up a cross-government *Adapting to Climate Change Programme* which brings together activity already underway at the national level on adapting to climate change, and lead on the development of the government's work on adapting to climate change in the future. This includes an adapting to climate change website and document summarising the government's framework for action on adaptation. For further information see www.defra.gov.uk

environmental protection powers

Local authorities should think more widely about how their environmental protection powers can be used to tackle climate change. For example, the provision of funding or support for local groups who work for the promotion of environmental protection, or linking air quality and transport plans to embed sustainable transport in an area as far as possible.

The Environmental Protection Act 1990²⁴ sets out a range of powers, duties and functions for local authorities to promote environmental protection, including a number which can help tackle climate

change. These include improving air quality, preventing and improving control of pollution from industrial processes, keeping public places free of litter and clean powers relating to the control of hazardous substances and giving financial or other assistance for purposes connected with the environment.

The Clean Air Act 1993²⁵ deals with dark smoke, cable-burning offences and Smoke Control Areas (SCA). The legislation introduced a wide range of new regulations and powers to local authorities, such as the power to prosecute any industrial or commercial premises if they allow thick dark smoke to be emitted from their premises.

The Environment Act 1995²⁶ deals with air quality management and identifies pollutants for local and national control. Local authorities, the Environment Agency and central government all have a role. In particular, county councils should be involved at every stage of the review and assessment process and they have a duty to exchange information with their districts. Where AQMAs (Air Quality Management Areas) are designated, the county council has to submit details to the districts of what actions they can take in pursuit of the air quality objectives.

The Prevention, Pollution and Control Act 1999²⁷ deals with permitting of identified industrial plant and processes. Part A1 processes are enforced by the Environment Agency, Part A2 and Part B (air pollution only) by local authorities.



The Waste and Emissions Trading Act 2003²⁸ deals with trading in emission levels, enforced by the Environment Agency.

example

case study 23 – Care4Air Air quality partnership

Care4Air is a partnership between the four South Yorkshire local authorities and is funded by the South Yorkshire Local Transport Plan. It aims to raise awareness of air quality issues and highlight what is happening in the region to improve the quality of our air. In particular, Care4Air aims to provide individuals, organisations, schools and businesses with information that will enable them to play their part in reducing air pollution.

www.care4air.org

further information

- More information on how councils can use environmental protection levers to address climate change while meeting other key objectives for their community such as improving public health can be found in LACORS' *climate change toolkit* (LACORS, June 2008) at: www.lacors.gov.uk
- The Clean Neighbourhoods and Environment Act 2005²⁹ also contains useful measures to help local authorities improve the quality of the local environment. There is also a comprehensive guide from the LGA which provides an analysis of

the act from a local government perspective and is an invaluable introduction to anyone needing an uncomplicated overview of the new legislation

www.lga.gov.uk/lga/publications/publication-display.do?id=22291

- The National Society for Clean Air (NSCA) website also has lots of helpful information www.nasca.org.uk
- Visit Defra's air quality web pages www.defra.gov.uk/environment/airquality for more information on what the government is doing.
- More case studies are also set out in the 'Delivering cleaner air' beacon theme www.beacons.idea.gov.uk/idk/core/page.do?pa geld=6074405 and *air quality management briefing note* from LGA: www.lga.gov.uk/lga/aio/20613
- King's College – The Environmental Research Group, part of the School of Health and Life Sciences at King's College London, is a leading provider of air quality information and research in the UK. Visit www.erg.kcl.ac.uk/erg/asp/erghome.asp

powers under the sustainable communities act

The Sustainable Communities Act 2007³⁰ offers an opportunity for councils and communities to put forward new thinking on how to meet the challenges of sustainability.

It starts from the principle that local people know best what needs to be done to promote the sustainability of their area, but that sometimes they need central government to act to enable them to do so. It provides a channel for local people and the councils which represent them to ask central government to take such action.

