

Natural Environment and Rural Communities Bill

House of Lords Report Stage, 15 March

LGA key messages

- The LGA believes that the Natural Environment and Rural Communities (NERC) Bill, with DEFRA working in partnership with local councils, will assist the development of economically, socially and environmentally thriving communities.
- We support the existing biodiversity duty for local councils in the Bill but are concerned that strengthening the duty will create substantial cost implications for local councils and have a counterproductive impact on environmental decisions

The NERC bill

The NERC Bill enables the establishment of Natural England and the Commission for Rural Communities (CRC), implementing the Government's Rural Strategy 2004 proposals. The LGA worked with Government on this legislation and took part in pre-legislative scrutiny.

The LGA view

We welcome the proposed legislation and DEFRA's commitment to work in partnership with local councils to achieve economically, socially and environmentally thriving communities. We would like to see this embodied through the new organisations, as **how** they work to engage key partners such as councils will be as important as **what** they set out to do.

The current proposed biodiversity duty on local councils

The NERC Bill currently contains a proposal to extend Section 74 of the Countryside and Rights of Way Act 2000 to cover all public bodies including local councils. This **duty would mean that authorities would have to have "regard...to the purpose of conserving biodiversity"**. The Government believes that this will not place any new burdens or financial pressures upon local authorities. They argue that this duty actually brings together existing commitments and raises the profile of biodiversity.

LGA view

The LGA supports the aim of this original duty, which is to enable local authorities to take more positive action to safeguard and enhance biodiversity.

The new strengthened biodiversity duty on local councils

The LGA is aware that **a strengthening amendment** to the duty has been debated in both the Commons and the Lords and may well again be tabled at Report Stage. The purpose of this amendment is to strengthen the provision so that public bodies have a duty to 'further the conservation of (rather than 'have regard to') biodiversity'.

LGA view

The LGA believes that a duty to "have regard to biodiversity" is sufficient to ensure that local councils do raise the issue, and to ensure its consideration during decisions over service provision. However, any amendment to "further biodiversity" is unnecessary and would potentially constrain the ability of local authorities to take the most appropriate decisions.



Specifically we are concerned that:

- In order to meet the additional need for excellent **ecological advice**, local councils would need to find the most cost-effective way of getting in professional guidance. This is likely to mean bringing in an in-house ecologist, rather than relying on expensive consultants. While a number of local authorities voluntarily choose to employ an ecologist at the moment (approximately 40% according to the Association of Local Government Ecologists), this new duty would mean that every local authority would need to have equivalent access to advice. At a conservative estimate of £30 000 (including on costs) per ecologist for each of the 400 local authorities, this **represents a new burden of approximately £12million per annum**.
- The LGA supports the aims of protecting and enhancing biodiversity, but local councils also have to consider a number of other competing demands, and must to ensure that all the facts and local circumstances are considered before deciding on a course of action. The LGA has a “Greening Communities” campaign which demonstrates the importance of considering all aspects of the environment (water, air, soil, climate change, material resources, street scene and biodiversity) together. **The proposed amendment would artificially raise the importance of biodiversity above the other strands of the environment**. This could lead to a situation where a local authority has to value a proposed development which harms water quality, and wastes natural resources but delivers a small biodiversity gain, over a development which is not harmful in any way to the environment. The same argument could be used that by artificially raising the significance of biodiversity above other interests, local councils may be forced into selecting weaker service proposals which deliver slight biodiversity gains, over more effective service proposals which are biodiversity neutral.

Other matters

- The LGA believes that DEFRA, English Nature and local councils should ensure that the coverage of Local Record Centres is extended so that every local authority can benefit from easily accessible local species and habitat data.
- We believe the local government performance framework for environmental action needs revising to enable local councils too focus on local biodiversity priorities. Currently CPA indicators influence councils spending towards nationally set priorities (mainly household recycling and street cleanliness). The LGA’s proposals to reform inspection can (“*Driving Improvement; A new performance framework for localities*”) is available at www.lga.gov.uk

Further information

If you require further information on the LGA position on the NERC Bill, please contact either: Tim Woodhouse on 020 7664 3381, Tim.Woodhouse@lga.gov.uk , or Kevin Hactor on 020 7664 3334, Kevin.hactor@lga.gov.uk