

City of Westminster

Committee General Purposes Urgency Sub Committee	Date 25 October 2004	Title of Report 9th London Local Authorities Bill
Classification FOR GENERAL RELEASE		Report of Director of Legal and Administrative Services
Wards involved	All	
Policy context	To acquire additional legislative powers to assist in the furtherance of the Council's Civic Renewal programme	
Financial summary	The cost of this Bill to the Council is approximately £10,000 - £12,000 which can be met from existing budgets	
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1. Summary of this Report

- 1.1 The City Council has received a request from the Association of London Government on behalf of all the other London Boroughs to act as lead borough to promote a General Powers Bill in the next session of Parliament. This report recommends authorisation of the necessary formalities required to promote such legislation, sets out in general terms the provisions that are being considered for inclusion in the Bill, and gives details of the likely financial implications.

2. Recommendations

- 2.1 That the Committee recommends to the Council that it resolves:-

That in the judgment of the Council of City of Westminster it is expedient to promote a Bill for effecting all or some of the purposes mentioned in Appendix 1 hereto and that such Bill be promoted accordingly by the Council.

- 2.2 That the Director of Legal and Administrative Services take all necessary steps to carry the foregoing resolutions into effect and that the common seal be affixed to the Petition for the Bill and to any other necessary documents.
- 2.3 That the Director of Legal and Administrative Services be authorised to amend or delete provisions as necessary subject, in the case of provisions proposed by the City Council, to consultation with the relevant Cabinet Member before a provision is deleted or amended in a way which fundamentally alters its effect.

3. Background to this Report

- 3.1 Each year the London Local Authorities are consulted and asked whether they wish to put forward any items for inclusion in a London Local Authorities Bill. This year, following that consultation, the Association of London Government decided that a private Bill should be promoted this November. The City Council has been approached to act as the lead borough for such promotion. Indeed, the City Council has taken such a role in respect of each of the previous London Local Authorities Bills.
- 3.2 It is not possible at this stage to attach a draft Bill to this report although Recommendation 2.1 and Appendix 1 sets out the items sought on behalf of all the London Boroughs. It should be stressed that drafting and inter-borough meetings are likely to be on going up to deposit of the Bill in Parliament on 26th November and it is likely that some of the proposals will not be included in the final Bill. However, paragraph 4 sets out a summary of the particular provisions proposed by the City Council, which are expected to be so included.

4. Westminster Proposals to be included in the 9th London Local Authorities Bill

- 4.1 To make provision for the control of portable advertisements, i.e. "Golf Sale – Turn Left", "Rug Sale – Turn Right". It is proposed to prohibit such displays in designated areas.
- 4.2 Providing better powers to deal with flyposting. It is proposed to provide a power to seize flyposting equipment and posters and for the courts to have the power to order forfeiture upon conviction.
- 4.3 To provide a power to require telecom companies to call bar numbers referred to in prostitute advertisement cards. It is proposed to create an offence of failing comply with a notice requiring call barring.
- 4.4 Strengthening powers as regards the control of waste and the use of street litter control notices. It is proposed to extend the scope of street litter control notices to cover cigarette butts outside office premises.

- 4.5 Providing further powers to deal with waste on private land. It is proposed to prohibit the storage of trade refuse on private forecourts immediately abutting the highway. It would remain the responsibility of the trader to dispose of the refuse.
- 4.6 Strengthening enforcement powers against "near beer" premises. Near beer premises have altered their method of operation and so fall outside the definition of near beer premises. Customers are presented with an extortionately inflated invoice for the company of a hostess whether or not such company has been requested. It is proposed to deal with these premises under the sex encounter establishment legislation, creating a specific offence and applying the existing closure powers for unlicensed sex establishments.
- 4.7 Dealing with the display or possession for supply of R18 videos in unlicensed sex shops. It is proposed to make it an offence to display R18 videos for sale in unlicensed sex establishments. Currently, an offence only arises where such videos are offered for supply or supplied.
- 4.8 Allowing conditions relating to waste and litter to be attached to premises licences under the Licensing Act 2003. It is proposed to seek an appropriate amendment to the Licensing Act 2003.
- 4.9 Dealing with charitable collections on the highway and public places. It is proposed to designate areas within which charitable collections will be prohibited without permission from the local authority.
- 4.10 Amending the law relating to street trading concerning the bridges across the Thames. It is proposed to afford Lambeth and the City Council the power to enforce the street trading legislation across the entire length of the bridges.
- 4.11 Dealing with bicycle rickshaws or pedicabs. It is proposed to introduce a registration scheme and for the owners to be liable for moving traffic offences and parking violations,.
- 4.12 Amending and extending the law relating to parking and parking enforcement, including dealing with motorcycles on the footway. It is proposed to extend the parking provisions to areas not currently caught by the parking legislation, i.e. alleyways and to remove the requirement that a motorcycle must have at least one of its wheels on the footway before attracting a penalty charge notice.
- 4.13 Enabling Councils to exploit "wi-fi" technology more widely. Counsel is currently considering whether there is a specific need for more powers.
- 4.14 The registration of businesses that provide mail forwarding services. It is proposed that such services should be registered with the local authority and be required to retain records of their clients.

