

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fifth Delegated Legislation Committee

DRAFT COMBINED AUTHORITIES (OVERVIEW
AND SCRUTINY COMMITTEES, ACCESS TO
INFORMATION AND AUDIT COMMITTEES)
(AMENDMENT) REGULATIONS 2024

Wednesday 13 March 2024

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The Committee consisted of the following Members:

Chair: CHRISTINA REES

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| † Ansell, Caroline (<i>Eastbourne</i>) (Con) | † Kniveton, Kate (<i>Burton</i>) (Con) |
| † Britcliffe, Sara (<i>Hyndburn</i>) (Con) | † Lavery, Ian (<i>Wansbeck</i>) (Lab) |
| † Egan, Damien (<i>Kingswood</i>) (Lab) | Lewis, Clive (<i>Norwich South</i>) (Lab) |
| † Freeman, George (<i>Mid Norfolk</i>) (Con) | † McMahon, Jim (<i>Oldham West and Royton</i>) (Lab/
Co-op) |
| Fuller, Richard (<i>North East Bedfordshire</i>) (Con) | † Mohindra, Mr Gagan (<i>South West Hertfordshire</i>)
(Con) |
| † Glindon, Mary (<i>North Tyneside</i>) (Lab) | † Russell-Moyle, Lloyd (<i>Brighton, Kemptown</i>) (Lab/
Co-op) |
| Gullis, Jonathan (<i>Stoke-on-Trent North</i>) (Con) | |
| † Hall, Luke (<i>Thornbury and Yate</i>) (Con) | Katya Cassidy, <i>Committee Clerk</i> |
| † Hoare, Simon (<i>Parliamentary Under-Secretary of
State for Levelling Up, Housing and Communities</i>) | |
| † Hollern, Kate (<i>Blackburn</i>) (Lab) | |
| † Jenrick, Robert (<i>Newark</i>) (Con) | † attended the Committee |

Fifth Delegated Legislation Committee

Wednesday 13 March 2024

[CHRISTINA REES *in the Chair*]

Draft Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) (Amendment) Regulations 2024

9.25 am

The Parliamentary Under-Secretary of State for Levelling Up, Housing and Communities (Simon Hoare): I beg to move,

That the Committee has considered the draft Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) (Amendment) Regulations 2024.

Good morning, colleagues, and good morning, Ms Rees—it is a pleasure to serve under your chairmanship. The draft regulations were laid before the House on 19 February, and I assure the Committee that they really are as interesting as they sound. They are best described as sensible housekeeping, because if approved by Parliament and made they will complete the legislative framework for overview and scrutiny committees and audit committees of combined county authorities. They make provision in relation to the membership and proceedings of such committees and the allowances for committee members. As Members will be aware, scrutiny and audit are always important, but arguably never more so than now, in a complex and sometimes testing financial environment for local government.

The wider context is that these committees are essential components of the architecture of accountability in combined authorities and combined county authorities. As more powers and resources are devolved to these important bodies and their Mayors, the responsibility to ensure sound governance and effective decision making in the interests of local people and taxpayers becomes ever more important. We are therefore not only ensuring through the regulations that the new combined county authorities have strong and effective overview and scrutiny committees, but pursuing further initiatives to develop this important architecture of accountability; in particular, we have published the English devolution accountability framework and a scrutiny protocol, and we intend shortly to issue revised statutory guidance on overview and scrutiny—[*Interruption.*] As Skippy the kangaroo bounds into the room, I will pause and welcome the hon. Member for Kingswood to his place, because I have not had the pleasure of doing so. This is the first time he and I have served on a Committee together, and it is a pleasure to do so. I hope he is enjoying his time in the House.

The regulations provide the foundation for the initiatives I have outlined in respect of combined county authorities. If the Committee will bear with me, I will speak briefly about some of the details. The regulations provide for the membership and proceedings of overview and scrutiny committees and audit committees of combined county

authorities. They do so by extending the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 so that it applies to combined county authorities as well as to combined authorities, which ensures parity between the two types of authority. At the end of the day, irrespective of which type they are, such bodies are responsible for and spending public money, so ensuring that there is parity of approach is common sense. I detect no dissent between the parties on that.

