

*These notes relate to the Lords Amendments to the Local Government and Public Involvement in Health Bill, as brought from the House of Lords on 22nd October 2007 [Bill 167]*

# **LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH BILL**

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## **EXPLANATORY NOTES ON LORDS AMENDMENTS**

### **INTRODUCTION**

1. These explanatory notes relate to the Lords Amendments to the Local Government and Public Involvement in Health Bill, as brought from the House of Lords on 22nd October 2007. They have been prepared by the Department of Communities and Local Government in order to assist the reader of the Bill and the Lords Amendments and to help inform debate on the Lords Amendments. They do not form part of the Bill and have not been endorsed by Parliament.
2. These notes, like the Lords Amendments themselves, refer to HL Bill [HL 74], the Bill as first printed for the Lords.
3. These notes need to be read in conjunction with the Lords Amendments and the text of the Bill. They are not, and are not meant to be, a comprehensive description of the effect of the Lords Amendments.
4. All the Lords Amendments were in the name of the Minister except for Amendments 52, 56, 88 - 92, which were opposed by the Government. (In the following Commentary, an asterisk appears in the heading to each of the paragraphs dealing with non-Government amendments.)

## COMMENTARY ON LORDS AMENDMENTS

### PART 1

#### *Lords Amendment 1*

5. Lords Amendment 1 to **clause 5** would make a drafting change to put beyond doubt that a proposed area may not extend into an area that is currently outside all local government areas (a part of a Welsh county, the City of London or one of the Temples).

#### *Lords Amendments 2 and 4*

6. Lords Amendments 2 and 4 to **clause 7** would mean that the Secretary of State is required to consult such persons as he deems appropriate, rather than those he believes to have an interest.

#### *Lords Amendment 3*

7. Lords Amendment 3 to **clause 7** would make a minor drafting amendment to **clause 7** clarifying that the Secretary of State may decide not to implement a joint proposal from more than one local authority.

#### *Lords Amendment 5*

8. Lords Amendment 5 to **clause 7** would allow the Secretary of State to request information from the Boundary Committee relating to an alternative proposal for structural change it has submitted.

#### *Lords Amendments 6, 7, 8 and 11-15*

9. Lords Amendments 6, 7, 8 and 11-15 to **clauses 8 and 10** would amend the provisions in the Bill in relation to the Boundary review process so that the Boundary Committee would be able to make a recommendation for no change.

#### *Lords Amendment 9*

10. Lords Amendment 9 to **clause 8** would make a drafting change to put beyond doubt that a proposed local government area, resulting from a boundary change proposal, may not extend into an area that is currently outside all local government areas (a part of a Welsh county, the City of London or one of the Temples).

***Lords Amendment 10***

11. Lords Amendment 10 would have the effect of inserting a new paragraph (e) into **clause 8(4)** to put beyond doubt that any recommendation for boundary change must ensure that the current pattern of local government areas is retained across England (i.e. that the whole of England, with the exception of the Isles of Scilly, the City of London and the Temples, is made up of counties, districts and London boroughs). The effect of this amendment would be that the Boundary Committee could not recommend the abolition of a local government area which would lead to a gap in the current pattern, for example a county area with no district area within it.

***Lords Amendment 16***

12. Lords Amendment 16 to **clause 10** would make it clear that the information or advice, which the Secretary of State may request from the Boundary Committee in relation to any of their recommendations, may be in relation to any matter relating to a recommendation. This provision would ensure that the Secretary of State may request information and advice for example in relation to changes to principal council electoral arrangements and/or parish boundaries and parish council electoral arrangements which may need to be included within an order made under clause 10.

***Lords Amendments 17 and 18***

13. Lords Amendments 17 and 18 to **clause 11** would make clear that an order under clause 7 or 10 may include provision in connection with the implementation of a proposal or recommendation. Clause 11(2) would be amended to ensure that 'implementing' and 'implementation' are both read as including implementing or implementation (as appropriate) with modifications.