In October 2008, the secretary of state will invite proposals from communities and councils which will contribute to sustainability. These could

advocate changes to the law and changes to bodies that provide public services. The act also requires the secretary of state to publish statements detailing the public spending on services provided in the local area – this is to enable proposals to be made to change the way public money is spent in the area.

The act provides for a 'selector' body to consider and short-list proposals made under the act and the LGA has agreed to take on this role. The LGA will be publishing more information on how councils and communities can put forward their ideas to enhance the economic, social and environmental sustainability of their area, using the act.

further information

- *Creating Strong, Safe and Prosperous Communities: Statutory Guidance* (HMSO, July 2008). This document provides statutory guidance to local authorities and their partners on creating strong, safe and prosperous communities. It covers the duty to involve and duties around LAAs in the Local Government and Public Involvement in Health Act 2007 and includes statutory guidance on the Sustainable Communities Act 2007. It also replaces the earlier guidance on LSPs and sustainable community strategies. Taken together, this document is a comprehensive guide to local authorities and their partners on how to engage their citizens, lead their communities, and find new and more effective ways to deliver high quality services. See www.communities.gov.uk/documents/localgovernment/pdf/885397.pdf



subsidiary powers

Last but by no means least, local authorities have the power under Section 111 of the Local Government Act 1972³¹ to do anything that is calculated to facilitate or is incidental or conducive to the discharge of a function. This is an ancillary power and must be linked to a function (ie another power or duty). The power cannot be used to raise money but, other than this, it is extremely wide and flexible and could be used to support climate change initiatives.

In exercising powers to tackle climate change, local authorities will need to have regard to a

number of other relevant considerations. These include:

- local authorities' statutory duties relating to climate change, including those set out in the Natural Environment and Rural Communities Act 2007³³ and the Climate Change and Sustainable Energy Act 2006³⁴;
- climate change and/or environmental improvement targets;
- any action plans issued by the secretary of state relating to the promotion of sustainability by local authorities;
- communications about and documentation of climate change initiatives in the context of the Freedom of Information Act 2000³⁵ and the Environmental Information Regulations³⁶;
- procurement issues, including the use of social and environmental criteria to evaluate private sector proposals;
- the power of the local education authority to determine schools and educational improvement (there is a lot of 'choice' in how local authorities use the National Curriculum – therefore there are opportunities to promote more of a climate change message through educational resources and key stages etc).



case study 24 – Section 111

There was originally a tendency to apply Section 111 only to activities that were necessary if an express function was to be carried out; the modern tendency is for a liberal approach. The power in Section 111 was considered recently in the LAML case where Lord Justice Stanley Burnton said:

“Section 111 should be interpreted and applied broadly. There was originally a tendency to apply it only to activities that were necessary if an express function was to be carried out; the modern tendency is for a liberal approach.”

The case does, however, confirm the necessity to be clear about how Section 111 will apply and how the activity in question does facilitate or is conducive or incidental to the primary activity.



who's who?

- The **EST** is one of the UK's leading organisations set up to address the damaging effects of climate change. It aims to cut carbon dioxide emissions – the main greenhouse gas causing climate change – by promoting the sustainable and efficient use of energy. The EST's practical help advisory service provides expert advice and support to help you promote and encourage sustainable energy in your organisation, housing and wider community. The advisory service is a one-stop-shop for local authorities and housing associations on matters relating to sustainable energy and sustainable road transport, including access to the range of services on offer through the EST. Practical help can be contacted on 08448 488 830 or by email at practicalhelp@est.org.uk, www.est.org.uk
- **The Carbon Trust** is an independent company funded by the government. The Carbon Trust's role is to help the UK move to a low carbon economy by helping business and the public sector reduce carbon emissions now and capture the commercial opportunities of low carbon technologies. The Carbon Trust's 'local authority sector overview' demonstrates the best energy saving opportunities available in many local authority buildings by focussing on low and no-cost measures and actions with the quickest payback. See www.carbontrust.co.uk
- **Salix Finance** is an independent, publicly funded company, set up in 2004, to accelerate public sector investment in energy efficiency technologies through invest to save schemes. Salix has public funding from the Carbon Trust and is working across the public sector with local authorities, NHS Foundation Trusts, higher and further education institutions and central government. See www.salixfinance.co.uk/home.html
- **The Environment Agency for England and Wales** plays a major role in managing climate change. It has a direct role in regulating industries responsible for about 40 per cent of UK greenhouse gas emissions mainly through the EU Emissions Trading Scheme (EU ETS) and Pollution Prevention and Control (PPC). The Environment Agency also has an important role on adapting to climate change. Not only does it have core responsibilities on coastal and river flood risk management and water resource planning, but its general environmental protection responsibilities mean that it needs to ensure climate change is factored into all its operations. It is taking action to consider the impact of climate change on its business and has started to implement an organisational adaptation strategy which should help to ensure continued environmental improvement in spite of climate change as well as supporting the aims of the adaptation policy framework. www.environment-agency.gov.uk
- The **IDeA** is the national agency for local government and improvement. It was established by and for local government in April 1999. IDeA's aim is to support self-sustaining improvement from within local government. IDeA supports the Nottingham Declaration as a practical solution to helping local government address the challenge of climate change. It focuses on best practice and forward thinking,

