

*These notes refer to the Local Government and Public Involvement in Health Act 2007 (c.28) which received Royal Assent on 30 October 2007*

# **LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 5: Co-Operation of English Authorities With Local Partners, Etc**

##### **Introduction**

228. This Part provides for a local area agreement (“LAA”), which will be an agreement between a local authority and certain partner authorities, approved by the Secretary of State. It will be prepared by the local authority which will consult partner authorities and others (this will include persons from the voluntary and community sector and local businesses). The local authority and partner authorities will co-operate with each other in determining local improvement targets for the area to be included in the LAA. It also amends section 4 of the Local Government Act 2000 to provide that the local authorities which prepare LAAs must consult partner authorities when preparing their community strategy. Section 116 introduces a requirement on local authorities and Primary Care Trusts to undertake a joint strategic needs assessment of the health and social care needs of its local populations.
229. This Part also amends the provisions of the Local Government Act 2000 in respect of local authority overview and scrutiny committees. It seeks to strengthen the role of the overview and scrutiny committees to improve accountability. It enables committees to review specific actions of those public bodies specified in section 104 operating in their area and to require them to provide information or appear before them. It also requires the local authority or the authority's executive to respond to its reports or recommendations.

##### ***Chapter 1: Local Area Agreements and Community Strategies***

###### ***Section 103: Application of Chapter: responsible local authorities***

230. This section sets out which local authorities will be responsible local authorities for the purposes of Chapter 1, that is those which will be required to prepare LAAs. They are upper tier authorities or those with upper tier responsibilities as well as London boroughs, the City of London and the Council of the Isles of Scilly.

###### ***Section 104: Application of Chapter: partner authorities***

231. This section sets out a list of public bodies and persons which will be "partner authorities". In some cases the statutory reference does not make it immediately clear what the nature of the body or person is.
232. *Subsection (4)(b)* refers to the English Sports Council which is known as Sports England. *Subsection (4)(e)* refers to the Historic Buildings and Monuments Commission which is known as English Heritage. *Subsection (4)(i)(i)* refers to the

Secretary of State in relation to his functions under section 2 of the Employment and Training Act 1973. These functions are exercised by Jobcentre Plus. Similarly the functions described in *subsection 4(i)(ii)* and *(iii)* are exercised by the Highways Agency.

233. *Subsection (7)* provides that the Secretary of State may amend the list of bodies and persons, by order, from time to time by adding any person with functions of a public nature, deleting any person, or by adding or deleting references to the Secretary of State's functions. Before making such an order, the Secretary of State must consult such representatives of local government as he considers appropriate.

### ***Section 105: "Local improvement targets": interpretation***

234. This section introduces the term "local improvement target" to describe any target that has the aim of improving the economic, social or environmental well-being of a responsible authority's geographical area. Each target must relate to that authority and/or one or more partner authorities and/or one or more other persons.
235. It is envisaged that the targets will include approximately 35 targets relating to the national indicator set for local government (as determined through Public Service Agreements). The LAA will also include local priority targets. These are targets which do not necessarily relate to the national indicator set but which the responsible authority and/or partner authorities and/or others believe would be beneficial for their area.
236. *Subsection (2)* provides that a target relates to the responsible local authority where any function of the local authority or any thing done by it could contribute to achieving the target. *Subsection (3)* provides that a target will relate to another body or person where that person when exercising his functions or anything done by that person could contribute to the attainment of the target and that person has consented to the target being specified in the LAA. For example, in relation to a target to reduce childhood obesity the primary responsibility would lie with the Primary Care Trust but the local authority would have a role to play in relation to its function as an education authority and also through social services and youth services. The target could only be included in the LAA by the responsible authority with the agreement of the Primary Care Trust.