***Lords Amendment 19***

14. Lords Amendment 19 to **clause 11** would make a drafting change to put beyond doubt that a new local government area may not extend into an area that is currently outside all local government areas (a part of a Welsh county, the City of London or one of the Temples)

***Lords Amendments 20 - 22***

15. Lords Amendments 20 - 22 to **clause 12** would allow an order made by the Secretary of State under clause 7 or 10 of the Bill to include provision for parish electoral arrangements.

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***Lords Amendment 23***

16. Lords Amendment 23 to **clause 15** would ensure it is clear that instruments made at any time under previous legislation can be amended by an order under clause 7 or 10 or by regulations under clause 14.

**PART 2**

***Lords Amendments 24, 25, 29, 30, 33 and 34***

17. Lords Amendments 24, 25, 29, 30, 33 and 34 to **clauses 33, 38 and 40** would improve the drafting of clauses relating to the passing of resolutions to change schemes for elections. The amendments draw on section 7(4) of the 1972 Act which previously dealt with council decisions on schemes of elections.

***Lords Amendments 26, 31, 35 and 47***

18. Lords Amendments 26, 31, 35 and 47 to **clauses 33, 38, 40 and 59** would make clear that an elected mayor is entitled to vote on a resolution to change a scheme for elections or the name of an electoral area.

***Lords Amendments 27, 28, 32, 36 and 37***

19. Lords Amendments 27, 28, 32, 36 and 37 to **clauses 33, 38 and 40** would have the effect of extending the periods specified in Part 2 of the Bill for passing a resolution to change a scheme for elections so that they run from the day after the council's annual meeting until the 31 December rather than from the 1 October to 31 December. The effect of this would be that the resolution periods would be extended from 3 months to approximately 6 months.

***Lords Amendment 38***

20. Lords Amendment 38 would improve drafting by removing the reference to subsection (1)(a) in **clause 54(4)(b)**; the reference should be to subsection (1).

***Lords Amendments 39 and 40***

21. Lords Amendments 39 and 40 to **clause 56** would make clear that the appropriate number of councillors referred to is the total number of councillors which a ward has, rather than the number to be returned by the ward at a particular ordinary election

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***Lords Amendments 41, 215 217, 256 and 258***

22. Lords Amendments 41, 215 217, 256 and 258 to **clause 57 and schedules 1 and 18** would make changes to the Local Government Act 1992 to update the electoral review process to reflect the way the boundary review process has been updated by the Bill.

***Lords Amendment 42***

23. Lords Amendment 42 to **clause 59** would require a local authority to consult on any proposal to change the name of electoral areas (district wards or county divisions) with persons it considers to be appropriate.

***Lords Amendments 43 and 44***

24. Lords Amendments 43 and 44 to **clause 59** would require any resolution to change the name of an electoral area to be passed by a two-thirds majority.

***Lords Amendments 45 and 46***

25. Lords Amendments 45 and 46 would make drafting improvements to **clause 59**.

***Lords Amendments 48 - 51***

26. Lords Amendments 48 and 50 to **clause 60** would require the Secretary of State in England and Welsh Ministers in Wales to make any order, which moves local government elections to the same date as European Parliamentary elections, at least six months before the scheduled date of the local government elections or the European Parliamentary general elections, whichever is earlier. Lords Amendments 49 and 51 would make minor changes to the drafting of the duty to consult persons before making an order, for consistency with other provisions of the Bill.

**PART 3**

***Lords Amendments 52\*, 53-55, 56\*, 62, 73-76, 78, 88 - 92\*, 98 - 101, 222 and 224***

27. Lords Amendments 52, 56, 88 - 92\* to **clauses 62, 63, 64, 67-71 and schedule 4** would have the effect of removing the elected executive model from the Bill, leaving the option of two executive models for councils – Leader and Cabinet (England) and Mayor and Cabinet. Further Lords Amendments 53-55, 62, 73-76, 78, 98-101, 222 and 224 to **clauses 62, 63, 64,**

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**74**, would ensure that the Bill is updated to reflect the removal of the elected executive model.