The regulations enable the payment of allowances to members of constituent councils of combined authorities and combined county authorities who are appointed to overview and scrutiny committees and audit committees. As a way of tidying up, we have also made a few minor changes to the 2017 order to reflect the inclusion of non-constituent members and their nominating bodies in the constitutional arrangements for combined authorities and combined county authorities, and to ensure that the provisions work for both types of authority.

The regulations accommodate the constitutional difference between combined authorities and combined county authorities. If the provisions of the 2017 order were simply applied without modification, there would be no duty on a combined county authority to enable a district council within its area that does not nominate a non-constituent member to refer a matter to the overview and scrutiny committee. The regulations recognise the legitimate interest of such district councils in certain decisions that could be made by the combined county authority by extending the referrals provision to include those councils where a matter relates to the council's area. That extension also applies to the supply by the CCA of related documents to a council making a referral.

The new allowances provisions were included in the Levelling-Up and Regeneration Act 2023 at the request of some of the existing combined authorities. We believe, as they do, that that will aid quoracy at meetings of overview and scrutiny committees. The regulations enable combined authorities and combined county authorities to pay an allowance to members of their constituent councils who are appointed to overview and scrutiny committees and audit committees.

Lloyd Russell-Moyle (Brighton, Kemptown) (Lab/Co-op): It is right to pay members of the combined authorities more, but there is always the slight problem that this is then seen as being about people fighting for posts to get more money, rather than about rewarding people who want to do the job. Is there not a case for the Government to look at paying councillors decent amounts in the first instance, rather than having a system of additional responsibilities? We all know that councillors receive less than the minimum wage if they work full time, and many do end up working full time or quasi-full time. One of the biggest barriers to being a councillor is that working people cannot afford to do it.

Simon Hoare: The hon. Gentleman makes an interesting point, although I am tempted to say it is probably a philosophical point rather than a policy point per se. I served—I think he might have served as well—for 14 years as an elected district or county councillor, and I always saw it as an office rather than as a job. That is why I never thought it was correct, for example, for councillors

to be part of the local government pension scheme, which should be specifically reserved for employees. It is, of course, up to local authorities to decide what their allowances are. I certainly agree that being a cabinet member in an upper-tier or unitary authority is virtually a full-time job, and remuneration probably reflects that. However, we should always make the distinction between full-time employment and elected office.

The hon. Gentleman asks a good question none the less, and we are responding to issues that leaders and others have raised with us. It is quite hard to recruit members to scrutiny, audit and, sometimes, pensions committees, principally because they are seen as rather dry and desiccated, not particularly sexy, and involve lots of tables with numbers written all over them. The issue is hugely important, and we will keep a weather eye on it. I am certain that section 151 monitoring officers and council leaders will check the motivations of members applying to go on these committees. The hon. Gentleman may be right, but I hope that he is not and that he will take comfort from the fact that we will keep the issue under review. We have identified a problem, which we are trying to solve, and I hope it does not create another problem, to which the hon. Gentleman alluded.

Luke Hall (Thornbury and Yate) (Con): My hon. Friend is doing important work on speaking to councils to ensure that councillors whose children are born prematurely receive the same support as is available under the new Neonatal Care (Leave and Pay) Act 2023. Will this instrument ensure that it is communicated to combined authorities that, just as for councillors, those extra allowances should be kept open for someone who returns from having a child in neonatal intensive care?

Simon Hoare: My hon. Friend's intervention is timely because it allows me to pay wholehearted tribute to the work he did on this issue when he was a Minister in the Department. He makes a powerful and compelling point, which he raised with me the week before last at departmental orals on the Floor of the House. The Act covers employees, and because of the differential I was discussing with the hon. Member for Brighton, Kemptown, it does not cover councillors per se. However, the moral argument to which my hon. Friend points is clear and unquestionable. I hope he will draw comfort from the fact that I have just this week signed off the text of a letter, which will shortly—certainly before *purdah*—go to council chief executives and leaders, that makes that point. If parents who happen to be councillors have the additional challenge of a premature birth, with all its concomitant additional family and caring demands, the last thing they should have to worry about is the six-month rule in relation to attendance at meetings, and if they hold down a job in the council that attracts a special responsibility allowance, that should not come into question.

