

Local Government and Public Involvement in Health Bill - Lords Stages

Statement of Intent: Statutory Guidance

Place- Shaping

Paper 1) Co-operation of English authorities with local partners through LAAs (*Part 5, Chapter 1 of the Bill*) **Pg 2**

Paper 2) Best Value (*Part 7 of the Bill*) **Pg 11**

Local Government has an essential role in shaping local areas. Strategic leadership is vital to bring together local people and local partners in order to build and deliver an integrated vision of how to improve the quality of life through better services and better places. '*Strong and Prosperous Communities - The Local Government White Paper*' lays out the Government's proposals on how to re-enforce local authorities' role as 'place-shapers'. One of the ways this will be achieved is through statutory guidance, as laid out in the approach to guidance in the White Paper Implementation Plan.

This paper gives detail on two pieces of statutory guidance provided for within the Bill with the aim of assisting local government's place-shaping role and associated duties on Best Value authorities to secure continuous improvement and involve local representatives. The paper sets out the purpose, scope and content of the guidance and is provided to assist the Committee's scrutiny of the Bill.

Paper 1) Co-operation of English authorities with local partners through LAAs

Note for the Committee on clauses 105 to 120 - Co-operation of English authorities with local partners through LAAs

Purpose of this explanatory paper

This explanatory paper explains the background to the provisions at clauses 105 to 120 of the Local Government and Public Involvement in Health Bill which seek to improve the co-operation of English authorities with Local Partners through Local Area Agreements (LAAs). It also includes an outline of the issues that, subject to formal consultation, we would expect to include in statutory guidance.

Background/ why is the new guidance making power needed?

We are seeking to broaden the scope of LAAs to become the main delivery agreement between central government and local authorities and their partners and to place them at the heart of the new performance framework set out in the recent Local Government White Paper.

We are also seeking to create a formal framework of co-operation between key strategic partners to enable the transparent agreement of targets within the LAA. Implementing these provisions effectively will require statutory 'place-shaping' guidance.

Scope/ to whom would the statutory guidance apply?

Guidance issued under clause 108 would apply to all local authorities and partner authorities as outlined in clauses 105 and 106, in England.

Principles for preparing the guidance

In exercising the power to issue guidance under clause 108, we envisage it would be:

- strategic – providing an overall framework for the delivery of better outcomes including responsive services and empowered communities;
- permissive - not prescriptive or based on processes, but providing lots of room for local flexibility;
- produced as part of a comprehensive and coherent package of guidance in line with the approach set out in the Local Government White Paper Implementation Plan.

Issues covered in this note that might be expanded on in the proposed guidance

This note covers:

- I. Local Area Agreements - the legal framework

- II. Targets in the LAA - the basic model of the new statutory LAAs
- III. Why include both local and nationally-negotiated targets?
- IV. The link to the Sustainable Community Strategy
- V. The National Indicator Set
- VI. LAAs and risk management
- VII. The LAA grant and the relationship between the LAA targets and mainstream funding
- VIII. Roles and Responsibilities
- IX. The process and effect of designation

Set out below is an indication of the content to be covered in the statutory guidance (excluding the national indicator set and Comprehensive Area Assessment) . In addition we are also likely to issue non statutory operational guidance to accompany the statutory guidance, which will touch on some of these issues where they do not relate directly to the Bill provisions.

Local Area Agreements – the legal framework

The Bill seeks to establish a formal framework for co-operation around a new statutory LAA. In particular it will create:

- A duty on lead local authorities (that is, county councils, unitary authorities, London borough councils, the Council of the Isles of Scilly and the City of London) to produce a LAA and to consult and seek the participation of named partners and such persons as they consider appropriate.
- A duty to produce a Community Strategy was introduced by section 4 of the Local Government Act 2000¹. The Bill seeks to extend the requirement on local authorities to “consult and seek the participation of such persons as they consider appropriate” specifically to require lead local authorities to consult and seek the participation of the named partners.
- A duty on local authorities and named partners to co-operate with each other to agree targets relevant to themselves in the LAA.
- A duty on local authorities and named partners to have regard to relevant targets in the LAA.
- A duty on the lead authority to have regard to its Community Strategy when preparing the LAA.