***Lords Amendments 60,61 63, 64, 65 67, 68, 69, 70, 71, 72, 83, 84, 85, 93, 94, 95, 96, 97 and 106***

28. Lords Amendments 60,61 63, 64, 65, 67, 68, 69, 70, 71, 72, 83, 84, 85, 93, 94, 95, 96, 97 and 106 which were made to **clauses 64, 65, 72, 73, 76, and inserted a new clause after clause 72** would, along with existing sections and regulations under the Local Government Act 2000, allow or require local authorities to hold a referendum before changing their governance arrangements; where the change is approved the council would be able to resolve outside its permitted resolution period and in certain circumstances give effect to that change more quickly than would have previously been possible. The amendments would also make clear that an elected mayor is entitled to vote on a resolution to change governance arrangements.

***Lords Amendments 57, 58, 59, 66, 77, 102, 103,104***

29. Lords Amendments 57, 58, 59, 66, 77, 102, 103, 104 which were made to **clause 64 and inserted three new clauses after clause 74** would have the effect of requiring councils no longer eligible to operate alternative arrangements to move to the new leader and cabinet model by their annual meeting in 2009.

***Lords Amendments 79 to 82***

30. Lords Amendments 79 to 82 to **clause 64** would have the effect of extending the periods specified in Part 3 of the Bill for passing a resolution to change a scheme for elections so that they run from the day after the council's annual meeting until the 31 December rather than from the 1 October to 31 December. The effect of this would be that the resolution periods would be extended from 3 months to approximately 6 months.

***Lords Amendments 86 and 87***

31. Lords Amendments 86 and 87 to **clauses 66** would provide that a reference in legislation to a member or councillor of a local authority does not include a reference to an elected mayor of the authority (if any), unless regulations or another enactment provides that the mayor should be included in the reference. This does not affect the position achieved by amendments to the Local Government Act 1972, that a council operating a mayor and cabinet executive consists of the mayor (as well as the councillors and chairman).

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## **PART 4**

### ***Lords Amendments 107***

32. Lords Amendments 107 to **clause 77** would insert a new section 11B into the Local Government Act 1972 which would ensure that any alternative style that a group of parishes has is preserved where a parish leaves a group.

### ***Lords Amendments 108***

33. Lords Amendments 108 to **clause 77** would insert a new section 12B into the Local Government Act 1972 which would allow an existing group of parishes to have an alternative style. Previously, the Bill provided only for a new group of parishes or an individual parish which is not in a group to have one of the styles available. The amendment would address this inconsistency and allow all groups of parishes to have an alternative style.

### ***Lords Amendments 109 to 114***

34. Lords Amendments 109 to 114 to **clause 77** would make consequential changes to sections 12A and 17A of the Local Government Act 1972 following the insertion of new sections 11B and 12B.

### ***Lords Amendments 115 to 117***

35. Lords Amendments 115 to 117 to **clause 82** would make a drafting change. It would have the effect of replacing the words 'area to which a petition relates' in clause 82 with 'petition area' which is a defined term that is already used elsewhere in Part 4.

### ***Lords Amendments 118, 119 and 120***

36. Lords Amendments 118, 119 and 120 to **clauses 85, 86 and 87** would clarify the circumstances in which a principal council is to be under a duty to carry out a community governance review in response to a petition and those in which it is to have a discretion to do so.

### ***Lords Amendment 121***

37. Lords Amendment 121 would make a drafting change to **clause 88**. It would allow for a provision of a previous order relating to community governance to be revoked. In doing so, it recognises that it may not be necessary to revoke the whole of a previous order and that the revocation of one or more provisions might be all that is needed.

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***Lords Amendments 122 and 126***

38. Lords Amendments 122 and 126 to **clause 89** would address the concerns raised in the House of Lords Committee about the use of ‘available’ rather than ‘unparished’ which is the recognised term used by practitioners.

***Lords Amendment 123 to 125 and 128***

39. Lords Amendment 123 to 125 and 128 to **clause 89 and 90** would ensure that where an unparished area is added to an existing parish that parish will continue to be treated as an existing parish.