### ***Section 106: Duty to prepare and submit draft of a local area agreement***

237. *Subsection (1)* provides that where the Secretary of State so directs, a responsible local authority must prepare a draft LAA. The direction can also specify the date by which the authority must submit the draft LAA to the Secretary of State (see *subsection (5)*). The draft LAA will specify local improvement targets, the persons to whom the target relates (ie those bodies which will contribute to the attainment of the target) and the period for which the agreement is to have effect.
238. *Subsection (2)* provides that, in preparing the draft LAA, the responsible local authority must seek the views of each partner authority and of other appropriate persons. The other persons are likely to be from the voluntary and community sectors, private businesses, and other public sector agencies that are not included on the list of partner authorities. It also provides that the local authority must co-operate with each partner authority in agreeing the targets for inclusion in the draft LAA, relating to that partner authority. Lastly, in preparing the draft LAA, the local authority must have regard to its community strategy prepared under section 4 of the Local Government Act 2000 and to any guidance issued by the Secretary of State. This means that the LAA will be developed on the basis of a detailed analysis of the local authority area and the priorities for public services contained in the community strategy.
239. *Subsection (3)* requires each partner authority to co-operate with the local authority when it is agreeing targets for inclusion in the draft LAA and to have regard to any guidance issued by the Secretary of State.

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240. *Subsection (4)* requires the Secretary of State to consult representatives of local government, representatives of partner authorities and others he considers appropriate before issuing guidance.

### ***Section 107: Approval of draft local area agreement by Secretary of State***

241. *Subsection (1)* provides where a local authority has submitted a draft LAA to the Secretary of State, the Secretary of State may, by notice in writing to the local authority, either approve the draft LAA or require that it be modified.
242. *Subsection (2)* provides that where the Secretary of State approves a draft LAA, this will become the LAA for the area of the responsible local authority. It will have the effect for the length of time specified in the LAA.
243. *Subsection (3)* provides that where the Secretary of State requires a draft LAA to be modified, this must be treated by the responsible local authority in the same way as the preparation of a new draft LAA, that is, that the same duties of consultation and co-operation apply.

### ***Section 108: Duty to have regard to local improvement targets***

244. This section provides that once the Secretary of State has approved a LAA and it therefore has effect, the responsible local authority and each partner authority must, when exercising their functions, have regard to the local improvement targets within the LAA that relate to it.

### ***Section 109: Designated targets***

245. *Subsection (1)* provides that once the Secretary of State has approved a LAA he may, by notice in writing to the responsible local authority, designate any local improvement target. This must be done within 1 month of the date of approval of the draft LAA. It is envisaged that the designated targets will be those which have been identified as priorities by the Secretary of State and which relate to the national indicator set for local government, as determined through Public Service Agreements. The effect of a designation is that the target may not be amended or removed except with the approval of the Secretary of State, following the submission of a revision proposal by the responsible authority.
246. *Subsection (2)* provides that where the Secretary of State has approved a revision proposal to the LAA he may designate any local improvement target that has been added by the revision proposal. This must be done within one month of the date the revision proposal was approved. (Targets may also be added to LAAs by agreement between the responsible authority and each person to whom the target in question is to relate, under section 110(6). But such targets, once added, may not be designated.)

### ***Section 110: Revision and addition of targets***

247. *Subsection (1)* provides that a designated target can only be amended or removed through a revision proposal which is then sent to the Secretary of State for his approval in accordance with sections 111 and 112.
248. *Subsections (2) and (4)* provide that any other target may be amended or removed from the LAA by agreement with partner authorities to whom the target relates and having consulted every other person to whom the target relates (ie any charity or voluntary sector bodies or local private sector bodies which agreed to the target at the outset). This means that local priority targets can be changed without the involvement of the Secretary of State.
249. However, *subsection (3)* provides that the responsible authority and such partner authorities to whom the targets relate may not amend or remove them during the month after the LAA has been approved and may not amend a target added by a revision

proposal for the month after the revision proposal has been approved. This is to ensure that targets are not amended or removed by agreement between the authority and partner authorities during the period in which the targets are capable of being designated by the Secretary of State.

250. *Subsection (5)* makes it clear that local improvement targets can only be added to a LAA either by agreement between the persons to whom the target is to relate, in accordance with *subsection (6)*, or in accordance with a revision proposal under sections 111 and 112.

