

Local Authorities (Overview and Scrutiny) Bill

EXPLANATORY NOTES

Explanatory Notes to the Bill, prepared by the Department for Communities and Local Government with the consent of Mr David Chaytor, are published separately as Bill 16 – EN.

Local Authorities (Overview and Scrutiny) Bill

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TO

Make further provision about the functions, powers and constitution of local authority overview and scrutiny committees; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

SCRUTINY OF MATTERS OF LOCAL CONCERN

1 Matters to which this Part applies

- (1) The provisions of this Part apply in relation to matters of local concern in connection with public services provided by a designated authority or person. 5
- (2) A matter is “of local concern” in relation to a local authority only if it affects the authority’s area or the inhabitants of that area to a greater degree than it affects the areas of other local authorities or the inhabitants of other such areas.
- (3) For the purposes of this Part—
- (a) the provision of services includes the provision of goods or facilities of any description; 10
 - (b) a “public service” is a service provided to the public, or a section of the public, that—
 - (i) is provided in the exercise of functions of a public nature or under statutory authority, or 15
 - (ii) is wholly or partly funded by grants, subsidies or other financial assistance from central or local government funds;
 - (c) it is irrelevant whether a service is provided on payment or without payment.
- (4) A “designated authority or person” means an authority or person designated, or of a description designated, for the purposes of this Part by regulations made by the Secretary of State. 20
- (5) An authority or person may be designated—

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- (a) generally, or
 - (b) in respect of services, or a description of services, specified in the regulations.
- (6) Regulations under this section are subject to affirmative resolution procedure.
- 2 Excluded matters** 5
- (1) The provisions of this Part do not apply in relation to –
 - (a) matters within section 19(1)(a) or (3) of the Police and Justice Act 2006 (matters relating to crime and disorder);
 - (b) matters within section 244(2)(a), (b) or (c) of the National Health Service Act 2006 (matters relating to the health service); or 10
 - (c) matters within section 21F of the Local Government Act 2000 (matters relating to flood risks or coastal erosion).
 - (2) The Secretary of State may by regulations exclude other matters from the application of the provisions of this Part.
 - (3) Regulations under subsection (2) are subject to negative resolution procedure. 15
 - (4) The fact that a matter is also within section 21C of the Local Government Act 2000 (matters relating to local improvement targets specified in local area agreements) does not exclude the application of the provisions of this Part.
 - (5) In the event of any conflict between a provision applicable to a matter within that section and a provision of this Part, the latter prevails. 20
- 3 Power to require information**
- (1) An overview and scrutiny committee may by notice in writing require a designated authority or person –
 - (a) to provide the committee with such information as –
 - (i) is specified or described in the notice, 25
 - (ii) is relevant to a matter of local concern in connection with a public service provided by that authority or person, and
 - (iii) the committee reasonably requires to carry out its functions; and
 - (b) for that purpose to send an appropriate person to attend before the committee to answer questions. 30
 - (2) The Secretary of State may make provision by regulations about the exercise of the powers conferred by subsection (1).
 - (3) The regulations may, in particular –
 - (a) impose conditions or restrictions on the exercise of those powers; and 35
 - (b) make provision about –
 - (i) procedure;
 - (ii) notices;
 - (iii) exemptions;
 - (iv) the information that a designated authority or person may (or may not) be required to provide; 40
 - (v) the description of person who is (or is not) an appropriate person.

- (4) Regulations under this section are subject to negative resolution procedure.

4 Power to require response to report or recommendations

- (1) This section applies where an overview and scrutiny committee makes a report or recommendations relating to a matter of local concern in connection with a public service provided by a designated authority or person. 5
- (2) The committee may by notice in writing –
- (a) if in providing the service in question the designated authority or person is exercising a function of a public nature, require the authority or person to have regard to the report or recommendations in exercising that function; 10
 - (b) in any case, require the designated authority or person –
 - (i) to respond to the committee’s report or recommendations indicating what (if any) action the authority or person proposes to take, and
 - (ii) to do so within two months beginning with the date on which the designated authority or person received the notice. 15
- (3) A notice under subsection (2) must be accompanied by a copy of the report or recommendations.
- (4) It is the duty of the designated authority or person to comply with the requirements in the notice. 20
- (5) The Secretary of State may make provision by regulations imposing conditions or restrictions on the exercise of the powers conferred by subsection (2).
- (6) Regulations under this section are subject to negative resolution procedure.

5 Power to publish response

- (1) Where an overview and scrutiny committee has published a report or recommendations relating to a matter of local concern in connection with a public service provided by a designated authority or person, the committee may publish any response of that authority or person. 25
- (2) In doing so, the committee must exclude any confidential information and may exclude any relevant exempt information. 30
- (3) If the committee provided a copy of its report or recommendations to a member of the local authority under section 21A(8) of the Local Government Act 2000, it must provide the member with a copy of any response.
- (4) In doing so, the committee may exclude any confidential information or relevant exempt information. 35
- (5) Where information is excluded under subsection (2) or (4), the committee, in publishing, or providing a copy of, the response –
- (a) may replace so much of the document as discloses the information with a summary which does not disclose that information, and
 - (b) must do so if, in consequence of excluding the information, the document published, or copy provided, would be misleading or not reasonably comprehensible. 40
- (6) In this section –

“confidential information” has the meaning given by section 100A(3) of the Local Government Act 1972 (admission to meetings of principal councils);

“exempt information” has the meaning given by section 100I of that Act;

“relevant exempt information” means exempt information of a description specified in a resolution of the committee under section 100A(4) of the Local Government Act 1972 which applied to the proceedings, or part of the proceedings, at any meeting of the committee at which the report was, or recommendations were, considered.

