

English Devolution and the new Government

For discussion and direction.

Summary

This paper is intended to support members' discussion of how to align the Board's work programme and lobbying with the new Government's commitments, particularly in light of the publication of the Cities and Local Government Devolution Bill. Broadly, the Devolution Bill responds favourably to many of the key proposals in the LGA's flagship report on devolution, [English Devolution: local solutions for a successful nation](#), as well as the proposals in our response to DCLG's consultation on combined authorities in the last parliament. The paper also sets out proposed next steps for members to consider and asks for a steer on issues such as a constitutional settlement.

Recommendations:

Members are asked to:

1. Provide a steer from the non-metropolitan perspective for the LGA's broader lobbying on the Bill
2. Comment on the proposed next steps set out in paragraphs 14 to 18.

Action

Officers to take forward as directed by members.

Contact officer: Ian Hughes
Position: Head of Policy
Phone no: 020 7664 3101
Email: ian.hughes@local.gov.uk

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Introduction

1. Following the Scottish independence referendum in September 2014, devolution within the United Kingdom shot to the top of the public policy agenda. Significantly, the Prime Minister specifically recognised the need to “empower our great cities” in his response to the vote. People & Places Board members agreed that their primary focus leading up to the general election should be to keep up the pressure on the Government to follow through on this commitment and ensure that devolution, but not just to the great cities, was a top priority for the next Government. Members also felt that it would be important to work closely with the City Regions Board so that the benefits of devolution could be extended to all areas, recognising the interconnectedness of city regions and non-metropolitan areas.
2. The general election campaign demonstrated how far the debate has come since 2010, with all of the major parties setting out commitments to devolve power and funding within England as key planks of their election manifestos. Whitehall officials were also clearly planning for a major programme of activity related to devolution and sought the LGA’s advice on their preparations on several occasions. These discussions and close consultation with the sector, including the District Councils’ Network and County Councils Network, fed into the development of the LGA’s propositions for progressing devolution.
3. The LGA’s flagship report, [*English devolution: local solutions for a successful nation*](#), was published on May 21st. Informed heavily by the discussions of this Board and the City Regions Board, the report sets out:
 - 3.1 Why devolution matters, including the benefits of devolution for the democratic process, long-term prosperity, savings for the public purse and outcomes for residents;
 - 3.2 Principles endorsed by local government leaders from England, Scotland, Northern Ireland and Wales to underpin the process, including subsidiarity, legal standing for local government and fiscal autonomy;
 - 3.3 A road map, including decisions to be taken in the first Queen’s Speech and Comprehensive Spending Review to help deliver reform; and
 - 3.4 Proposals on how councils can strengthen local accountability and governance arrangements in order to assume significant new responsibilities
4. Within a week of publication, our report had been downloaded almost 12,000 times. The LGA Chairman presented the new Secretary of State for Communities and Local Government, Rt Hon Greg Clark MP, with an advance copy at their first meeting on May 18th and copies have since been sent to key Ministers across Whitehall. Our work was also featured in the Times and trades press on the day of launch. The response from the sector has been very favourable.
5. The LGA press release¹ emphasised the needs of non-metropolitan areas, and this aspect was the subject of a major segment on the BBC evening news on 24 May.²

6. The importance of devolution to the new Government's agenda became apparent when the Chancellor of the Exchequer made devolution the topic of his first public speech in Manchester on 14 May, signalling that the first Queen's Speech would contain a "Cities Devolution Bill" which would provide for cities prepared to adopt directly-elected mayors greater control over local transport, housing, skills and healthcare. He also pledged to extend a form of the City Deals programme to cover counties and towns. This was rapidly followed up by the publication of what became a Cities and Local Government Devolution Bill. The rest of this paper summarises the provisions of the Bill, outlines additional commitments in the Queen's Speech as well as other relevant announcements, and sets out proposed next steps for members' consideration.
7. The next months are a critical time for local government. Devolution within England is being defined for a generation over the course of this Parliament. It is critical to maintain a clear and influential voice for non-metropolitan areas to ensure that all areas within England have the opportunity to be as ambitious as possible on behalf of their residents. It is proposed that devolution activity be supported by dedicated LGA officer resource over at least the next six months.

Cities and Local Government Devolution Bill

8. The Cities and Local Government Devolution Bill was published on 28 May. It provides new primary legislative powers to implement the devolution agreement with Greater Manchester announced in November 2014, which can also be applied to other combined authorities. The main components of the Bill:
 - 8.1 Allow for a combined authority to have a directly-elected Mayor;
 - 8.2 Provide for the Mayor of a combined authority to exercise the functions of the Police and Crime Commissioner (PCC) for the area (and where that occurs, allow the current PCC term of office to be extended until the mayor is in place.);
 - 8.3 Enable the Secretary of State to remove a council from the boundaries of a combined authority, if it is the only one that does not consent to establishing an elected Mayor;
 - 8.4 Allow a mayoral combined authority to levy council tax as a major precepting authority, similar to county councils or the Greater London Authority;
 - 8.5 Expand the potential remit of combined authorities from "economic development and regeneration" only to include any local government function; and
 - 8.6 Provides for combined authorities to take on the functions of other public authorities, e.g. government departments but not county or district councils.
 - 8.7 Extends the general power of competence to combined authorities in the same manner as it applies to local authorities.

