

Item 3

Local – Central Relations on EU work and the Government’s EU review on balance of competences

Purpose of report

For decision.

Summary

This paper has two aims, to:

1. Support a Board discussion on the Government’s major review to assess the impact of EU law on the UK. A Government representative will present an overview of the Government’s review.
2. Update Members on LGA plans to improve central-local relations on EU lobbying.

Recommendation

Members are asked to make a decision at paragraphs 9 and 18.

Action

Officers to progress any actions arising as appropriate.

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Item 3

Local – Central Relations on EU work and the Government’s EU review of the balance of competences

Summary

1. This paper has two aims:
 - 1.1. To provide background for a Board discussion on the Government’s review to assess the impact of EU law on the UK. Cat Evans, is Deputy Head for the Review and works within the Future of Europe Unit at the Foreign and Commonwealth Office. She has been invited to present the background, context and aims of the Government’s review. Members are asked to make a decision at paragraph 9.
 - 1.2. To update Members on LGA plans to improve central-local relations on EU lobbying.

The Government’s Balance of EU competences review

2. The Balance of EU competences review was launched by the Foreign Secretary in July 2012. It will conclude in Autumn 2014, and aims to develop an audit of what the EU does and how it affects the UK. It is broken down into 32 specific areas. Relevant Government Departments are consulting with key stakeholders to look in depth at how the EU’s competences work in practice and then produce public reports based on the evidence submitted.
3. In each policy area, the review asks questions such as:
 - 3.1. what evidence is there that EU competence in a given area has benefited/ disadvantaged the UK or the sector?
 - 3.2. where should decisions be made? How might the national interest be better served if decisions currently made at EU level were instead made at a national, regional or international level? What measures, if any, would be needed in the absence of EU legislation?
 - 3.3. to what extent are EU standards (e.g. on environment) necessary for the proper functioning of the EU internal market?
 - 3.4. to what extent is EU legislation focused on outcomes (results) and based on an assessment of risk and scientific evidence?
 - 3.5. how could EU competence in a given area be done differently (e.g. better ways of developing proposals, recognition of national circumstances, alternatives to legislation)?
 - 3.6. are there any alternative approaches the UK could take to the way it implements EU Directives?

Item 3

- 3.7. what advantages or disadvantages might there be in the EU having a greater or lesser role in entering into agreements internationally or with third countries?
- 3.8. how important is it for the UK to be part of “Team EU” at international events?
4. The review focuses on several areas which are relevant to local government to a greater or lesser extent. These include:
 - 4.1. environment and climate change;
 - 4.2. transport;
 - 4.3. culture;
 - 4.4. internal market-services;
 - 4.5. social;
 - 4.6. competition;
 - 4.7. energy;
 - 4.8. workplace health and safety and consumer protection; and
 - 4.9. subsidiarity and proportionality - cross cutting.
5. It will examine the extent to which EU action affects the UK, how EU laws are put into place in the UK, what effect they have and where more EU activity could be to the national benefit or where less would be appropriate. A similar exercise has recently been launched in The Netherlands, in which the Dutch LGA (VNG) will be participating.
6. For more information on the review: www.gov.uk/review-of-the-balance-of-competences

The LGA response

7. It is proposed that the LGA responds to the review given the significant number of EU competence which affect the local government sector. It is also important given the introduction of the Localism Act EU Financial Sanctions provision, which enables a Minister to seek to pass on to a local authority a fine from the EU for failing to comply with a European obligation if it can prove it contributed to non-compliance (see item 6).
8. It is suggested that the LGA submit a single response which captures broad principles of how we approach EU legislation and its implementation into UK legislation.
9. Set out below are broad, and previously agreed principles on the LGA approach to EU legislation and policy, its implementation in the UK, and impact on local authorities. Members' views are sought on whether or not these remain relevant, and / or require some refresh.
10. Principles relevant to the Government:
 - 10.1. **Identifying challenges early:** as the sole UK negotiator for EU laws affecting local authorities, the Government needs to understand the challenges councils may face in delivering it. It must engage with the LGA and our member authorities at two crucial stages: firstly: before and during negotiating the UK's line on a draft piece of EU law which could affect local services; and secondly: when UK Parliament transposes an EU directive into UK law.

