

LGA Queen's Speech briefing 2009

18 November 2009

Introduction

The Government today outlined its legislative priorities for the new session of parliament in the Queen's Speech.

This session of parliament will be shorter than usual. The General Election must be held by the 3rd June 2010. This session is therefore likely to see less compromise on legislation - with the parties emphasising why they stand apart and with these bills being used as campaigning tools.

LGA key messages

- Councils **are ready and can be trusted** to take on additional responsibilities. Working with local partners and residents they will deliver the best possible services within their local area, reflecting local needs.
- However, it is important that additional burdens are **accurately costed** and that funding can be met.
- Councils are **already working to make sure all public spending available within their area is spent more effectively** through projects such as Total Place and face a demanding 3% efficiency requirement this year, rising to 4% next year.

Key Bills for councils:

- **Personal Care at Home Bill** - *To provide free personal care at home for needy elderly people.*
- **Children, Schools and Families Bill** - *To enact the parts of the schools white paper that require primary legislation.*
- **Flood and Water Management Bill** - *To implement the recommendations of the Pitt report on flooding.*

Key bills for local government

Personal Care at Home Bill

This Bill would enact the Prime Minister's commitment to free personal care for older people with the "highest needs" in their own homes, regardless of means. The Government estimates the provisions will help around 400,000 people with care needs and describe this as the first step towards setting up a new National Care Service. The Bill will:

- guarantee free personal care for the 280,000 people - including those with serious dementia or Parkinson's disease - with the highest needs;
- help around 130,000 people who need home care for the first time to regain their independence. It has been reported that these people will be guaranteed six weeks' intensive support to help them settle back into their homes; and
- allow for £130 million to be invested in re-ablement technology and home adaptations.

According to media reports today, pensioners will qualify if they meet four criteria from a list including whether they need help getting dressed, washing, going to the toilet, eating, incontinence, immobility and the management of medication. The criteria will be the same across England, but the judgment of who will qualify for free care will be made by local authorities.

The Government estimates the cost at £670 million a year, of which £420 million would come from the Department of Health budget with the balance of £250 million met by councils from 'efficiency savings'.

LGA key messages

It is impossible at this stage to assess the merits of this Bill because little detail has been provided beyond the top-line announcements. From the information that is available, there are a number of unresolved issues and questions.

The LGA supports the principle of helping more people with care needs to stay in their own homes for as long as possible. It is good for the individual and their families and could help to reduce total costs in the adult social care system by reducing the number of people in costly residential care.

We have long called for NHS and local authority adult social care spending to be more closely aligned. Having the Department of Health part-fund this commitment is a positive step in the right direction.

Government expects councils to find an additional £250 million every year from 'efficiency savings'. The LGA has had discussions with the Government about lifting existing burdens from councils in an attempt to find the money from existing budgets. If, however, this cannot be achieved, it is difficult to see how local government could meet the cost of another new burden. Councils already face a demanding 3% efficiency requirement this year, rising to 4% next year.

We are concerned that the estimated costs fail to capture the number of people with high care needs who self-fund their care. Many of these people will inevitably want to benefit from this proposal which will increase its cost and add to the bill locally. Given these unassessed additional costs, the Government needs to show how the proposed £670m will be enough to fund this commitment.

There needs to be absolute clarity as to what is included in personal care and in what form it will be provided. Defining it in purely service terms would run against the personalisation agenda that expresses care and support needs as personal budgets.

Children, Schools and Families Bill

Provisions affecting local government include:

- The creation of a statutory pupil and parent guarantee relating to good behaviour; a broad, balanced and flexible curriculum; and a choice of school suitable to a child's needs. Parents and children will have an ultimate right of appeal to the local government ombudsman if they are unhappy with a school's delivery against the guarantee.
- Allowing magistrates to take compliance with home/school agreements into account in cases where a parenting order is being considered.
- Legally requiring councils to gather parents' views on the school provision available in their area and to publish a local plan for improvement if a high proportion of parents express dissatisfaction.
- Making changes relating to school improvement - including a wider role for School Improvement Partners; the introduction of a School Report Card; and powers for the Secretary of State to direct local councils to issue improvement notices to failing schools.
- Creating a local authority registration scheme for home-educated children.
- Allowing Local Safeguarding Children Boards to share information and clarify the powers of Ofsted to inspect them.
- Creating new powers for the Secretary of State to intervene in Youth Offending Teams.

