

## Reducing burdens on councils & SMEs - LGA work programme on internal market issues for 2009

### Summary

1. This report outlines a proposed programme of work for 2009 on issues such as EC public procurement and state aid rules which affect the improvement agenda of councils.
2. Work will be undertaken by the LGA European & International Unit, in liaison with advisors from across the LGA group: IDeA, 4Ps, LACORS.

### Recommendations

Members are asked to agree the E&I unit work programme on EC Internal Market issues for 2009, and to provide any comments.

### Actions

Subject to comments from the Board, officers to take forward any suggested actions.

### Contact Officers

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## Background

1. The LGA's European & International Unit (EIU) provides an information and support service to councillors and local authorities. As 50% of regulation that affects councils has its origins in the EU, the LGA provides an EU public affairs service to councils to ensure that the "localist" argument is addressed in draft legislation.
2. As part of the programme of integrating EU work into the mainstream work of the LGA, all Policy Boards have nominated a lead member to work with EIU to identify those EU issues of most importance to the Board. Cllr David Parsons provides this role for the Improvement Board and represents the Board on the LGA's European Strategy Group.

## Proposed work programme for 2009

3. There are a number of developments as regards internal market rules at EU level which steer councils towards new ways of working and which require them to adopt new administrative processes. Examples include:
  - public procurement rules – new EU guidelines for councils to address environmental and social considerations in public contracts. A new procurement procedure, known as 'competitive dialogue' requires councils to deal with bidders in a different way.
  - state aid rules – certain uses of public funds now require notification to the European Commission to ensure fair competition is not distorted.
  - free movement of SMEs across the EU – local authorities are having to ensure all licensing regimes are available electronically, are SME friendly, and don't discourage service providers based in other countries from operating in the UK.
  - European court rulings affecting the local authority VAT regime.
4. It is important for LGA to engage with developments in EU rules to ensure freedoms and flexibilities for local councils are maintained. The aim is also to ensure that any new cost burdens are proportionate, and to ensure councils contracting activities remain compliant with the evolving EU regime.

5. As part of a council's duty to promote the economic well-being of its area, it is also important to consider the impact of evolving EU regimes on the SMEs community, and to recognise the role that SMEs play in boosting competitiveness.
6. Certain developments at EU level are legislative and will become mandatory for councils, whilst others are non-legislative, and are therefore currently voluntary, but may become mandatory in the future.
7. The proposal is therefore to deliver a programme of work during 2009 as outlined in **Annex 1**. LGA activities will be primarily focused towards the European institutions whilst partnership work via IDeA, 4Ps, and LACORS ensures good liaison with Whitehall.
8. An update on progress with delivery of the work programme can be provided to an Improvement Board meeting during 2009. EU developments in this field were previously outlined in the May 2008 update paper to the Improvement Board.

### **Implications for Wales**

9. None. EU developments equally affect England and Wales.

### **Financial/Resource Implications**

10. None. This work can be delivered within existing LGA resources.

## Annex 1 – proposed LGA work programme on internal market issues for 2009

Public procurement issues	Action to be taken
<p><b>public procurement of clean vehicles</b> – proposals published 19/12/07. Would require local authorities to consider the lifetime fuel and emissions costs of the vehicles they buy, pushing up initial costs.</p> <p><b>competitive dialogue procedure</b> – may make SMEs bids for public contracts more costly and put SMEs off bidding for contracts.</p> <p><b>embedding green and social criteria into public contracts</b> – proposals published 16/7/08 for common ‘green’ product and service specifications to be included in local authority tender documents. Also sets a target for 50% of procurements nationally to meet these ‘green’ standards by 2010. Commission to come forward with new guidelines on embedding social criteria into contracts in spring 2009.</p> <p><b>quality methodology for social services</b> – an initiative may be published in 2009 bringing in an EU methodology on quality standards in social services. Use of the methodology is likely to be voluntary, but councils would be well advised to check quality procedures comply.</p> <p><b>communication on concessions</b> – possibly in 2010, could affect some leisure centre, bus arrangements, toll road/bridge</p>	<p>LGA to work with the European Commission and European Parliament during early 2009 to ensure proposals remain voluntary, and do not increase costs for councils.</p> <p>4Ps lawyer presented to the Commission in Oct 2008. Latest experiences with the new procedure and implementation difficulties at LA level to be reported to the Commission in 2009.</p> <p>LGA to make representations to the Commission stressing the need for a voluntary and flexible approach. Several Commission working groups already attended in 2008. EIU to disseminate commission guidance documents to LAs on social issues when contracting.</p> <p>LGA to send a clear message that EU action in this field is unhelpful and that national quality frameworks for social services are sufficient in the UK context. LGA community well-being board have received updates.</p> <p>LGA to meet with the Commission during 2009 to gain early intelligence on what will be proposed and to push for a ‘light touch’ approach in the UK context.</p> <p>LGA to increase liaison with society of procurement officers (SOPO) and regional improvement and efficiency partnerships (RIEPs) on common topics.</p>

