



BRIEFING PAPER

Number CBP07322, 8 October 2015

Cities and Local Government Devolution Bill 2015-16 [HL]

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Summary

The *Cities and Local Government Devolution Bill 2015-16* forms part of the Government's policy of devolving the powers and budgets of public bodies to local authorities and combined authorities. The wider policy priorities of both the Government and local areas extend beyond the Bill itself, which is largely technical in nature. For this reason, this briefing contains an extensive introduction to recent policy debates on devolution, to put the Bill in an appropriate context. Additional background and detail on recent 'devolution deals' can be found in the Library briefing paper [Devolution to local government in England](#).

The Bill received its First Reading in the House of Lords on 28 May 2015; Second Reading on 8 June; spent three days in Committee between 22 and 29 June; had its Report Stage on 13 and 15 July; and its Third Reading on 21 July. Documents related to the Bill can be found on [its pages on the Parliamentary website](#).

A number of amendments were passed in the Lords despite opposition from the Government. These included clauses requiring an annual 'devolution report' to Parliament, and a 'devolution statement' to be included in every Government Bill; a clause lowering the voting age in local elections to 16; a clause preventing the Government from making the devolution of powers conditional on the creation of an elected mayor; and a clause permitting a future referendum to abolish any local authority elected mayor established following a Government-mandated referendum.

The Bill was introduced into the Commons, as Bill 64, via its First Reading on 21 July 2015, and Second Reading is scheduled for 14 October 2015. [A copy of the Bill as amended in the House of Lords](#) has been published. [Explanatory notes](#) have been published on the Parliamentary website. The Delegated Powers and Regulatory Reform Committee also considered the Bill in June 2015.¹

The Bill formally extends to England and Wales, but its practical effect is in England only, with the exception of Clause 20 (covering the voting age for local government elections), which would also have effect in Wales.

The House of Commons Communities and Local Government Committee has announced an inquiry into the Bill and related policy matters. It will take oral evidence during Autumn 2015, with the first session on 12 October.

This briefing paper describes the establishment of city deals, Local Enterprise Partnerships, combined authorities and 'devolution deals' during the 2010-15 Parliament, and analyses the characteristics of the powers devolved under the deals agreed thus far. It then provides a clause-by-clause analysis of the Bill, followed by a bibliography of relevant documents.

¹ See House of Lords Delegated Powers and Regulatory Reform Committee, [1st Report](#), 2015-16, HL Paper 8

1. The development of policy on localism and devolution

1.1 Introduction

The *Cities and Local Government Devolution Bill 2015-16 [HL]* was introduced into the House of Lords as Bill no.1 in the 2015-16 Parliamentary session. The Bill forms a critical element of the Government's high-profile policy of devolving powers and responsibilities to local areas within England.

The Coalition Government took a number of steps to devolve powers and funding to pursue economic growth to local areas in England. This included the abolition of Regional Development Agencies (RDAs), introduced by the Labour government in 1999; the creation of Local Enterprise Partnerships (LEPs); and the promotion of directly-elected mayors for local authorities in major cities. In 2011-12, the Government planned to devolve additional powers to major city councils with directly-elected mayors: but most of these cities rejected mayors in referendums in May 2012. Nevertheless, during 2011 and 2012 bilateral 'city deals' were agreed with several of these local areas, with participation from Local Enterprise Partnerships (LEPs).

This section sets out the development of policy around devolution of power within England under the Coalition government. It gives brief details of city deals and LEPs. It then gives a brief explanation of 'devolution deals', beginning with the Greater Manchester Agreement of November 2014, and of combined authorities, to which the devolution deals will devolve many powers.

In short, city deals and LEPs effectively formed the 'first generation' of devolution of power to local areas under the Coalition government, whilst devolution deals and combined authorities are developing into the 'second generation'. LEPs and city deals are not statutory; combined authorities are statutory bodies, and devolution deals are intended to be partly statutory under the provisions in the Bill. The city deals and devolution deals set out the powers to be devolved to local areas (and set out the anticipated outcomes), whilst combined authorities will exercise the powers.

1.2 City deals

A series of 'city deals', agreed with selected local areas during 2011-13, decentralised specific policy programmes and funding streams in exchange for agreed outcomes. A 'first wave' was agreed with the eight core cities (Birmingham, Bristol, Leeds, Liverpool, Manchester, Newcastle, Nottingham and Sheffield) by July 2012.² These deals were agreed with city authorities working closely with the relevant LEP.