LGA key messages

The LGA wholeheartedly shares the government's aim to make sure that every school is a good school. The principles underlying the proposed pupil and parent guarantees are laudable and will in many cases merely codify existing good practice. However, these should be implemented in a way that maintains flexibility and leads to true engagement with parents and pupils, rather than creating further bureaucracy.

As such, we look forward to seeing the detail of the school improvement provisions to ensure that the key role of councils in supporting local schools is properly recognised. We will be particularly concerned to make sure that the enhanced role for School Improvement Partners does not detract from the importance of direct partnerships between schools and councils.

The LGA would also like clarification on how the School Report Card will fit with existing inspection processes - including Ofsted, the Framework for Excellence and Comprehensive Area Assessment. It is important that these proposals add value to the current arrangements and do not create unnecessary additional burdens for schools and councils.

We have serious concerns about the proposed new powers for the Secretary of State to direct councils to issue improvement notices for failing schools. Local authorities, working with their partners, are best placed to make these judgements and act accordingly depending on the circumstances within a particular area. We would like assurances that these powers will only be used as a last resort.

We also have concerns about the need for and effectiveness of the proposed powers for the Secretary of State to intervene in Youth Offending Teams. Improvements to these teams will be most effectively delivered through the planned strengthening of Children's Trust arrangements - requiring all partners to step up their contributions. Local government's track record as the fastest improving part of the public sector demonstrates that improvements need to be sector-led. Top-down "blanket approaches" cannot deliver the local knowledge that authorities and their partners can, and is unnecessary centralisation.

Flood and Water Management Bill

The Bill will seek to:

- define the roles and responsibilities of everyone involved in flood risk management and give the lead to local authorities for managing the risk of all local causes of floods;
- place a duty on all relevant bodies to share information in support of flood risk management;
- require developers to include sustainable drainage wherever practicable in new housing and business developments.

LGA key messages

In its recent pre-legislative scrutiny, reflecting the evidence put to them by the LGA, the EFRA Select Committee unanimously rejected DEFRA's argument that the new responsibilities in the Bill will not create new burdens on councils. DEFRA has used 7-year-old data gathered from 12% of authorities to argue there are 'savings' which match the costs. The LGA believes that DEFRA's argument, that councils will save money in the future if their areas are better protected, is not valid because councils don't have specific budgets for clearing up after floods and so cannot convert any current funds into future 'savings'. Councils need the funds to support these additional burdens.

DEFRA proposes that in two-tier areas the county council will take the lead on flood risk management strategies across the county area. The LGA believes that the lead role should be agreed between all authorities in a 2 tier area, ensuring that the lead and accountable body is clear. Basing the lead role on an agreement will create better engagement, political priority and commitment across all the authorities in the county area.

On Sustainable Drainage Systems (SUDS) - facilities designed to drain surface water in a more sustainable manner than the current system allows for - the draft Bill proposed that they would be funded through 'savings' that authorities would make from the transfer of private sewers to water companies and less expenditure through better flood risk management. The Government conceded that this funding would run out after a few years and a new mechanism would then have to be established to support the continued expansion of SUDS. The LGA proposes that to incentivise developers and authorities to choose the most appropriate and high quality SUDS for all developments, we need a sustainable funding mechanism from the very start. We would strongly resist adding unnecessary bureaucracy to the planning processes by forcing county councils to set up an approval process for SUDS. Planning authorities are more than capable making planning decisions without this added, unnecessary burden.

It is clear that many local authorities have a severe skills and capacity gap that could undermine their capability to deliver the lead role effectively. We believe that much more needs to be done, urgently, to address these shortages and provide training for some of the new roles that could accompany the Bill. A working group consisting of universities, training providers, professional institutes and local authorities should be set up to make recommendations on skills and training issues that need to be addressed in relation to each of the new responsibilities which authorities may need to take on.

Other bills affecting local government

In addition to those listed below the Government will be legislating to help households with energy bills. As little detail has been provided beyond the top-line announcements it is impossible at this stage to assess the merits of this Bill. However, we believe councils are best placed to strategically plan for the roll out of energy efficiency measures and renewable/decentralised energy in their areas.

Crime and Security Bill

The Bill seeks to set fair rules to tackle crime and anti-social behaviour including:

- protecting women from violence
- providing greater support to struggling parents who cannot cope with a child's anti-social behaviour
- introducing a compulsory licensing requirement for private wheel clamping businesses.

LGA key messages

Local authorities and the LGA take the issue of violence against women in all its forms extremely seriously, and individual councils have been innovative in developing better services for women who have experienced violence - such as the Family Justice Centres set up in Croydon and Derby.

