

## Clause 59 – Lords Amendment: Briefing Note

### **Purpose**

To summarise concerns regarding Clause 59 of the English Devolution and Community Empowerment Bill and the implications of the House of Lords vote (247-187) to remove it.

### **Summary position**

The Lords amendment removing Clause 59 provides a clearer, more coherent and more deliverable approach.

Retaining Clause 59 risks:

- Unnecessary centralisation of local governance arrangements
- Continued parliamentary disagreement
- Avoidable tension with the Bill's stated devolution aims
- Perception of government 'over-reach' over *local* arrangements (including concerns of local voters)
- Unnecessary pursuit and imposition in the absence of a clearly articulated rationale (that has been identified by sector leaders, academics and stakeholders)
- Introduction of arbitrary and uneven constraints on local decision-making
- Creates disproportionate political and reputational risk for a measure that is not essential to delivery of the Bill

### **1. Policy context**

Currently, local authorities operate under a range of governance models – Leader and Cabinet, committee systems, directly elected Mayors. This variation reflects *locally determined* choices within a common statutory framework, enabling authorities to adopt arrangement suited to local circumstances.

Clause 59 (and existing government amendment affecting – potentially – three councils) would remove this flexibility by requiring essentially a single centrally prescribed governance model, with limited exceptions *at the margins*.

### **2. Key issues**

#### **2.1 Lack of prior scrutiny**

- Direction of travel not included in the White Paper and no prior consultation
- Meaning limited early scrutiny (and development) of rationale and design

#### **2.2 Inconsistency with policy objectives**

The Bill is framed around: devolution; community empowerment. Clause 59: removes local choice and flexibility over governance arrangements.

This creates a clear inconsistency between stated aims and policy effects. The risk is also of undermining public confidence, where measures presented as 'devolution' are understood locally as reducing (democratic) choice and local influence.

#### **2.3 Complexity of current government approach**

The proposed limited/marginal exemptions:

- Apply only to a tiny number of authorities
- Create differential treatment across councils
- Introduce greater administrative and legal complexity
- Risk arbitrary outcomes based on eligibility criteria

#### **2.4 Coherence and local accountability**

The current landscape of, and framework for, governance models reflects locally determined choices, allowing authorities to adopt arrangements suited to local circumstances. Clause 59 would replace this with a centrally mandated model, while allowing limited exceptions for a small number of authorities at the margins.

This creates a different form of inconsistency:

- Variation is no longer locally determined, but centrally imposed
- A small number of councils retain flexibility while others do not

- Differences between authorities arise from eligibility criteria rather than local choice

This risks:

- Undermining the principle of local accountability
- Creating perceptions of unequal treatment between areas
- Weakening the link between local governance and democratic consent (and legitimacy)

It also removes a practical route by which communities can secure meaningful change to local governance arrangements where there are serious problems widely perceived (and where arrangements are no longer seen as effective or legitimate in addressing these). This has been demonstrated in practice (e.g. Sheffield) and its removal risks being perceived as closing down democratic options.

## 2.5 Evidence and rationale

No clear evidence base has been set out demonstrating that removing local choice over governance models leads to improved outcomes.

This has been noted by a number of leadership organisations in the sector e.g. ADSO, CfGS, and other stakeholders, including academics (such as in a series of articles published in LGC by Emeritus Professor Robin Hambleton) and community and civil society voices (public evidence submissions to the Public Bill Committee). The LGA publicly supports continuing flexibility in local governance arrangements based on its longstanding recognition that none of the available local governance models is 'better' than any other.

Given the significance and scale of the proposed change (to remove locally determined choice), the absence of a clearly articulated and tested rationale increased the risk of unintended consequences and weakens the case for central prescription.

## 3. **Parliamentary position**

The House of Lords voted 247-187 to remove Clause 59 indicating:

- Significant cross-party concern
- Alertness to 'over-reach' (or perceptions of it)
- Clear recognition of lack of 'fit' and tension with stated aims in the Bill (and where nothing else in the Bill is dependent upon the Clause)
- A clear preference for removal rather than modification
- The potential for continued concern as the Bill returns to the House of Commons

## 4. **Alternative approach**

Removal of Clause 59 would:

- Restore consistency with the Bill's devolution objectives
- Maintain local flexibility within the stable and existing statutory framework
- Avoid creation of arbitrary distinctions between authorities
- Reduce likelihood of further parliamentary dispute

Importantly, Clause 59 is not integral to the wider Bill. Its removal would not affect the operation of other provisions, which can proceed independently of governance model requirements. Retaining Clause 59 may also generate avoidable local friction where changes are perceived as imposed, particularly in areas already managing significant structural reform.

## 5. **Conclusion**

The Lords amendment offers a simpler and more coherent position.

Removing Clause 59 would:

- Align policy intent with delivery
- Preserve local democratic choice
- Avoid unnecessary centralisation
- Provide a stable resolution to current parliamentary disagreement