² HM Treasury, [Unlocking growth in cities: city deals wave 1](#), July 2012. See also the Library briefing paper [City deals](#) (SN 07158).

Details of the first wave of City Deals are available in the Cabinet Office publication [Unlocking Growth in Cities: City Deals – Wave 1](#).

By July 2014, twenty further city deals had been negotiated with a range of smaller cities and city-regions. Negotiations generally took place between central government and LEPs, local authorities, and in some cases business partnerships and universities. A full list of deals is available in Appendix 4 of the Centre for Cities' [City Policy Briefing, September 2014](#). (This includes a deal with Glasgow and Clyde Valley negotiated in July 2014; discussions are underway at the time of writing on further deals outside England, in Cardiff, Aberdeen and Inverness.)

Whilst each city deal was unique, there were certain common features. They were characterised by the provision of a small amount of additional funding and flexibility over its use, plus commitment from the Government to continue joint working. The deals related to specific programmes and expected outcomes; city deals did not transfer general powers over policy areas to local authorities.

The original eight city deals were associated with the holding of mayoral referendums in the ten largest cities in England in May 2012. The paper *Unlocking Growth in Cities* stated:

... where cities want to take on significant new powers and funding streams, they will need to demonstrate strong, accountable leadership, an ambitious agenda for the economic future of their area, effective decision-making structures, and private sector involvement and leadership (cities with a directly elected mayor will meet this requirement).³

Of the ten cities in which referendums were held, only Bristol voted in favour of an elected mayor, whilst the city councils in Liverpool and Leicester voted to establish one without a referendum.

1.3 Local Enterprise Partnerships

Local Enterprise Partnerships (LEPs) are private-sector led bodies that manage support for economic development. They are voluntary, non-statutory bodies. Proposals for LEPs were approved by the Coalition government, and were expected to reflect 'functional economic areas'. There is no standard definition of these areas, something reflected by the fact that 37 local authority district areas are covered by two approved LEPs. A [map of the LEPs](#) is available on the gov.uk website.

Whilst local authorities are closely involved in LEPs, and often provide administrative support and support in kind, LEP chairs must be from the private sector, and must contain a majority of private sector representation. The intention is to ensure that businesses in local areas are closely involved in driving growth and development.

The Government introduced a 'Regional Growth Fund' for the financial years 2011/12 and 2012/13.⁴ The 2012 [Autumn Statement](#) extended the total value of the fund to £2.7 billion over five years, from 2011/12 to 2015/16. LEPs were eligible to apply for funding from the first four

³ HM Treasury, [Unlocking growth in cities: city deals wave 1](#), July 2012, p. 10

⁴ BIS Press release, [£1 billion to help fund regional businesses](#), 29 June 2010

funding rounds, but did not receive preferential treatment in the bidding process. They were also allocated funding from the Growing Places Fund, on a formula basis. In 2015-16, they are eligible to bid for the £2 billion per year Single Local Growth Fund. The funding won is distributed to businesses and projects within their area. More information on LEPs is available from the Library briefing paper [Local Enterprise Partnerships](#).

In 2012, the Government commissioned a seminal report from Lord Heseltine, [No Stone Unturned](#), which proposed that LEPs should develop a long-term strategy for their area, and that a large number of separate funding streams should be amalgamated and made available to local areas on a competitive bid basis. In response, the June 2013 Spending Review saw the Government ask Local Enterprise Partnerships to develop multi-year local Strategic Economic Plans, which would be used for negotiations on 'Growth Deals' with the Government. All 39 LEPs have now negotiated growth deals with the Government: details can be found in the Library briefing paper [Local growth deals](#). The strategic plans would also be used as the basis for allocations from the £2 billion a year Single Local Growth Fund that was created at the 2013 Spending Review.⁵

1.4 From city deals to devolution deals

Government interest in the localisation of power was sharpened by a range of reports from think-tanks and research groups through 2014 and 2015. The most influential were the publications of the City Growth Commission, chaired by Lord O'Neill (now commercial secretary to the Treasury), including [Powers to Grow](#), [Decentralisation Decade](#), from the IPPR and PwC; and [Devo Max – Devo Manc](#), from Mark Morrin and Phillip Blond at ResPublica. There were a number of additional contributions from the Local Government Association and the political parties; a list can be found in section 4 below.

