

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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

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

Introduction

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.
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

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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. 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

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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.