



Local Government and Public Involvement in Health Bill

Regulatory Impact Assessment



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On 5th May 2006 the responsibilities of the Office of the Deputy Prime Minister (ODPM) transferred to the Department for Communities and Local Government.

Department for Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU
Telephone: 020 7944 4400
Website: www.communities.gov.uk

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PO Box 236
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West Yorkshire
LS23 7NB
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Textphone: 08701 207 405
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LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH BILL

REGULATORY IMPACT ASSESSMENT (RIA)

Title of proposal

Local Government and Public Involvement in Health Bill

Purpose and intended effect

The Local Government and Public Involvement in Health Bill seeks to introduce a range of devolutionary and deregulatory measures to ensure a local government system in England that:

- gives local people more influence over the services and decisions that affect their communities;
- provides effective and accountable strategic leadership;
- operates in a performance framework – for local authorities working alone or in partnership – which supports citizen empowerment and secures better outcomes for all; and
- leads local partnerships to provide better services for citizens.

These core objectives emanate from the recently published Local Government White Paper (*Strong and Prosperous Communities*) on which the majority of the legislative measures in this Bill are based. The policy areas and related legislative measures are set out in more detail, grouped by core objective, at Annex A (page 16).

The Local Government and Public Involvement in Health Bill also seeks to make specific provision for Wales.

Background

Since 1997 the Government has introduced significant reforms to local government in England in order to improve its performance, including:

Best value: Introduced in the Local Government Act 1999, best value required all local authorities and other best value authorities to secure continuous improvement in the exercise of their functions with regard to economy, efficiency and effectiveness. It also required councils to put in place the elements necessary for effective performance management; planning, monitoring, measuring and reporting of performance, and regular review and challenge of service delivery. The Act also provided for independent inspection to assess the effectiveness of these measures, and required authorities to consult the public and interested parties on how services should be delivered;

Comprehensive Performance Assessment: Since 2002, councils have been assessed and their performance compared through Comprehensive Performance Assessment (CPA). CPA provides an independent picture of a council's performance, corporate capacity and effectiveness. This has provided the basis for a tailored approach to different areas, with greater freedom and flexibility for the good performers, and closer engagement and intervention for the poorest performers;

New decision making structures: The Local Government Act 2000 radically overhauled the decision making structures and accountability mechanisms in local government. Central to these reforms was the clear separation between executive councillors – 3 to 10 councillors in an authority (with the option that these might operate under a directly elected Mayor) and the majority of council members;

Power of wellbeing: The Local Government Act 2000 gave local authorities a general power to do anything likely to promote the economic, environmental or social wellbeing of their area; giving them significant freedom to act to improve their area.

Rationale for government intervention

There have been significant improvements in the performance of local government since 1997. For instance there was a 15.1% increase in a representative basket of best value performance indicator scores between 2000/01 and 2004/05,¹ and in the four years it has been in existence the Comprehensive Performance Assessment (CPA) has measured significant improvements with two thirds of councils now scoring 3 or 4 stars out of 4.²

However, issues still remain. Despite the improvements in their performance public satisfaction with local authorities remains low.³ This is reinforced by the fact that 61% of citizens feel that they have no influence over decisions affecting their local areas.⁴ This strongly suggests that local authorities and the services they and their partners provide are not sufficiently responsive to the needs and priorities of the communities they serve.

It is clear that the reforms to council's leadership structures introduced in 2000 have resulted in significant improvements in local strategic leadership, particularly in areas that have adopted directly elected mayors.⁵ However, not all authorities have fully embraced the opportunities available to them to provide strong leadership in their area. The government is also aware that in some areas with a two-tier structure, in other words an area covered by both county and district councils, there is a growing consensus that the current structures are confusing and a bar to delivering services efficiently.

1 Local and Regional Government Research Unit, Communities and Local Government 2006 analysis.

2 CPA – *The Harder Test, Scores and Analysis of Performance in Single Tier and County Councils 2005* Audit Commission, 2005.

3 Overall 55% of the public were satisfied with the performance of their local authority in the 2003/04 BVPI satisfaction surveys. This declined from 65% in the equivalent surveys in 2000/01.

4 2005 Citizenship Survey: active communities topic report, Communities and Local Government 2006.

5 *Meta-evaluation of the Local Government Modernisation Agenda: Progress Report on Service Improvement in Local Government*, DCLG, 2005; *Councillors, Officers and Stakeholders in the New Council Constitutions: Findings from the 2005 ELG Sample Survey*, Communities and Local Government 2006.

There is growing evidence that the performance framework for local government, despite its success in driving improvements in performance, must now change. For local government and its partners, the performance framework often appears:

- un-balanced – with 80% of the reporting effort focused on meeting top-down requirements rather than the needs of local management;⁶ and
- burdensome – with approximately 600 performance items requested by Government and inspectorates including: plans, inspections, performance indicators, data returns, and monitoring arrangements.⁷

The Government therefore wants to see a streamlining and rebalancing of the performance framework with a greater focus on the citizen experience and local partnership working, rather than central targets, as the main drivers for improvement.

The introduction of Local Area Agreements (LAAs) and Local Strategic Partnerships (LSPs) has resulted in a framework that many areas are using to deliver better partnership working and more joined up services. However, services are often still being delivered in isolation, partly as a result of differing national targets imposed on separate service providers. This makes it very difficult for local agencies to tackle big cross-cutting problems such as those relating to social exclusion, community cohesion and climate change. As a result, links between the vision set out in a Sustainable Community Strategy drawn up in partnership by an LSP and the mechanisms for delivering the services needed to secure this vision often remain weak.

Citizens' expectations of public services also continue to rise. People are now accustomed to greater choice and convenience in all walks of life, and do not accept that public services should be different.⁸ They expect access to services in ways which fit round their daily activities, a range of methods of payment, and a wider choice of products. Such expectations can only be met by designing services around the needs of citizens, rather than around the traditional delivery channels of service providers. This in turn requires greater flexibility at the local level, to identify needs and to plan delivery.

Local government has been extremely successful in recent years in obtaining efficiency savings in how it does its business, exceeding the targets set for it in the last comprehensive spending review in 2004. However, many of the easy gains have now been identified, and in a tightening financial climate local authorities will have to continue to focus on using innovative new ways of working to obtain better value for money for the taxpayer.

⁶ Mapping the Local Government Performance Landscape, Communities and Local Government, 2006; Meta-evaluation of the Local Government Modernisation Agenda: Progress Report on Service Improvement in Local Government, Communities and Local Government, 2005.

⁷ Ibid.

⁸ *Perceptions of Local Government in England: key findings from qualitative research*, Communities and Local Government, 2006.

Consultation

Within government

We have contacted all of the devolved administrations and worked with the Welsh Assembly Government in drawing up the Bill. All government departments with an interest in the contents of the White Paper and Bill have been consulted, including:

Cabinet Office
Department for Constitutional Affairs
Department for Culture, Media and Sport
Department for Education and Skills
Department for Environment, Food and Rural Affairs
Department for Health
Department for Trade and Industry
Department for Transport
Department for Work and Pensions
HM Treasury
Home Office

Several of the *Local:Vision* documents (see below) were jointly published with other departments.

Public consultation

The policy development process leading to the proposals in the recently published Local Government White Paper and subsequently the measures in this Bill has been extensive.

Since 2004 we have consulted a wide range of stakeholder and other interest groups on the future of local government, through a number of different media.

Publications

We have published a series of discussion and consultation documents under the *local:vision* brand setting out ideas for discussion and consultation across a range of the issues covered in the White Paper. They included:

- July 2004 – *The future of local government – developing a 10 year vision* – Initial discussion document to launch the debate on the future of local government.
- July 2004 – Prospectus on *Local Area Agreements* – Proposals to develop and pilot Local Area Agreements which represent a radical new approach to improve co-ordination between central and local government and their partners with the aim to improve the delivery of local services.
- Jan 2005 – *Vibrant Local Leadership* – Proposals on how to develop the role of councils and councillors in leading the community, experimentation in governance models and leadership arrangements.

- Jan 2005 – *Citizen Engagement and Public Services: Why Neighbourhoods Matter* – Proposals on how to empower people to take action in their neighbourhoods and to help shape the services they receive – jointly published with the Home Office.
- March 2005 – *Securing better outcomes: developing a new performance framework* – Outlines ideas for the development of a new performance framework for local government to secure improvement in public service delivery – jointly published with HM Treasury.
- November 2005 – *Inspection Reform: The Future of Local Services Inspection* – consultation document on the future of the inspection of local services.
- December 2005 – *Local Strategic Partnerships: Shaping their future – a consultation paper*.
- February 2006 – *'Empowerment and the deal for devolution'* – a discussion document. It contains a transcript of a speech given by the Rt Hon David Miliband MP, Minister of Communities and Local Government, on 18 January 2006 to the New Local Government Network's Annual Conference.

A full list of all *local:vision* documents published as part of the debate on the future of local government is available from the *local:vision* website at:

www.communities.gov.uk/index.asp?id=1137794

Stakeholder events

We have organised a series of seminars and workshops for representatives of interested external stakeholder groups ranging from local government colleagues to the voluntary and community and business sectors. Events have included:

- Ministerial and Official participation at a range of externally organised conferences and seminars, covering a range of target audiences;
- Briefing events at the regional level organised by the Department and aimed at local government and partner organisations;
- Seminars on specific elements of the emerging White Paper policy, such as neighbourhoods and in a leader and place-shaper role, as well as seminars aimed at specific target audiences, such as an equalities event;
- Focus group activity with stakeholders groups including the general public; and
- Keynote speeches at conferences of national importance including the 2006 Local Government Association Annual Conference.

New media

In addition to the ongoing dedicated *local:vision* website, ODPM and the Department has hosted a web discussion board covering a number of topics at www.localvisionforum.net open to the public and those representing stakeholder groups.

The consultation was drawn to a close and the Government's vision for the future of local government laid out with the Local Government White Paper published on 26 October 2006. A copy of the White Paper can be found at www.communities.gov.uk/strongprosperouscommunitieswp

Options

The Bill will implement a number of the proposals expressed in the recent Local Government White Paper as well as a number of other deregulatory and devolutionary measures. Therefore the majority of policy proposals being legislated on in this Bill are covered by the RIA for the Local Government White Paper www.communities.gov.uk/index.asp?id=1504070. Consequently this RIA does not attempt to set out again those alternative options that have been considered and rejected in the past for the different proposals. Instead the attachment at Annex A (page 16) presents a summary of the key provisions contained in the Bill and supporting analysis and argument.

All provisions in the Bill went through the process of screening or an initial RIA so a clear understanding of the possible impacts of these measures could be obtained. The following provisions were deemed as having negligible impact and therefore required no further analysis, so do not form part of this of this RIA:

- Amendments to the Local Government Act 2003 on capitalisation and guidance
- Amendments to Deregulation & Contracting Out Act 1994
- Amendments to Part V of the LG&HA 1989
- Valuation Tribunal Reform
- Ethical Standards
- Byelaws

However four areas in the Bill which were not included in the White Paper do require an RIA:

- Grant Making Powers;
- Changes to 6 provisions of the Audit Commission Act 1998 and to provide an additional power to improve and update the legislation;
- Associated changes to the Audit Commission Act 1998 with respect to the Audit Commission and Benefit Fraud Inspectorate merger; and
- Future Structures for Patient and Public Involvement.

These RIAs are attached at the end of this document in the miscellaneous section at Annex B (page 28).

Costs and benefits

Sectors and groups affected

The majority of the proposals set out in the Bill will only have a direct impact on local government.

Some will have an impact on other sectors, including:

- public sector agencies that operate at a local level, for instance primary care trusts – particularly in relation to reforms to overview and scrutiny, Local Strategic Partnerships, Local Area Agreements, and the performance framework;
- citizens and community groups, particularly in relation to the proposals around empowered communities and responsive services; and
- private and third sector bodies who provide services for councils, particularly in relation to the proposals around local strategic partnerships, and efficiency and commissioning.

Race equality assessment

The provisions in this Bill went through an initial Race Equality Impact Assessment (REIA) screening and those requiring a REIA are covered by the assessment completed for the White Paper. This can be found in the White Paper RIA Annex at www.communities.gov.uk/index.asp?id=1504070. In summary the REIA found that the White Paper does not introduce any unlawful direct discrimination.