These reports identified similar governance issues to the Heseltine Report, but they were more radical in their proposals for devolution of power. They proposed that local areas should take on more powers linked to growing local economies (further education; apprenticeships; new housing development; employment support; business support) and reforming public services (health and social care; children's services; transport). Their other key contribution was to articulate new governance models. Each report proposed that powers should be devolved to combined authorities rather than single local councils: at present most large conurbations in England are governed by a number of local councils rather than a single large authority. Cities or 'metros' were to be prioritised, as their economic growth potential was greatest: but other areas could also be offered powers.

Strong local leadership was essential in order to exercise such powers effectively: directly-elected mayors would be a good example (but not

⁵ HM Treasury, [Investing in Britain's Future](#), Cm 8669, June 2013, p.9

necessarily the only one) of this. The final report of the City Growth Commission stated:

Many local authorities understand that scale is the key to unlocking public service efficiencies and managing strategic economic development.

... A robust, accountable model of governance is needed for effective collaboration between local authorities to ensure decisions can be taken in the best interest of the city region. The Combined Authority model demonstrates great potential in delivering this strong and stable structure, enabling places to cooperate along boundaries they identify with and align relevant LEP boundaries accordingly.⁶

Many of the reports also draw attention to the straitened budget circumstances faced by local authorities, which are likely to continue during the 2015-20 Parliament. They suggested that localisation of powers was an opportunity to reduce spending by increasing efficiency, either via the economies of scale available across a combined authority area or via more efficient use of resources through joining up policies at a local level – or both. The reports proposed:

- Giving new powers in specific policy areas to local authorities;
- The transfer of additional budgets alongside those powers;
- Enhanced power over local taxes (council tax and business rates), additional local taxation powers, and more flexibility around borrowing and financial management;
- The creation of combined authorities and/or directly-elected mayors.⁷

More details of these proposals can be found in the Library briefing papers on [Local government devolution: policy proposals](#) and [Local government devolution: fiscal proposals](#).

The outcome of the Scottish referendum also had a galvanising effect on local interest in the devolution of powers. On the day after the referendum on Scottish independence, the Prime Minister announced that, alongside proposals for additional devolution to Scotland, Wales and Northern Ireland:

It is also important we have wider civic engagement about how to improve governance in our United Kingdom, including how to empower our great cities — and we will say more about this in the coming days.⁸

In the wake of this statement, many local actors made demands in late 2014 for consideration to be given to devolving powers to areas within England. Proposals were published by, amongst others, the [Mayor of Liverpool](#), the [Local Government Association](#), and the [County Councils Network / LGIU](#).

⁶ City Growth Commission, *Unleashing Metro Growth*, 2014, p.11, 26

⁷ See the Library briefing papers on [combined authorities](#) and [directly-elected mayors](#).

⁸ See BBC, [David Cameron's statement on the UK's future](#), 19 September 2014

1.5 Devolution deals

On 14 November 2014, an extensive 'devolution deal', the *Greater Manchester Agreement*, was announced between the Government and the Greater Manchester Combined Authority (GMCA). Under the terms of the deal, the Government agreed to devolve a number of programmes and budgets to the GMCA immediately, and to devolve further programmes and budgets on the condition that the GMCA adopt a directly-elected mayor.⁹ Devolution deals have also been announced for Sheffield ([December 2014](#) and [October 2015](#)), [Leeds](#) (March 2015), and [Cornwall](#) (July 2015).

On 27 February 2015, the [Greater Manchester Health and Social Care Devolution Memorandum of Understanding](#) was published, under which the Government agreed to establish a joint health and social care board for the Greater Manchester area. This would permit joint decision-making between NHS bodies and local authorities, within the framework of national policy. A third document, [Further devolution to the Greater Manchester Combined Authority](#), was published in July 2015, following the July 2015 budget.

Details of each of the devolution deals are available in the Library briefing [Devolution to local government in England](#): see also Table 1 in section 2 below.