- 4.15 Further decriminalisation of offences. Consideration is being given to the decriminalisation of certain littering offences, i.e. waste on streets deposited for collection out of collection times, though difficulties in agreeing the necessary appeal against the service of a penalty charge notice to an adjudicator might lead to this proposal being withdrawn.
- 4.16 Strengthening the law relating to short term lets. It is proposed to shift the burden of proof to the defendant, though this might fall foul of human rights legislation.
- 4.17 To enable Councils to make orders to disqualify persons from holding company directorships if repeatedly found guilty of certain offences relating to the degradation of the amenity. It is proposed to provide the courts with the power to disqualify directors from holding a directorship where they have been convicted of three consecutive flyposting offences.

5. Powers not required or not supported

- 5.1 In the event of the Council being of the view that it would not wish to have certain of the proposed powers, the Bill could be drafted so as to disapply such provisions in Westminster. Alternatively, they could be made subject to an adoption provision requiring each borough to pass a resolution applying the provisions to its area in order to bring them into force. In the event that certain powers are not required or supported officers would recommend making those provisions subject to an adoption provision. This would enable the powers to be brought into force in the event of a change of view.

6. Legal implications

- 6.1 Some of the provisions currently suggested (including those for the benefit of the City Council) are quite controversial, and the private Bill procedure gives the Government and other interests significant power to block provisions that they are opposed to, so there is no guarantee that all the provisions to be contained in the Bill will succeed. Members, therefore, need to be aware that there is a risk that a number of the provisions included in the Bill may be lost during its Parliamentary passage.

7. Staffing implications

- 7.1 There are no staffing implications

8. Human Rights Act 1998

- 8.1 In accordance with Parliamentary procedures, Counsel's advice confirming that its provisions are compatible with the Human Rights Act 1998 will be deposited in Parliament and a Government Minister will be required to provide parliament with a statement on such in due course.

9. Financial Implications

- 9.1 The costs of promotion are difficult to quantify in advance as much depends on how quickly the legislation passes through Parliament and the extent of any opposition. However, experience of previous promotions indicates that they are likely to be between £10,000 and £12,000 per borough. This cost is likely to be spread over financial years 2004/5 and 2005/6. This sum can be met from existing budgetary provision.

10. Reasons for decision

- 10.1 To provide additional and improved powers to assist in the furtherance of the Council's Civic Renewal programme, and the objectives of other London Boroughs.

If you have any queries about this report or wish to inspect any of the background papers please contact Gary Blackwell on 0207 641 2718 (Fax 0207 641 2251) e-mail address: gblackwell@westminster.gov.uk or Peter Large on 0207 641-2717 (Fax 020 7641 3325) e-mail address: plarge@westminster.gov.uk

Background Papers

The document referred to in compiling the report is:

ALG Report to Leaders' Committee on 9th London Local Authorities Bill dated 13th July 2004.

Appendix 1

That in the judgment of the Council of the City of Westminster it is expedient to promote a Bill for effecting all or some of the purposes hereinafter mentioned and that such Bill be promoted accordingly by the Council. The purposes are –

- (a) to make provision in respect of the control of portable advertisements **WCC**; providing better powers to deal with fly posting and graffiti including powers of seizure and stronger penalties **WCC**; making further provision about unauthorised advertisement hoardings **EAL**; to provide for telephone call barring for numbers mentioned in unauthorised advertisements including those placed in telephone kiosks **WCC**; strengthening Councils' powers as regards the control of waste and the use of street litter control notices **WCC**; prescribing how recyclable waste should be separated, enabling the making of standard regulations about the use of waste receptacles **WAN**; charging for additional household waste collections **WAN**; providing further powers to deal with waste on private land **ALG**; strengthening and extending the law relating to litter including powers to deal with litter and waste in aquatic environments and dealing with littering from vehicles **ALG**; controlling the use of civic amenity sites **WAN**; dealing with waste transfer notes and licences **?**; strengthening enforcement against fly-tipping **ALG**; strengthening powers to deal with abandoned vehicles and providing powers to remove and dispose of nuisance and other vehicles **ALG**; updating the law on intruder alarms **GRE, K&C**; dealing with construction noise from underground stations **K&C**; dealing with control of noise nuisance from street works **K&C**; providing stronger powers to deal with noise nuisance **?**; strengthening enforcement against illegal "near beer" premises **WCC**; dealing with the display or possession for supply of R18 videos in unlicensed sex shops **WCC**; allowing conditions relating to waste and litter to be attached to premises licences under the Licensing Act 2003 **WCC**; dealing with fees for premises and personal licences in London under that Act **ALG**; increasing the number of members who can sit on licensing committees under that Act **WCC/ALG**; enabling the provision of cleaning up conditions at licensed special events **WCC?/ALG**; dealing with charitable collections on the highway and public places **WCC**; amending the law relating to street trading including dealing with shop forecourts **HAR/WAN**, bridges over the Thames and the South Bank **WCC**; introducing the licensing of proprietary clubs **HAR**; altering the law relating to the licensing of special treatment premises, to include dealing with nail art, mobile premises, and premises under the Registered Homes Act **BRE**; dealing with bicycle rickshaws or pedicabs **WCC/K&C/TFL**; amending and extending the law relating to parking and parking enforcement including dealing with repeat offenders **CAM**, and with motorcycles on the footway **WCC**; dealing with cycling on the pavement **K&C/ISL**; dealing with abandoned bicycles and other bicycles left in public places **RIC**; dealing with filming on the highway and in open spaces and making further provision about filming in London **ALG/TFL**; dealing with chairs and tables and other things placed on the highway including the making of additional charges **ISL/K&C**; altering the law relating to overhanging