These legislative changes will not create a statutory Local Strategic Partnership (LSP) i.e. a body with its own legal status capable of, for example, directly commissioning services or holding a budget. Instead the LSP will remain a voluntary partnership of individual partners focused on agreeing and delivering on agreed targets laid out in a LAA. The roles and responsibilities of LSPs and the individual partners within them will be set out in the statutory guidance.

¹ Community Strategies are now referred to as Sustainable Community Strategies.

The Government accepts that it can not legislate for good partnership working. However, it is critical that partners in a locality transparently agree a shared set of priorities. The legislation provides a framework for that agreement and a shared duty to have regard to targets in order to deliver local outcomes.

Targets in the LAA - the basic model

LAAs will consist of around 35 nationally negotiated 'designated' targets (see further under 'The process and effect of designation') drawn from the national indicator set (of approximately 200 indicators) and may also include purely locally-agreed 'local improvement targets' with a base set of pre-existing statutory educational and early years targets (presently 18) to sit along side the LAA. These locally agreed targets, drawn from the Sustainable Community Strategy will be of prime importance and relevance to local people and developed by local authorities and their partners to reflect local aspirations and priorities. It may be that in an area of high-performing public services which requires fewer nationally designated improvement targets, the locally agreed targets may form a larger part of the LAA.

There are no restrictions on the number of local improvement targets within an LAA as this is purely down to the discretion of local authorities and their partners.

It will be the responsibility of the lead local authority, in consultation with other LSP partners to produce a LAA and to negotiate and reach agreement with central government on the targets set out in it which may be designated. Once agreed, the local authority and partners will work together through the LSP to ensure that progress is made towards achieving the targets. The Bill imposes a duty on the authority and partners to have regard to the targets relevant to them.

Why include both local and nationally-negotiated targets?

The purpose of including both the local improvement targets that are agreed with and reported to central government and those that are not, in one Local Area Agreement that is signed off by the Secretary of State, is to ensure that there is a *single* set of priorities for an area – to avoid the proliferation of targets and subsequent reporting that exists at present. Removing alternative performance management arrangements should ensure that the LAA is genuinely the delivery agreement between central government and local government and its partners. If there were local improvement targets that were not part of the Local Area Agreement, they would fall outside and would therefore not benefit from, the scope of the framework for co-operation introduced by this Bill.

Moreover the logic to identifying priorities through the Sustainable Community Strategy (SCS) (see next section) is that the local partners may want to identify in the LAA the important local priorities that are key to implementation of the SCS but are not included in the 35 targets negotiated with government, for example, because they may already be going well but that they want to maintain at a high level. This model allows for all of the targets to be in one Local Area Agreement whilst ensuring that the local, non-designated targets can be purely discretionary, that they can be amended or dropped by local partners without the intervention of central government and that they will not be reported on to central government (although areas will have to report on the full national indicator set to which some of the local targets may well relate).

The link to the Sustainable Communities Strategy

Sustainable Community Strategies were provided for in section 4 of the Local Government Act 2000. This required local authorities to draw up a community strategy 'for promoting or improving the economic, social and environmental well-being of their area and contributing to the achievement of sustainable development in the United Kingdom'.

Following the 2004 Egan Review, it has become clear that the Community Strategy needs to become more strategic and should take a more cross-disciplinary and integrated approach to social, economic and environmental issues, with priorities agreed only when any trade-offs between these concerns have been identified and minimised. The Government agrees with the Egan recommendation that these should be reshaped into Sustainable Community Strategies. The Local Government White Paper reinforced this principle by stating that the development of a Sustainable Community Strategy 'is at the heart of creating sustainable development at the local level'.

By explicitly linking Sustainable Community Strategies and Local Area Agreements (Clause 108 (2)(c)(i)) we aim to make it clear that the LAA must be informed by the Sustainable Community Strategy's analysis of need and its longer-term priorities.