enabling individual councils and local government to learn systematically and respond to the needs of changing environments. It also aims to deliver a flexible range of tools and services, recognising that every community and locality is unique and everyone's journey of improvement and development is different. It also carries risk on behalf of local government by innovating and incubating new joined-up but locally-delivered initiatives. www.idea-knowledge.gov.uk

- The **Beacon Scheme** identifies excellence and

innovation in local government. The scheme exists to share good practice so that 'best value' authorities can learn from each other and deliver high quality services to all. Ten themes are selected for each round by government ministers to reflect key government priorities. Beacon status is granted to those authorities who can demonstrate a clear vision, excellent services and a willingness to innovate within a theme. Sustainable Energy was a theme in Round Seven, with beacon status being awarded to local authorities including Lewisham, High Peak and Woking. www.beacons.idea.gov.uk

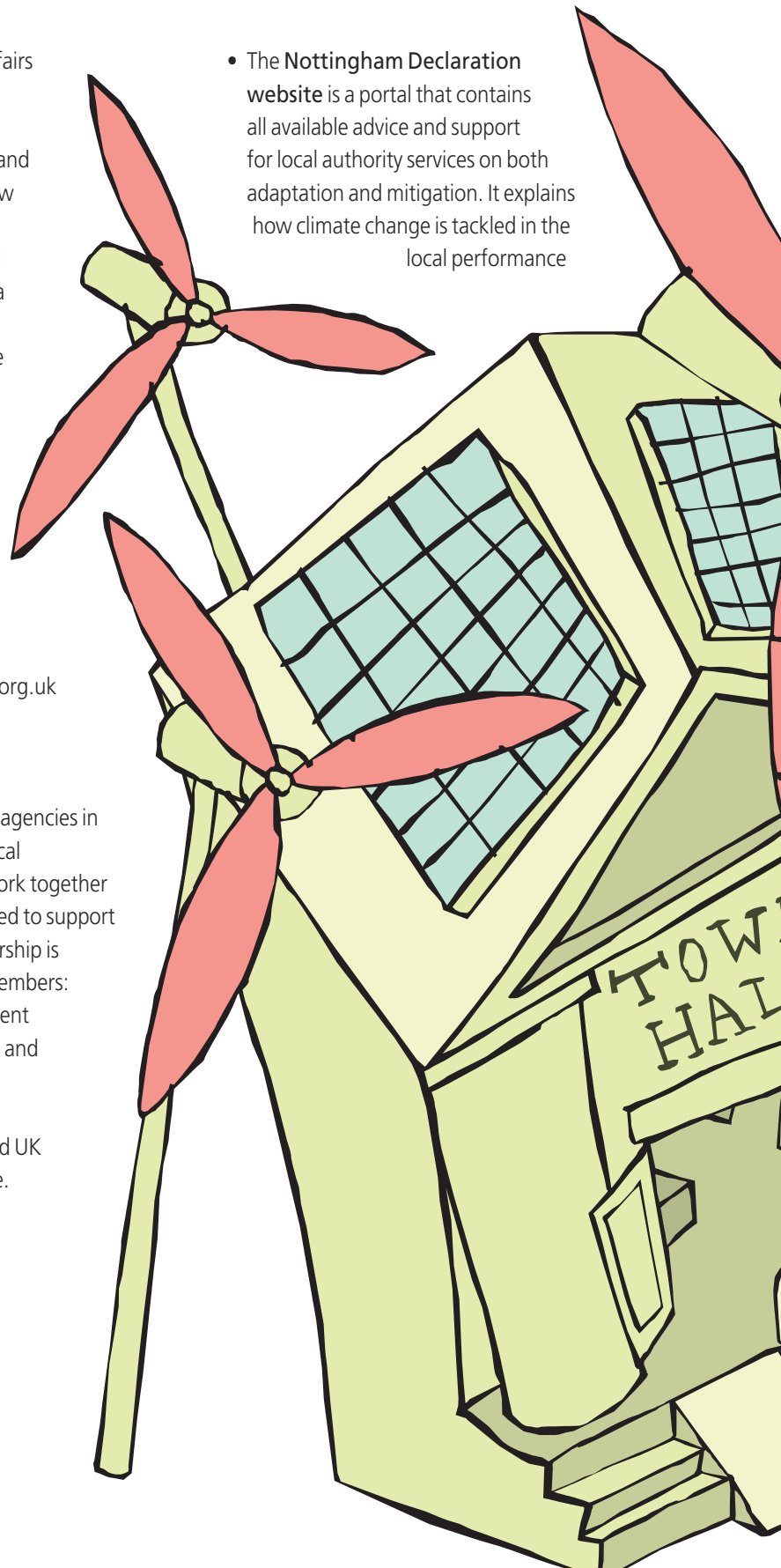


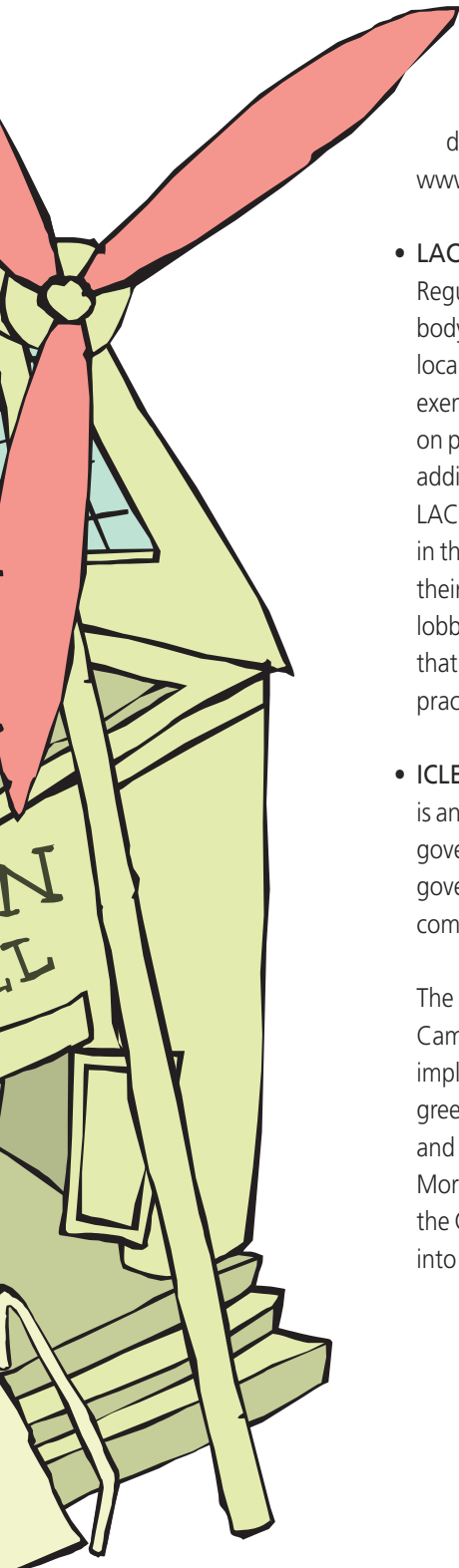
- The **LGA** was formed in 1997 to promote the interests of English and Welsh local authorities – a total of just under 500 authorities. These represent over 50 million people and spend around £74 billion a year on local services. The LGA is a voluntary lobbying organisation which exists to promote better local government. The LGA works with and for its member authorities to realise a shared vision of local government that enables local people to shape a distinctive and better future for their locality and its communities. The LGA aim to put local councils at the heart of the drive to improve public services and to work with government to ensure that the policy, legislative and financial context in which they operate, supports that objective. www.lga.gov.uk
- The **UK Climate Impacts Programme (UKCIP)** helps organisations assess how they might be affected by climate change so that they can prepare for its impact. Set up in April 1997, UKCIP is funded by the Department for