vegetation on the highway **K&C**; providing exemptions from traffic restrictions for waste collection and road sweeping vehicles **WAN**; making further provision about vehicle crossovers and driving off the carriageway **WCC**; removal of articles attached to street furniture and other objects on or abutting the highway **RIC**; removal of disused telephone kiosks and other disused apparatus and street furniture **ISL/CAM**; the decriminalisation of low emission zone enforcement **TFL**; stopping vehicles for emissions testing **ALG**; enabling Councils to provide “wi-fi” technology **WCC**; providing for the registration of second-hand dealers **ENF**; providing for the control or prohibition of smoking in public places or the work place **VARIOUS**; the provision of consumer advice **WAL**; altering the concessionary fares scheme **HAV/WCC**; the registration of businesses who provide mail forwarding services **WCC**; 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 ?; further decriminalisation of offences prosecuted by local authorities and the introduction of a penalty charge notice regime akin to parking **ALG/WCC**; extending Councils’ powers to serve fixed penalty notices to include offences not currently covered **ALG**; 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 **ALG**; sharing of information to combat benefit fraud and for other purposes **HAV**; co-operation on pension fund management **HAV**; altering the London Boroughs Grant Scheme **HAV**; altering the planning cycle on schools admission **HAV**; amending the law relating to pipe subways **CORP**; extending Councils’ powers to charge for services **ALG?**; enabling zoning powers within which higher fines can be imposed in relation to certain offences **ALG?**; the change of use of residential property under Town and Country Planning law **LAM**; enabling schemes of information to be provided **HAV**; authorising the disturbance of human remains to enable existing graves to be used for further interments **CORP**; implementing security arrangements in housing estates **K&C**; strengthening the law relating to short-term letting **WCC**; providing for the registration of persons able to accept service of notices on behalf of landlords **WCC**; (in the case of the London Borough of Camden) removing restrictions on the placing of temporary structures in Lincoln’s Inn Fields **CAM**; the regulation of bonfires **CRO**; the further regulation of use of fireworks **LFEP**; the control of storage or use of acetylene cylinders **LFEP**; further powers to deal with abandoned shopping trolleys and luggage trolleys **ALG**; allowing charging for discretionary services **ALG**; relaxing VAT partial exemption restrictions on Councils **ALG**; removing certain existing capital finance restrictions on Councils **ALG**; enabling Councils to provide services to a wider market **ALG**; relaxing requirements relating to tramlines in the road **LAM**; dealing with overgrown vegetation and other unsightly material on private premises **BRE**; strengthening the law relating to spitting in public places **KIN**; further regulating the location of telecommunications masts and base stations to ensure telecommunications operators share sites **LAM**; and to strengthen planning law relating to the siting of masts **ALG**; mandatory consultation by water companies with Councils about mains water pressure?; enabling charging for the reinspection of premises

under certain statutory regimes **ALG?**; making minor amendments to the London Local Authorities and Transport for London Act 2003 and other local legislation **ALG/TFL**; removing the requirement to provide signs indicating the overnight parking ban for commercial vehicles **RIC**; extending Councils' powers to make byelaws **?**; enabling Councils to impose a local levy on plastic bags, takeaway food packaging, chewing gum and cigarette packet wrappers **CAM/ALG**; to alter powers of entry of Council officers, particularly those of trading standards officers **ALG**; to enable Courts 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 **WCC/ALG**; enabling councils to gate off nuisance alleyways and passages **SUT** and enabling Councils to collaborate further in the provision of services **ALG?**;

- (b) to enact any additional, supplemental and consequential provisions that may appear to be necessary or convenient.