

Date: 29 May 2007

Report: LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH BILL 2007

Purpose of the report

1. To inform members of the provisions within the above Bill that potentially affect the National Park Authority.

Background

2. In October 2006 the Local Government White Paper, 'Strong and Prosperous Communities' was published. This has been quickly followed by the 'Local Government and Public Involvement in Health' Bill. The Bill has far reaching implications for Local Government. It is 202 pages long and comprises 195 sections and 15 schedules.
3. The following is a very brief summary of the main provisions but with further information on those parts that have particular relevance for the National Park Authority (NPA).
4. **Part 1** of the Bill deals with the possible creation of new Unitary Authorities in current two-tier areas. **This is dealt with in greater detail later in this paper.**
5. **Part 2** deals with Elections and in particular the possibility of District Councils moving to a position where all council seats are up for re-election at the same time.
6. **Part 3** deals with changes to the law on 'Executive Arrangements' within local authorities.
7. **Part 4** of the Bill deals with Parishes. Parish Councils that meet certain criteria will be able to exercise the 'well being' powers in the same way as districts and counties already can.
8. **Part 5** of the Act deals with co-operation between local authorities (County and District Councils) and 'partner authorities'. **This is dealt with in greater detail later in this paper.**
9. **Part 6** of the Bill relates to Byelaws, and gives effect to the government's proposals to simplify procedures for making and enforcing local authority byelaws. **This is dealt with in greater detail later in this paper.**
10. **Part 7** relates to Best Value. National Park Authorities are Best Value Authorities and are therefore bound by the statutory best value regime. **This is dealt with in greater detail later in this paper.**
11. **Part 8** deals with inspection and audit of local services. There is nothing of particular relevance to NPAs.
12. **Part 9** deals with the Local Government Ombudsman. There is nothing of particular relevance to NPAs.
13. **Part 10** deals with ethical standards. **This is dealt with in greater detail later in this paper.**

14. **Parts 12, 13 and 14** of the Bill have nothing of particular relevance to NPAs.
15. **Part 15** of the Bill allows local authority (not NPA) members to be given delegated powers in relation to matters arising in their ward.

Issues of direct relevance to NPAs

16. **Part 5.** The Bill defines National Park Authorities (NPAs) as a 'partner authority' in terms of Local Area Agreements (LAAs). This means that although NPAs are not responsible for producing LAAs under the Bill, they will have a statutory duty to co-operate with those authorities that are. The Department of Communities and Local Government (DCLG) is currently preparing guidance on what this new duty means in practical terms.
17. Partner authorities include local police, probation, fire, primary care trusts and national park authorities, as well as national bodies including Natural England, the Environment Agency and Learning and Skills Council. The Bill also defines the term 'local improvement target' which means a target for improvement in the economic, social or environmental well-being of the responsible local authority's area which relates to any or all of the following:-
 - (a) the local authority;
 - (b) one or more partner authorities;
 - (c) one or more other persons acting, or having functions exercisable in the area of the responsible local authority.
18. Two issues need to be addressed in relation to National Park Authorities. First, the legislation needs to recognise that any contribution by NPAs to LAAs can, legally, only be in order to further National Park Purposes and the National Park Management Plan. Secondly, it would be particularly helpful if the Bill placed a duty on other public bodies to co-operate in the preparation, monitoring and implementation of National Park Management Plans.
19. It is suggested that a new clause be inserted into the Bill as follows. [After Part 5, Chapter 1, Section 89 insert:-

All public bodies have a duty to co-operate with the production, monitoring and implementation of a National Park Management Plan if, according to the relevant National Park Authority or the Broads Authority, its activities are considered to affect either positively or negatively, the qualities and purposes of that National Park.
20. Part 5 of the Bill also contains provisions about the provision of information to local authority overview and scrutiny committees by 'partner authorities'. The detail of this is to be covered in regulations and is not contained in the Bill. However the Bill does say that where a scrutiny committee makes a report or recommendations it may give written notice to a relevant partner authority requiring the latter to have regard to the report or recommendation in question when exercising their functions.
21. It is suggested that National Park Authorities should welcome these measures as a further opportunity to explain to others the purposes of National Parks. The English National Park Authorities Association (ENPAA) would like the powers in Section 92 of the Bill to be reciprocal so that National Park Authorities could call other public bodies to account for their contribution towards delivering the National Park Management Plan. This matter was considered by the Authority at its meeting in March 2007. Given the resource constraint, such a duty would be likely to be used sparingly. It would, however, support the monitoring of Section 62 of the Environment 1995 whereby public bodies are to have regard to National Park purposes when undertaking activity. In practice, Section 62 has proved weak in protecting the special qualities of the National Park from threat.