***Lords Amendment 127***

40. Lords Amendment 127 would make a drafting change to **clause 90** which recognises that in some cases there may be no existing parishes in the area under review.

***Lords Amendments 129***

41. Lords Amendments 129 would have the effect of inserting the requirement to publish recommendations in **clause 95**, recognising that this is part of the review and so should be included with the duties that the review must comply with.

***Lords Amendments 130 and 131***

42. Lords Amendments 130 and 131 to **clause 96** would have the effect of preventing any existing parish council, with 150 or fewer electors in the parish, being dissolved.

***Lords Amendments 132 to 136***

43. Lords Amendments 132 to 136 to **clause 98** would require the principal council not only to publish its decisions on its recommendations but also the reasons for those decisions. They deal with concerns raised by Peers about cases in which a principal council might decide not to implement recommendations. In this way, local people will be made aware of the reasons behind any decision taken on the recommendations of a community governance review.

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### ***Lords Amendments 137 and 138***

44. Lords Amendments 137 and 138 would make drafting changes to **clauses 102 and 104** which are made necessary by the amendments relating to the publication of recommendations made by the community governance review.

## **PART 5**

### **CHAPTER 1**

#### ***Lords Amendment 139 and 140***

45. Lords Amendment 139 puts beyond doubt that the Secretary of State's powers in section 6 of the Local Government Act 2000 are confined to England.
46. Lords Amendment 140 was tabled in response to concerns expressed in the 11th Report of the Lords Delegated Powers and Regulatory Reform Committee. As originally introduced clause 117 conferred on Welsh Ministers equivalent powers to the Secretary of State to amend any enactment that requires a local authority to prepare a plan or strategy. However, when exercising these powers the Secretary of State must follow the super-affirmative procedure but the Welsh Ministers needed to follow only the affirmative procedure. Amendment 140 would correct that anomaly so that Welsh Ministers must also follow the super-affirmative procedure.

#### ***Lords Amendments 141 and 142***

47. These are technical amendments which would update cross-references to the Local Government and Public Involvement in Health Bill which appear in the Offender Management Act 2007, in particular in paragraph 5 of Schedule 3 to that Act which adds functions of the Secretary of State in relation to probation services to the functions in relation to which the Secretary of State is a partner authority for the purposes of local area agreements. The clause numbers of the Local Government and Public Involvement in Health Bill have changed since the Offender Management Act 2007 received Royal Assent.

### **CHAPTER 2**

#### ***Lords Amendment 148***

48. Lords Amendment 148 to **clause 128** (overview and scrutiny committees: consequential amendments) is a technical amendment. Section 21 of the Local Government Act 2000 requires local authorities operating executive

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arrangements to ensure that their overview and scrutiny committees have certain powers. Where a local authority has more than one overview and scrutiny committee, that obligation can be satisfied by ensuring that those committees have those powers between them. This amendment would provide that the reference to overview and scrutiny committees includes any joint overview and scrutiny committees. It would add a definition of “joint overview and scrutiny committee”.

***Lords amendments 143 to 147, 214 and 246***

49. Lords Amendment 147 would insert a new clause in Chapter 2 of Part 5 of the Bill amending the provisions in the Police and Justice Act 2006 about the referral of local crime and disorder matters to local authorities’ crime and disorder committees. Lords Amendments 143 to 146 and 214, 246 would make consequential changes.
50. Subsections (2) to (4) of the new clause would amend section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters) to bring it into line with the new section 21A of the Local Government Act 2000 (which is inserted by clause 121 of the Bill). The new clause would remove the existing duties of members and executives of local authorities to consider local crime and disorder matters raised by local people and their corresponding powers to refer such matters to the crime and disorder committee of the local authority.
51. New subsection (3)(a) of section 19 of the Police and Justice Act 2006 would instead require each local authority to ensure that its crime and disorder committee can make a report or recommendations to the local authority with respect to a local crime and disorder matter. Under subsection (3)(b), the local authority would be required to make arrangements which enable any member of the authority who is not a member of the committee to refer a local crime and disorder matter to it. (New section 21A(1)(a) of the Local Government Act 2000 (inserted by clause 121) would require local authorities to make arrangements for members of the crime and disorder committee to refer matters to that committee.)
52. The provisions of Schedule 8 to the Police and Justice Act 2006, which applies section 19 to local authorities not operating executive arrangements, would continue to apply. (In particular, paragraph 4 of that Schedule would continue to require such authorities to make arrangements for members of the crime and disorder committee to refer matters to that committee.)