### ***Section 111: Designated targets: revision proposals***

251. It is envisaged that an LAA will last for a number of years. Within this time the responsible local authority may want to alter the designated targets in the LAA. This will be done through a revision proposal. The revision proposal may seek to add a target or delete or alter designated targets.
252. *Subsection (1)* provides that a responsible authority may, whilst the LAA has effect, prepare and submit to the Secretary of State a “revision proposal”. The Secretary of State may also direct a local authority to prepare a “revision proposal”. Where such a direction has been made, the responsible authority must prepare a revision proposal.
253. *Subsection (2)* sets out what may be included in a “revision proposal”. The revision proposal may include changes to, or removal of, designated targets from the LAA. It may propose additional targets.
254. *Subsection (3)* provides that where a revision proposal proposes changes to a target or an additional target, it must also specify the persons to whom the target is to relate.
255. *Subsection (4)* establishes the steps the responsible local authority must take in preparing the revision proposal. The responsible local authority must:
- Consult each partner authority and other persons that appear to it to be appropriate. It is expected that this will include the voluntary and community sector and local businesses.
  - Co-operate with each partner authority in determining changes to designated targets, removal of designated targets or additional local improvement targets where these are relevant to the partner authority
  - Have regard to its community strategy and to any guidance issued by the Secretary of State
256. *Subsection (5)* provides that each partner authority must co-operate with the responsible local authority, and have regard to any guidance issued by the Secretary of State, in determining changes to designated targets, the removal of designated targets or additional local improvement targets, that are to be included in a revision proposal.
257. *Subsection (6)* requires the Secretary of State to consult representatives of local government (which includes representatives of partner authorities) and others he considers appropriate before issuing guidance on the revision proposal process.
258. *Subsection (7)* provides that where the Secretary of State directs a responsible local authority to prepare and submit a revision proposal, a date by which this revision proposal must be submitted can be set.

### ***Section 112: Approval of revision proposal***

259. *Subsection (1)* sets out the options for the Secretary of State in considering a revision proposal that has been submitted. If the revision proposal was prepared in response to a direction by the Secretary of State (under section 111(1)(b)), he may approve the revision proposal or require the responsible authority to modify it or reject it.

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Alternatively, if the responsible local authority has chosen to prepare and submit a revision proposal, the Secretary of State may either approve or reject the proposal. In this case he may not require the revision proposal to be modified.

260. *Subsections (2) and (3)* provide that where the Secretary of State approves the revision proposal, the approved LAA is amended to take on the changes set out in the revision proposal. A designated target which is revised will then be treated as if it had been designated in its revised form, by the Secretary of State, in place of the target which was the originally designated.
261. *Subsection (4)* provides that where the Secretary of State has required a responsible local authority to modify a revision proposal, that it shall be treated as a direction to that local authority to prepare another revision proposal. This means that the authority will be under the same duties again to consult and co-operate and to have regard to the community strategy and to guidance, and that partner authorities will be under the duty to co-operate and to also have regard to guidance, when modifying the revision proposal.

### ***Section 113: Duty to publish information about local area agreement***

262. *Subsection (1)* provides that the responsible local authority must publish a memorandum relating to the LAA where:
- the Secretary of State has designated a local improvement target or has revoked a designation (under section 109);
  - the approved LAA has been amended by a revision proposal, that has been approved by the Secretary of State (under section 112(2));
  - the approved LAA has been amended by locally agreed alterations or additions or deletions of local priority targets (under section 110(2) and (6)).
263. *Subsection (2)* sets out the information that will be included in the memorandum. It will set out in such form as the Secretary of State may direct:
- The period the LAA will have effect.
  - The local improvement targets included in the LAA.
  - Which targets are designated and, for these, the partner authorities required to have regard to the target, and any other persons to whom the target relates.

### ***Section 114: Preparation of community strategy***

264. This section amends section 4 of the Local Government Act 2000 by requiring responsible local authorities to consult and seek the participation of partner authorities in the development and subsequent modification of the community strategy. The partner authorities will be the same as those involved in the preparation of the LAA. Local authorities will remain under a duty to also consult and seek the participation of such persons as they see fit when preparing the community strategy. This is intended to include the voluntary and community sector and local businesses.

### ***Section 115: Orders under Part 1 of Local Government Act 2000: Wales***

265. This section amends sections 3, 5 to 7 and 9 of, and inserts a new section 9A into Part 1 of the Local Government Act 2000 which concern the promotion of economic, social or environmental well-being etc.
266. Section 5 of the Local Government Act 2000 enables the Secretary of State to, by order, amend, repeal, revoke or disapply an enactment which prevents or obstructs local authorities from exercising their powers to promote well-being. *Subsection (3)* of this section amends section 5 of the Local Government Act 2000 so that the Secretary

of State cannot make any provision under that section that affects Wales without consulting the Welsh Ministers. It also provides that the Secretary of State cannot make an order under that section to amend, repeal, revoke or disapply subordinate legislation made by Welsh Ministers or the National Assembly for Wales without the consent of the Welsh Ministers; or a Measure or Act of the National Assembly for Wales without the consent of the National Assembly (except when making incidental or consequential provision).