Health impact assessment

Where appropriate the health impact of the proposals is set out in the relevant section of the attached table at Annex A (page 16).

Overall there should be no adverse health impacts as a result of the measures in the Bill.

Rural considerations

Where appropriate the potential rural impacts of the proposals are set out in the relevant section of the attached table at Annex A (page 16).

Overall the move towards greater flexibility for local authorities in how they deliver should make it easier for rural authorities to respond to the particular characteristics and needs of their area.

Breakdown of costs and benefits

A breakdown of the costs and benefits for the key provisions is set out in the attached Annexes.

Costs

Economic

There should be no direct fiscal costs to the private or third sectors from the measures in the Bill. There may be some non-fiscal costs to business and the voluntary and community sectors in terms of extra time spent engaging with local government and service providers. However these should be mitigated by the drive to rationalise local partnership arrangements and to better co-ordinate consultation and engagement activity between public sector partners.

The majority of the measures in the Bill are about getting better value for money from existing programmes. There will be some fiscal costs for the public sector. The vast majority of these will fall initially on local government; although these will be offset by savings elsewhere (see below). The Government remains committed to ensuring that it does not place unfunded new burdens upon local authorities. The table below sets out the costs to central government, including any new burdens on local authorities, by objective. The costs of restructuring two tier areas have been excluded (see below).

Costs (£ to the nearest million) to central government

(These costings reflect those in the White Paper RIA and are not in addition to them)

Financial Year	Responsive services and empowered communities	Governance	Leader and place-shaper of local services	performance framework		Gross Costs – excluding un-quantified savings	Net cost – including total Performance Framework savings
				Inspection and Best value	Other elements, eg. national indicator set*		
07-08	0	0	0	0	0	0	0
08-09	5	25	2	1	0	33	33
09-10	51	26	2	-33	<-46	45	0
10-11	52	27	2	-37	<-45	45	0
11-12	53	25	2	-38	<-43	42	0
12-13	54	26	2	-39	<-43	43	0

* These costs cannot yet be quantified, however we are confident that the savings will be greater than the gross costs of the other parts of the white paper.

There will also be upfront transitional costs for those authorities in two tier areas that choose to move to a unitary structure. Any restructuring proposal must meet the affordability criteria; this requires authorities to demonstrate that any restructuring delivers value for money and is self-financing. Transitional costs must be offset by savings over a maximum of 5 years. All costs will have to be met locally without increasing council tax, they will not be met by central government.

We expect that the transitional costs for moving from a two tier structure to a single county unitary will be in the region of £12m spread over three years (for more information see the table on objective 2 at Annex A (page 20)). It is not currently possible to predict which, and how many areas will restructure. However, on public expenditure grounds, **the Government thinks it will be unlikely to be able to implement more than eight proposals. This expected maximum does not preclude the Government from deciding to implement more if they offered good value and are affordable.** Therefore the transitional costs for restructuring have not been included in the overall cost figures set out below.

Environmental and social

There should be no significant new social or environmental costs arising from the measures in the Bill.

Benefits

Economic

There will be benefits to local and central government both in terms of money and staff time as a result of the reforms to the performance framework.

The fiscal savings that can currently be quantified are set out in the table in the costs section above.

The numbers of national targets and indicators that local government will need to report on to central government will be significantly reduced. This should result in significant savings for local authorities and central government, and are likely to offset the costs identified above. However, as these new targets and indicators will be developed as part of the forthcoming comprehensive spending review these benefits cannot currently be quantified specifically but will substantially cover the costs of other proposals in the Bill.

There should be ongoing savings to the resulting local authorities in those two tier areas that restructure. Estimated annual savings in the costs of being in business of in the region of £10m per county area from year 3 onwards. Potential for further savings in the medium to longer term as a result of service re-engineering will follow restructuring. Once transitional costs have been paid back these will be ongoing savings for the authority concerned. More importantly the new structures should result in stronger strategic leadership for the area and better co-ordination of service delivery.

Environmental

There should be no significant new environmental costs arising from the measures in the Bill.

The performance framework should pick up on environmental issues, which ought to be for the benefit of the environment.

Social

There will be significant social benefits arising from the expected rise in engagement and empowerment of citizens and communities by local government. This will be both in terms of enhanced service delivery and higher levels of public trust and satisfaction in service providers.⁹

There should be similar benefits in terms of improved service delivery from improved partnership working at the local level.

Small Firms' Impact Test (SFIT)

The majority of the measures in the Bill will only affect the public sector. Overall there should be no negative impact on small firms as a result of this Bill.

Competition assessment

The majority of measures in the Bill will only affect the public sector. There will be no adverse effect on competition.

Enforcement, sanctions and monitoring

Monitoring of the implementation of the proposals by local government will generally be through the new performance framework set out in the table on Objective 3 in the Annex A (page 23). In particular through the monitoring of progress against national targets and indicators; and the annual risk assessments and other inspections carried out by the Audit Commission and other inspectorates.

There is no intention to create any new criminal sanctions as a result of this Bill.

Implementation and delivery plan

Reviews of:

- community management and ownership of assets;
- incentives and barriers to serving on councils – to support the efforts of the political parties to recruit more diverse and representative councillors.

Consultation on consolidated and light-touch guidance (statutory, where appropriate) including on:

- the revised best value duty, including community participation, commissioning and competition, and third sector funding;
- the Community Call for Action, Overview and Scrutiny and governance reforms;

⁹ For evidence of the ability of empowerment to improve services see Audit Commission/Housing Corporation report *Housing: improving services through resident involvement*, (2004); and also the NAO report, *English Regions – Getting Citizens Involved: Community Participation in Neighbourhood Renewal* (2004) For evidence of how engagement can improve trust see ODP, *New Deal for Communities 2001-2005: An interim evaluation. Research Report 17*, (2005).

- Local Strategic Partnerships, Sustainable Community Strategies and Local Area Agreements.

Create a performance framework that supports citizen involvement and secures better outcomes through:

- the establishment of an agreed set of national priority outcomes measured through a single set of national indicators as part of the Comprehensive Spending Review 2007;
- development of proposals for a new small set of national citizen satisfaction and perspective indicators and a wider voluntary set;
- exploration with local authorities and other stakeholders how to improve information management including streamlining national reporting systems, ensuring data quality and supporting the development of local information systems;
- negotiation and implementation of burden reduction packages via the Lifting Burdens Task Force;
- work with the Local Government Association in developing sectoral improvement support and challenge;
- work with the Audit Commission and other relevant inspectorates to develop and trial a methodology for the new annual risk assessment and to update the Use of Resources and Direction of Travel judgements to deliver the new Comprehensive Area Assessment;
- work with the Audit Commission to ensure that audit and inspection have a greater focus on citizen experience and perspectives and to make the results of audit, assessment and inspection more publicly accessible;
- ensuring Government Offices have the necessary skills and capacity, through the implementation of the Review of Government Offices;
- agree with the Local Government Association a national improvement strategy to get best value for money and impact from investment in improvement support and capacity building;
- work to align and coordinate existing frameworks for improvement and intervention focused on distinct service areas, local partners or partnerships.

Achieve greater efficiency through the transformation of local services through:

- work with local government to support and spread best practice on business process improvement techniques; co-ordination and joining-up of services;
- responsiveness to citizens; citizen authentication; e-procurement and e-auctions; fair and open competition; and the development of the local government services market.

Increase take-up of community empowerment opportunities, by:

- introducing a fund to give local authorities capital support in refurbishing buildings to facilitate their transfer to community management and ownership;
- working with local government and other partners to improve take-up of community empowerment.

Post-implementation review

We will monitor and evaluate the effectiveness and impact of the measures in the Bill. Information about policy evaluations, along with other research commissioned by Communities and Local Government, can be found on the Department's website.¹⁰

On restructuring, effectiveness post implementation will be reviewed through an on-going dialogue between central and local government. The Government will monitor and evaluate the effectiveness and impact of these policies in line with its commitment to evidence based policies and reviews.

We expect all such proposals to be subject to independent long term (e.g. 5 year) evaluation. Both this evaluation and that of the improved two tier pathfinders will need to consider the processes of change (e.g. their effectiveness and efficiency) and the emerging outcomes being delivered. Until it has received and considered the results of these evaluations, it is the Government's firm intention not to consider the possibility of any further restructuring after implementing proposals resulting from the current invitation.

Wales

The Local Government and Public Involvement in Health Bill contains framework powers conferring legislative competence on the National Assembly for Wales in respect of the core objectives in this Bill. This will enable the National Assembly to adopt Assembly Measures in accordance with the Government of Wales Act 2006. Assembly procedures will specify any requirements for Regulatory Impact Assessments in respect of draft Measures brought forward.

Summary and recommendation

The Government believes, as a result of the evidence compiled, that the provisions set out in this RIA will ensure a local government system in England that:

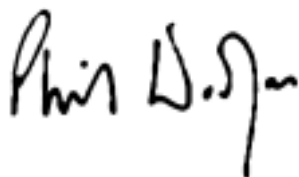
- gives local people more influence over the services and decisions that affect their communities;
- provides effective and accountable strategic leadership;
- operates in a performance framework – for local authorities working alone or in partnership – which supports citizen empowerment and secures better outcomes for all; and
- leads local partnerships to provide better services for citizens.

¹⁰ www.communities.gov.uk/index.asp?id=1136805

The Net cost to the public sector emanating from the Bill will be approximately £33m in 2008/09 and zero costs thereafter: savings will be made for local authorities and central government from reduction in national targets and indicators and reforms to the performance framework. Moreover, measures will facilitate improved engagement and empowerment of users and communities and more responsive and efficient local services.

Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.



Phil Woolas

***Minister of State for Local Government and Community Cohesion
Communities and Local Government***

11 December 2006

Contact point for enquiries and comments:

Communities and Local Government
Eland House
Bressenden Place
London
SW1E 5DU

Telephone: 020 7944 4400
Website: www.communities.gov.uk
Email: contactus@communities.gsi.gov.uk

Annex A: Summary of costs and benefits by objective

Objective 1: To give local people more influence over the services and decisions that affect their communities

Policy Area	Policy	Legislative Measures	Costs	Benefits	Rationale/Notes
<p>Responsive services and empowered communities</p> <p>The Government has taken a number of steps to try and make local services more responsive to the needs of citizens and communities. The Local Government Act 1999 placed best value authorities under a duty to consult with service users, residents and other relevant people for the purposes of deciding how to fulfil their duty to secure continuous improvement in the discharge of their functions. Best value authorities are not required to take the involvement of users, residents and other relevant people any further.</p>	<p>Best Value – duty to secure the participation of local people in best value authority activities</p> <p>We wish to see authorities actively engaging citizens and communities about the policies and services in their local area. Only by doing so will citizens become engaged in democratic processes shaping local government policies and services be shaped around community needs and aspirations leading to more efficient and effective services.</p>	<p>A duty on best value authorities to secure the participation of local people in the discharge of their functions, where appropriate.</p> <p>We would expect authorities, as a result of the changes, to be, where appropriate:</p> <ul style="list-style-type: none"> • sharing information with local people about the local services and policies; • consulting local people about local services and providing feedback on how their advice was used; • working in partnership with local people, groups or organisations to design, deliver and assess local services; • devolving responsibility to local groups or organisations to design, deliver or assess aspects of services, including decision-making responsibilities (without delegating the authority's functions). 	<p>Burden on authorities – the new duty will place a burden on authorities (the estimated cost to Councils of meeting the new duty is approximately £45m pa spread across all authorities). However, the duty will not come into force until the new performance framework has been introduced. The new performance framework will lead to a significant reduction in costs and these savings will be used to offset the cost of the new duty.</p> <p>Risk that such provisions will empower those who are already vocal and active, particularly to the detriment of those who do not have a voice such as the socially excluded and disadvantaged.</p>	<p>Authorities more accountable to local people – authorities are more in touch with its people and local people make voices heard holding authorities to account.</p> <p>Services which are more efficient and effective – authorities further improve services, building them around the needs and aspirations of citizens.</p> <p>Re-engagement of communities – increased engagement by community with the authority and democratic processes.</p> <p>Offers opportunity for achieving greater equity – particularly where coupled with wider package of work which includes supporting people and the socially excluded.</p> <p>Better services and policies – built around the needs of citizens and communities.</p>	<p>Despite many success stories, many people still feel that they have little or no influence over the public bodies which affect their everyday lives and play little part in local decision-making:</p> <ul style="list-style-type: none"> • 61% of citizens feel that they have no influence over decisions affecting their local areas;¹¹ • only around a third of the population vote in local elections, and of those who do not vote, 41% claim that it is because they do not think it will make a difference;¹² • only 8% of the population are involved in local decision making (including the 2% who have formal decision making roles, such as councillors and magistrates).¹³

¹¹ 2005 Citizenship Survey: active communities report, Communities and Local Government, 2006.

