

NOTE: PLEASE BEAR IN MIND THAT THIS SUMMARY IS BASED ON THE MAY 2007 DRAFT OF THE BILL, IN THE REMAINDER OF THE BILL'S PASSAGE THROUGH PARLIAMENT, THERE MAY BE CHANGES WHICH WILL ALTER THE FINAL LEGISLATION

LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH BILL

Discussion Paper 4 - Overview and Scrutiny Committees

1. Reference of Matter by Councillor to Overview and Scrutiny Committee

- 1.1 Several pieces of legislation introduced in this Bill together provide for the process known as a "Community Call for Action" in the Local Government White Paper. These are clause 92, accompanied by clauses 166 and 167. Clause 92 requires each local authority operating executive arrangements to ensure its overview and scrutiny arrangements enable any member of the authority to refer a local government matter to the relevant overview and scrutiny committee. (Section 21 of the Local Government Act 2000 empowers overview and scrutiny committees to review or scrutinise decisions made, and to make reports and recommendations about matters whether or not they are the responsibility of the Executive; and to make reports or recommendations on matters which affect the authority's area.) Corresponding provision can be made for authorities operating alternative arrangements under secondary legislation available under section 32(3) of the 2000 Act.
- 1.2 Inserted section 21A(2) provides that such arrangements must enable a councillor to put a local government matter on the agenda, and to have it discussed at a meeting, of the relevant overview and scrutiny committee.
- 1.3 Inserted section 21A(5)-(8) applies to references by councillors who are not members of the committee. Section 21A(6) entitles a committee, when deciding how to proceed, to consider representations from the member who referred the matter, and to take into account the extent to which he has exercised the powers given to him under clause 166 of the Bill to resolve it. Section 21A(7) makes clear that, although it is open to a committee not to pursue a matter, it must let the member know the reason for the decision. Section 21A(8) requires the committee to copy its report or recommendations on the matter to the member who referred the matter. Section 21A(9) defines the matters which can be referred to overview and scrutiny in this way. Its scope is intended to cover any matter relating to the work of the local authority other than a crime and disorder matter (such matters being dealt with by the Police & Justice Act 2006), or a matter in a category which the Secretary of State has excluded by order.

2. Power of Overview and Scrutiny Committee to Question Members of Authority

- 2.1 By virtue of clause 166 of the Bill, an authority can make arrangements for individual members to exercise functions of the authority in relation to the electoral division or ward for which the member is elected. Clause 93, allows Overview and Scrutiny Committees to require such members to appear before the Committees to answer questions in relation to any functions that they exercise.

3. Powers to Require Information from Partner Authorities

- 3.1 Section 22A: provides for the Secretary of State to make regulations determining what information relevant partner authorities must provide to a relevant committee or may not disclose to such a committee.
- 3.2 "Relevant partner authority" is defined as "a person who is a partner authority in relation to a local authority for the purposes of Part 5 (Co-operation of English authorities with local partners, etc) Chapter 1 (local area agreements), except for a police authority or a chief officer of police.
- 3.3 "Relevant committee" means any overview and scrutiny committee of an authority which is required to prepare local area agreements under Chapter 1 of Part 5 of the Bill.
- 3.4 The type of information about which regulations may be made under subsection (1) of section 22A does not include information that can be the subject of regulations made under section 20(5)(c) or (d) of the Police and Justice Act 2006 or section 244(2)(d) or (e) of the National Health Service Act 2006.

4. Overview and Scrutiny Committees: Reports and Recommendations

- 4.1 Section 21B: of Clause 95 applies where an overview and scrutiny committee of an authority in England makes a report or recommendations to the authority or the executive. It does not apply where the report or recommendation is made to the authority or the executive by a crime and disorder committee under subsection (1)(b) or (6) of Section 19 of the Police and Justice Act 2006.
- 4.2 Subsection (2) empowers the overview and scrutiny committee to publish its report or recommendations. Where the overview and scrutiny committee does this, it must give the local authority or executive notice in writing specifying the steps which the local authority or executive must take within two months of receiving the report or recommendations or, if later, the notice. These steps include responding to the report or recommendations and, if these documents have been published by the overview and scrutiny committee, publishing the response.
- 4.3 Section 21C: This section applies where a relevant committee makes a report or recommendations to an authority or an executive and these relate to a local improvement target in respect of a relevant partner authority and which is specified in a local area agreement of the authority. It does not apply where the report or recommendations are made by a crime and disorder committee under subsections (1)(b) or (6) of section 19 of the Police and Justice Act 2006.
- 4.4 The overview and scrutiny committee may give the relevant partner authority, notice in writing, requiring them to have regard to the report or recommendations in exercising their functions. A relevant partner authority cannot be required to have regard to the document if it was made to that authority under regulations made under Section 244 of the National Health Service Act 2006.
- 4.5 The relevant partner authority has a duty to comply with the requirement specified in the notice.

- 4.6 Subsection (2) of Clause 95 places a requirement on an overview and scrutiny committee or a local authority to exclude confidential information when publishing a document or providing a copy of it to a relevant partner authority. "Confidential information" is defined in subsection (6) of section 21D and has the meaning given by section 100A(3) of the Local Government Act 1972. It also gives a power to an overview and scrutiny committee to exclude any relevant exempt information.
- 4.7 The overview and scrutiny committee or an authority can, should it so wish, exclude any confidential information or relevant exempt information from a copy of a document provided to a member of the local authority. When information is excluded from any document, subsection (4) enables the overview and scrutiny committee or the authority, in publishing, or providing a copy of it, to replace any part of the document which discloses confidential information or exempt information with a summary that does not disclose that information. Where in consequence of the exclusion of confidential information or exempt information, the document would be misleading or not reasonably comprehensible, the authority is required to provide a summary of the part concerned.