267. Section 6 of the Local Government Act 2000 enables the Secretary of State to, by order, amend, repeal, revoke or disapply any enactment which requires a local authority to prepare, produce or publish any plan or strategy. *Subsection (5)* of this section amends section 6 of the Local Government Act 2000 so that the Secretary of State's power to modify enactments concerning plans etc is confined to local authorities in England.
268. *Subsection (6)* amends section 7 of the Local Government Act 2000 to confer a power on the Welsh Ministers to, by order, amend, repeal, revoke or disapply any enactment that requires a local authority to prepare, produce or publish any plan or strategy relating to any particular matter in relation to a local authority in Wales. By way of these amendments, the Welsh Ministers are given an equivalent power to that of the Secretary of State under section 6 of the Local Government Act 2000.
269. *Subsection (7)* provides that an order made under section 7 of the Local Government Act 2000 cannot make a provision that would, if it were an Assembly Measure, be outside of the National Assembly for Wales' legislative competence. An order made under this section must be approved by resolution of the National Assembly except where the order is made only for the purpose of amending an earlier order under that section such that the earlier order extends to a particular authority or authorities or ceases to apply to a particular authority or authorities.
270. *Subsection (9)* of this section inserts a new section 9A into the Local Government Act 2000 which sets out the procedure that must be followed before making an order under section 7. Welsh Ministers must first consult such local authorities in Wales, representatives of local government in Wales and other persons that are likely to be affected by the order before laying a document before the National Assembly for Wales that explains the proposals, form of the draft order and details of the consultation undertaken. Subsequently, no draft of an order under section 7 which gives effect to the proposals is to be laid before the National Assembly within 60 days of the above document being laid (excluding periods when the Assembly is dissolved or in recess for more than 4 days). A draft order under section 7 which is laid must be accompanied by a statement of the Welsh Ministers detailing representations considered and any changes to the proposals in the above document. Excepted from the above procedure is an order made solely for the purposes of amending an earlier order made under this procedure to either extend or cease to apply that earlier order to a particular authority or authorities of a particular description.

### ***Section 116: Health and social care: joint strategic needs assessments***

271. **Section 116** introduces a requirement on responsible local authorities and Primary Care Trusts (PCTs) to undertake a joint strategic needs assessment of the health and social care needs for the area of the responsible local authority. This will determine what will be needed in terms of the discharge of health and social care functions in relation to the area of the local authority.
272. Statutory guidance will be issued under section 4 of the Local Government Act 2000 and section 106(2)(c)(ii) and (3)(b) to make it clear that the Sustainable Community Strategy and subsequent targets in the LAA should take account of the findings of the joint strategic needs assessment.
273. *Subsection (5)* provides that the responsible local authority must publish each assessment of relevant needs prepared under this section in relation to its area.

### ***Section 117: Interpretation of Chapter***

274. This section provides a glossary to the terms used in Chapter 1 of Part 5.

### ***Section 118: Transitional provision***

275. This section sets out the arrangements for change from voluntary LAAs to those required by these sections.
276. *Subsections (1) and (2)* sets out that the first direction of the Secretary of State to an authority to prepare a LAA may provide that the LAA submitted may have been prepared *before* the direction to do so was given. That is, that where such a direction applies, an authority may submit a LAA which was in existence previously as a voluntary LAA. Such a direction will also provide that the LAA submitted need not have been prepared following consultation with partner authorities, and with co-operation between the responsible local authority and partner authorities nor with regard to guidance issued by the Secretary of State and in the case of the authority, without having regard to the community strategy. This means that the Secretary of State will have the flexibility to allow certain local authorities to submit voluntary LAAs for approval, which were in existence before the provisions came into force.
277. He can also direct that other local authorities prepare a fresh LAA in accordance with all the statutory provisions under section 106. This may be necessary in cases in which local authorities are at the point of negotiating their next LAA, i.e. where their present voluntary LAA is about to expire.
278. *Subsections (3) to (5)* amend the Offender Management Act so that cross-references to the Local Government and Public Involvement in Health Act which appear in the Offender Management Act 2007 match the section numbers in this Act, in particular in paragraph 5 of Schedule 3 to that Act which adds functions of the Secretary of State in relation to probation services to the functions in relation to which the Secretary of State is a partner authority for the purposes of LAAs.