22. It is suggested that a new clause be added to the Bill as follows: [at the end of Part 5, Chapter 2, Section 92 – insert:]
The National Park Authority or the Broads Authority may undertake a review of other public bodies and their contribution towards supporting the implementation of the National Park Management Plan, and in meeting Section 62 of the Environment Act 1995. In undertaking a review, a National Park Authority or the Broads Authority shall have regard to guidance issued by the Secretary of State.
23. **Part 6:** Much of the detail regarding bylaws is to be contained in regulations. However, the Bill does introduce the concept of fixed penalty notices for breach of byelaws, so that suspected offenders can be given the option of paying the fixed penalty rather than be prosecuted. Part 6 also enables the Secretary of State to make regulations establishing the new procedure for local authorities to follow in making byelaws. The intention is that this power will be used, so that once local authorities have consulted on, prepared and advertised draft byelaws locally, they can be enacted without the need for confirmation by the Secretary of State. The Secretary of State will have the power to make regulations dealing with consultation on, and the advertisement of, byelaws locally, and the power to issue guidance in relation to the new procedures. It is suggested that these new processes should be welcomed as a practical way of reducing bureaucracy. We would urge Defra to follow suit.
24. **Part 7:** Formal best value reviews, and many best value performance indicators are to be abolished. Best Value Authorities will have to give consideration to whether they ought to involve 'representatives of local persons' in service provision, in particular by giving them information or consulting them. All Best Value Authorities will have to determine if and how local representatives should be involved, having regard to any guidance issued by the Secretary of State.
25. While National Park Authorities support these aspirations and already involve their communities, it is important to recognise that the customers of national park authorities extend far beyond those found within the National Park boundary. It is particularly important that DCLG reflect this point in forthcoming guidance on the subject.
26. **Part 10:** This introduces the fundamental change that complaints about breach of the Code of Conduct by Members are to be made, not to the Standards Board, but to the Standards Committee of the Authority in question. The Standards Committee then has to decide whether action needs to be taken, and if so whether that should be by the Monitoring Officer undertaking the investigation, or by the matter being referred to the Standards Board. If the Standards Committee decides that no action should be taken, the complainant may ask for a formal review of that decision.
27. The Standards Board will have a supervisory role over the new regime and will have the ability to suspend the powers of any local standards committee. All authorities will have to make periodic returns to the Standards Board about allegations they have received, and what has happened in relation to them.
28. Standards Committees will in future have to be chaired by one of the Independent Members. We already meet this requirement.
29. Standards Committees are also to be given functions in relation to politically restricted posts: they will be able to decide if any particular post should be on the list; and will be able to grant, and then supervise, exemptions from the political restriction requirements.

Future Unitary Structures for Local Government

30. The October 2006 White Paper 'Strong and Prosperous Communities' made provision for areas to bid to move to unitary or enhanced two tier local government structures.
31. In January 2007 Unitary Bids were submitted by Cumbria and North Yorkshire County Councils. In March the government formally announced that the proposals, to create a single new unit of local government in both Cumbria and North Yorkshire, had been approved for further consultation. From a total of 26 proposals submitted, 16 had been accepted by the government as having met the required criteria. The Chief Executive of NYCC will be at this meeting in order to explain to Members the basis of the County's bid.
32. Members should be aware that there has been no separate bid for unitary status from the Districts of North Yorkshire but all but one Authority opposes the NYCC bid. The reasons for this will be outlined at the meeting by representatives of the District's position. All the District Councils in Cumbria oppose the bid for unitary status and it is understood that 5 of the 6 districts, including South Lakeland DC, have built up a counter bid.

Stakeholder Consultation

33. DCLG are now seeking the views from key partners and stakeholders that have an interest in the areas affected by the proposals. NPAs are listed as key consultees and responses are requested by the 22 June 2007.
34. Following the consultation exercise, government intends to make final decisions by the end of July 2007 on which proposals will proceed to implementation. The consultation document, 'Proposals for Future Unitary Structures: Stakeholder Consultation' is contained in the attached **Appendix**.
35. Para 22 of the consultation paper deals with the key consultation area. The Secretary of State's assessment of the proposals is against 5 criteria set out in the initial invitation. These are again set out at Paragraph 22. Briefing presentations for members have been organized for today which should provide members with the opportunity to learn more about the detail of the North Yorkshire Bid and to explore the proposals in terms of the consultation criteria. Any assessment of the proposals against the criteria is quite clearly a process of judgement. Consultees are requested to support their comments or views, where appropriate, with relevant evidence and analysis of the proposals. Members will need to take a view as to whether they have sufficient information to enable a rational submission, against these criteria, to be made to DCLG.