¹² NOP poll for the Electoral Commission 2002 of 1281 respondents of whom 652 or 67% said they had not voted in the preceding week.

¹³ 2005 Citizenship Survey: active communities report, Communities and Local Government, 2006.

Policy Area	Policy	Legislative Measures	Costs	Benefits	Rationale/Notes
<p>Currently members of the public can complain to the Local Government Ombudsman if they feel they have been a victim of maladministration by their council, in other words if the local authority has acted improperly.</p>		<p>To amend Section 3 of the Local Government Act 1999 (LGA 1999) so that the Secretary of State can issue statutory guidance on the application of the general duty of Best value.</p>		<p>Direct avenue for communities to raise issues/ideas – citizens and service users get involved as they are more confident of its potential impact on services/policies and assured of receiving feedback on how the authority has taken on their views.</p> <p>Potential to increase satisfaction – there are strong links between satisfaction with the local authority and feelings of influence over decisions affecting local areas.</p>	<p>Although political decisions have a major impact on what is done to tackle deprivations, only 35% of those living in the 10% most deprived neighbourhoods say they are interested in politics, compared to 69% of people living in the 10% least deprived.¹⁴</p> <p>Despite the improvements in their performance the public's satisfaction with local authorities remains low. A recent survey found that only 42% of people were satisfied with the performance of their local council.¹⁵</p>

¹⁴ *Election 2005 turnout: how many, who and why?*, Electoral Commission, 2005.

¹⁵ *User Satisfaction and Local Government Service Provision: A National Survey*, Communities and Local Government, 2006.

Policy Area	Policy	Legislative Measures	Costs	Benefits	Rationale/Notes
	<p>Community Call for Action (CCfA)</p> <p>To provide a mechanism to enable a person or persons to require their local authority to consider an issue which is causing concern to the community.</p>	<p>Provide that a local councillor may decide whether a complaint from a person/s living or working in an area should be taken forward as a CCfA.</p> <p>If taken forward, a councillor may be able to use resources made available by local authorities to sort out persistent minor problems or require their authority's overview and scrutiny committee to consider an issue.</p> <p>The matter should be referred in writing (or at a formally convened meeting); and would be able formally to call for action in relation to any such issues of community concern. The community call for action would set out the issue being raised (e.g. a failure of a particular service), the community affected by the issue and a request for the issue to be resolved. The approach is designed primarily as a safety net to tackle failures of existing services complaints systems, but is available for use in relation to any local government matter.</p>	<p>It is expected that the CCfA will cost about £3-4m pa. These costs arise from increased work for councillors, overview and scrutiny committees, and the officers supporting them. Estimates are based on benchmarking of existing processes within local authorities.</p> <p>There will be training costs for ward councillors to be able to fill this new role effectively. These will be met by a refocusing of the existing work being funded by the Department to develop the capabilities and capacity of local councillors.</p>	<p>It is anticipated that most CCfAs would concern environmental problems.</p> <p>The CCfA would help resolve environmental problems that had not been resolved by other methods.</p> <p>The social benefits would be that people would feel more positive, more empowered and able to influence.</p> <p>It may encourage people to become more involved in the mechanisms of government and become generally more active within their communities.</p> <p>It would raise the profile of the ward councillor and possibly encourage more people to become Councillors.</p>	<p>At present, when traditional complaint procedures fail to resolve issues, there are no options to enable the complainant to take the matter forward. Government wishes to provide an additional redress mechanism for issues of community concern which exploit, and indeed reinforce, the role of elected councillors as effective advocates for the communities they represent.</p>

Policy Area	Policy	Legislative Measures	Costs	Benefits	Rationale/Notes
	<p>Parishes</p> <p>To modernise and broaden community governance arrangements, so that they provide a sound framework for communities to have a clear democratic voice in their dealings with local authorities and other service providers; and for communities/ community groups to manage their own affairs. To achieve this we wish to introduce the package of measures described.</p>	<p>As a deregulatory measure, to make it easier for parishes to be created, devolving responsibility for decisions from the Secretary of State to district and unitary authorities; and London Boroughs ('reviewing authorities');</p> <p>Allow the creation of parish councils in London (which is a Manifesto Commitment).</p> <p>Permit reviewing authorities to put in place governance arrangements other than parish councils where they see fit;</p> <p>Empower some parish councils (i.e. Quality Parish councils) by allowing them undertake any activity (and incur associated expenditure) that supports the economic, social or environmental "well-being" of their area;</p> <p>Make parish councils more relevant and attractive to citizens by:</p> <ul style="list-style-type: none"> • allowing additional alternative names for parish councils; • increasing from 200 to 1000 local government electors the upper limit for which an authority can decide that the governance arrangement for a parish should be a parish meeting instead of a parish council; and • encouraging the co-option of people, by virtue of their role in the community, onto parish councils. 	<p>Parishes – total estimated cost of community governance reviews including London approx. £300,000.</p>	<p>Huge social benefits (though, by their nature, not possible to quantify). This package will empower citizens with greater influence over local decisions.</p> <p>Potential economic, environmental and social benefits for Quality Parish Councils with Wellbeing Power.</p>	<p>The Government is publicly committed to empowering citizens. A key way it can do this is to create a framework for the most local tier of governance, which is flexible enough to be attractive to all citizens.</p>

Objective 2: To ensure Local Government that provides effective and accountable strategic leadership

Policy Area	Policy	Legislative Measures	Costs	Benefits	Rationale/Notes
Governance	<p>Structure and boundaries of local government</p> <p>To allow local authorities the option to seek unitary status which will:</p> <ul style="list-style-type: none"> • remove public confusion over local authorities' responsibilities in two tier areas; • provide stronger leadership in two tier areas; • remove the duplication, inefficiency and co-ordination failures that can result from the split responsibilities in two tiers areas; • improve partnership working between local authorities and their partners in two tier areas. 	<p>To provide a new mechanism which will allow the Secretary of State to invite local authorities in England to make proposals for structural change and/or "major boundary change", which, if accepted with or without modification will be implemented through secondary legislation.</p> <p>In addition, to provide that the SoS will have power to direct authorities to make proposals for unitary structures (judged against criteria) where he feels that this will improve the outcomes for communities in the area concerned. The direction making power will not be used until results of an independent, long term evaluation of new unitaries are known.</p> <p>To provide for a new procedure for "minor boundary change" that will allow the Boundary Committee for England to (a) conduct a review of each local government area in England (provision will also allow SoS or LAs to ask the Boundary Committee to look at particular boundaries) and (b) to recommend whether a minor boundary change should be made in respect of that area. Recommendations, with or without modification will be implemented by the SoS through Order made by the Electoral Commission.</p>	<p>Any restructuring proposal must meet the affordability criteria; this requires authorities to demonstrate that any restructuring delivers value for money and is self-financing. Transitional costs must be offset by savings over a maximum of 5 years. All costs will have to be met locally without increasing council tax, they will not be met by central government.</p> <p>Estimated upfront initial transitional costs of in the region of £12m per county area undergoing restructuring, spread over three years. <i>It should be noted that these estimates are broad brush and relate only to the costs of being in business – i.e. those costs that an authority incurs because it is responsible for a range of functions and would be incurred irrespective of the level of services required or delivered. The costs of being in business relate overall to approximately 1-2% of total local authority spend.</i></p>	<p>Estimated annual savings in the costs of being in business of in the region of £10m per county area from year 3 onwards. Potential for further savings in the medium to longer term as a result of service re-engineering following restructuring.</p> <p><i>These figures do not attempt to predict the full range of costs and savings arising from restructuring, which are not realisable until services are reconfigured. It is impossible to model the potential 'service delivery reconfiguration' costs and savings given that they are dependent on the individual starting point in any one particular area and the decisions that will be taken by the new authority on service provision according to local circumstance and need.</i></p>	<p>There is no doubt that good local authorities can make the two-tier system work – by working together and having common goals and priorities (although this in itself can be difficult to achieve). So whilst there are good councils providing good service to their communities, in many areas they are doing so despite the two tier system rather than because of it.</p> <p>The experience of the restructuring in the 1990s indicates that the current process for changing boundaries is lengthy and divisive. It is also not possible to keep the boundaries of local authorities under review to ensure they continue to reflect the shifting populations of the communities they represent.</p>

Policy Area	Policy	Legislative Measures	Costs	Benefits	Rationale/Notes
	<p>Governance And Electoral Arrangements</p> <p>To ensure local authority governance and electoral arrangements provide strong leadership and accountability/scrutiny – so that local authorities are capable of shaping places, creating a vision for the future which is shared by local communities, and secure its successful delivery – and to simplify electoral arrangements so that electors understand when they should vote and what they are voting for, so improving voter turnout and engagement in the democratic process.</p>	<p>To implement changes in the arrangements for the governance of local authorities for the purpose of securing more effective local leadership. To enable local authorities to move to all out elections every 4 years if they wish and adopt new models for executive governance: a directly elected mayor, directly elected executive (slate of candidates) and an indirectly elected leader all with a 4 year term.</p> <p>To implement changes to the electoral cycles and electoral arrangements for local authorities.</p> <p>To strengthen overview and scrutiny in the following ways:</p> <ul style="list-style-type: none"> • Allow overview and scrutiny committees to review specific matters regarding the action of local service providers and the actions of local partners operating in a local authority area; • Require public service providers either to appear before overview and scrutiny committees or provide information to the committees insofar as their actions relate to the functions or service delivery within an authority; 	<ul style="list-style-type: none"> • Up to £2m pa for directly elected executives; • £25m pa for enhanced overview and scrutiny; • Around £0.5m pa for local service providers to comply with overview. 	<ul style="list-style-type: none"> • Up to £2m pa from changes to the electoral cycle; • Simplified electoral arrangements leading to higher turnout; • Stronger strategic, visible and accountable leadership for local areas. 	<p>The Government believes that strong leadership needs a stable mandate, high visibility and strong accountability. In this way, the leadership is able to take hard decisions, and citizens and stakeholders are clear about who to deal with and who is responsible. The Government believes the directly elected form of executive arrangement, with their fixed terms of office, provide the strongest and most visible local leadership.</p> <p>There is evidence of improvements in the organisation and practice of scrutiny. A survey of portfolio holders found that there had been an increase in the proportion of executive councillors reporting changes in the area of their portfolio as a result of overview and scrutiny committee. In 2003, 47% of portfolio holders reported that changes had occurred “sometimes” or “occasionally”; by 2005, this had increased to 60%.¹⁶</p>

Policy Area	Policy	Legislative Measures	Costs	Benefits	Rationale/Notes
		<ul style="list-style-type: none"> • Require the council executive and other bodies to whom an overview and scrutiny committee makes recommendations, to respond within 2 months; • Require the council to consider and publicise overview and scrutiny committee recommendations; and • Provide for an overview and scrutiny committee to request an inspection. 			<p>However, there is still work to do. Research shows that scrutiny committees are perceived as good at reviewing service outcomes (51% agree) and involving external stakeholders (around 46% agree), but weak at reconciling community opinion (just 14% of councillors and 8% of officers agree) or providing a forum for community debate (28% of councillors and 21% of officers agree).¹⁷</p> <p>Moving to whole council elections would give clarity to the process so that electors understand when they should vote and what they are voting for, thus improving voter turnout and engagement in the democratic process. The Electoral Commission have recommended that each local authority in England should hold whole council elections (on alternate years in two tier areas – i.e. district councils holding elections in a different year from that of county councils).¹⁸</p> <p>A growing number of non-metropolitan districts, driven in part by a desire to make efficiency savings, are expressing an interest in pursuing a change in their electoral arrangements.</p>

¹⁷ Ibid

¹⁸ *The cycle of local government elections in England: Report and recommendations*, Electoral Commission, 2004.