## ***Chapter 2: Overview and Scrutiny Committees***

### ***Section 119: Reference of matter by councillor to overview and scrutiny committee***

279. Several pieces of legislation introduced in this Act together provide for the process called a “Community Call for Action” in the Local Government White Paper. These are section 119, accompanied by sections 236 and 237. Section 119 inserts section 21A into the Local Government Act 2000. It 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 made under section 32(3) of the 2000 Act as expanded and replaced by section 127(2).
280. 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.
281. Subsections (5) to (8) of inserted section 21A apply 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 section 236 of the Act 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(10) defines the matters which can be referred to overview and scrutiny committees in this way. Those matters are intended to be any matter that relates to the work of the local authority other than a local crime and disorder matter (such matters being dealt with by the Police and Justice Act 2006, which is amended by section 126 of this Act), or a matter in a category which the Secretary of State has excluded by order.

***Section 120: Power of overview and scrutiny committee to question members of authority***

282. By virtue of section 236 of the Act, 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. Section 120, inserts a provision into section 21 of the Local Government Act 2000 allowing overview and scrutiny committees to require such members to appear before the committee to answer questions in relation to any functions that they exercise.

***Section 121: Powers to require information from partner authorities***

283. This section inserts section 22A after section 22 of the Local Government Act 2000.
284. Subsection (1) of inserted section 22A provides for the Secretary of State to make regulations which determine what information relevant partner authorities must provide to a relevant committee or may not disclose to such a committee.
285. “Relevant partner authority” is defined in new section 21C(8), which is inserted by section 122, and means a person who is a partner authority in relation to a local authority for the purposes of Chapter 1 of Part 5 (local area agreements), except for a police authority or a chief officer of police.
286. “Relevant committee” is defined in section 21C(8) of the Local Government Act 2000, which is inserted by section 122, and means any overview and scrutiny committee of an authority which is required to prepare LAAs under Chapter 1 of Part 5 of the Act.
287. 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.
288. Section 22A(4) will enable regulations to be made about the information which “associated authorities” may or may not provide to a “relevant district council committee”. A relevant district council committee is defined by section 22A(6) as the overview and scrutiny committee of a district council which is not a responsible local authority – that is, the committee of a district council in a two-tier area, or a sub-committee of such a committee. An associated authority is defined in section 22A(6) as either a partner authority (except a police authority or the chief officer of police) or the county council in that two-tier area.
289. Section 22A(5) sets out that information about which the Secretary of State can make provision, under new section 22A(4), does not include information for which provision can be made under either section 20(5)(c) or (d) of the Police and Justice Act 2006. As section 244 of the National Health Service Act 2006 does not apply to district authorities in two tier areas, the Secretary of State may make provision about health related information in the regulations that can be made under new section 22A(4).
290. Section 22A(7) allows for regulations made under this section to make different provision in relation to different persons – that is, partner authorities or associated authorities – and committees and in relation to different descriptions of such persons or committees. Section 22A(8) makes clear that the power in section 22A(7) does not



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affect the power in section 105(2)(b) of the Local Government Act 2000 that orders and regulations may make different provisions for different cases, authorities or descriptions of authority.

291. Subsection (6A) of section 20 of the Police and Justice Act 2006, which is inserted by *subsection (2)* of section 121, makes it clear that information about which provision can be made in regulations made under that section can only relate to the discharge of crime and disorder functions and local crime and disorder matters.
292. Subsection (2A) of section 244 of the National Health Service Act 2006, which is inserted by *subsection (4)* of section 121, makes it clear that information about which provision can be made in regulations made under that section can only relate to the health service in the local authority's area.