ENPAA Response

36. The English National Park Authorities Association (ENPAA) is considering formulating a joint response to the stakeholder consultation.
37. It has been proposed that the ENPAA response be constructed in two parts. The first would cover general matters in relation to National Parks and the second would detail the specific comments on individual proposals where individual national park authorities have an interest.
38. ENPAA's current position is that, as special purpose authorities, they do not take a view on many of the issues contained within the Local Government Bill. However, they do believe that the Bill needs to take better account of the potential implications on National Park Authorities as a consequence of what is proposed – particularly in relation to membership of National Park Authorities.

39. ENPAA has not taken a position on the merits or otherwise of Unitary Government across the country. However, they are particularly concerned that the implications for National Park Authorities have not been properly considered in the bill.
40. As Members will be aware each local authority, whose area is within the National Park boundary, appoints a small number of members to sit on the NPA. These are complemented by Secretary of State appointees and a number of parish appointees. At present no one local authority is in a dominant position on a national park authority and this helps facilitate the consensus that characterises national park authorities and is necessary for the management of a national asset.
41. ENPAA is particularly concerned that the implications from a local authority becoming a unitary (and therefore having an absolute or dominant position on that national park authority) have not been addressed. The English NPAs are of the view that should unitary status be granted covering most or all of the national park area, then this would raise significant issues for NPA membership.
42. In the Yorkshire Dales NPA a unitary in North Yorkshire would have 10 of the 22 Members of the Authority. Not a majority but certainly close to one. In the Lake District and Northumberland NPAs the unitary proposals would create a situation where the new Unitary Authority had an absolute majority on the Authority.
43. This matter has been raised with the Chief Executive of NYCC and informal assurances have been given that, should the unitary proposals be accepted, then NYCC has no desire or intention to effectively control the Yorkshire Dales National Park Authority through its membership.
44. In this regard it would be extremely helpful for National Park Authorities to have an assurance from the Minister and from those proposing unitary status, that domination of a national park authority will not occur in any new arrangements.
45. An important dimension of the Bill is the need for local authorities to be more responsive to their customers. A number of initiatives are proposed to achieve this. It is important to remember in this context, that the customers for national park authorities include not only those living within the park boundary, but also visitors and the nation as a whole. As such, many of the mechanisms that are directed mainly at local residents will be ill-suited to the role of national park authorities.

Conclusion

46. It will be clear from the above that the Local Government and Public Involvement in Health Bill has interesting implications for National Park Authorities. Although not directly affected by many of its proposals, there are some, particularly those that affect the future membership of the National Park Authority, that need to be carefully considered.
47. The comments in the paper above, together with Members' responses once they have heard further submissions on the unitary proposal for North Yorkshire, should enable an appropriate and relevant submission to be made to DCLG in relation to the proposals.

RECOMMENDATION

48. That, subject to Members' views today, a response be submitted to DCLG on the local Government and Public involvement in Health Bill 2007 and on the Unitary proposals for Cumbria and North Yorkshire.
49. The submission to be finalised by the Chief Executive in consultation with the Chairman of the Authority and the Champion for Corporate and Democratic Services.

David Butterworth
Chief Executive

8 May 2007

Background documents:

Local Government White Paper, 'Strong and Prosperous Communities' – October 2006.
'Local Government and Public Involvement in Health' Bill – December 2006



Proposals for Future Unitary Structures: Stakeholder Consultation

A Consultation Paper



*Proposals for Future Unitary
Structures: Stakeholder
Consultation*

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About this consultation exercise

1. In January 2007, the Government received 26 proposals from councils wishing to move to a single tier of local government. All proposals were assessed against a number of criteria that Government set out when it invited local authorities to submit proposals.
2. On 27 March the Government announced which of these proposals it judged met the criteria and hence should go forward for consultation. This consultation paper seeks your views on those proposals.
3. Following the consultation exercise, the Government intends to make final decisions in July on which proposals will proceed to implementation.