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6 Interpretation

In this Part –

“designated authority or person” has the meaning given by section 1(4);

“local authority” means –

- (a) a county council in England,
- (b) a district council in England, other than a council for a district in a county for which there is a county council, or
- (c) a London borough council;

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“matter of local concern” has the meaning given in section 1(2);

“overview and scrutiny committee” includes a sub-committee of such a committee;

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“public service” shall be read in accordance with section 1(3);

“statutory authority” means authority conferred by or under an Act of Parliament.

7 Consequential amendments

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- (1) In section 21 of the Local Government Act 2000, for subsection (4) (overview and scrutiny committees not to discharge functions other than under listed provisions) substitute –

“(4) An overview and scrutiny committee of a local authority may not discharge any functions other than –

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- (a) its functions under –
 - (i) this section,
 - (ii) sections 21A to 21C,
 - (iii) section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or
 - (iv) sections 3 to 5 of the Local Authorities (Overview and Scrutiny) Act 2010; or
- (b) any functions that may be conferred on it by virtue of regulations under section 21E.”.

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- (2) In section 21D(5) of that Act (publication of redacted copy of report or recommendations effective for purposes of provisions requiring further action), after “section 21B(3)(c) or (d)” insert “or section 5(1) or (3) of the Local Authorities (Overview and Scrutiny) Act 2010”.

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- (3) In section 123 of the Local Government and Public Involvement in Health Act 2007 (as substituted by section 32 of the Local Democracy, Economic Development and Construction Act 2009) (power to make regulations

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providing for joint overview and scrutiny committees), in subsection (5)(b) (provisions which regulations under section 123 may apply or make provision corresponding to) –

- (a) at the end of sub-paragraph (ii) omit “or”, and
 - (b) after sub-paragraph (iii) insert “or
(iv) sections 1 to 5 of the Local Authorities (Overview and Scrutiny) Act 2010 (scrutiny of matters of local concern), or regulations made under any of those sections,”. 5
- (4) Regulations made by virtue of subsection (3) above may provide that a matter is “of local concern”, in relation to the local authorities by whom a joint overview and scrutiny committee is appointed, if it affects the areas of those authorities, or the inhabitants of those areas, taken together, to a greater degree than it affects the areas of other local authorities or the inhabitants of other such areas. 10 15

PART 2

OTHER AMENDMENTS

8 Membership of overview and scrutiny committees

- (1) Section 21 of the Local Government Act 2000 (overview and scrutiny committees) is amended as follows. 20
- (2) At the end of subsection (9) (overview and scrutiny committees not to include any member of the authority’s executive) insert “, except as provided by regulations”.
- (3) After that subsection insert –
“(9A) The Secretary of State may by regulations – 25
 - (a) allow an overview and scrutiny committee of a local authority, or a sub-committee of such a committee, to include members of the authority’s executive when the committee (or, as the case may be, sub-committee) is not exercising functions in relation to the executive; and 30
 - (b) make such provision as appears to the Secretary of State to be appropriate about any conflict of interest arising.”.

9 Resourcing of scrutiny officers

In section 21ZA of the Local Government Act 2000 (as inserted by section 31 of the Local Democracy, Economic Development and Construction Act 2009) (scrutiny officers), after subsection (4) insert – 35

“(4A) *The local authority must provide the scrutiny officer with such staff, accommodation and other resources as are, in the officer’s opinion, sufficient to allow the officer to discharge the functions in subsection (2).*”.

PART 3

SUPPLEMENTARY AND FINAL PROVISIONS

10 Regulations and orders

- (1) Regulations or an order under this Act must be made by statutory instrument.
- (2) Regulations under this Act may – 5
- (a) make different provision for different cases or circumstances,
 - (b) include supplementary, incidental and consequential provision, and
 - (c) make transitional provision and savings.
- (3) Where regulations under this Act are subject to “affirmative resolution procedure” the regulations must not be made unless a draft of the statutory instrument containing them has been laid before and approved by a resolution of each House of Parliament. 10
- (4) Where regulations under this Act are subject to “negative resolution procedure” the statutory instrument containing the regulations is subject to annulment in pursuance of a resolution of either House of Parliament. 15
- (5) Any provision that may be made by regulations under this Act subject to negative resolution procedure may be made by regulations subject to affirmative resolution procedure.

11 Expenses

- There shall be defrayed out of money provided by Parliament –* 20
- (a) *any expenses incurred by the Secretary of State in consequence of this Act, and*
 - (b) *any increase in the sums so payable under any other enactment.*

12 Short title, commencement and extent

- (1) This Act may be cited as the Local Authorities (Overview and Scrutiny) Act 2010. 25
- (2) The provisions of this Act come into force as follows –
- (a) the provisions of sections 10, 11 and this section come into force on the day on which this Act is passed;
 - (b) the other provisions of this Act come into force on such day as the Secretary of State may by order appoint, and different days may be appointed for different purposes. 30
- (3) The Secretary of State may by order under subsection (2)(b) make such transitional provision as appears to the Secretary of State to be appropriate in connection with the coming into force of any provision of this Act.
- (4) This Act extends to England and Wales only. 35

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