Item 3

10.2. **Effective transposition:** the LGA urges the UK government to implement new EU rules in the lightest possible way, making it clear where it is responding to EU legislation, as it is not always clear which EU law translates into which UK statutory instrument. Systematic, timely and coordinated communication by the Government to inform and alert local authorities of new EU laws and UK implementing measures is critical if local authorities are to apply rules in a timely manner.

11. Principles relevant to the EU:

11.1. **The EU should legislate only when necessary:** we acknowledge that ‘good governance’ is not ‘no governance’, and there are some policy areas where it makes sense for EU countries to collaborate and set a level playing field. The LGA suggests that the EU legislates only when absolutely necessary and with a minimum of bureaucratic rules and a maximum of consultation, forewarning and financial assistance, leaving it to local councils and the UK government to work out the detail.

11.2. **Light touch EU legislation:** we urge ‘light touch’ EU legislation, and that it should be for the government, in consultation with local councils and the LGA, to work out the detail of how we achieve EU objectives.

11.3. **Seek alternatives to EU law:** we urge the EU to seek alternatives to legislation, to introduce time limits and review periods (‘sunset clauses’), to accelerate the repeal and simplification of existing rules.

11.4. **Strengthen democratic legitimacy:** we call on EU decision-makers to better involve councils, through the LG Association and local government representatives in the CoR, to strengthen the democratic legitimacy of EU decisions and ensure all new EU laws are necessary, proportionate and workable on the ground.

Local – Central partnership working with Whitehall

12. The Localism Act and the possibility that EU fines led to a commitment from lead Whitehall departments including the Foreign Office (FCO), Cabinet Office, and DCLG that a more systematic approach is required to gather intelligence and evidence on the local implications to inform the developing UK position on EU proposed law.

13. When negotiating EU proposals and agreeing “UK lines” for Brussels negotiations, Ministers need a better appraisal of the impact of individual EU proposals on councils, our ability to deliver new regulation, and any future liability to fines. The LGA should be in a position to provide this on our priority EU issues. This is working since we initiated a process whereby information is shared between UK Government and LGA on a more systematic basis.

Item 3

14. However, we cannot assume Whitehall will act always on LGA advice, so further work is required with DCLG and FCO to ensure Whitehall is acting consistently on these issues.
15. To cement principles of better working together, we propose to coordinate and host an event on **11 November at Europe House (Westminster)** involving leads from the LGA and Whitehall Departments.
16. The event is timed to coincide with the publication of the Commission legislative and policy work programme for 2014 and beyond. This would build on the successful Brussels Office coordinated EU summits. The agenda for the day is in development. It aims to identify the most important 2014 legislative proposals for local government and set out the optimum UK response from a local government perspective.
17. Principles of sharing relevant information, working together in compiling a shared evidence base to further our mutual priorities, and to ensure maximum influence on shared priorities as appropriate, could be drafted for agreement.
18. Members' views are sought on the key objectives and outcomes of the event to enable officers to start planning.

Brussels dimension

19. As regards the balance of competences exercise the LGA, through its representatives on Committee of the Regions (CoR) and staff in Brussels, already promotes the fundamental principles outlined above, in the context of the EU better regulation strategy and in general lobbying on specific directives. For example, Lord Tope is the CoR representative on the EU High-Level Group on Administrative Burdens, whilst he and Cllr Keymer have both authored CoR opinions on 'smart regulation' and subsidiarity which have pursued these principles.
20. As regards the local-central partnership, the LGA Brussels Office already has good working relationships with UK civil servants (UKREP) for intelligence-gathering and influence. These routine contacts are supplemented by UKREP attendance at meetings of the UK Delegation to CoR (2-3 times annually) and an approximately annual 'Summit' event in Brussels.