The national indicator set

Government will set out a single set of national priority outcomes for local authorities working along or in partnership, reflecting decisions in the Comprehensive Spending Review (CSR07). They will be measured by a single set of national indicators against which all areas will report. Each indicator will have:

- i) a reporting frequency assigned to it based on the nature of data collected e.g. quarterly versus annually; and
- ii) a spatial element based on the appropriate geographical level for the indicator e.g. county-wide or district-level

LAAs and Risk Management

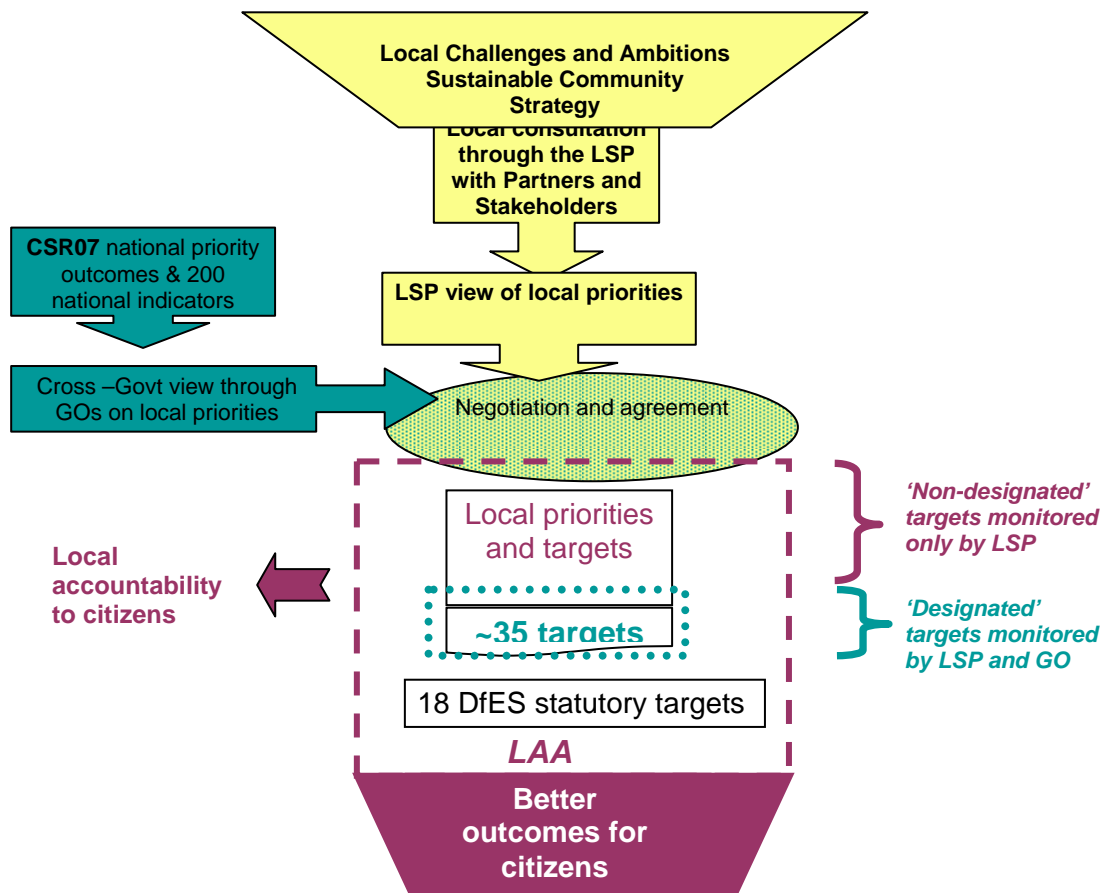
This national indicator set will cover reporting required for the delivery of services by local authorities either alone or in partnership with others. When required the local services inspectorates led by the Audit Commission will carry out an assessment of the risks that exist in each area and how well those are being managed. This will form part of the Comprehensive Area Assessment (CAA) which will replace Comprehensive Performance Assessment (CPA) and will highlight amongst other things, where there is a risk to delivery in the locality. The assessment will inform the negotiation of the LAA.

In the future LAA framework there will be a single annual review informed by the CAA which will bring together four judgements; risk assessment, direction of travel, use of resources and performance against the national indicator set. At the annual review the local authority, their partners and Government Office will take stock of progress in meeting targets and consider what new priorities may have emerged, and where data indicates significant concerns for delivery of services or achieving the objectives of the Sustainable Community Strategy. The annual review will be used to respond to these issues and consider whether it is appropriate to negotiate changes to the national/locally agreed improvement targets.

The LAA grant and the relationship between the LAA targets and mainstream funding

Of critical importance is the fact that LAA targets are no longer depend on which funding streams are being pooled, but are based on an assessment of performance against the National Indicator Set described above, and local priorities. In effect all funding streams in an area now support delivery against the indicator set and improvement targets.