¹ http://www.local.gov.uk/web/guest/media-releases/-/journal_content/56/10180/7265593/NEWS

² <http://www.bbc.co.uk/news/uk-politics-32873204>

- 8.8 Allows combined authorities to borrow for any of its specified functions, apart from those specifically exercised by the mayor
 - 8.9 Opens the door to local government reorganisation by enabling the Secretary of State to change local government structures for the area, provided that all constituent councils consent. The Bill specifies that changes could include mergers of councils, moves to unitary structures, or changing the democratic representation of the area with different electoral cycles and fewer councillors.
 - 8.10 Establishes a scrutiny function for combined authorities and provides for an overview and scrutiny function to cover the mayoral office.
9. Generally the Bill is of an enabling nature, as the LGA called for in its English devolution report so that the legislation does not have to constantly catch up with developments on the ground. It responds positively to the proposals we set out in our response to DCLG's consultation on combined authorities in the last parliament, including expanding their functional scope, enabling them to borrow for non-transport purposes and extending the general power of competence to cover them fully. Whilst providing for combined authorities to have elected Mayors and specifying the process for their election, the legislation permits flexibility about the mayoral functions and model. On the face of the Bill, there is nothing restricting substantial devolution to combined authorities that adopt the directly-elected mayoral model.
 10. The Bill does not in itself restrict devolution to particular kind of area. It also makes provision for 'simplifying' the local government structures, with agreement from all constituent councils, in areas where a combined authority is not appropriate. This is exemplified in the accompanying explanatory notes as where 'a single county, which may or may not be a unitary authority, covers a functional economic area which may be the basis for a Devolution Deal.' Further discussion of governance issues are contained in the accompanying governance paper.
 11. The first reading of the Bill took place in the House of Lords on 28 May 2015. The second reading, and general debate on all aspects of the Bill, took place on the 8 June 2015 ahead of entering the committee stage. The LGA's media response to its initial publication was largely positive, recognising in particular that it had responded to our call for devolution to be extended to all places. The LGA circulated a [briefing](#) to peers ahead of the Second Reading debate. It is intended that further briefings on the detail of the Bill will be informed by the steers of City Regions and People and Places Board members.

Queen's Speech and other relevant announcements

12. The first Queen's Speech on 27 May contained two other Bills that are likely to be of particular interest to members:
 - 12.1 A Buses Bill that will allow combined authorities with directly-elected mayors to take on responsibility for local bus services, promoting an integrated transport system. The legislation will provide the option to franchise bus services.
 - 12.2 A Housing Bill that will extend the Right to Buy to 1.3 million housing association tenants. The legislation will also allow for 200,000 starter homes available for under-

40s at a 20 per cent discount. The Bill will introduce a statutory register for brownfield land and proposes to simplify the neighbourhood planning system.

The LGA produced an on-the-day [briefing](#) that looks at what each of the Bills means for councils.

13. Going back to the Chancellor's first speech in Manchester, there were two brief but encouraging statements that open the door to further reforms the LGA has been pressing for but that have not yet been followed up with any detail:

13.1 First, he indicated that "now it's time to think whether we could go further down the road of fiscal devolution. So that you take control of raising more of the money you spend."

13.2 Second, he mentioned that with some aspects of employment support already being piloted, he wanted to see if it might be possible to go further.

Proposed next steps

14. It is suggested that members focus their discussion on four areas:

14.1 Amendments and lobbying on the Bill;

14.2 Keeping up the pressure to make progress on the ground;

14.3 Examining governance options; and

14.4 Securing local government's position through a constitutional settlement

15. First, when it comes to the Bill itself, members may wish to make a distinction between the changes that need to be made to the Bill itself and how the public debate that the Bill generates can be used to influence delivery. With regard to the Bill itself, members agreed at their March meeting that we should be seeking for it to be enabling rather than prescriptive. As indicated in paragraph 8, on the whole it is enabling and takes into account the specific legislative reforms we called for with respect to combined authorities. There do appear to be three major gaps:

15.1 The Bill is largely silent on fiscal devolution, although it contains specific provisions on precepting and borrowing. Our report calls for specific financial reforms in the next Spending Review, including freedom to set council tax and 100 per cent retention of business rates. Members are invited to consider whether we should be pressing for amendments that enable these reforms.

15.2 The Bill appears to give the Secretary of State a great deal of discretion to approve or turn down proposals, without any mechanisms to hold the SoS to account or for appeal. We are suggesting that a peer review process could be used to assess readiness, whilst others such as the City Growth Commission have called for an independent body to make that determination. Members may wish to consider whether we should be pressing for an amendment regarding assessment of capacity.

16. Second, although the Bill enables greater devolution within England, it does not in and of itself deliver it. Political will will still be needed to ensure that actual agreements with city and non-metropolitan regions match their ambitions. As members have noted in previous discussions, it is clear that many departments and civil servants have yet to buy into the devolution agenda. Members are invited to consider how the LGA can effectively maintain pressure on the Government to go further and faster, particularly in non-metropolitan areas. Finally, it is suggested that members consider how we can harness the business voice more effectively in our lobbying. Both the debate generated by the Bill and the party conferences in the autumn may present a useful platform for us.
17. Third, whilst the Board's broad position on governance is that "one size does not fit all", it may be timely to undertake a more detailed examination of governance models appropriate to non-metropolitan areas (please see separate paper). There is a key role for the Board to play in influencing the arrangements available to non-metropolitan areas wishing to agree devolution deals with Government.
18. Fourth, members may wish to consider pressing for the legal position of local government to be secured and enhanced. Our devolution report calls for a defined set of powers and responsibilities for local government that strengthens and clarifies their ability to design public services to meet local need. One option may be to press for an amendment to the Devolution Bill that calls for a Constitutional Settlement. There are other voices that are supportive of constitutional reform; for instance, Lord Purvis presented a Constitutional Convention Bill in the House of Lords on 1 June.