Objective 3: A performance framework – for local authorities working alone or in partnership – which supports citizen empowerment and secures better outcomes for all

Policy Area	Policy	Legislative Measures	Costs	Benefits	Rationale/Notes
<p>Performance Framework</p> <p>A new performance and accountability framework, for local authorities working alone or in partnership, which:</p> <ul style="list-style-type: none"> • supports the improvement of local services delivered by local authorities and their partners; • provides clearer lines of accountability and responsibility between central government, local government, other local providers and citizens; • reduces the overall bureaucratic burden placed on local authorities and their partners by central government thereby freeing up resources for front-line delivery; • supports the delivery of flexible, sensitive local services, responsive to residents' needs; • provides central government with clearer routes for securing improvement in the areas where it has a clear national interest. 	<p>To reform best value so that it better supports the aims and objectives of the new performance framework by:</p> <ul style="list-style-type: none"> • extending the best value duty to secure the participation of local people in best value authority activities; • de-regulating and removing best value requirements; • issuing guidance clarifying how best value authorities can secure continuous improvement. 	<p>Introduce a new duty on best value authorities¹⁹ to secure participation of local people where appropriate (covered in objective 1).</p> <p>Removing best value requirements to prepare annual performance plans and conduct best value reviews, and exempting parishes from best value.</p> <p>Enabling the Secretary of State to issue statutory guidance about how authorities can meet their best value duty to secure continuous improvement.</p>	<p>There will be some minor costs stemming from the new annual risk assessments and Local Services Intervention Panel, and the introduction of any new performance indicators as a result of the Comprehensive Spending Review.</p>	<p>There will be substantial savings to local and central government as a result of introducing the new performance framework. In some cases, in particular the proposed reductions in the number of performance indicators and reporting requirements, these cannot yet be quantified. The exact savings achieved will be dependent on the outcomes of the forthcoming Comprehensive Spending Review. However, based on our research²⁰ and consultations with key stakeholders we are confident that they will be substantial.</p> <p>By 2009/10 removing the Best Value requirement to carry out Performance Plans and Best Value Reviews will save £16m pa and exempting parishes from BV will save £1m pa.</p>	<p>A range of reforms since 1999 have helped drive improvement and encourage partnership working at local level. Local government has significantly improved its performance across a wide range of services and functions. In 2002 there were 13 poor authorities and 76 good or excellent. 42 Under the new tougher Comprehensive Performance Assessment introduced in 2005, over 75% of single tier and county councils were judged to be improving well or strongly, and 71% of them had achieved a 3 or 4 star rating for performance.²¹</p> <p>A basket of Best Value Performance Indicators, designed to give a balanced picture of performance over time, shows councils have improved by 15.1% between 2000/01 and 2004/05, and that the worst performers have improved faster than the rest.²²</p> <p>Despite these successes, the limitations of the current approach are becoming apparent. While effective in tackling the most significant cases of under-performance, it has not led to the same rate of improvement in adequately performing authorities.</p>

19 The duty will not apply to police authorities.

20 In particular, *Mapping the Local Government Performance Reporting Landscape*, Communities and Local Government, 2006.

21 *CPA – The Harder Test, Scores and Analysis of Performance in Single Tier and County Councils 2005* Audit Commission, 2005.

22 Local and Regional Government Research Unit, Communities and Local Government, 2006 analysis.

Policy Area	Policy	Legislative Measures	Costs	Benefits	Rationale/Notes
	<p>Clarification of national outcomes and targets</p> <p>To deliver a framework that balances national, regional and local interests and priorities.</p>	<p>To amend the provisions which enable the Secretary of State to specify, by order, best value performance indicators and best value performance standards so that they no longer apply to England.</p> <p>To remove the Audit Commission's powers to require certain bodies to publish information as to standards of performance.</p>		<p>The new indicator set will provide clarity to central government.</p> <p>It will provide government departments, local authorities and their partners with far greater clarity about what levels of performance are expected to deliver national outcomes and a clear framework for setting targets and securing improvements. There will be associated savings in the processing of performance information.</p> <p>Citizens will benefit as they will have a clearer understanding of the priorities for their area and how well they are being delivered</p> <p>Potential benefit that targets will be more tailored to local circumstances and able to take rural issues into account where appropriate.</p>	<p>The current separate performance frameworks for individual services do not provide an effective means of securing improvements in outcomes which require complex delivery chains with multiple delivery partners. These are often the services that matter most to the most disadvantaged or vulnerable members of society. The Government green paper, <i>Every Child Matters</i>, identified organisational fragmentation as a core problem in the delivery of services where more than one agency is involved.²³</p> <p>Finally, whilst CPA has achieved very high visibility within the public sector, it has not achieved a similar level of recognition with citizens. Linked to this, the improvements identified across public services by CPA are not always mirrored by the public's overall satisfaction with local government, which fell by 10% between 2000/01 and 2003/04.²⁴</p>

²³ *Every Child Matters*, CM 5860, TSO, 2003.

²⁴ *Best Value User Satisfaction Surveys 2003/04 General Survey Initial Topline report*, Communities and Local Government, 2004.

Policy Area	Policy	Legislative Measures	Costs	Benefits	Rationale/Notes
	<p>External Challenge</p> <p>Moving beyond the current assessment and inspection regimes to a more risk-based and proportionate system of external challenge.</p>	<p>To merge the functions of the Benefit Fraud Inspectorate, in relation to its work on English local authorities, and the Audit Commission.</p> <p>To amend the current requirements relating to the number of members of the Audit Commission for Local Authorities and the National Health Service in England and Wales.</p> <p>To provide the Audit Commission with a “gatekeeper” role in relation to inspection of local services. This would allow the Audit Commission to potentially restrict the ability of the other public service inspectorates²⁵ to carry out inspection of certain bodies providing local services.</p> <p>To allow the Audit Commission to be able to delegate its inspection functions and national studies powers to the other public service inspectorates.</p> <p>And to allow the Audit Commission to carry out inspections where another public service inspectorate has sought to delegate functions that the Audit Commission does not otherwise have.</p>	<p>Under these proposals, the Audit Commission and Benefits Fraud Inspectorate will be merged. Costs associated with developing the new framework and delivering the assessments is estimated to be in the region of £7m in 2008/09, but will be clarified during development of the new framework.</p>	<p>There are potential benefits for the environment and rural areas in that the proposed risk assessment approach will, unlike now, focus on all available evidence and provide greater potential to pick up on particular risks to the environment/rural areas in delivering outcomes under CPA. Reform of CPA will save £23m in 2009/2010.</p> <p>Substantial net savings for local authorities and central government.</p> <p>More responsive and efficient local services.</p>	

²⁵ The Chief Inspector for Justice, Community Safety and Custody (as proposed under the Police and Justice Bill), Chief Inspector of Education, Children’s Services and Skills (as proposed under the Education and Inspections Bill), the Commission for Healthcare Audit and Inspection and the Commission for Social Care inspection.

Objective 4: To ensure a local government system that leads local partnerships to provide better services for citizens

Policy Area	Policy	Legislative Measures	Costs	Benefits	Rationale/Notes
Local government as leader and place-shaper of local services	<p>To support stronger partnership-working by strengthening the role and effectiveness of Local Strategic Partnerships (LSPs), Local Area Agreements (LAAs) and Sustainable Community Strategies (SCSs) in improving local areas by:</p> <ul style="list-style-type: none"> • Reiterating the centrality of the local authority's role to the LSP by giving them a clear initiation role. • Setting out the minimum expectations being placed on partner members, thereby avoiding confusion. • Ensuring that in areas of poorer partnership working key public sector agencies are engaged in the LSP. • Sending a strong signal from national government that partnership working across the whole set of issues in an area is important and therefore that creating a framework in which to exercise this collaboration is critical. 	<p>For a "Local Area Agreement" ("LAA") which will be an agreement between a lead local authority, and the Secretary of State, prepared with the co-operation of named partners, which sets out improvement targets for local areas. The local authority and named partner or partners should have regard to agreed targets in the LAA. (For example, one target for the area might be, in the year 2006/07, that the local authority should reduce the percentage of 16-19 year olds who are not in education, employment or training by 2.9% by November 2006).</p> <p>The upper tier or unitary²⁶ authorities to be placed under a duty to prepare a LAA, with the input of named partners and such other persons as the authority sees fit which will then be submitted to the Secretary of State for approval.</p>	<p>There are not expected to be any additional costs associated with the duty to prepare a Local Area Agreement as all relevant areas are already preparing a LAA. The lead role for preparing a LAA will rest with the upper tier local authority as it does at present.</p> <p>Costs for the duty to co-operate to agree targets are likely to fall primarily on local authorities and the named public sector partners having to attend LSP Board meetings, where evidence suggests that those partners are not currently co-operating (based on 2004 data).²⁷ The estimated costs to different public bodies are summarised in the table below:</p>	<p>The proposals will reinforce partnership working where it is already effective (without creating additional costs); and where partnerships are not currently effective, these proposals will encourage local authorities to convene partnerships in order to achieve significant benefits that will flow to local communities in the form of more joined-up planning and service delivery.</p> <p>Potentially significant benefits arising out of partnership through improved efficiencies and improved service delivery.</p>	<p>Although much has already been achieved in putting LSPs, LAAs and Community Strategies at the heart of local partnership working and the setting and delivery of objectives, evidence has shown that partnership working is not always effective or comprehensive. Lines of accountability for achieving targets are often unclear.²⁸ Community Strategies are not always underpinned with a firm evidence base and are often disjointed from delivery mechanisms.²⁹ These shortcomings need to be addressed for LSPs, LAAs and Community Strategies to achieve their full potential.</p>

²⁶ That is county councils, district councils exercising the functions of a county council in their area (including metropolitan district councils), London boroughs, the Common Council of the City of London in its capacity as a local authority and the Council of the Isles of Scilly.

²⁷ *Formative Evaluation of LSPs: Report of 2004 survey of all English LSPs*, ODPM, 2005.

²⁸ *National evaluation of LSPs: Formative evaluation and action research programme 2002-2005 Final Report*, ODPM, 2006.

²⁹ *Process evaluation of Community Strategies and Plan Rationalisation: Annual Report 2006*, Communities and Local Government, 2006.

Estimated costs to different public bodies (LSPs/LAAs)

	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
Upper tier authority	£199,543	£204,931	£210,464	£216,147	£221,983	£227,976
Districts	£91,279	£93,744	£96,275	£98,874	£101,544	£104,285
NHS	£0	£0	£0	£0	£0	£0
Police	£38,312	£39,347	£40,409	£41,500	£42,621	£43,771
JobCentre Plus	£268,186	£275,427	£282,864	£290,501	£298,345	£306,400
Fire	£268,186	£275,427	£282,864	£290,501	£298,345	£306,400
LSC	£153,249	£157,387	£161,636	£166,001	£170,483	£175,086
RDA	£268,186	£275,427	£282,864	£290,501	£298,345	£306,400
Sport England	£229,874	£236,081	£242,455	£249,001	£255,724	£262,629
Environment Agency	£229,874	£236,081	£242,455	£249,001	£255,724	£262,629
Natural England	£229,874	£236,081	£242,455	£249,001	£255,724	£262,629
Total	£1,976,565	£2,029,932	£2,084,740	£2,141,028	£2,198,836	£2,258,205

Annex B: Miscellaneous

Title of proposal

1. A new **grant making power** to pay grant to persons for use in, or in connection with, promoting or facilitating the economic, efficient and effective exercise of functions by a best value authority or best value authorities. (In this RIA the phrase ‘support the improvement of best value authorities’ is used as a reference to these purposes).

Purpose and intended effect of measure

Objective

2. To introduce new legislation that allows grant to be paid to persons for use in supporting the improvement of best value authorities in a more flexible and straightforward way than is currently possible under section 31 of the Local Government Act 2003 (‘section 31’). The power will be exercisable by a Minister of the Crown in relation to best value authorities and Welsh Ministers in relation to Welsh best value authorities.