***Section 122: Overview and scrutiny committees: reports and recommendations***

293. *Subsection (1)* inserts new sections 21B, 21C and 21D of the Local Government Act 2000 after section 21A of that Act, which is inserted by section 122 of this Act.
294. Section 21B 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 by virtue of subsection (1)(b) or (3)(a) of section 19 of the Police and Justice Act 2006.
295. Subsection (2) of inserted section 21B empowers the overview and scrutiny committee to publish its report or recommendations.
296. 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.
297. The local authority or executive must comply with the notice.
298. The provisions about confidential and exempt information in section 21D (which is also inserted by section 122) apply in relation to the publishing of a report or recommendations or a response to any of these documents.
299. Section 21C applies where a relevant committee make a report or recommendations to an authority or an executive and the report or recommendations relate to a local improvement target which relates to a relevant partner authority and is specified in a LAA of the authority. It does not apply where the report or recommendations are made by a crime and disorder committee by virtue of subsections (1)(b) or (3)(a) of section 19 of the Police and Justice Act 2006.
300. "Local improvement target" and "local area agreement" are defined in subsection (8) of section 21C and have the same meanings as in Chapter 1 of Part 5 of the Act.
301. 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 which is a health service body i.e. a National Health Service Trust, an NHS Foundation Trust or a Primary Care Trust cannot be required to have regard to a report or recommendations made to that body under regulations made under section 244 of the National Health Service Act 2006.
302. The relevant partner authority has a duty to comply with the requirement specified in the notice.

303. Section 21D applies to the publication under section 21B of any document comprising a report or recommendations of any overview and scrutiny committee or a response of an authority to any such report or recommendations. It also applies to the provision of a copy of such a document to a member of an authority under new section 21A(8) or 21B or to a relevant partner authority under section 21C.
304. Subsection (2) of inserted section 21D 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.
305. Section 21D also gives a power to an overview and scrutiny committee to exclude any relevant exempt information. “Relevant exempt information” is defined in subsection (6) of section 21D and means, in relation to a report or recommendations of an overview and scrutiny committee, exempt information specified in a resolution of the overview and scrutiny committee under section 100A(4) of the Local Government Act 1972, and, in relation, to a response of the local authority, exempt information of a description specified in such a resolution of the authority. In both cases, the resolution must apply to a meeting of the overview and scrutiny committee or the executive at which the report or response was, or the recommendations were, considered. The definition of “relevant exempt information” includes, in relation to an overview and scrutiny committee with functions under section 21(2)(f) of the Local Government Act 2000, information which is exempt information under section 246 of the National Health Service Act 2006.
306. It should be noted that section 21D does not apply to the executive of an authority. This is because the meaning of “relevant exempt information” has been imported from Part 5A of the Local Government Act 1972 which applies to an authority but not to an executive of that authority.
307. Subsection (3) of inserted section 21D enables the overview and scrutiny committee or an authority to exclude if they wish any confidential information or relevant exempt information from a copy of a document provided to a member of the local authority.
308. When information is excluded from any document, subsection (4) of inserted section 21D 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, subsection (4) requires the authority to provide a summary of the part concerned.
309. An overview and scrutiny committee which, in publishing, or providing a copy of, a document, excludes information or replaces part of the document with a summary, will be taken to have complied with the requirement in *subsection (3)(c) or (d)* of section 21B. This is by virtue of *subsection (5)* of section 21D.
310. *Subsection (2)* of section 122 amends section 22 of the Local Government Act 2000 by inserting new *subsection (12A)* to give the Secretary of State a power to make regulations in relation to local authority executives in England which replicate the provision contained in section 21D.

### ***Section 123: Joint overview and scrutiny committees: local improvement targets***

311. *Subsection (2)* of section 123 allows the Secretary of State to make regulations enabling a county council in a two tier area to establish a joint overview and scrutiny committee with one or more district councils in its area.

