Baroness Hanham CBE
Parliamentary Under Secretary of State

Department for Communities and Local Government
Eland House
Bressenden Place
London SW1E 5DU

Tel: 0303 444 3461
Fax: 0303 444 3291
E-Mail: baroness.hanham@communities.gsi.gov.uk

www.communities.gov.uk

Interested Peers
House of Lords
London
SW1A 0PW

21 September 2011

Dear Colleague

The Localism Bill: Report Day 3

Following the third day of the Localism Bill Report (12th September) I thought that it would be helpful to send a single letter covering a number of the issues that have been raised and either I or my front bench colleagues were unable to answer during the debate.

This letter will be placed in the House if Lords Library and will also be sent to all Peers that have taken part in the debates on the Bill to date.

London Travelwatch

Lord McKenzie asked whether the Government has considered any alternatives to the transfer of London Travelwatch to the Greater London Authority. DfT officials submitted advice to Ministers in September setting out potential options of how London Travelwatch (LTW) could operate in the future. These include, abolishing LTW and transferring its function to the Assembly (as per the original amendment), folding LTW's activities into Passenger Focus and identifying additional efficiency savings within LTW. Ministers have only recently received formal advice from their officials, so a decision is not expected until later this month.

Community Fire Safety

Our amendment to the Bill (5A and 5B) sets out that fire and rescue authorities **cannot** charge for any activities in section 6 of the Fire and Rescue Services Act which includes community fire safety, 6(2)(a) and fire safety work, 6(2)(b).

It does allow charging for the giving of advice to persons in relation to premises where a trade, business or other undertaking is carried on except for advice, provided on request, on how to prevent fires and securing the means of escape from buildings. Therefore the concerns that you raised have been met by this amendment.

Charging is optional and capped at full actual cost recovery i.e. not for profit. Charging is permissible to non-profit organisations if a fire and rescue authority chooses to do so. The addition of 'whether for a profit or not' is in line with similar wording in other legislation. Charging should be possible in certain instances since fire and rescue authorities are providing an extra service to businesses and there are alternative providers who would charge for the same service.

The Chief Fire and Rescue Advisor is a member of a Local Government Group led Fire Sector working group (including business interests) to assist in the production of sector-led charging guidance. Government therefore has no plans to issue its own guidance.

Carbon monoxide safety advice

Although not related to their direct responsibilities, we are aware that, in many cases, fire and rescue authorities provide information and advice on the dangers of carbon monoxide. Employers and landlords have duties to provide a safe environment in relation to carbon monoxide emissions under both the Gas Safety (Installation and Use) Regulations 1998 and the more general Health and Safety at Work Act 1974.
Fire and rescue authorities have no enforcement responsibilities in relation to these duties which are the responsibility of Environmental Health Officers and the Health and Safety Executive, depending on the type of premises.

I trust I have fully answered the questions raised. I am placing copies of this letter in the House Library.

Integrated Transport Authorities

Would the power enable ITAs/ PTEs to operate rail franchises and what would be the extent of their financial commitment?

The amendment will not enable Integrated Transport Authorities (ITAs) or their Passenger Transport Executives (PTEs) to be a passenger rail franchising authority under the Railways Act 1993. It will not therefore alter the extent of their financial commitment.

It is helpful to distinguish between the letting of passenger rail Franchises (rail franchising) as contemplated under the Railways Act 1993 and the granting of rail concessions by local authorities (such as are granted by TfL and Merseyrail). The latter are not rail Franchises as contemplated by statute, but are often mistakenly referred to as "rail franchises".

Referring specifically to the former, the rail franchising regime is set out in sections 23 to 31 of the Railways Act 1993. In England, only the Secretary of State for Transport is designated as a franchising authority by the Railways Act 1993 and so only he may let a passenger rail franchise. For anyone else to be able to let passenger rail franchises would require primary legislation in order to amend to the Railways Act 1993.

However, should he wish to, the Secretary of State can make an order under section 24 of the Railways Act 1993 to "carve out" the relevant local rail services from the Railways Act 1993 franchising regime.

Would ITAs etc. be able to become developers in their own right?

The ITA's powers under the amendment are set out in section 102B (1) (a) to (e) all of which must relate to the ITA's functional purposes. The development concerned would have to satisfy one or more of conditions (a) to (e). Therefore at the very least the development would have to be covered by 102B (1) (c) 'anything that the ITA considers indirectly incidental to the ITA's functional purposes though any number of removes'.

Request for clarification on Section 102C (5), which states that 'Section 102B (1) (e) does not authorise an ITA to do things for a commercial purpose in relation to a person if a statutory provision requires the ITA to do those things in relation to the person'.

Section 102B (1) (e) means that anything an ITA now has the power to do for a non-commercial purpose, it may also do for a commercial purpose. It is however qualified by Section 102C (5) that prevents ITAs from charging for things that they are already under an obligation to do without charge.

What is the possibility of a different relationship between an Integrated transport authority and bus companies?

As stated by my colleague Earl Attlee, "ITAs set a broad strategy for public transport, including buses. Most bus services in an ITA area are [already] run on a commercial basis. ITAs are responsible, where they see fit, for topping up - in other words, adding extra services".

The amendment will not alter the legal relationship between ITAs and bus operators which is the subject of separate primary legislation. The extent to which this working relationship may change will depend on the extent to which the ITAs choose to use the powers provided by the amendment.

Will the power have any bearing on the relationships between the Highways Agency and sub-regional areas?

As stated by my colleague Earl Attlee, "the Highways Agency is concerned with the strategic road network, but I am confident that it will work closely with local authorities".

ITAs set broad transport policy for their areas including developing a Joint Local Transport Plan with the local highway authorities in their areas. The Highways Agency will have been consulted on the Local Transport Plans prepared for the ITA areas.

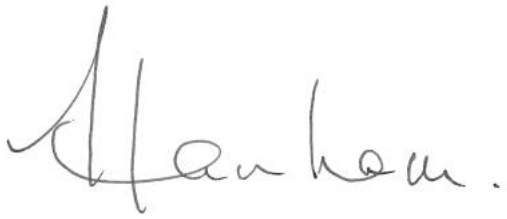
The ITA amendment does not alter the legal responsibilities that the Secretary of State for Transport has, exercised via the Highways Agency, for the National Strategic Road Network (i.e. Motorways and Trunk Road). The extent to which working relationships may change will depend on the extent to which the ITAs choose to use the powers provided by the amendment.

Scrutiny

I also promised to clarify the questions raised by Lord Beecham about the Government's amendments to the overview and scrutiny provisions contained in Schedule 2 to the Bill. Amendment 133 removed subsection 9F(5)(c) from Schedule 2. This section confines the

functions of an overview and scrutiny committee to the functions listed, including subsection (5)(c), which refers to any functions conferred on the committee by regulations made under section 9FH. This subsection is no longer necessary, given our amendment 148 which removed the regulation making power at section 9FH. Neither amendment affects the scrutiny of crime and disorder matters. Existing provision is retained which enables scrutiny of crime and disorder matters under the parallel regime that exists under section 19 of the Crime and Disorder Act 2006 and the Crime and Disorder (Overview and Scrutiny) Regulations 2009.

I am also happy to confirm that Passenger Transport Authorities - now called Integrated Transport Authorities - will continue to be potentially subject to scrutiny as a local authority partner given their inclusion on the list of partner authorities in the Local Government and Public Involvement in Health Act 2007 and which we have retained in our updating of the scrutiny provisions.



BARONESS HANHAM CBE