

Formal Constitutional Protection for Local Government

Purpose of report

For information.

Summary

At this year's General Assembly, the LGA unanimously agreed a motion promoting the formal constitutional protection of local government. The *Rewiring Public Services* campaign includes this as one of the ten Big Ideas that form the core of the LGA's lobbying activity. This paper sets out steps agreed by the LGA Leadership Board to stimulate Parliamentary interest and debate in constitutional protection for local government.

Recommendation

That the Executive receives the report and notes the current position.

Action

Officers to take forward in line with members' direction and pursue discussions with Lord Wills and others.

Contact officer: Rebecca Cox
Position: Senior Adviser
Phone no: 0207 187 7384
E-mail: rebecca.cox@local.gov.uk

Formal Constitutional Protection for Local Government

Background

1. Under the banner of Independent Local Government, the LGA promoted a debate within the sector about the House of Commons Political and Constitutional Reform Select Committee's proposal for a Code entrenching local government independence. Following Members' steer the LGA refined its demands to focus in the first instance on the formal constitutional protection of local government as opposed to a lengthy Code.
2. At this year's General Assembly, Members unanimously agreed a motion calling on the LGA to "use its influence in the House of Commons and the House of Lords to introduce Private Members Bills that entrench local government's freedoms in our Constitution and protect them against erosion by future governments". (See **Appendix B.**)
3. The LGA responded to "welcome and agree with this motion and [we] intend to continue campaigning for a transformation of the model of governance in England that will give English voters the same sort of influence over local services at the ballot box that voters in the other countries of the UK, and in other major democracies, expect as a matter of course".

Securing Parliamentary debate

4. Working in collaboration with Lord Wills, a Labour Peer with a background in constitutional matters and a former Ministry of Justice Minister, and with support from the clerks of the House of Lords, LGA officers have prepared a concise Bill that would form the basis for Parliamentary debate of, and engagement with, formal constitutional protection for local government. The Bill was discussed and agreed by the Leadership Board at their October meeting, subject to clarification that all authorities are covered (lawyers are ensuring that this is so). The draft Bill is attached at **Appendix A.**
5. This Bill will be introduced first as a Private Member's Bill in the House of Lords. The ballot for a Private Members Bill in the House of Commons does not open again until the next parliamentary session, due in the Spring of 2014. We will look at other ways of raising the issue of constitutional protection in the House of Commons so as to complement the work we wish to take forward in the Lords.
6. Although such constitutional protection for local government is the final one of our ten demands in *Rewiring Public Services*, that demand is of course for constitutional protection of the settlement described in the previous nine demands. This Bill will put constitutional protection on the agenda; but we need to be clear that it is not our ambition simply to entrench and protect councils' position under the status quo. We ultimately want to see a much more mature central-local relationship put under constitutional protection. This Bill is just the first step in that direction.

Item 1

Next steps

7. Public affairs officers will work with Peers to build a network of support for the Bill. This will include working with LGA Vice-Presidents as well as developing a broader cohort of interested and influential Peers.
8. Media and communications officers will ensure the debates receive appropriate media coverage to further the aims of *Rewiring*.

Financial Implications

9. There are no unbudgeted implications for the LGA.

Appendix A: Draft Bill

Local Independence (Amendment) Bill

A BILL TO

provide a statutory foundation for local authorities in England and Wales.

1 Amendment of the Local Government Act 1972

Before Section 245 of the Local Government Act 1972, insert the following new section—

“244B Underpinning principles for local authorities

- (1) Local authorities have an existence autonomous of the Crown, Her Majesty’s Government, and Agencies accountable to Ministers of Her Majesty’s Government.
- (2) Local authorities are accountable to the residents of their London borough, county, district or parish as appropriate.
- (3) Courts shall construe Acts of Parliament in accordance with the principles in this section.”

2 Commencement, Extent and Short Title

- (1) This Act may be cited as the Local Government (Amendment) Act 2013.
- (2) This Act shall come into force on the day it is passed.
- (3) The provisions of this Act extend to England and Wales.

Appendix B: Motion on Independent Local Government

Councillor Ruth Dombey, Leader of the London Borough of Sutton, supported by Councillor Marianne Overton (Lincolnshire County Council)

Proposes that

“This Association believes in local government as one of the cornerstones of democracy in the UK and a champion of the needs and ambitions of the people it represents.

We believe that decisions made on behalf of a community are best made by those directly elected to represent them. This is the most democratic approach and makes for best use of public money. We note the Prime Minister’s acknowledgement that local government is the most efficient part of the public sector.

We note the work of the Political & Constitutional Select Committee on the position of local government in the Constitution and its recommendation for a national debate on securing greater autonomy for the sector. In its own campaigning for independence for local government, this Association believes that:

1. Councils should be accountable to their electorates and not to ministers of the Crown;
2. Councils should be granted greater freedoms and flexibilities to drive economic growth;
3. Councils should have the power to provide any local public service not explicitly reserved to another body;
4. Councils should retain in full the proceeds of council tax and business rates, subject to retaining mechanisms for fairness and redistribution and that both these taxes should be determined by councils alone without central government interference;
5. The burden of statutory duties and central compliance regimes should be lifted further; and
6. Central government interference should be removed from decisions on councils’ electoral boundaries and governance models.

The General Assembly calls on the leadership of LGA to use its influence in the House of Commons and the House of Lords to introduce Private Members Bills that entrench local government’s freedoms in our Constitution and protect them against erosion by future governments.”

LGA Response

The LGA exists to defend and promote the importance of local democratic accountability for the local public sector. The current overcentralised model of governance in England is no longer fit for purpose and is feeding disillusion with the democratic process. We welcome and agree with this motion and intend to continue campaigning for a transformation of the model of governance in England that will give English voters the same sort of influence over local services at the ballot box that voters in the other countries of the UK, and in other major democracies, expect as a matter of course.