Figure 1: Our vision of the overall framework



Roles and Responsibilities

Lead local authorities - what will be expected?

Lead local authorities will be put under a duty to produce a LAA in consultation with named partners and such other persons as appear to it to be appropriate. Statutory guidance will make it clear that this includes voluntary, community and private sector

representatives². In addition, lead authorities will be responsible for ensuring effective partnership mechanisms, including internal performance management.

Designated targets may be the joint responsibility of the lead authority and a named partner, but only with the agreement of the named partner. Similarly, local priority targets may be agreed between any named partner/s. The lead local authority will not be able to impose targets on named partners.

What will be expected of partner authorities?

The local authority is one of many public service providers in a locality. The Bill seeks to name those bodies that provide key services to the local community in some capacity and which are named in statute, or have a statutory basis. The Bill also provides for the list of named bodies to be amended by order after Royal Assent which will enable the list to reflect changes in circumstances.

The list of bodies named in the Bill is set out below.

<ul style="list-style-type: none"> • Unitary and county authorities • District authorities • Police authorities • Chief Officer of Police • Youth Offending Teams • Local Probation Boards • Fire and rescue authorities • The Environment Agency • Natural England • Jobcentre Plus • Regional Development Agencies • Arts Council England • Museums, Libraries and Archives Council 	<ul style="list-style-type: none"> • The Health and Safety Executive • Primary Care Trusts • The Learning and Skills Council in England • Sport England • English Heritage • Joint Waste Authorities • Waste disposal authorities • Highways Agency • Metropolitan Passenger Transport Authorities • The Broads Authority • National Park Authorities • NHS Foundation Trusts • NHS Health Trusts • Transport for London
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The Museums, Libraries and Archives Council, the Arts Council, Transport for London, NHS Trusts and Foundation Trusts and any joint waste authorities established under the provisions of the Bill when it is enacted, were added to the list of partner authorities by Government amendment during Committee stage in the House of Commons.

In order to ensure effective consultation, agreement of targets and efficient delivery against them, partners will be expected to enter into a level of engagement which produces sensible and functioning partnership working and joint planning. The type of involvement that is appropriate will be likely to differ depending on the body in question and the characteristics of the locality, therefore the details will need to be negotiated between partners at the local level. The possible methods of engagement could include representation on the LSP Board; involvement through the relevant thematic partnership (e.g. Crime and Disorder Reduction Partnership); face to face

² Also note the new duty on **best value authorities** (except police authorities who already have similar duties) to inform, consult and involve representatives of local people in their activities where appropriate (clause 137).

meetings, secondment of staff to the LSP central team, or considering and determining LAA and Sustainable Community Strategy drafts. The practical implications of the duties for the different named partners will be expanded on in the accompanying statutory guidance.

However it is important that central government does not become overly prescriptive of the way individual agencies set about working in partnership. These agencies vary a great deal in terms of how they are constituted and resourced and as such, it would not be practical or appropriate for us to specify in legislation how they should all operate in each area, particularly as the level of involvement necessary in each area may well differ given the severity or otherwise of the issue to be tackled.

In addition, the existence of the list of named partners does not preclude other organisations from becoming involved in the negotiation and delivery of local targets and outcomes. Through the Bill's requirement on local authorities to consult such persons as appear to it to be appropriate, ie relevant bodies, we would expect, when appropriate, involvement from key local stakeholders such as the VCS, business sectors or local schools in setting and helping to deliver the key priorities for the locality.

What does this mean for district councils and their LSPs?

District councils remain subject to the requirement to produce a community strategy for their area in partnership with the public sector service providers, private, voluntary and community sectors.³ As most are already successfully doing, district councils are expected to convene an LSP bringing together the local partners in order to develop a shared understanding of the particular needs and priorities of their area. In particular we will continue to expect district LSPs to:

- act as the over-arching co-ordinating partnership, ensuring that links are made between the local thematic partnerships, such as Crime and Disorder Reduction Partnerships;
- take responsibility for cross-cutting issues that have been identified as critical to the locality and,
- ensure that district-level plans such as the Sustainable Community Strategy and Local Development Framework take account of county-wide priorities and that district level priorities are considered, and where appropriate reflected, at the county level i.e. through targets in the LAA.