The devolution deals resemble city deals in that they are negotiated bilaterally between the Government and selected local areas. In Manchester, Sheffield and West Yorkshire the combined authority will receive the additional powers and funding, highlighting the Government's preference for a body covering a wider economic footprint (though the powers for Cornwall will go direct to the existing Cornwall Council).

Devolution deals after the 2015 General Election

All the main political parties committed to some form of further devolution to local areas in England in their 2015 general election manifestos: see the Library briefing [Devolution to local government in England](#). Following the election, George Osborne's 14 May 2015 speech made clear that any area was free to submit a proposal for devolved powers.¹⁰ This announcement sparked a flurry of activity at local level, with local areas attempting to build alliances and submitting bids for devolved powers.

A deadline of 4 September 2015 was set for any local areas that wished their proposals to be taken into account in the autumn 2015 Spending Review. The Government stated that [38 bids had been received](#) (though this included four from Scotland and Wales; and the areas covered by some bids overlapped with one another).

⁹ Background to the process leading up to the first agreement can be found at Simon Jenkins, "The secret negotiations to restore Manchester to greatness", [Guardian](#), 12 February 2015

¹⁰ HM Treasury, ["Chancellor on building a Northern powerhouse"](#), 14 May 2015

The Government's note on the process for the 2015 Spending Review indicates that decentralisation, with active support from Government departments, is a mainstream element of its economic policy:

3.15 The government is committed to building strong city regions led by elected mayors, building on the ground-breaking devolution deal with Greater Manchester in November 2014. The Chancellor has asked all relevant Secretaries of State to proactively consider what they can devolve to local areas and where they can facilitate integration between public services.....

3.16 As part of the Spending Review, the government will look at transforming the approach to local government financing and further decentralising power, in order to maximise efficiency, local economic growth and the integration of public services.¹¹

1.6 Combined authorities

The Government's approach so far to devolution deals implies that conurbation-wide authorities are regarded as the optimum – though not the only - form of governance for any local area seeking devolution of power from central government. In England, combined authorities are well placed to take on such a role.

Combined authorities are statutory bodies. They are set up via a statutory process, which requires the prospective local authorities involved to undertake a 'governance review', and to apply to the Secretary of State to establish the combined authority via an Order. They are permitted to carry out joint functions across their areas, principally economic development, regeneration and transport. The first to be set up was the [Greater Manchester Combined Authority](#) (GMCA) in April 2011, followed by the [North-East, West Yorkshire, Sheffield City Region](#) and [Liverpool City Region](#) combined authorities in April 2014. The membership, and constitutional requirements, of each authority are set out in the Orders setting them up. Further details are available from the Library briefing paper [Combined authorities](#).

Combined authorities do not have any directly-elected members: they are managed by membership boards or 'cabinets', consisting of the leaders of their member local authorities. If they were to take on more powers in the future, there are potential questions regarding how they can be held accountable by the public. One option, included in the Bill, is to allow combined authorities to create a directly-elected mayor.

Though many of the bids for devolution deals propose to establish a combined authority as part of any successful deal, there is no obligation on any area to do so, and no such obligation will be introduced by the Bill. Nor has the Government suggested that establishing a combined authority – with or without an elected mayor – is a precondition for obtaining a devolution deal: this can be seen in the case of Cornwall, where Cornwall Council and local partners developed the bid for, and will implement, their devolution deal.

¹¹ HM Treasury, [A country that lives within its means](#), 2015, p. 15

2. Devolution to local areas: agreements and proposals

2.1 Devolution deals to date

At the time of writing the Government has published 'devolution deals' applying to four areas. These are:

- Greater Manchester: the [Greater Manchester Agreement](#) (3 November 2014), proposing powers for the Greater Manchester Combined Authority (GMCA) over skills, housing, bus franchising, business support, plus the establishment of a directly-elected mayor; the [Greater Manchester Health and Social Care Devolution Memorandum of Understanding](#) (27 February 2015), proposing the integration of health and social care services under a Greater Manchester-wide board; and [Further devolution to the Greater Manchester Combined Authority](#), published alongside the July 2015 budget;¹²
- [Sheffield City Region Devolution Agreement](#) (5 October 2015) and the [Sheffield City Region Agreement on Devolution](#) (12 December 2014);¹³
- [Leeds City Region and West Yorkshire Agreement on Devolution](#) (18 March 2015);¹⁴
- [Cornwall Devolution Deal](#) (announced 16 July 2015, published August 2015).