<p>arrangements, depending on definition adopted of a 'concession' adopted.</p>	
<p><b>State aid issues</b></p>	<p><b>Action to be taken</b></p>
<p>Certain uses of public funds now require notification to the European Commission to ensure fair competition is not distorted. Complexities in the state aid regime create legal uncertainties when councils want to encourage SMEs to invest in their area. Commission will be producing various guidance documents during 2009.</p> <p>Regulation on public passenger transport, adopted 3/12/07. Outlines how public bodies can finance or contract with bus companies. Several provisions don't apply to the liberalised parts of the UK market.</p>	<p>LGA to make Commission aware of the low levels of awareness amongst LAs, and some of the practical difficulties involved. LGA to raise awareness of state aid issues via web and publications etc. Presentation given to local government solicitors in Nov 2008.</p> <p>To gather intelligence on how the regulation is affecting contracting authorities in London, and municipal bus companies, and report implementation difficulties to the Commission. LGA Regeneration &amp; Transport Board have received updates.</p>
<p><b>Better regulation - free movement of SMEs across the EU</b></p>	<p><b>Action to be taken</b></p>

<p>The Services Directive is currently being implemented and will come into force by the end of 2009. It will make it much easier for SMEs to start up and operate in other member states but requires a number of changes to LA procedures particularly licensing and authorisation regimes.</p> <p>A new national web portal to help SMEs to start up in the UK is being created, as well as a new web-based information exchange system to allow local authorities to check the legality of service providers based in other Member States who are operating in their area.</p> <p>Cross-border health services, known as “patient rights” Directive, published 2/07/08. The proposals would open new possibilities for NHS to reimburse patients for treatments received abroad.</p>	<p>LGA to continue to liaise with LACORS who are now leading implementation of the Directive on behalf of local government.</p> <p>LGA/LACORS to continue to press BERR for training materials for local authorities and for additional finance to implement the requirements.</p> <p>LGA to take part in exchanges of best practice on implementation at EU level.</p> <p>Watching brief – liaison with NHS European function on possible social services implications.</p>
<p><b>local authority VAT regime</b></p>	<p><b>Action to be taken</b></p>
<p>A recent European court ruling questions if councils should be reimbursed for the VAT they incur when running car parking facilities. A number of other rulings are increasingly classing local authority services as ‘economic’, meaning they fall under the EU’s powers to legislate on the Internal Market.</p> <p>The Commission is also examining the VAT refund regimes for local authorities in different MS.</p>	<p>LGA to develop and promote a ‘Charter’ with CEMR (the European LGA) on the principles of EU action in the field of local public services. Such a Charter will stress subsidiarity and the right of local self-government to determine which rules affect which services. It will also draw upon the Internal Market work undertaken by Cllr Parsons in the Committee of the Regions. The Charter will be part of a wider campaign at EU level on better regulation and public service improvement.</p>
<p><b>Improvement from international learning</b></p>	<p><b>Action to be taken</b></p>

Many councils have limited resources to seek comparative examples from other countries on different models of public service delivery. Currently, examples of international best practice and cooperation are not systematically recorded and exchanged. To this end, we are discussing how councils both here and overseas, can share learning and good practices.

EIU and IDEA are discussing how the LGA group could bring in international learning to help councils' improvement agenda. A 12 month post has been created within the EIU to progress this work as a specific project. The aim is to involve as many councils as possible to share the expertise they have already gained from international working.