Background

3. At present, the Secretary of State must pay revenue support grant (RSG) to local authorities, and bodies specified by way of statutory instrument, in respect of each financial year. In addition, any Minister of the Crown (‘Minister’) may pay grant to local authorities in England. The relevant powers under current legislation are:
 - a) section 78 of the Local Government Finance Act 1988 (‘section 78’) which allows the Secretary of State to pay RSG to local authorities ‘specified’ bodies; and
 - b) section 31 (power for a Minister to pay grant to a local authority in England).
4. However, current legislation does not allow government to pay grant with sufficient flexibility, for the following reasons:
 - a) The power to pay grant under section 31 applies to local authorities, but not to other bodies or persons.
 - b) The duty to pay grant under section 78 does provide a means for the Secretary of State to pay RSG to ‘specified bodies’. This provision is currently used to fund 10 LGA central bodies. It is the only current route available to provide grant to non-local government organisations which provide services to local government. The power does present a significant constraint in relation to timing and source of funds.

The RSG route is only available when the RSG settlement is made and only allows for payments from RSG funds. To provide local authorities with as much certainty as possible, the Secretary of State has adopted a policy of multi-year formula grant settlements. The current multi-year settlement is for 2 years and future multi-year settlements are intended to be made for 3-year periods. The need to pay grant does not necessarily coincide with the RSG cycle, and there will be occasions during the RSG cycle when Ministers will wish to provide assistance from other sources, for example the Capacity Building Fund.

5. In Wales, the Welsh Assembly Government has analogous powers to the above, but has also relied on ‘ancillary’ powers in ss40 and 85 of the Government of Wales Act 1998 to pay grants to bodies which support the better delivery of local authority services (eg elements of the Welsh Local Government Association). While the Government of Wales Act 2006 re-enacts such powers, it would be strongly preferable to provide a specific statutory basis for such support. These powers have not been used as regards police authorities in Wales, as policing policy (and thus any action to define and support improvements in policing) remains non-devolved. Under the proposals, support for police authorities in Wales would remain a matter for UK Ministers.
6. A new provision is therefore required, which would allow Ministers to give financial assistance to any person for supporting the improvement of best value authorities without the timing constraints associated with RSG. Our view is that it would provide for a more flexible and straightforward way of funding certain best value authority improvement activities, independent of the RSG cycle.

Likely uses for the power

7. Due consideration will need to be given to state aid and public procurement rules/requirements when exercising this power. In particular the power could not be used to give unfair advantage to a particular body or person. Situations in which the power may be used include the following:
 - 1) Where we can demonstrate that a market doesn’t exist for the activities undertaken by the relevant person or body.
 - 2) Where any grant paid would fall below the level set out in the de-minimus Regulation – currently £100,000, but will be increased to £200,000 from the 1 January 2007 over three years.
 - 3) Where we pay grant to a non-local authority body in circumstances where grant would otherwise be paid to a local authority under section 31 of the Local Government Act 2003, but where there are potential administrative/efficiency gains from paying the grant to the non-local authority body.

Rationale for government intervention

8. We want to introduce this power to provide us with the flexibility to give grant to persons who support the improvement of best value authorities (where we can demonstrate that this doesn't contravene state aid and public procurement requirements). An example of this may include pump priming the set up of new bodies.

Consultation

Within government

9. Discussions have taken place with the following organisations:
 - Treasury;
 - Department for Education and Skills;
 - Department of Health;
 - Home Office; and
 - Welsh Assembly Government.

Other departments were consulted, but no responses were received back.

Public consultation

10. The legislation we are proposing to introduce will provide Ministers with greater flexibility to make grants to persons supporting the improvement of best value authorities – this will not result in any changes to current local authority policy or impose any additional burdens on local authorities. The power is drafted in a broad way, but in exercising the power regard would be given to state aids and public procurement requirements (as set out in paragraph 6). We do not foresee any impact on the businesses, the voluntary and community sector or the public. For these reasons we have taken the decision not to consult directly with the public, although public interest has in a sense been taken into account through consultation with outward facing departments.

Options

11. Two options have been identified:
 - A) Do nothing
 - B) Introduce a new grant making power

Option A – do nothing

12. Government can continue to use existing powers to pay grant to bodies supporting the improvement of best value authorities. There are however some limitations to these powers, particularly around timing, which does not allow Government sufficient flexibility. These arguments are set out in the Background section.

Option B – Introduce a new grant making power

13. Our preferred option would be to introduce a new more flexible grant-making power. This power would enable grant to be paid to persons supporting the improvement of best value authorities at any time of year, by any minister independent of the RSG cycle. The advantages of this are set out in the background section.

Alternative options considered

14. None

Costs and benefits

Sectors and groups affected

15. Public Sector – Potentially any public sector organisation that carries out work associated with the improvement of best value authorities could be affected by this grant-making power. In practice, however, we anticipate that state aid and public procurement requirements will restrict the extent to which the power can be used. Use of the power will be considered on a case-by-case basis and state aids and public procurement requirements will be considered as necessary.
16. Private Sector – We don't envisage using the power to pay grant to the private sector. As explained in the background section, when using the power, state aid and procurement implications would have to be considered. In practice this would mean ensuring that there isn't a market for the provision of the relevant activity. If this process showed that there were interest from private businesses in undertaking the activity, we would procure the activity via a tendering process. We therefore consider that this measure will not have any negative impact on business.

Race equality assessment

17. Race equality impact screen completed. It was concluded that this policy would not require a full race equality impact assessment.

Health impact assessment

18. Not required

Rural considerations

19. No impact.

Breakdown of costs and benefits

Option A – do nothing

20. Economic

Benefits – Since nothing is changing, these remain the same.

Costs – Not to introduce new legislation will limit the flexibility that ministers would otherwise have had to give grant where a need has been identified – i.e. responding to local authority need.

21. Environmental

Benefits – Since nothing is changing, these remain the same.

Costs – Limiting Ministers flexibility to give out grants, could potentially reduce the amount of support available to local authorities which in turn may have a small impact on the environment.

22. Social

Benefits – Since nothing is changing, these remain the same.

Costs – Limiting Ministers flexibility to give out grants, could potentially reduce the amount of support available to local authorities which in turn may have some social impact.

Option B – introducing a new grant making power

23. Economic

Benefits – Provides greater flexibility for ministers to respond to any gaps in market provision, ensuring that local authorities have access to the support that they need to respond to existing and new challenges.

Costs – There is no cost of introducing this new legislation, any grants given out would be met from existing departmental resources. We can't quantify how much resource will be provided via the power since we can't anticipate in advance where any gaps in provision may be. It is possible that expectations of bodies may be raised as a result of introducing the new power, to the extent that they may write in requesting grant under the new power.

24. Environmental

Benefit – The overall performance of a local authority will have some impact on the local environment – they have responsibilities for example for waste services, maintenance of parks and other local facilities which taken collectively affect the quality of the local environment. Whilst we can't predict what grant will be given out and for what purpose, it would be reasonable to say that any grant provided through this power that helps improve local authority performance has the potential to impact positively on the local environment.

Cost – We don't envisage there being any cost to the environment as a result of grant being given out under the new power.

25. Social

Benefit – Similarly, any grant given out which impacts on local authority performance is likely to have some social impact – this could for example be as simple as local authorities working more effectively with community police to stop the effects of anti-social behaviour.

Cost – We don't envisage there being any cost to the environment as a result of grant being given out under the new power.

Small Firms' Impact Test (SFIT)

26. It's unlikely that small businesses will have much interest in the business of local authority improvement support, but any that do would have the opportunity to apply for work through a competitive tendering exercise. There will therefore be no negative impact on small businesses.

Competition assessment

27. In situations where competition is a relevant concern, to ensure that the grant-making power did not unfairly give advantage to one person or body over another, we would need to demonstrate that a market did not exist by using some form of a tendering exercise. We would not use the grant power if the tendering exercise showed that a competitive procurement process were necessary.

Enforcement, sanctions and monitoring

Enforcement

28. This provision would be enforced by following the new legislation and all other relevant legal requirements.

Sanctions

28. No sanctions

Monitoring and review

29. The power allows for conditions to be attached to the grant. We will review on a case-by-case basis what monitoring controls, if any, need to be included. We would ensure that any such arrangements were balanced and proportionate.

Implementation and delivery plan

30. Refer to paragraph 6 for information on how we envisage the power being used.

Post-implementation review

31. The power would be reviewed after a period of 3 years, assessing the extent to which the power has been used.

Summary and recommendation

Option	Total cost per annum Economic, environmental, social	Total benefit per annum Economic, environmental, social
A – Do nothing	– Unquantifiable – see para’s 20 – 22	– Unquantifiable – see para’s 20 – 22
B – Introduce new legislation	– Unquantifiable – see para’s 23 – 25	– Unquantifiable – see para’s 23 – 25

Title of proposal

1. **Changes to five provisions of the Audit Commission Act 1998 and to provide an additional power, to improve and update the legislation.** These are as follows:
 - i) Amend section 15 to include an exemption for all personal information of services users from being inspected by an interested person. Exemption should be additional to the existing exemption of staff information.
 - ii) Amend section 16 to remove the option for objectors to attend before the auditor.
 - iii) Amend section 29 to allow SoS to give consent for the audit of classes of body as well as individual bodies. The phrase “or appoint an auditor” should be added after “undertake the audit”.
 - iv) Repeal section 51 to remove the Audit Commission restrictions on the publication of information.
 - v) Amend section 49 to change the presumption of the ‘Restriction on the Disclosure of Information’ so that it is in favour of disclosure except when disclosure prejudices the function of the Audit Commission. Changes to the provision should impact on 3rd parties/non-public authorities. The criminal sanctions should also be changed to remove imprisonment.
 - vi) Confer on the Commission a power to assist other public authorities and for the Commission to charge for providing such assistance, with the consent of the SoS.

Purpose and intended effect of measure

Objective

2.
 - i) *Inspection of documents and questions at audit – Section 15*

This deals with the public inspection of documents. It allows for any person who is interested to inspect the accounts to be audited and other documents relating to them. These can include books, deeds, contracts, bills, receipts, etc. documents that contain personal information of service users. The aim of this amendment is to exempt this personal information from being disclosed.
 - ii) *Right to make objections at audit – Section 16*

This covers the right to make objections at Audit. The current provision allows objectors to appear in person before an auditor to make their objection. We aim to remove this option from objectors. Objectors will still be able to make their objections in writing. This amendment enhances an auditor’s discretion on how to deal with objections in a proportionate and cost effective way (a cost which is borne by the local authority) which is particularly relevant when dealing with vexatious complainants.

iii) *Agree audit of accounts – Section 29*

This allows the Secretary of State to consent to the Audit Commission auditing bodies connected to local government and the NHS that are not already audited bodies in Schedule 2 of the Audit Commission Act 1998. The amendment would also allow for classes of bodies e.g. Foundation Trust, to be authorised when appropriate. This would avoid the Commission having to approach the Secretary of State for every body in a class. A further technical amendment to this provision is to enable auditors appointed by the Commission to undertake this audit as well as the Commission itself.

iv) *Publication of information by the Commission – Section 51*

This specifies the type of information that the Audit Commission can publish (local authority public interest reports, any contravention of the Accounts and Audit Regulations, Accounts and Audit Letters). Currently the Commission is restricted in the publication of these, but, individuals are still able to request them under the Freedom of Information Act. This restriction is out of date and needs to be updated by repealing section 51.

v) *Restriction on the disclosure of information – Section 49*

We have already amended section 49 and the equivalent Welsh provision in Section 54 of the Public Audit (Wales) Act 2004, following a commitment given to Parliament during the passage of the latter to reverse the overall presumption against disclosure of information set out in the legislation. These amendments, made by a Freedom of Information (Removal and Relaxation of Statutory Prohibitions on Disclosure of Information) Order 2004, came into force on 1 January 2005. They only partially fulfilled the Government's commitment on the issue of disclosure, however. A further Government commitment was made at the time of the Order's Parliamentary passage to complete the reversal process at the earliest legislative opportunity. The further amendment will need to apply to both the Audit Commission Act and the Public Audit (Wales) Act 2004.

vi) *Power to provide advice and assistance*

We wish to provide the Audit Commission with a specific power to provide advice and assistance to other public authorities and to charge for such advice/assistance. There have been a number of occasions where other Government departments and other public bodies have sought the Commission's advice and assistance because of its skills, expertise and reputation.