Environment, Food Rural Affairs (Defra) and is based at the University of Oxford. UKCIP works with its stakeholders and co-ordinates research on how climate change will have an impact at local, regional and national levels. UKCIP, Defra and the Met Office Hadley Centre are due to launch the UK 21 century climate change scenarios (UKCIP08). UKCIP08 will make available probabilistic scenarios, with information at a greater level of spatial and temporal detail than the previous scenarios (UKCIP02). See www.ukcip.org.uk

- **Nottingham Declaration Partnership** – This unique collaboration of the leading agencies in environmental issues and local government continues to work together to develop resources designed to support local authorities. The partnership is made up of the following members: Carbon Trust, EST, Environment Agency, ICLEI, Improvement and Development Agency, Local Government Association, Nottingham City Council and UK Climate Impacts Programme.

- **The Nottingham Declaration website** is a portal that contains all available advice and support for local authority services on both adaptation and mitigation. It explains how climate change is tackled in the local performance





framework, including performance indicators, comprehensive area assessments and LAAs. The site also provides updated guidance on developing a climate change action plan for both adaptation and mitigation, including case studies and downloads. See www.nottinghamdeclaration.org.uk

- **LACORS** (the Local Authorities Coordinators of Regulatory Services) is a local government central body working with, and on behalf of, the UK local authority associations. Our vision is to be an exemplar local government organisation, leading on policy development, driving improvement and adding value to council regulatory services. LACORS facilitates good practice and consistency in the delivery of regulatory services, enhancing their contribution to local communities. LACORS lobby on behalf of local government and ensure that legislation and government policy can be practically implemented. www.lacors.gov.uk
- **ICLEI – Local Governments for Sustainability** is an international association of local governments and national and regional local government organisations that have made a commitment to sustainable development.

The ICLEI Cities for Climate Protection (CCP) Campaign assists cities to adopt policies and implement quantifiable measures to reduce local greenhouse gas emissions, improve air quality, and enhance urban liveability and sustainability. More than 800 local governments participate in the CCP, integrating climate change mitigation into their decision-making processes.

The CCP methodology is compliant with international standards and provides a simple, standardised way of acting to reduce greenhouse gas emissions and of monitoring, measuring, and reporting performance. www.iclei.org

endnotes

- 1 See A climate of change: final report of the LGA Climate Change Commission
www.lga.gov.uk/lga/publications/publication-display.do?id=20630
- 2 Recent opinion polling by the LGA has shown that over three quarters (76 per cent) of people agree that councils have a major role to play
- 3 The Local Government Act 2000
www.opsi.gov.uk/Acts/acts2000/20000022.htm
- 4 *ibid*
- 5 Local Government and Public Involvement in Health Act 2007
www.opsi.gov.uk/acts/acts2007/ukpga_20070028_en_1
- 6 *ibid*
- 7 Local Government Act 1972 The UK Statute Law Database www.statutelaw.gov.uk/
- 8 Planning and Compulsory Purchase Act 2004
www.opsi.gov.uk/ACTS/acts2004/ukpga_20040005_en_1
- 9 *ibid*
- 10 The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002
www.opsi.gov.uk/si/si2002/20021808.htm
- 11 The Road Traffic (Vehicle Emissions) (Fixed Penalty) (Wales) Regulations 2003
www.opsi.gov.uk/legislation/wales/wsi2003/20030300e.htm
- 12 Traffic regulation order
www.dft.gov.uk/foi/responses/2007/may2007/roadmarkings/roadmarkingsfactsheet.pdf
- 13 Town and Country Planning Act 1990
www.opsi.gov.uk/acts/acts1990/UKpga_19900008_en_1.htm