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53. New subsection (4) of section 19 would provide that arrangements enable members to refer a local crime and disorder matter to a crime and disorder committee if they enable the member to ensure that the matter is included in the agenda for, and discussed at a meeting of the committee. This would mirror new section 21A(2) of the Local Government Act 2000 (inserted by clause 121).
54. Similarly, new subsection (6) of section 19 would mirror new subsection (6) of section 21A of the Local Government Act 2000. It would enable the crime and disorder committee to have regard to any delegated powers the member might have by virtue of clause 235 of the Bill and also any representations the member may have made.
55. New subsection (7) of section 19 would provide that, where a crime and disorder committee decides not to make a report or recommendations to the local authority about a local crime and disorder matter, it must notify the member who referred the matter to the committee and give reasons for its decision. This would follow new section 21A(7) of the Local Government Act 2000.
56. New subsection (8) of section 19 would provide that, where a crime and disorder committee makes a report or recommendations to a local authority about a local crime and disorder matter, it must provide a copy to the member who referred the matter to the committee and also to such responsible authorities and co-operating persons and bodies as it thinks appropriate. "Responsible authorities" are defined in section 19(1) of the Police and Justice Act 2006. "Co-operating persons and bodies" are defined in section 19(2) of that Act.
57. New subsections (8A) and (8B) would make provision about the behaviour of authorities, bodies or persons to whom a crime and disorder committee has sent a report or recommendations (or a copy of them). It would preserve the requirements on those persons and organisations - currently set out in section 19(8) - to consider and respond to the report or recommendations and to have regard to the report or recommendations in exercising their functions.
58. Subsections (5) to (7) of the new clause would make consequential amendments to section 20 of the Police and Justice Act 2006 (guidance and regulations regarding crime and disorder matters). They would remove the power to make provision by regulations about how matters are to be referred to crime and disorder committees.
59. The new clause inserted by Lords amendment [147] would come into force on a day appointed by the Secretary of State, as provided for in subsection (4) of section 244 (commencement). Lords amendment [214] would amend clause

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244 to confer power on the Welsh Ministers to bring the new clause into force in relation to Wales. This would be consistent with section 53(6) of the Police and Justice Act 2006, which provided that sections 19 and 20 of, and Schedule 8 to, that Act should come into force in relation to Wales in accordance with provision made by order by the National Assembly for Wales.

## **PART 8**

### ***Lords Amendment 149***

60. Lords Amendment 149 would correct an error in the new subsection (4B) inserted by **clause 152(1)** (powers of auditors to obtain information) by changing the word “inspector” to “auditor”.

## **PART 9**

### ***Lords Amendments 150-158***

61. Lords Amendments 150 to 158 would amend **clauses 176 and 178** to clarify the powers and obligations of the Local Commissioners of the Commission for Local Administration for England when making and publishing reports and statements at the conclusion of an investigation under the Local Government Act 1974. In particular, amendment 150 would make it clear that the Commissioners may include recommendations in their reports.

## **PART 10**

### ***Lords Amendments 159, 160, 161, 162 and 163***

62. Lords Amendments 159, 160, 161, 162 and 163 would amend **clause 184** in relation to the principles that govern the conduct of members of relevant authorities in England and police authorities in Wales, the provisions of the code of conduct which they are required to follow and the provisions which such authorities may add to the code of conduct they adopt. The effect of the amendments would be that the only principles and provisions which may be applied to members outside their official capacity are principles and provisions prohibiting conduct which would (if engaged in) constitute a criminal offence.