Background

3. The background to these six provisions are set out below:

- i) *Section 15* – Under this section interested persons are able to inspect accounts to be audited and various documents relating to them. This can include personal information of 'service users' that could be recorded within the documents.

Any interested person can inspect information irrespective of its confidential nature, provided it relates to the accounts and falls within the parameters of "books, deeds, contracts, bills, vouchers and receipts". Thus, it extends to confidential personal data, which could for example include an individual tenant's rent account.

Information concerning members of staff of audited bodies is specifically excluded by section 15(3), and this exclusion should be extended to all personal data in order to make it consistent with Data Protection and Human Rights legislation.

The following two examples, both police authorities, demonstrate where the accessibility of this information has been a problem. The first was a case where the police were asked under section 15 to provide full details of receipts etc. of all payments made to informers. The second was a request for contract and other details of 'special equipment' purchases to arm the police. Both of these could have been refused under FOI, but not under section 15.

- ii) *Section 16* – Under this section objectors have a right appear before an Auditor (following a written objection) in person to make an objection.

The Audit Commission has requested that the option for objectors to attend before an auditor in order to make an audit objection be removed. The justification is that this requirement is out-dated and unnecessary. The removal would also enhance the auditor's discretion to deal with vexatious objections in a proportionate way that minimises the cost to the local authority. We envisage that possibly a small minority of objectors themselves may object to its removal, nevertheless, we perceive objection would be minimal and that the amendment should be made.

This may appear to be reduction in objector's powers but in reality, it is more a change to the process of objecting, which is also consistent with the current provisions in Wales.

- iii) *Section 29* – The current provisions allow for the Secretary of State to give consent to the Audit Commission, with the agreement of the body concerned, to undertake the audit of accounts of any body which appears to him to be connected to local government or the NHS, and is not a body subject to audit. This consent is currently granted on a case-by-case basis at the request of the Commission or bodies concerned. There have been few requests on the local government side but the Commission has reported that in the case of NHS bodies, particularly charitable trusts associated with Foundation Trusts, the requirement to seek the consent of the SoS on a case by case basis is becoming burdensome.

The clause as written implies that the Audit Commission itself would carry out the audit of bodies once the consent of the SoS has been granted. The Commission does carry out audits, but in many cases it appoints auditors to do so on its behalf.

- iv) *Section 51* – The current provisions provide specific parameters in which the Commission may publish information. They specifically include the publication of local authority public interest reports and any contravention of the Accounts and audit Regulations. With respect to other reports, namely Accounts and Audit Letters and other public interest reports (including those for health service bodies) the Commission is restricted in their publication of these, nevertheless,

individuals are able to request them under the Freedom of Information Act. In view of the Freedom of information Act, the restrictions on what the Commission can publish under section 51 of the ACA 1998, are outdated and need to be brought up to date. We have already amended section 49, which was a blanket restriction on the disclosure of information to allow the Commission to release information except where it prejudices its functions. In line with this, we want section 51 be repealed, as the restrictions have become obsolete.

- v) *Section 49* – Problems with the original s49 provisions arose during the passage of the Public Audit (Wales) Act 2004, which brought together the functions of the Auditor General for Wales, the Audit Commission in Wales and appointed auditors within one organisation. In combining their various functions, the issue that came into sharp contrast was the fact that the Auditor General for Wales has no restriction on the release of information, other than those imposed by the Data Protection Act 1998 whereas restrictions on releasing information were imposed on local government audit through s49. Specific objection was raised in the Lords to s54 of PA(W)A 2004 as it mirrored the provisions in s49. S54 includes a provision giving a power to amend the provision at a later stage in terms similar to how s49 is amended. This led to s49/s54 being viewed as a ‘gagging’ clause and calls for consistency of approach within a single piece of primary legislation.

There were also views expressed that s49/s54 prevented whistle blowing.

The National Assembly for Wales recommended the abolition of s54 and made representation to Government. Consideration was given to this but, in light of representation from the Audit Commission ODPM felt it was more appropriate to retain some power to restrict the release of information, so it was agreed that s49/s54 would be amended. The main rationale for this was if s49 remained in England and s54 was abolished in Wales there would be a disparity in the law between England and Wales in that disclosure of information in England would attract the criminal sanction of a fine or imprisonment and nothing for the same disclosure in the Wales.

At the time, it was felt that a suitable remedy to the situation would be to amend s49 under the first Order of section 75 of the Freedom of Information Act 2000. The view was that the s75 Order would provide a suitable vehicle to amend the provisions in s49 changing the presumption in favour of the release of information except where doing so would prejudice the functions of the Audit Commission and at the same time remove the sanction of imprisonment, thus bring it into line with the FOIA. This was done with a view to making s49/s54 more agreeable to its critics.

The National Assembly for Wales, the Audit Commission and ODPM were content with this compromise and the DCA were content to include the amendment of s49 in the first Order of s75 FOIA. However, when instruction went to Parliamentary Counsel it was their view that the powers under s75 were not wide enough to amend all of s49 and was only able to amend the parts of it the related to Public Authorities and not for 3rd parties/non-public authorities.

Following this, the Government gave assurances that it would make the remainder of the changes to 3rd parties/non-public authorities at the next legislative opportunity. Therefore, this Bill appears to be that opportunity. ODPM gave a commitment to amend the whole s49 to relax the prohibition relating to it.

- vi) *Power to provide advice and assistance* – The Audit Commission sought a change to its legislation to undertake work at the request of other public bodies within the UK (excluding already audited and inspected bodies by the Audit Commission). There have been a number of occasions where other Government Departments and other public bodies have sought the Commission's assistance or advice because of its skills, expertise and reputation. Recent examples are assistance to Defra with its Rural Pathfinder project, help for the Department in preparing technical guidance notes for the Gershon efficiency review and mutually beneficial projects with other national audit agencies. However, these tasks fall outside the Commission's statutory powers and there is uncertainty over whether its incidental powers are sufficient, so the Commission has been unable to help. We would like the Commission to be able to offer its help in these cases as it is clearly in the public interest to utilise its skills and expertise. We also consider that the general move to more partnership and joint working and the new inspection landscape that expressly requires inspectorates to cooperate with one another also supports the case for it to be given powers to assist other public bodies, including Government Departments. We would however want this power to be restricted to within England.

In order for this power to be effective we would like the Commission to be able to charge for its assistance and advice where it considers that is appropriate. Under schedule 1 of the Audit Commission Act 1998 it is obliged to cover its costs and not make a profit. So the Commission would only be gaining revenue that would match the cost of undertaking this work. We are mindful that we are also seeking to repeal the Commission's power to undertake voluntary consultancy work with audited bodies (S35 ACA 1998) so to ensure that we do not reintroduce that power through this measure, we would like to require the Commission to consult the SoS before embarking on a project for which it intends to charge.

Rationale for government intervention

4. The Audit Commission have pressed for these changes and the changes to section 49 follows on from a Government commitment given to Parliament during the passage of the Public Audit (Wales) Act 2004.

Consultation

Within government

5. These proposals have been considered at great length with the Audit Commission and are based on feedback from them on their effectiveness. The proposed changes where relevant are consistent with Data Protection and Freedom of Information legislation. The remainder of the changes are specific matters for this department.

Public consultation

6. The two provisions that do affect the public are changes to sections 15 & 16. As these are not significant changes to the powers we do not consider that a wide consultation would be necessary.

Options

7. Two options have been identified:
 - A) Do nothing
 - B) Implement changes as proposed above.

Option A – Do nothing

8. If we ‘do nothing’ it wouldn’t significantly impact on the working of the Commission, except for the section 49 amendment which could cause some difficulties to the changes proposed under ‘Inspection Reform’. Nevertheless the Audit Commission made a strong case to get these changes into the Bill.

Option B – Implement changes as described

9. The proposals identified above would improve and update the existing legislation as well as fulfil the commitment given to Parliament.

Alternative options considered

10. None

Costs and benefits

Sectors and groups affected

11. The following will benefit from these new powers:
 - The Audit Commission;
 - Auditors & Audit Firms appointed by the Audit Commission;
 - Audited Bodies in England;
 - Citizens whose personal information is available via scrutiny of accounting records; and
 - Relevant Public Bodies who would like to invite the Audit Commission to conduct their audit.

Race equality assessment

12. We do not consider these changes will have any impact on Race Equality as these changes relate to Audit legislation nationally.

Health impact assessment

13. There are no impacts on health.

Rural considerations

14. There are no negative impacts on rural issues.

Breakdown of costs and benefits

Option A – Do nothing

15. Economic

Benefits: None. Status quo continues.

Costs: None. Status quo continues.

16. Environmental

Benefits: None

Costs: None

17. Social

Benefits: None

Costs: None

Option B – Implement changes as described

18. Economic

Benefits: The proposed changes to section 16 could in some cases significantly reduce the cost to local authorities of Auditor fees for dealing with vexatious complainants.

Costs: None

19. Environmental

Benefits: None

Costs: None

20. Social

Benefits: None

Costs: None

See comments in summary box at end.

Small Firms’ Impact Test (SFIT)

21. These changes are only relevant to the Public Sector. Although there is a likely impact on audit firms, small and large. As the change is across the sector there are no losses incurred by any size of firm in this sector.

Competition assessment

22. As above. We do not consider the Competition aspect to be relevant to these changes.

Enforcement, sanctions and monitoring

Enforcement

23. Enforcement of these changes will mainly be at the discretion of Auditor and the Audit Commission. Where the SoS is involved the AC Sponsorship team will be in a position to assess and act on any issues of concern.

Sanctions

24. The amendment to section 49 will also repeal the sanction of imprisonment that is associated with non-compliance of this provision. This is in-line with the commitment given to Parliament and will ensure consistency of criminal law on this matter between England and Wales.

Monitoring and review

25. As these provisions relate to how the Audit Commission operates, and are based on feedback from them on the effectiveness of the existing legislation, our best review mechanism for these changes would be comments from the Commission and any direct correspondence we would receive on these issues from councils and citizens. We do not consider there to be an alternative cost effect method of monitoring the effectiveness of these changes.

Summary and recommendation

Option	Total cost per annum Economic, environmental, social	Total benefit per annum Economic, environmental, social
A – Do nothing	– None	– None
B – Implement changes as described	– The economic, environmental and social cost have been evaluated and there is no cost impact	– The economic, environmental and social benefits have been evaluated and it is hoped the cost of dealing with vexatious complainants will be minimised.

Title of proposal

1. **Associated changes to the Audit Commission Act 1998 with respect to the Audit Commission and Benefit Fraud Inspectorate merger.**

Purpose and intended effect of measure

Objective

2. The Audit Commission will be merging with the Benefit Fraud Inspectorate. As well as the Gatekeeper and inspections functions that have been assessed in the White Paper RIA, the Bill will also aim to amend the Audit Commission's legislation with respect to its governance i.e. its name and board membership, and with respect to its powers to conduct National Studies and fee paid improvement studies.

Background

3. In support of the proposals set out in the White Paper relating to the Performance framework there are four provisions of the Audit Commission Act 1998 which we propose to change, to improve its governance and to clarify its remit as local services inspectorate. These are:

i) Update the name of the Audit Commission.

Remove 'Wales' from the Audit Commission's official legal title which is currently 'the Audit Commission for Local Authorities and the National Health Service in England and Wales'. The Audit Commission's role in relation to Wales has been greatly reduced by virtue of the Public Audit (Wales) Act 2004 with its functions being taken over by the Auditor General for Wales. The Audit Commission only retains jurisdiction for Wales in relation to national studies.

ii) Reduce the number of members required on the Audit Commission's Board.

We propose to reduce the Board from 15-20 to 10-15. Our policy rationale for making this change is:

- The Commission has been carrying vacancies on its Board for the past 18 months and is currently operating effectively with 13 members.
- The (Quinquennial) Financial Management and Policy Review undertaken in 2000 concluded that we should reduce the number of Commissioners to 12.
- The Commission supports this change; Commissioners and senior Commission officials have long been of the view that a board of 15 members is too large for incisive debate of strategic issues. The former Chair, James Strachan, discussed this issue with the Deputy Prime Minister, who agreed that there should be a reduction to a minimum of 10.

