

LGA briefing on the Local Government and Public Involvement in Health Bill

Lords Second Reading, 20 June 2007

What's good news for councils and the people they represent?

- The bill takes steps towards decentralisation and deregulation in the Local Government White Paper around political leadership, democratic representation and tackling bureaucratic burdens;
- The government has been positive on LGA concerns on council restructuring, NHS and Foundation Trusts in LAAs, the creation of joint waste authorities and byelaw devolution.

What's the bad news?

- The bill fails to plug the large holes in the White Paper on devolving planning, housing, transport, skills and economic development from national and regional government to councils;
- The bill does not address important recommendations in Lyons' Inquiry report into the future role and funding of Local Government.

What do councils want from the bill?

- The bill should pave the way for a new constitutional settlement giving power to council's citizens and communities. Councils want Parliament to devolve power where a lower level of government is best able to deliver (i.e subsidiarity). Councils will respond by making public services more accountable to local people.

Key issues

- **Structural and boundary change (Part 1, Chapter 1)**- the Secretary of State can invite or direct two-tier councils to make bids for unitary status;
- The government has time-limited the power to direct restructuring to 25th January 2008, which we welcome;
- **Executive arrangements (Part 3)**- we support strong leadership but no single model will suit all councils, who should be given discretion to make arrangements to suit their circumstances;
- **Named Local Area Agreements partners and devolution of Secretary of State's powers (Part 5, Chapter 1)**- health, foundation trusts and others have a duty to cooperate in Local Area Agreements (LAAs). We will press for other public bodies to be added. To achieve subsidiarity, the Communities Secretary should also be able to devolve relevant functions to the council as convener of the LAA;
- **Targets and plans (Part 5, Chapter 1)**- there should be a requirement for government to report on progress on reducing national indicators and other reporting burdens on councils, to ensure that the ambitions set out in the White Paper are achieved;
- **Overview and scrutiny powers (Part 5, Chapter 2)**- a single 'community call for action' is needed on all local issues and to ensure that shire district councils are able to use the new wider scrutiny powers;
- **Audit Commission and Auditors (Part 8, Chapter 2)**- the Audit Commission should report on changes in the cost of council functions;
- **Patient and Public Involvement in Health and Social Care (Part 14)**- Local Involvement Networks (LINKs) can offer more health and social care accountability if sufficient support and effective scrutiny arrangements are in place.

Your Contact at the LGA- Mark Hoda, Senior Public Affairs Officer, on 020 7664 3035 or email Mark.Hoda@lga.gov.uk

briefing

Key chapters and proposals

Structural and boundary change (Part 1, Chapter 1)

- Part 1 of the bill gives the Secretary of State the power to implement structural changes to local government in England so areas with two-tier arrangements can be reorganised into a single unitary tier. The Secretary of State invites or directs councils in two-tier areas to make bids for unitary status and implement restructuring following consultation.
- The government added new amendments to the bill at Commons Report Stage that time-limit the power to direct restructuring so that it may not happen after 25th January 2008.

LGA view

- We are pleased that the government has responded to our concerns about the Secretary of State's power to direct restructuring with new amendments to time-limit this process.
- We believe that the government should also make it clear that they do not intend to exercise this power in relation to any areas not included in the proposals currently being considered.

Executive arrangements (Part 3)

- Part 3 of the bill requires all councils (except small councils currently permitted to operate a modified committee system under the Local Government Act 2000) to adopt one of three political management arrangements: leader and cabinet executive, mayor and cabinet executive or directly-elected executive.
- The proposals also make arrangements for the discharge of functions in all models the same as they are currently under the mayoral models and permit councils to change political management arrangements by resolution (except that a referendum will be needed to change any arrangements adopted through a referendum).

LGA view

- The aim of the executive arrangements is clearly to enable strong leadership. While the LGA supports this objective, we think that there is no single model or set of models that will be suitable everywhere. We also strongly support the community leadership role that councillors play in representing their local area.
- The range of executive arrangements should not be restricted to three. Councils should have the freedom to put in place arrangements to suit their circumstances, including exploring new types of arrangements not currently on the face of the bill.
- A number of questions remain about how the directly elected executive option would work in practice and we do not think this is an option that is likely to be pursued by many councils.

Named Local Area Agreements (LAA) partners (Part 5, Chapter 1)

- Part 5 of the bill sets out a statutory framework for Local Area Agreements (LAAs) to enable co-operation between agencies in local partnership work, via Local Strategic Partnerships. County and unitary councils are made responsible for initiating and submitting LAAs to the Secretary of State, and a named list of partners will have to have regard for LAA targets and the Secretary of State will have powers to set specific 'improvement targets' in each LAA.
- The government has brought forward Report Stage amendments to add health and foundation trusts to the list of partners with a duty to cooperate as well as Transport for London, the Arts Council of England, and The Museums, Libraries and Archives Council.

LGA view

- The LGA strongly supports the addition of NHS Foundation Trusts and Health Trusts on the list of partners under a duty to cooperate. We believe that all health

and social care agencies should be under this duty to ensure integrated provision to improve outcomes for people and reduce health inequalities.