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### ***Lords Amendment 164***

63. Lords Amendment 164 would provide for the order-making power under section 63(1)(j) of the Local Government Act 2000, introduced by **clause 192**, to be subject to affirmative resolution procedure. This order-making power provides for the Secretary of State to specify by order those persons to whom ethical standards officers may disclose information.

## **PART 11**

### ***Lords Amendments 165, 166, 208 & 237***

64. Amendment 165 would amend **clause 210** to omit six existing consequential amendments, while Amendment 166 would create a new schedule which would contain the consequential amendments for Part 11, including the existing six consequential amendments omitted by Amendment 165.
65. Amendment 208 would amend **clause 243** to determine the territorial extent of the consequential amendments for Part 11.
66. Amendment 237 would insert a new Schedule 14 containing the existing consequential amendments omitted by Amendment 165 along with further consequential amendments to Part 11 which would apply additional further local government procedural and other rules to further align joint waste authorities for an area in England with other similar bodies, in particular joint waste disposal authorities, for the purposes of other relevant Acts.

## **PART 12**

### ***Lords Amendments 167, 168, 169, 170, 171, 172, 173, 174***

67. Lords Amendments 167, 168, 169, 172, 173 and 174 are in response to a recommendation in the 11th Report of the Lords Delegated Powers and Regulatory Reform Committee. Where an Order under Part 12 makes provision in relation to entities of a particular description, Part 12 allows for expressions used in identifying the description of entity to have the meaning given by a document identified by the relevant Order. The effect of the amendments would be to restrict the references to such documents so that the only document which can be referred to is a document which has been identified as proper practices for the purposes of section 21(2)(b) of the *Local Government Act 2003* by regulations made under section 21 of that Act. This

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would ensure that the use of definitions in such documents for propriety control purposes is aligned with those definitions used for proper practices under the prudential borrowing regime through the 2003 Act. Lords Amendments 170 and 171 would make technical amendments to ensure that definitions used for the purpose of clause 215 are correct.

#### ***Lords Amendments 203, 204 and 205***

68. Lords Amendments 203, 204 and 205 would address a further recommendation in the 11th Report of the Lords Delegated Powers and Regulatory Reform Committee by making the order-making power at **clause 213(1)** subject to the affirmative resolution procedure.

#### ***Lords Amendment 213***

69. Lords Amendment 213 would make technical amendments to ensure that amended provisions are commenced at the same time as other relevant provisions at Part 12.

### **PART 14**

#### ***Lords Amendments 175 - 177***

70. Lords Amendments 175 - 177 would provide that the purposes for which Local Involvement Networks (LINKs) may monitor and review local care services are the purposes of considering the standard of local care services and how local care services could or ought to be improved.

71. Amendment 176 would make a consequential amendment to **clause 222(2)(d)(ii)**.

#### ***Lords Amendment 178***

72. Lords Amendment 178 would provide that the NHS bodies listed were not able to act as a LINK host.

#### ***Lords Amendments 179 and 180***

73. Lords Amendments 179 and 180 would ensure that the arrangements made by a local authority with a host can include arrangements for a LINK to

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collaborate on a regional or national basis with other LINKs in relation to LINKs activities.

#### ***Lords Amendment 181***

74. Lords Amendment 181 would make provision that the Secretary of State must make regulations providing that LINK arrangements must include “prescribed provision”. In particular, the regulations may require provisions relating to the ways certain decisions are to be taken by the LINK, to the authorisation of individuals able to enter the premises of health and social care providers, to the use of money by the LINK, and to the consequences if a LINK contravenes any provision of the arrangements under which it carries on LINK activities.

#### ***Lords Amendment 182***

75. Lords Amendment 182 would provide that the power to make regulations imposing a duty on services-providers to allow authorised representatives of LINKs to enter and view their premises may be used to restrict LINKs access to certain premises and to viewing certain activities.

#### ***Lords Amendments 183 to 186***

76. These amendments would ensure that a consistent approach is taken across the Bill to directions and guidance.

#### ***Lords Amendments 187, 188 and 189***

77. These amendments would provide for transitional arrangements between the end of patient forums and the start of LINKs.