Who we are consulting

4. A list of the consultees that we are approaching in the first instance is available on our website at www.communities.gov.uk/index.asp?id=1017165
5. We are in particular seeking views from key partners and stakeholders that have an interest in the areas affected by the proposals. We expect consultees to comment only on the proposal affecting their area. However, it is open to an organisation to comment on any proposal. Where an organisation operates nationally, regionally, or across a number of areas affected by different proposals, it may wish to respond more generally.
6. All local authorities in an area affected by the proposals on which we are consulting are asked to bring this consultation to the attention of their key stakeholders.
7. In addition, it is open to anyone to respond to this consultation document, commenting either on the proposal affecting their area, or more generally. All comments and representations will be carefully considered, together with any other information that we may receive, before final decisions are taken.

Sending your responses

8. We invite responses by 22 June 2007. If possible, please send your responses via e-mail to: structures@communities.gsi.gov.uk
9. Alternatively, please send your comments to:

Unitary Structures Consultation Team
Zone 5/E8
Eland House
Bressenden Place
LONDON
SW1E 5DU

Any queries about the consultation process should be addressed to this address, e-mail address or to this telephone number: 020 7944 4252.

10. Any queries on the proposals should be directed to the council concerned.
11. Your responses may be made public by the Department for Communities and Local Government. If you do not want all or any part of your response or name made public, please state this clearly in the response. Any such request should explain why confidentiality is necessary, but all information in responses may be subject to publication or disclosure under freedom of information legislation unless a specific exemption applies. Any confidentiality disclaimer that may be generated by your organisation's IT system will not be considered as such a request unless you specifically include a request, with an explanation, in the main text of your response.
12. If you have any comments or complaints on the way that this consultation has been conducted then please send them to: Albert Joyce Zone 6/J10, Eland House, Bressenden Place, London, SW1E 5DU.
13. You can read this consultation paper online at the Communities and Local Government website, www.communities.gov.uk/index.asp?id=1017165
Hard copies are available from Communities and Local Government Publications, PO Box 236, Wetherby, West Yorkshire, LS23 7NB. Tel: 08701 226 336.
Fax: 08701 229 237. Email: communities@twoten.com

Background and timetable

14. In parallel with the publication of our Local Government White Paper, "Strong and Prosperous Communities" in October 2006, we gave councils in two-tier areas a short window of opportunity to make proposals for unitary structures. Councils were invited to submit their proposals by 25 January 2007. In all, we received 26 bids for unitary status.
15. These proposals have now been carefully considered in accordance with the procedures set out in the Invitation document issued last October. Our Invitation to Councils document can be found at www.communities.gov.uk/index.asp?id=1504067
We have assessed unitary proposals against the criteria specified in the Invitation to decide which proposals will now go forward for stakeholder consultation.
16. Following consultation the Government will reassess these proposals having regard to the outcome of the stakeholder consultation, any further development of the proposal's business case, and all other available relevant information. The Government intends to announce, by the end of July 2007, which proposals will proceed to implementation.
17. The Local Government and Public Involvement in Health Bill includes provisions for implementing structural change (i.e. moving away from two-tier to unitary local government). These provide for new unitary structures to be created by Order following proposals made by local authorities in response to an Invitation from the Secretary of State.
18. Subject to the Parliamentary process, we would expect those proposals which proceed to implementation to be fully operational by April 2009.

How we have come to our decision on which proposals should proceed to stakeholder consultation

19. Following the receipt and initial assessment of the proposals, the Government wrote to all 26 councils in early February to inform them that their proposals conformed to the terms of the Invitation. Subsequently, authorities supplemented their proposals with further information to explain and clarify, including in response to questions posed to them by the Government. Regard has also been had to all representations received about proposals.
20. Having regard to the council's proposal, further information submitted, and any other relevant information available about the proposal, the Secretary of State has decided the following proposals should proceed to stakeholder consultation:

Unitary Proposals – Councils Submitting Proposals		Proposed Unitary Structure
1.	Bedford Borough Council	Bedford unitary
2.	Bedfordshire County Council	County unitary
3.	Cheshire County Council	County unitary
4.	Chester City Council	2 unitary option for Cheshire
5.	Cornwall County Council	County unitary
6.	Cumbria County Council	County unitary
7.	Durham County Council	County unitary
8.	Exeter City Council	Exeter unitary
9.	Ipswich Borough Council	Ipswich unitary
10.	North Yorkshire County Council	County unitary
11.	Northumberland County Council	County unitary
12.	Northumberland districts councils	2 unitary option for Northumberland
13.	Norwich City Council	Norwich unitary on existing boundaries
14.	Shropshire County Council	County unitary
15.	Somerset County Council	County unitary
16.	Wiltshire County Council	County Unitary