Table 1 summarises the main policy areas in which each deal proposes an enhanced role for the local area. Table 1 is a summary, not a comprehensive account of each devolution deal. The exact proposals for devolved funding and joint working varies across the areas covered; and the table omits some of the more minor aspects of each deal.

2.2 Characteristics of the deals

Within each devolution deal, the nature of the 'powers' to be devolved differs. Some of the proposals are for full devolution of powers and funding over specific programmes; others consist of a Government commitment to 'work with' the local area to explore opportunities for closer working in the future; others consist of a commitment to produce a joint business plan or a strategy outlining a joint approach to a particular policy area.

The procedures for implementing the various types of change will also differ. Some, such as the transfer of functions held by other public bodies, could not be implemented unless the Bill passes through Parliament. However, many programmes and budgets can be transferred to local areas via executive decision of the Government, without the need for the powers in the Bill.

¹² HM Treasury, [2015 Summer Budget](#), 2015, p.63

¹³ The full deal document is available on Parliament's deposited papers website: [reference DEP2015/0467](#).

¹⁴ HM Treasury, [Leeds City Region and West Yorkshire Devolution Agreement](#), 2015, p. 5

Table 1: proposals in devolution deals agreed by September 2015

	Greater Manchester	West Yorks	Sheffield	Cornwall
Further education and skills	New FE system	New FE system	New FE system	New FE system
	Apprenticeship Grant for Employers	Apprenticeship Grant for Employers	Apprenticeship Grant for Employers	
			Adult Skills funding	
Transport	Funding	Funding options	Funding	Funding
	Bus franchising	Links with Network Rail and Highways England	Links with Network Rail and Highways England	Bus franchising
	Smart ticketing			Smart ticketing
Business support	Trade support funding	Integrated services	Integrated services	Integrated services
	Funding from 2017	Funding from 2017	Funding from 2017	Funding from 2017
Work Programme	Possible joint commissioning in 2017	Possible joint commissioning in 2017	Harder to help claimants joint commissioning in 2017	
Public land commission	Yes	Yes	Yes	Yes
Health & social care	Integration	-	-	Integration business plan
Policing	Mayor to become Police and Crime Commissioner	-	-	-
Housing	Some funding	-	<i>Under discussion</i>	-
Fire service	Mayor to take over	-	-	[Cornwall Council]
Spatial planning	Yes	-	Yes	[Cornwall Council]
Economic development	Mayoral Development Corporations; compulsory purchase	-	Mayoral Development Corporations; planning call-in powers	-
EU structural funds	Intermediate body	-	<i>Under discussion</i>	Intermediate body

Because of this, the implementation of the deals is likely to progress throughout the 2015-20 Parliament. For instance, Greater Manchester has already taken on power over the Apprenticeship Grant for Employers and the Housing Investment fund. Cornwall and Greater Manchester will become intermediate bodies for EU structural funds from 1 April 2016. Joint commissioning of the Work Programme could begin in April 2017, when the current provider contracts come to an end. Cornwall's devolution deal anticipates a franchising system and smart ticketing being in place by the end of 2018.

Almost all of the proposals for devolved powers include an indication, often quite specific, of the Government's desired outcomes; and a robust business case from the local area has been a prerequisite to the deal being agreed. The first Manchester deal mentions specifically that an "extensive programme of evaluation" must be put in place. The deals can be characterised as a strong commitment by central government to joint working and greater input from local bodies. The Government has only committed to devolve full powers and funding, in the manner of devolution to Scotland, Wales and Northern Ireland, in a small number of areas. In this context, Lord Heseltine has stated:

When one talks of devolution it's not realistic to talk about freedom. This is a partnership concept. Central governments are elected and they are entitled to have their manifestos implemented and it cannot be contemplated there is a sense of freedom at a local level which can actually frustrate the clear mandates upon which governments are elected....I am sympathetic to the word partnership rather than 'freedom' or 'devolution'.¹⁵

2.3 Which powers are to be devolved?

The devolution deals continue the bilaterally-negotiated character of the city deals. There are a number of similarities between the powers offered to the different areas so far, without a clear standard 'menu' of powers likely to be offered to any area that bids.