312. By virtue of *subsections (2)(b), (3) and (4)*, regulations under this section may confer on such joint overview and scrutiny committees the functions of making reports and recommendations to the county council or to the county council and one or more of the district councils which established that committee on matters (except excluded matters) relating to the attainment of a local improvement target in the relevant LAA (ie in the LAA of the county council in the group of authorities which established the joint committee). Subsection (4) sets out that crime and disorder matters, on which a crime and disorder committee may make reports and recommendations by virtue of section 19 of the Police and Justice Act 2006, are excluded. This is because under section 21 of the Police and Justice Act 2006 provision may be made in respect of the functions of a joint crime and disorder committee in relation to crime and disorder scrutiny functions.
313. *Subsection (5)* allows these regulations to make provision as to the relevant information which an “associated authority” must or must not disclose to a joint committee. *Subsection (6)* sets out that an associated authority means the county council which is the responsible local authority in relation to the district council and partner authorities to the responsible authority, other than a police authority or chief of police. *Subsections (6) and (8)* set out that relevant information means information which is relevant to a local improvement target in the relevant LAA which relates to the associated authority. However, *subsection (7)* makes clear that regulations may not make provision in relation to crime and disorder related information, as the joint overview and scrutiny committee may not report on crime and disorder matters.
314. Subsection (5) also provides that regulations may make provision generally as to the discharge of functions, appointment of sub-committees, and co-opting of persons who are not members of the authority by applying the provisions of, or making corresponding provision to, section 21(4) and (6) to (12) of the Local Government Act 2000. Regulations may also apply or make equivalent provision to new sections 21A to 21D of the Local Government Act 2000 as to the reference of matters to overview and scrutiny by councillors, the duty of an authority or executive to respond to an overview and scrutiny committee, the duties on associated authorities to have regard to reports and recommendations and as to confidential and exempt information in relation to the publication of reports. There is no power to apply subsections (13) to (15) of section 21 of the Local Government Act 2000, so joint overview and scrutiny committees will not have power to require members or officers of local authorities to appear and answer questions. Provision equivalent to or applying section 246 of, and Schedule 17 to, the National Health Service Act 2006 (exempt health related information) may also be made under this last head. Section 246 of, and Schedule 17 to, the National Health Service Act 2006 apply to an item of business of an overview and scrutiny committee considering matters relating to the health service in the authority’s area and provide that certain information will be exempt from disclosure in accordance with the provisions of section 100A(4) of the Local Government Act 1972 which means that the public may be excluded from the meeting during that item of business, if an appropriate resolution of the council is in place.
315. *Subsection (9)* requires joint overview and scrutiny committees to have regard to any guidance issued by the Secretary of State.

***Section 124: Overview and scrutiny committees of district councils: local improvement targets***

316. **Section 124** inserts a new section 21E into the Local Government Act 2000.
317. Section 21E(1) and (2) allow the Secretary of State to make regulations enabling a district council in a two tier area to make reports and recommendations to its county council or to that county council’s executive, on matters relating to a local improvement target in the area’s LAA, where that local improvement target relates to a partner authority. Section 21E(4) sets out that a partner authority for these purposes means the

county council and any authority which is a partner authority of the county council other than a police authority or the chief of police.

318. Section 21E(3) provides that regulations may also apply or make provision corresponding to the duty of an authority or executive to respond to an overview and scrutiny committee, the duties of associated authorities to have regard to reports and recommendations and the treatment of reports and recommendations, and responses to them, which contain confidential and exempt information, i.e. the regulations may make provision applying the provisions of new sections 21B to 21D of the Local Government Act 2000.

### ***Section 125: Guidance***

319. **Section 125** amends section 21 of the Local Government Act 2000 to provide for new subsections (16) and (17). These will enable the Secretary of State to require overview and scrutiny committees to have regard to any guidance issued by the Secretary of State. It is intended that guidance issued under these powers and under section 123(9) will clarify how overview and scrutiny committees and joint overview and scrutiny committees should avoid duplication of each other's work.

### ***Section 126: Reference of local crime and disorder matters to crime and disorder committees etc***

320. **Section 126** amends sections 19 and 20 of the Police and Justice Act 2006. It brings the provision for references of local crime and disorder matters by local councillors to crime and disorder committees into line with the treatment of local government matters in the new section 21A of the Local Government Act 2000 inserted by section 119. New section 19(3) provides that every local authority must ensure that its crime and disorder committee has power to make a report or recommendations to the local authority with respect to any local crime and disorder matter referred to it, and that it must make arrangements which enable any member of the authority to refer any local crime and disorder matter to the local authority.
321. New section 19(4) provides that arrangements enable a person to refer a matter to a committee if they enable him to ensure that the matter is included in the agenda for, and discussed at, a meeting of the committee.
322. **Section 19(5)** applies subsections (6) and (7) where a local crime and disorder matter is referred to a crime and disorder committee by a member of a local authority in accordance with arrangements made under subsection (3)(b). Subsection (6) provides that, when considering whether or not to make a report or recommendations to the local authority in relation to the matter, the committee may have regard to any powers which the member may exercise in relation to the matter by virtue of section 236 of this Act, and to any representations made by the member as to why it would be appropriate for the committee to exercise any of its relevant powers in relation to the matter.
323. **Section 19(7)** provides that the committee must notify the member of its decision, and the reasons for it, if it decides not to make a report or recommendations to the local authority in relation to the matter.
324. **Section 19(8)** requires that the crime and disorder committee copy reports or recommendations to the authority in relation to a crime and disorder matter to any member of the authority who referred the matter to the committee in accordance with arrangements made under subsection (3)(b), and to such of the responsible authorities and co-operating persons and bodies as it thinks appropriate.
325. Section 19(8A) provides that section 19(8B) applies where the crime and disorder committee of a local authority makes a report or recommendations to the authority by virtue of subsection (3)(a), or where it provides a copy of a report or recommendations under subsection (2) or (8)(b). Section 19(8B) provides that in such circumstances, the