- Further justification for this change is that the Commission's role in inspecting NHS bodies been taken over by the Healthcare Commission, thus reducing its workload, but we also expect the Commission's time spent on inspection to decrease as result of the Government's commitment to reduce inspection by 30% by 2008-09.

iii) Amend the Commission's National Studies Power.

The Audit Commission currently has broad powers to undertake studies to help improve economy, efficiency and effectiveness across local government, housing, criminal justice and fire and rescue services. Given that there have often been duplications of studies produced by other inspectorates we propose to add into the legislation a requirement for the Commission to consult the Secretary of State (SoS) to minimise any duplication.

iv) Remove the Commission's power to undertake fee paid improvement studies.

The Commission currently has statutory powers to carry out fee paid improvement studies at the request of the bodies concerned. A potential conflict of interest arises through having the same body offering improvement support and inspection – both as critical friend and external regulator. This might lead some authorities to consider buying improvement services from the Commission in order to get a better result at inspection. There might also be some tension for Commission inspectors in trying to impartially judge improvement plans established by their colleagues. There is also a value for money issue. The Department currently funds IDeA to carry out improvement work and we believe that the Commission, also a publicly funded body, should not be competing in the same market for fee-paid improvement work.

Rationale for government intervention

4. As discussed above

Consultation

Within government

5. Discussions have not taken place with other government departments on changes to the number of board members, Commission's name and the duty on the Audit Commission to consult the SoS on National Studies as they have little to no direct impact on OGDs or the public in general. The proposal to remove the Audit Commission's power to conduct fee paid improvement work was consulted on under the ODPM consultation paper: *Inspection Reform: the Future of Local Services Inspection*. Respondents were largely supportive of the removal of this power. A summary of the responses to the consultation have been published and can be found on the Department's website at www.communities.gov.uk/inspectionreform

Public consultation

6. No public consultation has taken place and we are not proposing to undertake any as the changes do not directly impact on the public.

Options

7. Two options have been identified:

- A) Do nothing;
- B) Implement changes as proposed above.

Option A – Do nothing

8. If we 'do nothing' it wouldn't significantly impact on the working of the Commission. But it could lead to duplications of National Studies and some confusion as to the Audit Commission's role as the local services inspectorate.

Option B – Implement changes as described

9. The proposals identified above would improve and update the existing legislation as well as clarify the Audit Commission's role as the local services inspectorate.

Alternative options considered

10. None

Costs and Benefits

Sectors and groups affected

11. The following benefit from these new powers:

- The Audit Commission;
- Audited & Inspected Bodies in England;
- Relevant Public Bodies who would like to invite the Audit Commission to conduct their audit; and
- Government.

Race equality assessment

12. We do not consider these changes will have an impact on Race Equality as they relate to Audit legislation nationally.

Health impact assessment

13. There are no impacts on health.

Rural considerations

14. There are no negative impacts on rural issues.

Breakdown of costs and benefits

Option A – Do nothing

15. Economic

Benefits: None. Status quo continues.

Costs: None. Status quo continues.

16. Environmental

Benefits: None

Costs: None

17. Social

Benefits: None

Costs: None

Option B – Implement changes as described

18. Economic

Benefits: By providing for the SoS to be consulted on the AC's National Studies programme, duplication of similar studies can be avoided or minimised.

Costs: Although there is likely to be a loss of revenue for the Audit Commission. Under schedule 1 of the Audit Commission Act 1998 it is obliged to cover its costs and not make a profit. Therefore, the Commission would only be losing revenue that would match the cost of undertaking this work, so the losses and gains cancel each other out.

19. Environmental

Benefits: None

Costs: None

20. Social

Benefits: None

Costs: None

Small Firms' Impact Test (SFIT)

21. These changes are only relevant to the Public Sector.

Competition assessment

22. We do not consider the competition to be relevant to changes relating to the number of board members, the Commission's name and National Studies. On the fee paid improvement work we consider the changes will enhance competition in that sector as AIB will no longer feel obliged to use the Audit Commission's service but consequently reduce competitions by removing a provider.

Enforcement, sanctions and monitoring

Enforcement

23. Enforcement of these changes will mainly be at the discretion of the Audit Commission. Where the SoS is involved the AC Sponsorship team will be in a position to assess and act on any issues of concern.

Sanctions

24. None

Monitoring and review

25. None proposed.

Implementation and delivery plan

26. Name Update – We will know when this happens.

Reducing the number of Commissioners – As these appointments are Ministerial appointments it is the department that will maintain/appoint the correct number of Commissioners.

Consulting the SoS on National Studies – As sponsors of the Audit Commission, the Department will be fully aware of whether or not the Audit Commission has met its new statutory obligation to consult the Department on National Studies.

Removing fee paid improvement work – As sponsors of the Audit Commission, the Department is responsible for checking and laying its Annual Report. If the Audit Commission has undertaken such consultancy work the fees for this work will appear on their accounts. So it is via their accounts that we will be able to check whether or not the fee paid improvement work has ceased.

Summary and recommendation

Option	Total cost per annum Economic, environmental, social	Total benefit per annum Economic, environmental, social
A – Do nothing	– None	– None
B – Implement changes as described	– The economic, environmental and social cost have been evaluated and there is no cost impact	– The economic, environmental and social benefits have been evaluated and the cost of duplicate National Studies will be avoided.

Title of proposal

1. Future Structures for Patient and Public Involvement (PPI)

Purpose and intended effect

Objective

2. These new proposals aim to establish new arrangements for the patient and public involvement system which fit the new NHS and social care structure. With 80% of the NHS budget being devolved to PCTs and the increase in joint commissioning between health and social care, commissioners will be the power base of the NHS system. It is therefore vital that patient and public involvement is focused on commissioning decisions, so that those affected by decisions can have a real influence over the services that are provided in their area.
3. As well as being locally determined, we aim for a system which presents value for money, whilst involving as many people as possible. We also want to ensure that a far greater proportion of the funds to support PPI go directly to the front line and are spent on engaging with people.

Background

4. Currently patient and public involvement is supported through a system of patients forums. Forums were established in the NHS Reform and Health Care Professions Act 2002, and there is one Patients' Forum for every NHS Trust (Acute Trusts, Foundation Trusts, Primary Care Trusts, Mental Health Trusts and Ambulance Trusts etc). Patients' Forums are supported by the Commission for Patient and Public Involvement in Health (CPPIH).
5. Currently, the total budget for PPI is c. £28m annually. These funds are given to CPPIH, £9m of which are spent directly on supporting and running CPPIH, and the rest of which is spent on contracts with organisations to provide support to patient forums. There are currently around 550 Patients' Forums, although this figure changes as PCTs are reconfigured. Each Patients' Forum has on average 8 members who are volunteers appointed by CPPIH, meaning that the current system directly involves around 4500 people.
6. It was announced as part of the Arms Length Body Review in 2004 that CPPIH would be abolished. The redirection of funds from the Commission for Patient and Public Involvement in Health (CPPIH) to the front line supports a wider agenda set by the Arms Length Body Review.

Rationale for government intervention

7. The changing structure of the NHS, with an increasing plurality of providers and more focus on commissioning means that it is no longer appropriate to have a PPI system which is based around individual providers. In the current system, each Patients' Forum scrutinises the services of its individual body (Hospital Trust, Specialist Trust, PCT etc).

8. We wish to create a system of PPI which is capable of following the whole user experience, rather than looking at services in isolation. For this reason we wish to create a system which can apply equally to health and social care, which can encourage involvement and input from people who use, or might use, any health or social care services in the area.

Consultation

Within government

9. Department of Health officials and ministers have been working closely with other government departments in the development of these proposals. As the proposals have a bearing on local government, and are closely related to government policy in this area, Communities and Local Government has been particularly involved in the development of these plans.

Public consultation

10. Following the publication of *Commissioning a Patient Led NHS* and the reconfiguration of PCTs, Ministers announced a strategic review of the PPI system. The review of PPI formed part of the consultation leading up to *Our health, our care, our say: a new direction for community services* White Paper, which was published in January 2006.
11. Following the publication of the White Paper an Expert Panel was established to consider all the evidence collected during the review and made recommendations to Ministers on the future for PPI. This evidence included the messages we heard from all those involved in the review activities – Forum members directly influenced the national review of PPI through a series of regional events in Autumn 2005 which over 150 Forum Members attended, and through the online survey which received over 300 responses from Forum members. In addition, we received detailed email and written correspondence from a large number of Forum members.
12. Following the Expert Panel Report, Ministers published *A Stronger Local Voice*, a consultation document for information and comment. This represented a limited consultation on specific issues regarding the proposed policy, and was eight weeks long, given the extensive consultation that had already been conducted.
13. In addition, policy officials are holding reference group events with key stakeholders to discuss policy development, and give those affected a chance to influence and shape these plans. This includes working with the Local Government Association, Local Government Representatives, NHS Representatives and people from the voluntary and community sector.

Options

14. Three options have been identified:

- A) Do nothing;
- B) Replace Forums with Local Involvement Networks;
- C) Replace Forums with LINKs and strengthen Section 11.

Option A – Do nothing

15. This would involve no change to the current arrangements for involving the public. This carries with it some risks, as the current system is not engaging the public as widely as possible, as only 4500 people are directly involved in patient forums. They are based around NHS providers in a system which is changing to have an increasing plurality of providers from different sectors. Currently the system is focused on individual institutions rather than the whole patient journey, the increase in joint commissioning between health and social care also means a more joined up system is required.

Option B – Replace Forums with Local Involvement Networks

16. The Government is already committed (in the Arms Length Body Review 2004) to abolishing the CPPIH as soon as legislation permits. As CPPIH supports Patients' Forums, this cannot be done without a change in the current system for supporting Patients' Forums.

17. Forums would be replaced by Local Involvement Networks (LINKs). There will be one LINK for every local authority with social service responsibilities, which should be largely co-terminus with the new map of PCTs.

18. The proposed functions of LINKs are as follows:

- Promoting and supporting the involvement of people in the commissioning, provision and scrutiny of health and social care services;
- Obtaining the views of people about their health and social care needs;
- Gathering the views of people on their experiences of health and social care services; and
- Conveying those views to organisations responsible for commissioning, providing, managing and scrutinising health and social care services, and making reports and recommendations to those bodies on how services may be improved.
- A LINK must prepare an annual report addressing such matters as the Secretary of State may determine, including details of any monies that have been spent in respect of the LINK and how those monies have been used sending a copy to the local authority that is providing funding, PCT(s), the SoS, their SHA, local OSC(s) and it should be publicly available.

19. It is intended that the powers of LINKs will be set out in regulations. These include the power to:
- make reports and recommendations and receive a response within a specified timescale.
 - request information and receive a response within a specified timescale.
 - refer matters to an Overview and Scrutiny Committee and receive an appropriate response.
 - enter and assess health and some social care premises.
20. We intend to conduct a full consultation, and produce a RIA on these powers before the secondary legislation is brought before parliament.

Option C – Replace Forums with LINKs and strengthen Section 11

21. This option would include all of Option B, and in addition, the requirement set out in Section 11 of the Health and Social Care Act 2001, for NHS bodies to involve and consult the public would be strengthened to give commissioners a duty to respond to these groups.
22. We intend to promote a similar level of involvement in social care through good practice guidance, backed up by performance assessment, rather than a legislative framework.

Costs and benefits

Sectors and groups affected

23. The proposals will affect those involved in the current system, such as Patient's Forum members, Forum Support Organisation staff and CPPIH staff. It will also affect commissioners of health and social care services (i.e. PCTs and LAs) and patients and the public, as well as voluntary and community sector, who will have the opportunity to be involved in the new system.
24. Patient and public involvement is a significant challenge, potentially affecting all who use health and social care services. Currently £28m is spent on CPPIH, forum support organisations and Patients' Forums. If no action were taken these resources would be spent on institutions which are no longer fit for purpose in the new NHS and do not represent value for money.

Benefits

Option A – Do nothing

25. There will be no benefits from doing nothing. Instead, there is a real danger that money allocated to patient and public involvement will not be used effectively to engage as many people as possible.