As much as I might wish to, I cannot direct council leaderships to abide by that missive to the letter, but it would be perverse and contrary, to say the least, if a council leader was to say, "No, I am frightfully sorry, but we are not going to take that into account." That would be rather inhumane, and I know from all my engagements with local government leaders that they are all humane to their fingertips. I thank my hon. Friend again for all the work that he did on the issue both as a Minister and from the Back Benches—a

position to which, I have to say, I could never quite understand why he was returned. He was a first-class Minister, and it would be great to see him back in due course.

As I said, we have consulted, and we think we have responded positively. The draft regulations are a tidying-up exercise. They ensure that there is parity, that regulations are robust and transparent, and that there is local accountability, which is what all local council tax payers want to see. We believe that the draft regulations will be an important step in ensuring that our local government architecture is robust, resilient and fit for the future. On that basis, I commend them to the Committee.

9.36 am

Jim McMahon (Oldham West and Royton) (Lab/Co-op): It is a pleasure to serve on the Committee under your chairmanship, Ms Rees. The Opposition do not intend to divide the Committee on the regulations, and I welcome the opportunity to address them on behalf of the Opposition.

The instrument makes provision for the membership and proceedings of overview and scrutiny committees and audit committees of combined county authorities, and for the payment of allowances to members of constituent councils of combined authorities and combined county authorities who are appointed to those committees. The Minister went into some detail about what the instrument is intended to do and what it covers, but I want to explore some other aspects of it, while obviously staying in scope, Ms Rees.

My first point, on which I know there will be quite different views, relates to the provision made for overview and scrutiny members to receive allowances. I am guessing that that provision focuses primarily on co-opted members with specialisms, who may be brought in to add value to the scrutiny process. However, notwithstanding the Minister's comments about councillor pensions—and I accept the strong argument that being a councillor is a vocation, a call and a public service—the Minister must recognise that the more someone does, the less time they have. There are only so many hours in the day, and if a ward councillor, cabinet member or council leader sits on a combined authority, they may now be giving evidence to an overview and scrutiny committee on top of that. That is a full-time job with full-time responsibilities, and it must not be that working-class people who do not have an independent income are not allowed to build up a pension fund for their retirement for that service. This is a point of principle. I do not want to reopen the whole pension debate, but I place that challenge on the table. This is not black and white, and a degree of realism is required.

The measures essentially mirror powers given to local authorities and current combined authorities, so can the Minister confirm that overview and scrutiny committees will have call-in powers? When executive decisions are made by the combined authority, will overview and scrutiny members have the power to call in that decision? Also—this is important in the light of the recent controversy in Teesside—will their remit cover trading companies and joint venture companies that are undertaking work and contracts on behalf of the combined authority?

[Jim McMahan]

Can the Minister confirm that the overview and scrutiny committees will have the power to conduct a best value review? Outside of the work programme that the combined authority will be undertaking, would they have the power to self-organise a work programme of their own and undertake deep-dive reviews as they see fit, whether those are about regeneration projects, transport infrastructure or matters the Government might be imposing, such as clean air zones or spatial development frameworks? Can the Minister confirm that the scrutiny committee will have the power to co-opt expert members and, if so, that the scheme of allowances will be varied to reflect the different costs that that might attract? The cost of populating an overview and scrutiny committee with lay members to get a wider resident perspective might be quite different from the cost of getting a specialised accountancy perspective, which may attract a higher price.

We are 13 years on from the establishment of the Greater Manchester Combined Authority, and the scrutiny functions put in place then have not really been reviewed in their totality since. We have just expanded them to cover more combined authorities and more county combined authorities. Do the Government see the regulations as an opportunity to review the effectiveness of overview and scrutiny to ensure that the relevant checks and balances are in place, as more and more is devolved down to local level? The public rightly expect that, with more taxpayer's money—public money—involved, the checks and balances will be robust and fit for purpose. I would welcome a response on that.

My final point is more about the long-established principle of new burdens, which ensures that, whenever Parliament passes new legislation that requires councils or combined authorities to do something in addition to their existing powers, the cost of that new responsibility is borne by Parliament and the Government, not the component councils. I am not saying that we need a money resolution or a proposal to give grant support to combined authorities, but we need to be careful that we do not create legislation that allows combined authorities to create overview and scrutiny, and audit, functions, if they do not have the specialist teams they need to support them properly. We all know that when local government excels in scrutiny, it is because it has a well-resourced team that enables it to do proper, deep-dive reviews and investigations, to call in expert witnesses and to really go through things. I am not seeing that provision of finance in these regulations, so I would welcome a response on that.