*These notes refer to the Local Government and Public Involvement in Health Act 2007 (c.28) which received Royal Assent on 30 October 2007*

crime and disorder committee must notify the authority, body or person to whom it makes the report or recommendations, or provides the copy, that it must consider the report or recommendations; respond to the committee indicating what (if any) action it proposes to take; and have regard to the report or recommendations in exercising its functions.

326. *Subsection (4)* of section 126 inserts in section 19(11) of the Police and Justice Act 2006 an amended definition of “local crime and disorder matter”. The new definition includes crime and disorder and substance misuse that affects all or part of the electoral area for which the member is elected or any person who lives or works in that area.
327. [Sections 126\(6\), \(7\) and \(8\)](#) make consequential amendments to Section 20 of the Police and Justice Act 2006.

### ***Section 127: Overview and scrutiny committees: consequential amendments***

328. Section 21 of the Local Government Act 2000 requires local authorities operating executive arrangements to ensure that their overview and scrutiny committee has certain powers. Where a local authority has more than one overview and scrutiny committee, that obligation can be satisfied by ensuring that those committees have those powers between them. *Subsection (1)* amends section 21 of the Local Government Act 2000 so that the reference to overview and scrutiny committees also includes any joint overview and scrutiny committees. Subsection (1) provides that a joint overview and scrutiny committee means:
- a) a joint overview and scrutiny committee within the meaning given in subsection (2)(a) and (b) of section 245 of the National Health Service Act 2006.
  - b) a joint overview and scrutiny committee within the meaning given in subsection (2)(a) and (b) of section 185 of the National Health Service (Wales) Act 2006; or
  - c) a joint overview and scrutiny committee within the meaning of section 123 of the Local Government and Public Involvement in Health Act 2007.
329. Section 21(4) of the Local Government Act 2000 provides that, subject to 21(5), an overview and scrutiny committee of a local authority may not discharge any functions other than its functions under that section.
330. Subsection (1) of section 127 also amends section 21(4) of the Local Government Act 2000 to add into the list of functions which an overview and scrutiny committee may exercise, functions under section 21A to 21C or any functions conferred on it through regulations under 21E.
331. Section 32 of the Local Government Act 2000 enables the Secretary of State to establish arrangements for local authorities to discharge their functions without having a separate executive (i.e. for those local authorities operating alternative arrangements). *Subsection (2)* replaces section 32(3) of the Local Government Act 2000 with a new subsection (3) which amplifies the current provision under that section, so that the Secretary of State may make regulations for councils operating alternative arrangements, which may include similar provision to that provided for in this Act for overview and scrutiny committees. It also splits the powers of the Secretary of State into powers which he may exercise in relation to England and powers which the Welsh Ministers may exercise in relation to Wales.
332. *Subsection (3)* also makes consequential amendments to section 245(3)(b) of the National Health Service Act 2006 so that the Secretary of State may, by regulations, apply the revised overview and scrutiny provisions to joint health overview and scrutiny committees established under regulations under that section. *Subsection (4)* makes equivalent provision for Wales.

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***Section 128: Transitional provision***

333. The new procedure for altering governance arrangements set out in new section 33E of the Local Government Act 2000 (inserted by section 64 of the Act) also applies to changes to executive arrangements and alternative arrangements which are required to be made by virtue of any of the provisions of Chapter 2 of Part 5 of the Act.