The Government has refused to stipulate which powers and functions will be considered for devolution and which will not. It has emphasised that each of the devolution deals agreed is bespoke, based on the requests and priorities of individual areas. Introducing the Bill into the House of Lords, Baroness Williams of Trafford said:

Decentralisation is the key to achieving economic growth and unlocking the potential for economic success in our cities. It enables places to take greater control over and responsibility for the key things that make it work. Any one-size-fits-all model is destined for failure. Every city and council is different. Through the decentralisation that the Bill will enable, each city will be empowered to forge its own path, to play to its own strengths and to find its own creative solutions to the particular challenges that they face.¹⁶

¹⁵ David Paine, "Heseltine: fiscal freedoms are unlikely for most councils", 1 July 2015. The article quotes Lord Heseltine speaking at a Local Government Association conference. See also [HLDeb 8 Jun 2015](#) c664-5.

¹⁶ [HLDeb 8 Jun 2015](#) c652-3

The powers proposed for devolution can be broadly classified into two categories: increased local control over local economies, helping to join up skills, training, unemployment support and business support; and public service reform. Both these concerns reflect a developing consensus on the types of power appropriate for devolution to local areas: for instance, the IPPR report *Decentralisation Decade* said:

Since 2008, there has been a growing concern that the national economy needs 'rebalancing'. Some see this in sectoral terms: the need to develop new industries in the knowledge economy, or to build on competitive advantages in (advanced) manufacturing. Some call for a greater focus on reversing a negative balance of trade. But many emphasise the need for regional rebalancing through greater economic growth focused on cities and regions outside London.¹⁷

The City Growth Commission report [Powers To Grow](#) said:

The UK economy is falling short of its potential as our cities, with their concentration of labour, capital and information flows, are stifled by the overt centralisation of policy decision-making. While global competitors are free to invest in their major cities, UK metros are at the mercy of central government, hoping for a cut of a fixed pot of national income.¹⁸

Many local areas (and commentators) have proposed various forms of 'fiscal devolution' – i.e. additional taxation powers for local authorities, or more control over the existing local taxes, council tax and business rates. In October 2015, the Chancellor proposed to allow local authorities to retain 100% of business rate revenue, though full details of how this will work and when it will take effect are not available at the time of writing.¹⁹ A small number of areas are already piloting the retention of 100% of growth in business rates. Further information on proposals made for fiscal devolution can be found in the Library briefing paper [Local government devolution: fiscal proposals](#).

Powers for economic growth

The following policy areas have appeared in devolution deals as measures to promote economic growth locally.

Restructuring the further education system. Greater Manchester, West Yorkshire, Sheffield and Cornwall have been invited to propose changes to further education and training provision, aiming to provide a range of courses that is more in line with the needs of local employers. Greater Manchester, West Yorkshire and Sheffield will also take over the Apprenticeship Grant for Employers, with a £1,500 budget for the employer per apprentice. Greater Manchester has boosted this to a

¹⁷ Cox, Henderson and Raikes, *Decentralisation Decade*, IPPR, 2014, p. 22

¹⁸ City Growth Commission, *Powers to Grow*, 2014, p. 6

¹⁹ See HM Treasury, [Chancellor unveils 'devolution revolution'](#), 5 October 2015. The Secretary of State for Communities and Local Government, Greg Clark, had appeared to rule out any fiscal devolution in the near future in a speech to the LGA conference in July 2015: see Sarah Calkin, "Interview: Clark draws line on fiscal devolution short of tax raising powers", [Local Government Chronicle](#), 8 July 2015.

maximum of £3,500: companies must have 250 employees or under, and the apprentice must be aged between 16 and 24.²⁰

Business support. Greater Manchester is taking on local business support funding from UK Trade and Investment, the Business Growth Service, and the Manufacturing Advisory Service. All four areas seek to integrate local and national business support funding, via 'growth hubs', with each area aiming towards full devolution of funding from 2017. In Cornwall, EU structural funds are to be aligned to the growth hub; whilst Leeds will pursue stronger joint working with UK Trade and Investment, and Sheffield will seek to align funds from the Business Growth Service and the Manufacturing Advisory Service through the growth hub. These services provide advice and small amounts of funding to local businesses seeking help with specific aspects of their operations;

The Work Programme. Greater Manchester and West Yorkshire have been invited to discuss joint commissioning of the Work Programme when current contracts expire in 2017, whilst Sheffield is to jointly develop a programme for 'harder-to-help' benefit claimants. This is the Government's main welfare-to-work programme. Unemployed people claiming Jobseeker's Allowance (JSA) or Employment and Support Allowance (ESA) are referred on to the programme from their local Jobcentre Plus, and remain on the programme for up to two years. The scheme is run by providers who have the freedom to introduce and implement their own ideas and schemes to help unemployed participants find work. Providers are paid by results.