Labour is fully supportive of devolution. We also recognise that, the more powers we give out, the more robust the checks and balances need to be. We are concerned that 14 years of Conservative economic management, compounded by spiralling inflation and the failure to grow our economy, have hit councils hard. We are keen to ensure that locals are supported where the Government have failed. We will not expect councils to live hand to mouth, with short-term financial settlements year on year—I think we are now on our sixth single-year financial settlement, which makes it difficult for councils to plan. Labour will give councils long-term, multi-year funding settlements so that they can plan ahead, as well as the tools they need to get on with the job.

9.42 am

Lloyd Russell-Moyle: I generally support the regulations; it is important that our combined authorities are able to properly scrutinise the work that is done. However, I am worried about the roll-out and patchiness of combined authorities across the country, because it seems to be an ad hoc system: authorities can put forward a bid to the Government, and if Nero on high puts his finger in the air, it is accepted, but if Nero does not accept, I am afraid they are damned to the current local government settlement.

Sussex is a perfect example. We have put forward two devolution plans, both of which were rejected by the Department. One was a combined county authority plan—I call it the two-county plan, but the Department called it the three-county plan—including both Sussex and Surrey. For some reason, the Department still thinks that East and West Sussex are separate counties, but we are one county, even though we have two county councils, which should be abolished. We also put forward a Greater Brighton devolution plan that would have combined district authorities and turned them into unitary authorities. That was also rejected, because the Department was, at the time, insistent on a particular model of directly elected Mayors, which Conservatives and Labour across Sussex felt would not be appropriate for the diversity of Sussex. However, we did want to work better and co-operatively.

I know that the Department has been more flexible about the new devolution deals, but it is time that it put forward a clearer set—a smorgasbord, if you will—of options that councils can go for, including the powers that they are allowed to draw down and the financial resources that go with it. The Department should be much clearer on those powers and therefore on the scrutiny. At the moment, we are giving scrutiny powers—I am trying to make sure that I speak on the motion—but we are not necessarily as clear as we could be on how devolution powers are to be given in a clear and formulaic way. I advocate that, in Sussex, we be allowed back round the table to have those discussions, which could be to the advantage of all.

We also need to look at the funding for these areas. We need longer-term funding deals that include a proper integration of NHS and social care. We have seen that in Manchester, but it has not been afforded to other devolution deals. Without a hold on the purse strings, any scrutiny will be just a nice piece of paper that does not change the policies. It is time that we looked at a proper devolution deal with some tax-raising powers. If it is good enough for London and good enough for Wales, it is good enough for the rest of the country.

9.45 am

Simon Hoare: I am grateful for the contributions from the hon. Members for Oldham West and Royton and for Brighton, Kemptown.

The speech from the hon. Member for Brighton, Kemptown sounded like a reprise of “I like potato and you like potahto”. Maybe we should have a musical duet at some point: he says “ad hoc” and I say “iterative, responsive and organic”. I think that we have been perfectly sensible in not having a one-size-fits-all, top-down approach, but in responding with full rigour in terms of the scrutiny of proposals for grassroots-authored changes

to the local government landscape. That is probably the right way to go, on balance, because it allows us to work with the grain of local communities and their local elected representatives, rather than having some one-size-fits-all impost.

The hon. Members' point is well made, however. There will come a time—I am not entirely convinced that the time is now, but it is probably fast coming—for what hon. Members on both Front Benches agree is an overdue and much-needed review of the funding formula, along with broader discussions about how local government is funded and the powers and responsibilities that it enjoys. One needs to review the new landscape—two-tier, unitary, county and unitary combined, devo deals, elected Mayors and so on—to ensure that the taxpayer is always securing best value for money and that the decision making is as simple as it can be and as transparent as it needs to be. There is a piece of work that I see clearly enveloped within the debate, which I am sure will come in the next Parliament, about how we fund local government.

Devo deals per se fall under the ministerial responsibility of the Under-Secretary of State, my hon. Friend the Member for Redcar (Jacob Young), so I will ensure that the remarks of the hon. Member for Brighton, Kemptown are brought to his attention. I am sure that if my hon. Friend sees fit, he will engage in correspondence. Maybe unusually for the hon. Gentleman, who sometimes has a reputation in this place for making a cheeky-chappy sort of point, he has made a sensible point and has made it well. His question deserves additional thought; I do not hold the portfolio or the corporate knowledge to respond to it in the detail that it deserves, but I will ensure that that happens.