78. Government Amendment 187 places a temporary duty on local authorities to ensure that there are means by which LINKs activities can be carried on in their area. This will ensure that LINKs activities are carried on in the event that contractual arrangements are not yet in place. Regulations will set the period that the temporary duty will last (the intention is six months). The government intends to set out in regulations the ways in which the temporary duty may or may not be complied with (for example, making it clear that local authorities may not perform the activities themselves) and the reporting requirements that are to be imposed on the local authority and any person whom the local authority makes arrangements with to undertake LINK activities.

79. Amendments 188 and 189 are amendments consequential upon the introduction of transitional arrangements.

***Lords Amendments 190 - 197 and 199***

80. **Clause 232** of the Bill amends section 242 of the NHS Act 2006 and had sought to establish thresholds above which NHS bodies must consult users of health services on significant proposals for change or significant decisions affecting the operation of services.
81. Lords Amendment 191 would provide that the duty on English NHS bodies in section 242 is to make arrangements to involve (whether by being consulted or provided with information, or in other ways) patients and the public.
82. Lords Amendments 192 -197 would remove the references to “significant” in subsection (1B)(b) and (c). In relation to the proposals and decisions referred to in subsection (1B)(b) and (c), the amendments would have the effect that the duty to make arrangements for involvement applies if the proposal or decision would have an impact on the manner in which services are delivered to users of those services or the range of health services available to users.
83. Amendment 199 would impose a duty on the Secretary of State to make regulations in respect of the arrangements a Strategic Health Authority (SHA) must make to ensure that users of health services are involved in certain matters. In complying with this duty an SHA must have regard to any guidance issued by the Secretary of State. This statutory guidance will include details of how the duty to involve should be carried out and when and how often that involvement should occur. Amendment 190 would be a consequential amendment to this.
84. Amendment 199 would also give the Secretary of State the power to make regulations enabling SHAs to make directions to primary care trusts (PCTs) in relation to arrangements that a PCT might make in relation to the involvement of patients and the public in accordance with section 242. The Regulations can only provide for such directions to be given where the SHA will be making arrangements for involvement.

***Lords Amendment 198***

85. Lords Amendment 198 would provide that the Secretary of State may give guidance as to the form to be taken by involvement in any specified case. This is in line with the language used in section 242A.

***Lords Amendments 200 and 201***

86. Amendment 200 would impose a duty on SHAs to report, at times directed by the Secretary of State, on consultations that they carry out in relation to those

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services for which they are responsible, i.e. specialised services commissioned on a national basis.

87. The amendment would also place a duty on SHAs to prepare a report, at times directed by the Secretary of State, on certain consultations it has carried out and what influence the views gathered have had on certain matters. These matters would be specified in directions given by the Secretary of State.

88. Amendment 201 would widen the reporting duty on PCTs imposed by **clause 231**, to include consultations not undertaken by the PCT but which impact on commissioning decisions.

## **PART 16**

### ***Lords Amendment 202***

89. Lords Amendment 202 to **clause 235** (exercise of functions by local councillors in England) would make it clear that the arrangements referred to in that clause are arrangements enabling the functions of a local authority to be exercised by a person who is a member of that authority.

## **PART 17**

### ***Lords Amendment 206***

90. Lords Amendment 206 to **clause 239** would enable the Secretary of State to provide by order (affirmative resolution) for the date on which an authority operating a mayor and council manager executive must pass a resolution to make a change to their governance arrangements.

### ***Lords Amendments 207 and 209***

91. Lords Amendments 207 and 209 to **clause 243** (extent) would have the effect that where Part 9 of, and Schedule 13 to, the Bill which relate to the Commission for Local Administration in England amend Acts, the amendments extend to the same parts of the United Kingdom as the Acts which they amend.