The Bill develops the role for district councils by placing them on an equal footing with county councils in agreeing targets which relate to them within the LAA. Along with the provision to agree targets, the Bill also provides for voluntary shared overview and scrutiny along with the district's county council in relation to Local Area Agreements. In addition, both purely local improvement targets and designated targets drawn from the national indicator set will be set or measured at district or even neighbourhood level as appropriate, therefore district councils have a vital role in two tier areas in the management and success of Local Area Agreements.

³ See section 4 Local Government Act 2000 and the accompanying statutory guidance

What will this mean for partners who are not named as service providers and community representatives?

The LSP *must* represent the full range of service providers as well as the local community. It is critical that non-statutory organisations including voluntary and community groups and businesses are part of the LSP and consequently part of the process for determining targets. This could be as members of the LSP, its thematic partnerships or by other routes of engagement. However, due to their non-statutory nature it would not be straightforward to name each and every one in legislation, nor would it necessarily be desired by these partners.

Local authorities as the overall convenor of the partnership will need to ensure that all such organisations and individuals are provided with a range of opportunities to participate in and influence the determination and delivery of local priorities (in line with their existing duty to consult on the drawing up of the Sustainable Community Strategy). The Bill provides an opportunity for service providers from the Third Sector and business community be involved where appropriate, in sharing responsibility with the local authority for developing and delivering against targets set in the LAA. Again, this will be expanded on in the statutory guidance.

The LAA negotiation process and the role of Government Offices

The 9 Government Offices will continue to represent Central Government in the negotiations with local authorities and their partners to develop the approximately 35 targets in the LAA likely to be of interest nationally. In doing so, the Government Office will draw on its knowledge of the local objectives and any tensions that are likely to arise between the national and local perspectives. The negotiation will explore the extent to which the local priorities emerging from this analysis matches central departments' views on improvement priorities and identify where compromises may be needed from both the locality and central government to strike the right central/local deal around agreed priorities for the local area. We are strengthening the capacity of Government Offices to carry out this task through the implementation of the recent GO review. The legislation does not describe this critical negotiation process as this would be impossible without creating a highly bureaucratic and inflexible process. We will, however, set out the broad parameters for this negotiation in operational guidance (see also section on the Comprehensive Area Assessment).

The sign-off role for central government

LAAs are an agreement between local authorities, their partners and central government, negotiated by the Government Offices. Once agreed, the LAAs are passed to the Secretary of State for formal legal approval (this in effect formalises the current procedure whereby LAAs are passed to the Secretary of State for final sign-off). The Secretary of State for Communities and Local Government will seek the agreement of the Cabinet through the Local and Regional Government (LRG) Cabinet Committee before signing the LAA on behalf of Government.

The process and effect of designation

At the point of approval we would expect the Secretary of State to determine which of the targets are the approximately 35 'designated targets' i.e. the ones which are of interest from a national perspective which have so far been referred to as nationally negotiated targets. The effect of a designation is that the target may not be amended

or removed except with the approval of the Secretary of State. The reason for this is that these designated targets represent the targets which central government has signalled are its key interests for the area.

In line with the White Paper commitment, we will also be clear in the statutory guidance that those targets which are not designated, the purely local improvement targets, will not be reported on to central government. In addition, purely local improvement targets may be removed or amended or further local targets added without the involvement of the Secretary of State. We believe that this is appropriate as these will be purely local matters.

Allowing a month for targets to be designated is simply part of the formal process. It will be clear to all when the Local Area Agreement is submitted, following negotiation and agreement with local areas, which targets are the ones likely to be designated and which are purely local. Therefore in practice we would expect the Secretary of State to approve the Local Area Agreement and designate targets at the same time. Providing for a one month window will allow for some limited administrative flexibility given the number of Local Area Agreements likely to be submitted at the same time.

Revising the LAA

Once the LAA has been approved it exists for the length of time agreed. We expect this to continue to be for 3 years. During the life of the LAA the Secretary of State can require a local authority to produce a "revision proposal" for any of the indicators within the national set if subsequent data raises significant concerns about performance. A revision proposal may also be put forward by a local authority in co-operation with its partners without a specific request from the Secretary of State and may result in more designated targets.

The Secretary of State may revoke a designation. This will allow the Government to respond to changing circumstances. For example, if it becomes clear to the Government decides that police resources needed to be concentrated on security measures, designations of other targets relating to the police may be revoked to free up resources.