To turn to the questions from the hon. Member for Oldham West and Royton, allowances for co-opted members and the rate of pay for councillors are within the discretion of each local authority. The hon. Gentleman makes the important point that we are at a transition stage. A lot of our councils are now multimillion-pound businesses. Are we still right to think of them as a sort of receptacle of the voluntary sector? If we want serving in local government to have a broad attractiveness, the whole area of remuneration must be taken into account to ensure that the scale of the challenge is attractive to people who may consider standing for election to local government.

George Freeman (Mid Norfolk) (Con): I do not want to detain the Committee with a long digression on local government finance, but does my hon. Friend agree that, as well as remuneration for time, it might be an attractive incentive for councillors if the Treasury allowed them to retain some of the money they save through efficiencies, or that they attract through higher growth, and to put it back into local services? That would provide a strong incentive to attract great leaders—not for personal remuneration, but for the ability to do a great job.

Simon Hoare: I have huge sympathy for my hon. Friend. I think we will not be able to deal with these issues, and we will miss the most golden of opportunities, if, when we arrive at that position—and it will be in the next Parliament—we do not do so on a cross-party basis. The hon. Member for Oldham West and Royton

is probably bored of hearing me say that I am absolutely convinced of the considerable and overwhelming merit of that approach. I say that because some of the delivery of new formulas and so on will extend beyond three years or the narrow confines of a five-year Parliament, which would not enable anyone to do anything particularly big, bold or challenging.

The hon. Member for Oldham West and Royton spoke about the merit of multi-year settlements, and I agree. That is a compelling and clear argument. It is helpful to councils and, as is often neglected—although not by the hon. Gentleman, I am sure—it allows those in our voluntary sector far greater certainty with regard to recruitment and planning if they can be certain that their commissioned fee will last for two or three years, rather than just a 12-month cycle. By definition, we will probably not attract the best people if all we say is, “You start on the 1st, and then you are on notice, because we don’t know if we will be able to renew your contract next time.” Those of us with direct local government experience know full well that, without the expertise and efficacy of our voluntary and charity sector, our communities would be very much the poorer.

The point made by my hon. Friend the Member for Mid Norfolk ties in very well with those made by the hon. Members for Oldham West and Royton and for Brighton, Kemptown. Within the conversation about how the funding model for local government is changed and evolved to meet the times, nothing should be off the table. It is a window of opportunity to recalibrate the future of local government and its relationship with the centre, which should sustain it in a practical way, not for a hand-to-mouth two or three-year spending settlement period, but for 10, 15 or 20 years. I see considerable merit in that in terms of value for the public purse and the quality and reliability of delivery of public service.

The hon. Member for Oldham West and Royton asked some specific questions. Yes, overview and scrutiny committees can call in. I certainly anticipate that scrutiny would cover trading companies and JVs. Yes, they can instigate best value reviews, and where local authorities have identified a lacuna of expertise, the recruitment of lay members to provide expert advice in certain areas—sometimes on a very bespoke basis, sometimes on a more permanent, standing basis—should be encouraged. I do not see any inhibitor in these regulations to allowing authorities to do that.

The hon. Gentleman asked about new burdens. This instrument is a tidying-up exercise. All authorities expect that they will have an element of scrutiny and audit. I do not see that qualifying as yet, if at all, as new burdens, but we will keep it under review. If we are able to invest to save, and to drive better-quality service more efficiently through the audit and scrutiny process, it would be a rather foolish Minister who set his face against delivering that. We see this not as a new burden, but as a continuation of an accepted task, and an important one.

I hope that that has answered the questions raised by my hon. Friend the Member for Mid Norfolk and Opposition Members. If it has not, I apologise, and I am sure that they can drop me a note. I am grateful for the support of the Labour party. I am also grateful to my friend, the hon. Member for North Tyneside, whose telephone provided both the noise of Skippy the kangaroo and, when the hon. Member for Brighton, Kemptown

[Simon Hoare]

was speaking, one that sounded a little bit like a Muscovy duck. We are grateful to her, and I look forward to serving with her on another Committee for even more Percy Edwards-type noises.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) (Amendment) Regulations 2024.

9.55 am

Committee rose.