EU structural funds. Greater Manchester and Cornwall are to become 'intermediate bodies', which means that they, instead of the Government, will be able to take decisions about which public and private bodies to give EU structural funds to. This role is still being explored in Sheffield. (The Greater London Authority already takes on this role in London.) In Manchester this will amount to the disbursement of some £50m per year; in Cornwall it will be some £80m. Local areas will be able to link these funding decisions to investment decisions they make in other devolved areas, such as further education and business support, provided their decisions remain within the terms of the EU structural funding agreement.

Housing investment. In Greater Manchester, the combined authority has taken over the Homes and Communities Agency's housing investment fund (ultimately, this power will pass to the elected mayor). This will be used to provide loans to housebuilders to drive up the number of new houses. As the loans will be repaid, the funding can be re-used over time. This power is still under negotiation in Sheffield.

Reform of public services

Integration and improvement of public services is to be enhanced via devolution of powers in areas such as the following.

²⁰ David Paine, "Devolved budget funds new Manchester apprenticeship scheme", [Local Government Chronicle](#), 31 July 2015

Integrated transport systems. This could include bus franchising, which would allow local areas to determine their bus route networks and to let franchises to private bus companies for operating services on those networks (see the Library briefing paper [Buses: franchising](#) for further details).²¹ Cornwall and Greater Manchester have expressed a desire to pursue this. Sheffield, Greater Manchester and Cornwall are to introduce multi-modal 'smart ticketing' systems, akin to the Oyster Card in London, and these areas will also be given single multi-year transport investment budgets. West Yorkshire is to gain 'more control' over local transport schemes. In Sheffield and West Yorkshire, the Government has committed to improve working relationships between the combined authority and Network Rail, Highways England.

Land Commissions / Joint Asset Boards. Greater Manchester will establish a Land Commission, whilst West Yorkshire and Sheffield already have a Joint Asset Board. These bodies are to improve the management of surplus land and buildings across public sector bodies, making joint decisions on whether to re-use, share, or sell unused land and buildings within the public estate. The Cornwall deal includes a number of the ingredients of the proposals elsewhere, without an explicit commitment to create a new body. In Greater Manchester, "the Commission will be jointly chaired by the Mayor and housing minister and will include ministers from key land-owning departments".²² The London Land Commission, set up in July 2015, includes members from Network Rail, TfL, DoH, NHS England, the Government, London Councils and the GLA, with the Mayor as chair. This idea links to the Government's [One Public Estate](#) initiative, which has been trialled in a number of locations across England.

Integration of health and social care. Greater Manchester has established [a partnership board](#), which will prepare a Greater Manchester-wide strategy for pooling budgets and aligning policy. Cornwall has been invited to produce a business plan to integrate health and social care services. In Manchester, the NHS and local Clinical Commissioning Groups will be represented on the partnership board, thus NHS national standards will still apply and the local authorities will be unable to disregard national policy. The board will determine the structure of the overall service provided, and the Greater Manchester boroughs will deliver joint services on the basis of local area plans.

Health and social care devolution

The proposals to devolve powers over health services have attracted the most attention from commentators and Parliamentarians, with much focus on whether health services in areas with devolution deals would no longer be subject to national standards. Baroness Williams, for the Government, stated in the House of Lords that this was not the case:

The Government are committed to the view that health and social care services in any area, whatever devolution arrangements are

²¹ Powers to do this are expected to be introduced via a *Buses Bill*, expected to pass through Parliament during the 2015-16 session.