- We would like to see more bodies responsible for public functions to be added to the list of LAA partners with a duty to co-operate such as schools, General Practitioners and housing associations.
- The bill should also be amended to add regional offender management organisations to the list of partners with a duty to cooperate with LAAs as a priority. While the bill does include Probation Boards under the duty to cooperate, the Offender Management Bill (currently going through Parliament) provides the Secretary of State with the power to establish Probation Trusts and therefore these should also be explicitly included. The Coalition on Social and Criminal Justice has called for LAAs to be developed as the primary means of achieving joined up working across agencies to reduce re-offending and hold those agencies to account. There is already a level of integration between offender management and LAAs. A duty to cooperate on all offender management and probation services would help move reducing re-offending closer to the mainstream of local partnership activity.
- The LAA brings together public service delivery in a locality but there is no further devolution of power to achieve this. The Secretary of State should be able to, and encouraged to, devolve functions to the LAA in order to attain local improvement targets. The Bill should therefore contain this power along with a requirement for the Secretary of State to report annually to Parliament on the exercise of devolution of her functions.

Targets and plans (Part 5, Chapter 1)

Part 5 also gives the Secretary of State powers to set specific 'improvement targets' in each LAA.

LGA view

- The Government has indicated that its intention is that there should be up to 35 improvement targets for each area, but this is not set out on the face of the bill. We recommend that there should be a requirement for government to report regularly to Parliament on progress on reducing the number of national targets and future plans to do so in the bill. This would both ensure that government is made accountable to Parliament for the direction and level of progress towards greater deregulation and provide useful information for councils on government progress towards this goal.

Overview and Scrutiny powers (Part 5, Chapter 2)

- The bill brings together a 'Community Call for Action (CCfA)' process, establishing the right of individual councillors to refer a matter affecting their area to scrutiny by the council, unless it relates to a crime and disorder matter (covered by the Police and Justice Act 2006 provisions).
- It also explicitly extends the scope of scrutiny to cover the activities of partners contributing to the development or delivery of LAAs, giving scrutiny committees the power to require evidence from them, and requiring them to respond to scrutiny recommendations. As with the 'community call for action' these powers do not apply in relation to crime and disorder matters, which are covered by Police and Justice Act provisions but also excludes District Councils (unless they are Metropolitan or Unitary Districts) from these wider scrutiny powers.

LGA view

- We support proposals to strengthen the role of the frontline councillor to encourage and promote community engagement. However it is hugely important that the detail of the proposals is workable in practice and we do not want a different CCfA mechanism at the local level for crime and disorder. We believe that it is fundamentally important to have a single approach covering all areas of service provision. We understand that the umbrella body for the voluntary and

community sector, National Council for Voluntary Organisations, is also concerned about the accessibility and workability of the current CCfA proposals.

- It is also particularly disappointing that Shire District councils are specifically excluded from the new enhanced scrutiny arrangements. Broader and more powerful scrutiny is the essential counterpart to the wider and stronger role of council leaders as place-shapers and conveners of local public services and these powers should be made available to all councils.

Audit Commission and Auditors (Part 8)

- The bill amends the 1998 Audit Commission Act to enable the Commission to report on aspects of local authority performance in exercising their functions.

LGA view

- We would like the 1998 Act amended to enable the Audit Commission to report on changes in the cost of carrying out councils functions.
- This amendment would help to implement the recommendation on more high quality, independent information about the costs of running local government and the cost of new burdens on councils in the Lyons Inquiry report into local government.
- The LGA believes that this bill offers the opportunity to take forward some of the recommendations in the recent inquiry into local government by Sir Michael Lyons, in particular those related to the need for independent evidence about what public services cost. The inquiry comes at a watershed moment and the reforms proposed must not be delayed. Clear plans are needed in the lifetime of the current Parliament.

Patient and Public Involvement in Health and Social Care (Part 14)

- The bill abolishes the Commission for Patient and Public Involvement in Health, imposing a duty on each local authority to appoint an independent organisation to develop and support Local Involvement Networks (LINKs). This is designed to ensure the involvement of people in the commissioning, provision and scrutiny of local care services. LINKs will seek their views in relation to their experience of, and need for, these services and have a duty to make these views known in the form of reports and service improvement recommendations. Authorised LINK members will also be able to visit care providers' premises.
- The Secretary of State is enabled to impose a duty on service providers (the NHS, NHS Foundation Trusts, Primary Care trusts, a local authority or a person defined by the Minister) to respond to requests for information from a LINK and deal with its reports and recommendations.
- Where a LINK refers a matter relating to a council's social care service to an overview and scrutiny committee (OSC), the committee must acknowledge the receipt of the referral and continue to keep the referrer informed of the committee's actions. The Secretary of State can impose a deadline for the response, but the committee has discretion over whether its powers are exercisable in relation to the matter and, if so, whether they are exercised.

LGA view

- The LGA believes that LINKs are a helpful step towards more integrated health and social care provision and will give local people more of an opportunity to influence local services.
- It is crucial for local people that all local public services are held to account. We firmly believe that the LINK will be a fundamental part of the commissioning cycle and should feed into a joint needs assessment to empower the community voice in health and social care commissioning. The continued right to visit premises is also important.
- The government's expectation of wide and deep community involvement in LINKs will be unrealistic without adequate funding, support and training, particularly when dealing with specialist areas of medicine. In rural areas LINK members could, for example, incur significant costs to travel to meetings. These factors could lead to LINKs being dominated by narrow, single issue groups, which was

one of the criticisms of Patient Forums. However, we believe that if LINKs are resourced and supported properly, they have significantly more potential to operate across health and social care and move away from the silo operations of their predecessors.

- We also think that LINKs should be able to ask for information and make recommendations about all health and social care bodies, (including General Practitioners) and that all health and social care agencies. LAA partners should be under a duty to co-operate with OSCs. As the bill is currently drafted it is not clear how concerns which LINKs may have about GP-commissioned social care, including charges and eligibility criteria, individual budget holders and those in receipt of direct payments would be dealt with by OSCs.