21. Accordingly, the Secretary of State has decided the remaining proposals should not proceed to stakeholder consultation.
22. The basis of this decision, as described in the Invitation, is the Secretary of State's assessment of the proposal against the five criteria set out in the Invitation. These criteria are:
- a) the change to the future unitary local government structures must be:
 - i) affordable, i.e. that the change itself both represents value for money and can be met from councils' existing resource envelope; and
 - ii) supported by a broad cross section of partners and stakeholders; and

- b) the future unitary local government structures must:
 - i) provide strong, effective and accountable strategic leadership;
 - ii) deliver genuine opportunities for neighbourhood flexibility and empowerment; and
 - iii) deliver value for money and equity on public services.
- 23. Each of those criteria specify an outcome that either the change to unitary structures must achieve, or that the new unitary structures once established must deliver. Any assessment of the proposals against the criteria is, therefore, necessarily a process of judgement, reaching a view as to the likelihood of a proposal if implemented achieving the outcomes specified by each of the criteria.
- 24. The Secretary of State has concluded that there is at least a reasonable likelihood that the proposals listed in paragraph 20 above, if implemented, would achieve the outcomes specified by the five criteria, and hence should proceed to stakeholder consultation.
- 25. We have notified each authority that submitted proposals separately of our decisions. Copies of the letters setting out the reasons for our decisions are available on our website at www.communities.gov.uk/index.asp?id=1017165
- 26. The Secretary of State has concluded not to prioritise proposals as provided by paragraph 5.17 of the Invitation. Handling of future prioritisation is discussed in paragraphs 36 and 37 below.

Consultation arrangements

- 27. You will be able to obtain details of the proposals from the website of the relevant council, including information on:
 - i) the full business case (as submitted for the 25 January 2007 deadline);
 - ii) the substance of the development of the business case following questions posed by the Department in mid February 2007 and more recently in early March 2007; and
 - iii) the detailed financial analysis – i.e. the financial framework and supporting documents – which should be consistent with the ‘developed’ business case described in (ii).
- 28. A full list of weblinks for this information can be found on our website at www.communities.gov.uk/index.asp?id=1017165

29. Your comments on the proposal are now invited. We are seeking your views on the extent to which the proposals, if implemented, will achieve the outcomes specified by the criteria in our Invitation (see paragraph 22 above). In particular we would welcome partners' and stakeholders' views as to the extent a proposal would, in their opinion, if implemented, deliver strong effective and accountable leadership, deliver genuine opportunities for neighbourhood flexibility and empowerment; and value for money and equity on public services.
30. Consultees are requested to support their comments and views, where appropriate, with relevant evidence and analysis of the proposals.
31. Our Invitation is also clear that all proposals should proceed to stakeholder consultation if we consider that they meet the criteria. Therefore, some of the proposals are for alternative options within a single area. These are:

Unitary Proposals – Councils Submitting Proposals		Proposed Unitary Structure
1)	Bedford Borough Council	Bedford unitary
2)	Bedfordshire County Council	County unitary
3)	Cheshire County Council	County unitary
4)	Chester City Council	2 unitary option for Cheshire
5)	Northumberland County Council	County unitary
6)	Northumberland districts councils	2 unitary option for Northumberland

32. In these areas, we are also seeking your views on which of the alternative proposals would better achieve the outcomes we specified in our Invitation.

Next steps

33. During the consultation period we may also seek further information from councils, to help assess risks around their estimation of costs and savings.
34. Limited assurance to the baseline financial data will also be carried out by the Audit Commission for which the Commission will charge the authorities concerned.
35. Our aim is to reassess the proposals after the consultation having regard to further information received and all other available relevant information. We intend to announce before the end of July which proposals will proceed to implementation.
36. After the stakeholder consultation, we will consider very carefully all the representations that we have received. Proposals will proceed to implementation if, and only if, when we take our final decisions, we remain satisfied that they meet the criteria, and that the overall use of reserves remains affordable, having regard to the prevailing fiscal position and the risks around the estimated costs of implementation.

37. As explained in our original Invitation, implementation of any proposals involving transitional costs financed by the use of reserves impacts on planned public expenditure totals. Any use of reserves must therefore in aggregate be within the limited envelope available.
38. It was because of this limited envelope that the Invitation stated that the Government thinks it unlikely that it would be able to implement more than eight proposals, but that this maximum number would not preclude the Government from deciding to implement more if they offered good value for money and were affordable.
39. If when we take our final decisions there are more proposals that meet the criteria than we can afford to implement, we will prioritise in order to decide which ones to implement. We will consult during our main stakeholder consultation on the proposed means of prioritising restructuring proposals in such circumstances.