

Implementing new powers for scrutiny of Local Area Agreements: Your questions answered

This briefing provides information about the new powers for councils to engage other public services in scrutiny of Local Area Agreements. All areas in England have Local Area Agreements for 2008-11, led by their council working with other public services. The new scrutiny powers have just been brought into law, and basic information about what this means is provided here. Some further sources of information are suggested at the end.

What is a Local Area Agreement?

A Local Area Agreement (LAA) is a partnership agreement to take action to tackle the area's most important problems and goals for the future. It is a three year agreement between the council (county and district councils in one county-wide agreement in areas with two tiers of local government) and other public services. Some targets (up to 35) are included which are priorities agreed between the council, other public services and the government.

The council, as the area's democratic voice, takes the leading role. It brings together other public services, and representatives of local businesses, and community and voluntary organisations, in a Local Strategic Partnership. This partnership negotiates a Local Area Agreement, a practical plan to move forward the longer term aims set out in the community strategy. Local Area Agreements in this form have been agreed for all parts of England for 2008-11. This is a requirement of the Local Government and Public Involvement in Health Act 2007.

What are the new scrutiny powers which relate to Local Area Agreements?

The new powers in the Local Government and Public Involvement in Health Act 2007 for scrutiny of Local Area Agreements enable council scrutiny committees or panels to:

- Scrutinise local improvement targets (LAA targets)
- Require information from partner organisations signed up to LAA targets
- Require these organisations to have regard to scrutiny recommendations which relate to a relevant LAA target.

Overview and scrutiny committees are part of the democratic arrangements of councils. Committees or panels of elected councillors review the performance of public services and other local issues, and recommend improvements and new initiatives. This can concern the council's own services, other public services, and any issue which affects the area or its inhabitants. Different councils can have different structures or arrangements to do this. Overall, this should help ensure public services work together to understand and tackle the area's problems and make it a better place.

When did the new powers come into law?

These new powers for the scrutiny of LAAs (Clauses 121, 122, 123, 124 of the Act) were commenced on 1 April 2009. Clauses 119, 236 and 237, covering the Councillor Call for Action were also commenced on this date, but are not discussed here.

What partner organisations are required legally to co-operate with Local Area Agreements?

District councils The Environment Agency Natural England Fire and rescue authorities Jobcentre Plus The Health and Safety Executive The Broads Authority National Park Authorities Youth Offending Teams Police authorities Transport for London Chief Officer of Police Local Probation Boards Probation Trusts and other providers of probation services	Primary Care Trusts National Health Service Trusts NHS Foundation Trusts Joint Waste Authorities Joint Waste Disposal Authorities Regional Development Agencies The Learning and Skills Council Sport England English Heritage Arts Council Museums, Libraries and Archives Council Highways Agency Metropolitan Passenger Transport Authorities Homes and Communities Agency Others could be added by Secretary of State (by Order)
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Are all these organisations covered by the new LAA scrutiny powers?

No. All these public services have legal duties to respond to council scrutiny. However, police and National Health Service bodies are covered by separate, earlier legislation on scrutiny. The scrutiny powers in the Police and Justice Act 2006, which commence from 30 April 2009, can be used to underpin scrutiny of LAA targets on police and crime, (as well as supporting other scrutiny of these issues). Powers from the Health and Social Care Act 2001 can be used to scrutinise health targets. In reality, small differences in the legal frameworks will not be important, particularly as public services learn more about how council scrutiny operates in their area, and the benefits it is seeking to achieve.

District councils are subject to scrutiny?

Yes, district councils are defined in LAA legislation as ‘partner authorities’ in county-wide LAAs. This means they are likely to be signed up to LAA targets (for example on housing) and can be subject to scrutiny on their role in delivering these targets. At the moment, this would be by a county scrutiny committee. Once the regulations on two tier arrangements and district scrutiny powers in relation to LAAs are complete, the scope of two-tier arrangements will change to some extent. District council scrutiny committees can look at their own council’s contribution to targets as well.

Are all organisations involved in Local Strategic Partnerships covered by these legal powers?

No. Public services other than those listed above could be signed up to specific LAA targets, for example a local housing association, or a university or college. LSPs generally include representatives of local businesses and the local voluntary sector, who might also choose to sign up to relevant LAA targets. These organisations are not obliged to be involved in scrutiny enquiries, but they are encouraged to take part.

What regulations are being produced as part of this legal framework?

The Act provides for the Secretary of State to issue regulations on: access to information, two tier arrangements and district council powers, including the role of fourth option councils (smaller district councils with a committee structure rather than a cabinet). These regulations will complete the legal framework.

What is the timetable for finalising the regulations?

The regulations have to be drafted by civil servants in the department for Communities and Local Government (CLG), and then sent to Parliament for approval. CLG has indicated that they expect regulations on access to information, on district council powers, and on fourth option councils, to be completed by the summer parliamentary recess (mid July) and the regulations for joint two-tier committees to be completed later.

What is the impact of the regulations not being finalised yet?