The LGA supports further action by the Home Office to reduce violence against women but it should not be looking to introduce minimum standards or move away from the local delivery of services - different communities face differing issues and need to be free to address them.

The LGA has argued that prevention and early intervention are the right ways to address youth crime, including children engaged in anti-social behaviour. The extension of support to parents through the use of parenting assessments for any child between 10 and 15 considered for an ASBO is welcome, as is increasing the proportion of ASBOs accompanied by parenting orders. However councils and local partners should be allowed to work together to determine the right course of action for their circumstances, and government must ensure these proposals fit in with wider preventative initiatives at a local level.

Equality Bill

The Equality Bill was introduced in the House of Commons in the last parliamentary session. It received its Second Reading and was considered in Committee prior to the summer recess. The Bill was awaiting Report stage consideration when the last session ended. The Bill's key proposals that will have an impact on local authorities are:

- the creation of a general single public sector equality duty with Ministers able to impose specific duties on public authorities to require processes or outcomes that fulfil the duty;
- the prohibition of 'unjustifiable' age discrimination in the provision of goods, facilities and services and the exercise of public functions (including adult social care);
- a new duty on local authorities to consider how their strategic decisions might help to reduce inequalities associated with socio-economic disadvantage; and
- The Bill also enables Ministers to require public authorities to report on equality issues (including pay).

LGA key messages

Single Equality Duty - The LGA supports the introduction of the general public equality duty, which could help to reduce red tape and minimise unnecessary burdens. The regulations for specific duties will determine how burdensome this obligation will be and we will test each duty that emerges and lobby accordingly.

Age Discrimination - The LGA is fully committed to addressing unjustifiable age-related discrimination in all services, not just health and social care, but there are potentially massive resource implications for social care which have not yet been fully addressed.

Socio-Economic Duty - There are differences of opinion between the political parties in local government as to the need for this duty. Accordingly, as a cross-party organisation that operates on political consensus, the LGA does not have a position on this provision.

Pay Transparency - Councils should be able to respond to local priorities and publish equalities data as a matter of good practice in a way that is appropriate to their area, rather than a prescriptive model and onerous requirements being imposed.

Child Poverty Bill

This bill will be carried over from the previous session and seeks to enshrine in law the Government's commitment to eradicate child poverty by 2020. In particular the bill sets out how new duties will apply to councils and local partners.

LGA key messages

While there are genuine differences of political opinion within local government on the extent of a need for legislation on addressing child poverty, all parties agree that support for the most vulnerable in our society is a primary role of local government and there is cross-party consensus for a need to address the levels of child poverty in England and Wales.

Councils have a leading role to play in tackling child poverty. Supporting the most vulnerable children is an essential part of creating a better quality of life in every community. Councils are particularly focused on the need to respond to the recession and the need to ensure the wellbeing of children.

Action on child poverty has to be undertaken in partnership. It cannot be addressed unless public and third sector bodies and employers act together. Local strategic partnerships have set targets for their local areas through local area agreements, and 45 of those agreements include a target to reduce child poverty. Many more include targets which directly relate to the wellbeing of children and families.

Constitutional Reform and Governance Bill

The Constitutional Reform and Governance Bill was introduced in the House of Commons in the last parliamentary session. It received its Second Reading in October and was considered in Committee of the whole House earlier this month. The Bill was awaiting Report stage consideration when the last session ended and has been carried over into the new session.

This is a narrowly drawn Bill focused on:

- putting the Civil Service on a statutory footing;
- giving Parliament power to ratify treaties;
- modest reforms to the House of Lords;
- protests outside Parliament;
- human rights actions against devolved administrations;
- the recruitment process for judicial appointments; and
- modernising the governance arrangements of the National Audit Office (NAO).

LGA key messages

The LGA will seek opportunities during the passage of the Bill to highlight the differences in accountability arrangements between the two main public auditing bodies, the NAO and the

Audit Commission, to be debated in Parliament.

The NAO is independent of government and accountable to Parliament; its budget is set by Parliament and it reports directly to Parliament (via the Public Accounts Committee and Public Accounts Commission). In contrast, the Audit Commission is a Public Corporation, with Commissioners appointed by the Secretary of State, and is only accountable to Parliament through Ministers.

The LGA is calling for the Audit Commission to be accountable to Parliament on the same model as the National Audit Office to create more logical arrangements, strengthen Parliament (especially the CLG and Health Select Committees), and promote value for money.