Next steps

We are engaging closely with key stakeholders in working-up the draft statutory guidance. Subject to Parliamentary approval, we would formally consult on the draft guidance after Royal Assent, with a view to publishing the final guidance ahead of the 2008/09 financial year.

Paper 2) Best Value

Note for the Lords Committee on clauses 138 & 139 - Power for the Secretary of State to issue guidance to best value authorities

Purpose of this statement

This statement explains the background to the provisions at clauses 138 and 139 of the Local Government and Public Involvement in Health Bill which give the Secretary of State power to issue guidance to best value authorities. It also includes an outline of the issues that, subject to formal consultation, we would expect to include in such guidance.

Background - Why is the new guidance making power needed?

Government is seeking new guidance making powers to provide strategic guidance to support best value authorities in meeting their general best value duty to secure continuous improvement and the proposed new duty to involve representatives of local people.

These new powers would replace the existing guidance making powers which would be removed as part of other proposals in the Bill to repeal the requirements on best value authorities to prepare best value performance plans (clause 140) and conduct best value reviews (clause 141).

Scope - To whom would the statutory guidance apply?

The statutory guidance issued under clauses 138 and 139 would explain how best value authorities in England and police authorities in Wales fulfil the general duty of best value⁴; and how best value authorities in England, excluding police authorities, fulfil the duty to involve representatives of local people.

Principles for preparing the guidance

In exercising the powers under clauses 138 and 139, we envisage that the guidance issued by the Secretary of State would be:

- strategic – providing an overall framework for the delivery of better outcomes including responsive services and empowered communities;
- permissive - not prescriptive or based on processes, but providing lots of room for local flexibility and innovation;
- produced as part of a coherent package of guidance in line with the approach set out in the Local Government White Paper Implementation Plan.

⁴ Local authorities, combined fire and rescue authorities, joint waste disposal authorities, passenger transport authorities, Police Authorities in England and Wales, the Greater London Authority (so far as it exercises its functions through the mayor), the London Development Agency, Transport for London, the London Fire and Emergency Planning Authority, the national parks authorities and the broads authority.

What issues might be covered in the proposed guidance?

The guidance would support and help implement key aspects of the Local Government White Paper – *Strong and Prosperous Communities*. It would provide strategic advice about how to secure continuous improvement in all functions, with regard to a combination of economy, efficiency, and effectiveness (ie the general duty of best value), and advice about how to meet the proposed duty to involve local representatives (clause 139)⁵.

Subject to the views of stakeholders and consultees, we anticipate that it would include:

- a reaffirmation of the importance of best value and its underlying principles;
- advice about how to move away from a narrowly defined approach of service delivery towards a ‘commissioning’ role, by setting out the key principles of commissioning to support the ‘place shaping’ role⁶. This will include the approach used and conduct of fair and open competition;
- an emphasis on putting citizens and service users at the heart of local services, through involving citizens and users in the design, delivery and assessment of local services and policies, especially those that might otherwise be marginalised, and consideration to engaging with hard to reach groups.

The guidance would not prescribe how authorities should secure the involvement of local representatives, but would enable authorities to adopt a range of approaches, depending on local circumstances, as well as considering issues of cost and capacity, when:

- informing representatives of local people - providing good, accessible information on how to access services and on how local services performing;
- consulting representatives of local people (citizens and communities) - about the shape of local services and policies;
- involving representatives of local people (citizens) directly in designing, delivering or assessing services.

Wales

The Welsh Assembly Government strongly supports clause 138⁷ and would propose to use the powers contained in broadly similar ways to those described above.

Next steps

In line with the Local Government White Paper Implementation Plan, we are working closely with key stakeholders to understand the challenges around implementation and the role that statutory guidance can play in implementation, and in developing the guidance, to ensure that it reflects users’ needs and is informed by practitioners.

⁵ Police authorities will be exempt from the duty to involve local representatives because they already have statutory consultation requirements.

⁶ Strategic leadership will help to bring together various local agencies and groups in order to build a vision of how to respond to a locality’s challenges in a co-ordinated way.

⁷ Clause 139 does not apply to Wales.

This is being taken forward as part of a wider piece of work on 'place shaping' which encompasses Local Strategic Partnerships and Local Area Agreement (see paper 2a). We will formally consult on the draft guidance, with a view to publishing the final statutory guidance ahead of the 2008/09 financial year.