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### ***Lords Amendments 210 to 212***

92. Lords Amendments 210 to 212 to **clause 244** would ensure that Part 3 of Schedule 5 (and clause 75(2)) will come into force on the day on which the Bill receives Royal Assent. This is to allow for transitional provision relating to changing executive arrangements to be made in advance of Part 3 of the Bill coming into force.

## **SCHEDULE 1**

### ***Lords Amendment 216***

93. Lords Amendment 216 to **schedule 1** would make a further repeal in section 17 of the Local Government Act 1992 removing the words ‘and the order of retirement’ which are no longer required because parish councillors all retire at the same time as parish councils cannot operate partial-council elections .

### ***Lords Amendment 218***

94. Lords Amendment 218 would make a drafting change to **schedule 1** of the Bill which would ensure that the Regional Assemblies (Preparations) Act 2003 shall continue to operate as though the changes to the review procedures within the Local Government Act 1992, and the various repeals of provisions of that Act, had not been made. This is necessary as the Regional Assemblies (Preparations) Act 2003 refers to various sections of the LGA 1992 and applies the review procedures contained in that Act.

## **SCHEDULE 3**

### ***Lords Amendment 219***

95. Lords Amendment 219 removes **schedule 3** which is no longer required following the removal of the directly elected executive model.

## **SCHEDULE 4**

### ***Lords Amendments 220 and 221***

96. Lords Amendments 220 and 221 are to **schedule 4**. Amendment 220 would update provisions defining “the leader and cabinet executive” so that these draw attention to the different models in operation in England and Wales. It

*These notes relate to the Lords Amendments to the Local Government and Public Involvement in Health Bill, as brought from the House of Lords on 22nd October 2007 [Bill 167]*

would also remove references to the mayor and council manager model which is no longer to be available to authorities in England under the Bill. Amendment 221 is a drafting change which more clearly explains that the subsequent paragraphs set out the changes that are to be made to the Local Government Act 2000. The amendments would also make changes which are consequential on the issue of whether a reference to a member or councillor of a local authority includes a reference to an elected mayor of the authority (if any).

### ***Lords Amendments 223***

97. Lords Amendments 223 would make a minor and technical amendment which is consequential on subsequent changes to section 33J which is inserted by **clause 62**.

## **SCHEDULE 5**

### ***Lords Amendment 225***

98. Lords Amendment 225 inserts a **new schedule** after schedule 4. This new schedule is almost identical to schedule 5 to the Bill as it left the Commons, with references to directly elected executives having been removed.

## **SCHEDULE 6**

### ***Lords Amendment 227***

99. Lords Amendment 227 would provide for the minimum number of parish councillors for a parish council to be five. This would deal with uncertainty about the minimum number in relation to a common parish council.

### ***Lords Amendments 228***

100. Lords Amendments 228 would make a correction so that reference is made as intended to the order-making provisions contained in Part 1 of the Bill.

### ***Lords Amendment 229***

101. Lords Amendment 229 to **schedule 6** would insert a reference to Part 1 of the Bill. The amendment recognises that provision about the warding of parishes

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and the number of parish councillors for a parish may also be made under that Part.

## **SCHEDULE 13**

### ***Lords Amendments 230 to 236 and 247 to 251***

102. Lords Amendments 230 to 236 and 247 to 251 would add consequential amendments to **schedule 13** and repeals to **schedule 18**. These are amendments of, and repeals relating to, provisions inserted or amended by the Regulatory Reform (Collaboration etc. between Ombudsmen) Order 2007 (S.I. 2007/1889). That Order facilitates joint working arrangements between the Parliamentary Commissioner for Administration (who is appointed under the Parliamentary Commissioner Act 1967), the Health Commissioner for England (who is appointed under the Health Service Commissioners Act 1993) and Local Commissioners of the Commission for Local Administration.

## **SCHEDULE 18**

### ***Lords Amendments 238 to 251***

103. Lords Amendments 238 to 251 would insert into **schedule 18** ('the repeals schedule') words to be omitted in primary legislation and provisions to be revoked in secondary legislation.

# LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH BILL

## EXPLANATORY NOTES ON LORDS AMENDMENTS

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