Option B – Replace Forums with Local Involvement Networks

26. It is intended that the same amount of funding will go to the new system as is currently spent on PPI. These measures are not about saving money, but about better use of existing funds
27. These networks will provide a flexible vehicle for communities and groups to engage with health and social care organisations, and will promote public accountability in health and social care through open and transparent communication with commissioners and providers.
28. The new system will better fit the NHS structure with the focus of involvement being on commissioners who hold the power over budgets in the new NHS structure. Patients and the public's views will therefore have more effect, as they will be heard where decisions are being taken.
29. LINKs will aim to build on the existing expertise of the voluntary and community sector as well as current Patient Forum members, to tap into existing knowledge, assist good work already being done and build capacity in these areas.
30. Currently approximately £9m is spent annually on supporting CPPIH, which represents 32% of the total PPI budget. The costs of Local Authorities administering and monitoring contracts with host organisations will vary according to the nature of their area and each Local Authority's infrastructure. However, it is estimated that Local Authorities will need between £5,000 and £15,000 for this work. It is our expectation that the same amount of funding will go to the new system as is currently spent on PPI, therefore, even if each Local Authority is at the higher end of the scale, their expenditure represents roughly 8% of the total budget. This demonstrates that the new system will allow a significantly larger proportion of PPI funds to be spent directly on the front line, on engaging local people.
31. This proposal will have beneficial effects for all those involved in the PPI system:
 - **For the public** – the new system will allow many more people to become involved in health and social care. A wider diversity of views will be heard, and local voice will be strengthened. The ultimate benefit of a wider-ranging PPI system is that more people will have the opportunity to be involved in decisions about their health and social care system. This should lead to great clarity about priority setting, and improvement in services as people influence the services provided.
 - **For commissioners** – the LINK will provide commissioners with a first point of contact for involvement and engagement. It will be a pool of local knowledge and expertise which will help commissioners assess the needs of local populations. Involving the public through consultation with the LINK will be a way in which commissioners can ensure public support for their decisions.

- **For providers** – Providers will benefit, as instead of having a forum for every NHS Trust, the LINK will scrutinise all services in that area. The LINKs will therefore be able to coordinate scrutiny activity. A limited amount of data is collected about the number of inspections currently conducted by Patients’ Forums – CPPIH collects this data, but only on a voluntary reporting basis, and therefore our figures may not show the whole picture. However, they show that on average, 300 inspections are conducted every month, making a total of 3,600 Forum inspections every year. The move from having 570 Forums to only 152 LINKs should reduce the number of visits as fewer bodies will be conducting them and LINKs will target their inspections, and they will be strategically planned and based on the evidence the LINKs gather. Extending these rights to some social care premises may however mean that there are some additional visits to these services. There will however be limits on which social care institutions LINKs will have the power to enter, for example, they will not be able to enter facilities providing services to children.
- **For Overview and Scrutiny Committees (OSCs)** – The OSCs of Local Authorities currently scrutinise provision of health and social care services. The LINKs will benefit OSCs as they will bring issues affecting the local community to the OSCs attention for review. In addition, they will also be a resource for the OSCs to help them understand issues which the local community feel strongly about.

CPPIH also collects data on the number of referrals made by Forums to OSCs, although a limited amount of data is collected on a voluntary basis. However, we believe there are around 200 referrals made from Forums to OSCs each year. We believe that this figure is unlikely to be changed significantly, on the one hand, it may increase because LINKs will be making referrals regarding social care services as well as health matters. However, the number of referrals is likely to be reduced, partly by the smaller number of LINKs – a single LINK can refer an issue for the whole local authority area, which was previously covered by many Forums. In addition LINKs will have a close working relationship with OSCs, providing them with information about public views etc. Therefore matters will be brought to their attention, and addressed jointly, and therefore fewer will have to go to the formal consultation process.

- **Commissioners, providers, OSCs and the public** will all benefit from there being a single LINK for each LA area – a single point of contact for involvement, rather than a variety of Patients’ Forums. In addition, the LINK will be a single body looking at all aspects of the patient journey – centred around the patient, rather than the current system where forums are centred around individual services.

Option C – Replace Forums with LINKs and strengthen Section 11

32. This will include all the benefits listed under Option B, in addition to the duty on commissioners to respond to the public making for a much easier consultation process.

33. Decision making will be much more transparent, as PCTs will be required to explain how their decisions have been reached, and how they have taken account of local views. In addition, the burden of consultation will be reduced as it will be proportionate to the scale of the change in service being undertaken.
34. Much of the evidence we have heard from those involved in the current system, is that though members of the local community are fully engaged, they are often frustrated as they cannot see how their views have had an effect on decision making. The duty to respond will address this, as commissioners will be required to state how they have consulted with people, what views they have heard, and how they have taken these views on board.
35. This should lead to a constant dialogue between the public and commissioners, involving the public at all stages of the decision making process, rather than merely consulting once decisions have been taken.
36. This duty should promote the meaningful involvement of patient and the public, where the public can see how their views are being taken on board. This should foster a better relationship between local communities and NHS bodies. This in turn could benefit commissioners and providers, as it will promote local buy-in for decisions taken, ultimately leading to a more effective dialogue.

Costs

Option A – Do nothing

37. There will be no additional costs associated with this option. However, PPI funds would continue to be spent on a system which does not offer value for money. In addition, an alternative system to support Patients Forums would need to be found.

Option B – Replace Forums with Local Involvement Networks

38. This option has the benefit that existing funds will be spent on a more efficient system which gets money directly to the front line.
39. A smaller proportion of the funds spent on PPI will go on commissioning structures to support PPI, as there will be fewer LINKs than Patients' Forums and they will not be centrally supported. The cost of managing the contracts of those supporting LINKs will be funded out of PPI budgets, so these will incur no additional cost for the Local Authority.
40. There will be no additional costs arising from this option. The cost of establishing LINKs will be met by re-directing money from CPPIH and Forums once these are closed down. There will be no additional burden.

Option C – Replace Forums with LINKs and strengthen Section 11

41. There could be very minimal extra costs associated with this option, as the duty to respond could require some additional work for staff working in PCTs to explain their decision making process.

42. However, we think that any extra costs will be negligible, as they will be off-set by the following factors:

- Some PCTs already involve, consult and respond to the public very well. For those performing well, this new duty will require no extra effort or resources.
- PCTs’ consultations will be more efficient, as they will engage with a single LINK which will bring together the views of the public, and voluntary and community sector organisations, rather than a variety of different forums representing different trusts. This will make consultation much more efficient, and PCTs will be able to use the expertise already existing in the voluntary and community sector to consult local people, and specifically hard to reach groups.
- Most PCTs already employ PPI leads – this duty would be undertaken by existing employees, so there will be no start up costs for PCTs to meet this new duty. More explicit guidance on consultation will benefit PCTs as their duties will be clearer, and it will be easier for them to comply with rules regarding involving the public.
- There will be no additional costs on NHS or independent sector providers, as the current duties on NHS providers are only being clarified, not increased, and responsibility for involvement and consultation on services provided by the independent sector will continue to lie with the NHS commissioners.

Equity and fairness including race equality assessment

43. We consider that there will be no disproportionate effect on any group as a result of Options B and C. Option A, whilst imposing no effect itself, will do nothing to wider involvement of all sectors of the community.

Screening Questions	Yes/No
1. Do different groups have different needs, experiences, issues and priorities in relation to the proposed policy?	Yes
2. Is there potential for or evidence that the proposed policy will promote equality of opportunity for all and promote good relations between different groups?	Yes
3. Is there potential for or evidence that the proposed policy will affect different population groups differently (including possibly discriminating against certain groups)?	No
4. Is there public concern (including media, academic, voluntary or sector specific interest) in the policy area about actual, perceived or potential discrimination against a particular population group or groups (or potential or actual damage to good race relations)?	No

44. It is likely that different groups will have different needs, experiences and issues in relation to this policy. Some groups, for example, the elderly, or disabled, may need extra help in being able to input their views into a LINK, or those who are socially unused to giving their opinions may need more encouragement to becoming involved. A LINK will need to make particular efforts to access the views of these groups, to ensure that they are able to represent the views of the entire community.
45. There is a potential for this policy, and the introduction of LINKs to have a great influence in promoting equality of opportunity. Currently Patient Forums have on average eight members each, this small number of people cannot hope to be representative of the whole community. LINKs will offer opportunities for many more people to become involved. They will also offer a much more flexible membership, people will be able to dip in and out of involvement in a way that suits them. Currently the time requirement of being a Patients Forum member bars many people from volunteering because it is too onerous. We hope that offering people the opportunity to become involved in different ways will encourage a much wider membership.

Steps to promote equality of access and representation

46. During the process of developing this policy, the question of equality of access and representation in LINKs has been a primary concern. This will be promoted by setting out in guidelines that a LINK should make efforts to be representative of the whole community.
47. The diversity and representation of the LINK will be one of the factors on which the LINK is performance managed. It will be written into the model contract which will be issued by the Department of Health to assist local authorities in their tendering for an organisation to host the LINK. It will be one of the contractual duties of the host organisation to ensure that the LINK represents all sectors of its community. Therefore, if the LINK is failing in this key performance indicator, then sanctions can be taken, and ultimately, the Local Authority will have recourse to removing the contract from the host organisation and re-allocating it.
48. The impact this policy has in terms of diversity will also be monitored. There will be specific things that a LINK must monitor and report back on to their Local Authority and the Department of Health, and the ethnic and diversity breakdown of their members, and the work they have done to access the views of the whole community will be included in this. In this way we hope to build up a data set on which we can assess what further needs to be done to achieve full representation.

Small Firms' Impact Test (SFIT)

49. We envisage no impact on small firms as a result of this measure.

Competition assessment

50. There should be no impact as this measure is designed to improve patient and public involvement in decisions about their health and social care services.

Rural proofing

51. These plans are designed to give a local voice to people, allowing communities to express their views and influence the services in their area. The geographical area as well as population of the Local Authority areas for which LINKs will be established vary widely. The LINKs will therefore have to develop ways of working that suit their population, whether it be urban, rural, large or small. The amount of funding given to each local authority will be dependent on a formula that takes into account its population size and circumstances, therefore, all LINKs should have appropriate funding for their area. It will also be a requirement, that LINKs take steps to ensure that all the people in their community have the opportunity to become involved, therefore, we do not believe that these plans should have any differential rural impacts.

Enforcement, sanctions and monitoring

52. A LINK must be held to account for its activities by the local community. It must provide evidence that it is delivering a credible work programme, based on local priorities, that meets local needs. This evidence needs to demonstrate active outreach and engagement with communities and the outcome of that outreach. It needs to demonstrate the impact the LINK has had on local health and social care provision.
53. The LINK Board, on behalf of the wider LINK will report to the Secretary of State for Health on an annual basis on the activities of the LINK. The report will be independent of the Local Authority and be produced with the support of the Host organisation. This report should also be made publicly available. The report should provide details of:
- How much money was spent on the LINK at a local level;
 - How many people were ‘involved’ and how – what it has done in the course of the year including details of whom it has heard from, what subjects it dealt with, what were the outputs of its activities and what happened as a result; and
 - General themes about the health and social care needs of local people and about the perceptions of health and social care services.
54. Examples of the contents of the report will be part of the supportive materials set out in the LINK guidance to enable individual reports to be summarised into a National LINKs report.
55. The newly established PPI Resource Centre will have a specific focus to evaluate the effectiveness of PPI Policy and Practice and their outcomes, and so would have a role in monitoring LINKs.
56. Option C – representing the updated Section 11 will be monitored by the Healthcare Commission, through their Core Standards which they inspect against.

57. In addition, the newly funded PPI Resource Centre will fulfil a support mechanism – disseminating best practice amongst NHS bodies, and offering advice on how to fulfil the duties set out in Section 11. This support will also make it easier for NHS bodies to be sure they are fulfilling their duties.

Summary and recommendation

58. In summary, we recommend **Option C**, that Patients' Forums be abolished and Local Involvement Networks should be established in their place. In addition, that Section 11 should be clarified and strengthened, setting out duties to involve and consult the public on health services.
59. We believe that this would represent a PPI system that is fit for purpose, matching the changes in the structure of the NHS as well as the closer working between the health and social care systems. It should also represent some significant improvements as it should encourage a far greater number of people to become involved in improving their health and social care services.