The regulations define or extend some aspects of the framework set out in primary legislation. In the period before regulations are finalised there are only a few limitations on what councils can do, and the powers on which they can draw. Apart from the access to information issue, the main implications are for two tier areas and district councils. We expect the regulations to provide scope for a range of joint scrutiny arrangements in two tier areas, and for district councils (including fourth option districts) to be able to draw on the new scrutiny powers. At the moment, two tier options are more constrained: see below.

What can councils do about access to information?

Without regulations on this, there is no legal definition yet of the information which partner organisations must provide to scrutiny enquiries. Information can be requested on a voluntary basis or using the Freedom of Information Act. We hope partner

organisations will recognise the importance of providing information to support public debate and understanding of their work as publicly funded bodies.

What can unitary councils do now?

Apart from lacking a definition of access to information powers, unitary councils have full scope to use the new legal powers to scrutinise LAA partners. This includes London Boroughs, metropolitan councils and other unitary councils.

What can two tier areas do now?

In two tier areas (with county and district councils), county scrutiny committees can operate with the same scope as unitary councils.

In advance of the regulations, there is no legal provision for joint county/district scrutiny committees. However county councils can use co-option powers to involve district councillors in county scrutiny committees, creating a committee/committees which involve councillors from both tiers. Legally, this would be a county council committee with co-optees, not a joint committee.

District and county councillors could work together in informal task and finish groups to carry out joint scrutiny reviews; these would need to report to a properly constituted county scrutiny committee to be able to use the provision that partner organisations should have regard to scrutiny recommendations.

District council scrutiny committees, including fourth option councils, can look at any LAA issue which affects their area, but without currently having specific legal powers in relation to partners.

Will there be Statutory Guidance on this?

CLG has said they have no plans for Statutory Guidance on these powers, but have commissioned good practice guidance from the Centre for Public Scrutiny. This will provide information and advice, but will not have the legal status of Statutory Guidance (to which councils and others have to 'have regard' in interpreting the legislation).

What should councils do now?

Legally, councils don't have to do anything. Councils are free to decide locally what they want to do to scrutinise Local Area Agreements and partnership work more generally. As councils have an existing power to scrutinise any issue which affects their area or its inhabitants, many have already involved local agencies and services in scrutiny enquiries, including review of LAA performance. There is no requirement to set up separate arrangements for scrutiny of LAAs. In unitary areas in particular it may well make more sense to integrate work on LAAs into other scrutiny arrangements.

Councils are advised, if they have not already done so, to discuss with their LSP how scrutiny of LAAs could work, and to provide information for partners. Some places have produced scrutiny protocols for the whole LSP, joint training or briefing on the role of scrutiny, and agreements on how council scrutiny bodies will work with partners and handle recommendations.

What is the type of scrutiny activity with which partners might be involved?

Scrutiny committees and panels work in a variety of ways. These can include meetings which review performance, which could include questioning those responsible for managing services. Another approach is to carry out a thematic review of one issue over a period of several meetings and develop recommendations. This more investigative approach is designed to find new ideas and solutions to achieve specific LAA priorities, through engaging councillors with community and users, partner organisations, independent experts, in finding new ways to tackle complex problems.

Partner organisations might be asked to:

- give evidence at a scrutiny enquiry, to put their ideas on how problems could be tackled
- provide written information
- discuss the performance against targets in the LAA with which they are involved, and answer questions on how that performance could be improved
- provide expert advice to councillors on issues in the LAA
- engage in discussions with services users about issues which affect them
- take part in consultation about the Sustainable Community Strategy, or other strategies relevant to their work, for example on health or crime.

Although the Local Government and Public Involvement in Health Act 2007 does not make it compulsory for partner organisations to attend scrutiny meetings, partners are encouraged to do this when appropriate. This provides an opportunity to answer questions and have a dialogue, including putting the views and concerns of their organisation. Councils should provide prior information about how they work and the type of meeting which is proposed.

What other scrutiny powers are included in this Act?

The Local Government and Public Involvement in Health Act 2007 scrutiny powers also includes the requirement for council executives to respond to scrutiny recommendations. It also provides a legal framework for the Councillor Call for Action (CCfA). Separate guidance has already been issued on CCfA and can be found at www.cfps.org.uk.

What support and advice is available?

The Centre for Public Scrutiny will be publishing good practice advice on: the role of partners, issues relating to district councils and joint committees, and scrutiny models and structures. CfPS will also be working with the Improvement and Development Agency (IDeA) to run a series of Leadership Academy sessions for councillors. Conferences and events are advertised on the websites.

Further information is available from the following websites: www.cfps.org.uk; www.lga.gov.uk; www.idea.gov.uk

Publications, also on the relevant websites:

A councillor's guide to the new Local Area Agreements (LGA, December 2007),
Changing Places: Local Area Agreements and two-tier local government (LGA, September 2008),

A wider conversation: effective scrutiny of Local Strategic Partnerships (IDeA, February 2007).

How to win friends and influence partners (CfPS, March 2008).

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