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| <p>14 Housing Act 1985
 www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/1985/cukpga_19850068_en_1</p> <p>15 Housing Act 2004
 www.opsi.gov.uk/acts/acts2004/ukpga_20040034_en_1</p> <p>16 <i>ibid</i></p> <p>17 Local Government Act 2003
 www.opsi.gov.uk/acts/acts2003/ukpga_20030026_en_1.htm</p> <p>18 <i>ibid</i></p> <p>19 The Local Government (Best Value Authorities) (Power to Trade) (England) (Amendment No.2) Order 2007
 www.opsi.gov.uk/si/si2007/uksi_20072543_en_1</p> <p>20 The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002
 www.opsi.gov.uk/si/si2002/20021860.htm</p> <p>21 Civil Contingencies Act 2004
 www.opsi.gov.uk/Acts/acts2004/ukpga_20040036_en_1</p> <p>22 <i>ibid</i></p> | <p>23 Land Drainage Act 1991
 www.opsi.gov.uk/acts/acts1991/ukpga_19910059_en_1.htm</p> <p>24 Environmental Protection Act 1990
 www.opsi.gov.uk/acts/acts1990/ukpga_19900043_en_1.htm</p> <p>25 Clean Air Act 1993
 www.opsi.gov.uk/acts/acts1993/ukpga_19930011_en_1.htm</p> <p>26 Environment Act 1995
 www.opsi.gov.uk/acts/acts1995/ukpga_19950025_en_1</p> <p>27 Pollution Prevention and Control Act 1999
 www.opsi.gov.uk/Acts/acts1999/ukpga_19990024_en_1</p> <p>28 Waste and Emissions Trading Act 2003
 www.opsi.gov.uk/Acts/acts2003/ukpga_20030033_en_1</p> <p>29 Clean Neighbourhoods and Environment Act 2005
 www.opsi.gov.uk/acts/acts2005/ukpga_20050016_en_1</p> <p>30 Sustainable Communities Act 2007
 www.opsi.gov.uk/Acts/acts2007/ukpga_20070023_en_1</p> |
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- 31 *ibid*
- 32 Refers to *Risk Management Partners v London Borough of Brent* May 08 [2008] EWHC 1094 (Admin) and [2008] EWHC 692 (Admin) 23-May-2008. See article "Point of law – Whose wellbeing is it?" by Stephen Cirell and John Bennett for further information www.publicfinance.co.uk/features_details.cfm?News_id=32975
- 33 The Natural Environment and Rural Communities Act 2006 (Commencement No. 4) Order 2007
www.opsi.gov.uk/si/si2007/uksi_20070816_en_1
- 34 Climate Change and Sustainable Energy Act 2006
www.opsi.gov.uk/Acts/acts2006/ukpga_20060019_en_1
- 35 Freedom of Information Act 2000
www.opsi.gov.uk/Acts/acts2000/ukpga_20000036_en_1
- 36 The Environmental Information Regulations 2004
www.opsi.gov.uk/si/si2004/20043391.htm
and The Environmental Information Regulations 1992
www.opsi.gov.uk/si/si1992/Uksi_19923240_en_1.htm

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Web: www.lga.gov.uk



The Local Government Association is the national voice for more than 500 local authorities in England and Wales. The LGA group comprises the LGA and four partner organisations which work together to support, promote and improve local government.



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