²² HM Treasury, [Further devolution to the Greater Manchester Combined Authority](#), July 2015, p.3

entered into, must remain firmly part of the National Health Service and social care system ... that all existing accountabilities and national standards for health services, social care and public health services will still apply, and that the position of NHS services in relation to the NHS constitution and mandate cannot change.²³

The plans for devolution of health and social care to Greater Manchester are characterised by a partnership approach, not the transfer of powers. Lord Warner noted this distinction in the House of Lords:

...the Minister has said that all decisions about Greater Manchester will be taken “with” Greater Manchester—in other words, not “by” Greater Manchester. In this last set of responses to my noble friend, she makes it clear that the Secretary of State is responsible for decisions about health in Greater Manchester. What I am struggling with is this: what is the purpose of devolving some of these health responsibilities to the Greater Manchester Combined Authority if the Secretary of State reserves a right to overrule or vet those decisions?²⁴

Baroness Williams, for the Government, replied:

Greater Manchester will have the powers necessary to participate in a collaborative partnership... If within that partnership the Secretary of State thought that all of them collectively were making the wrong decision, I am sure that he would have something to say about it.²⁵

Such an approach will allow clinical priorities to continue to play a major role in decision-making within a devolution deal. NHS Providers has said:

We are keen to ensure that the Bill does not unintentionally and unnecessarily cut across, or lose, the key benefits of foundation trust status – the autonomy for boards to lead difficult decisions for the benefit of patients and communities, and clear mechanisms of local accountability for that decision making.²⁶

Chris Ham, chief executive of the Kings Fund, has said:

Devolution to Greater Manchester should enable decisions to be taken much closer to the population being served, with councillors having a bigger influence on future decisions. This raises the prospect of a health care system similar to those in the Nordic countries where regional and local politicians often have a more significant role than their national counterparts in the running of health and care services. The unanswered question is how much freedom public sector leaders will have to depart from national policies in taking greater control of NHS resources. This is one of many important issues that will need to be worked through in 2015/16, which will be the build-up year.²⁷

²³ HLDeb 29 Jun 2015 c1867

²⁴ HLDeb 24 Jun 2015 c1674

²⁵ Ibid., c1675

²⁶ Association of NHS Providers, *Cities and Local Government Devolution Bill Lords briefing*, July 2015, p. 4

²⁷ Chris Ham, [What Devo Manc could mean for health, social care and wellbeing in Greater Manchester](#), Kings Fund, 2 March 2015

2.4 Bids under negotiation

The Government has received [38 bids for devolved powers](#) as of 4 September 2015 (though this figure includes four bids from Scotland and Wales, and the deals with the four areas noted above). This section notes information available from the largest urban areas plus published bids from elsewhere. Outcomes from the ensuing negotiations are expected to be published alongside the Spending Review on 25 November 2015. Therefore it is possible that additional agreements will be published as the Bill progresses through the House of Commons.

Some areas have published bids or 'prospectuses'. The existence of a bid does not guarantee that the Government will agree a deal with the area: indeed, some documents explicitly state that they are intended to begin a discussion with Government rather than representing a final position. Some areas are seeking to establish combined authorities and/or directly-elected mayors, whilst some are not.²⁸ Additionally, the geographical areas covered overlap in a few cases. For instance, North and East Yorkshire have put forward a bid, including York City Council and seeking to work with Hull City Council; but York and Hull city councils themselves are seeking closer association with West Yorkshire.

The **North-East Combined Authority** produced a [statement of intent](#) in early 2015, setting out its high-level priorities for economic growth and public services. This built on [an initial position paper](#) in late 2014, which sought control over housing, transport and EU funding; business support services; skills funding; and full control over the Work Programme. A media report in October 2015 suggested that the North-East would be the next area (after Greater Manchester and Sheffield) to agree a substantial devolution deal.²⁹

The **Liverpool City Region's** [submission](#) seeks power over a diverse range of matters, including: creating a Land Commission and a development corporation; business support funding; reshaping skills, back-to-work and employment advice services; retention of 100% of business rates in defined areas; EU structural funds; bus franchising; more control over Mersey Tunnel toll income; a spatial plan; and considering an elected mayor, who could also be Police and Crime Commissioner.³⁰

London boroughs have put forward a number of plans for sub-regional devolution within London (to which the Mayor of London is a co-signatory).³¹ These include devolving power to commission employment support to groups of boroughs; devolving small business support and apprenticeships; reshaping the FE system in London; power

²⁸ See David Paine, "Power to shape economies tops devolution demands", [Local Government Chronicle](#), 17 September 2015. The online page also includes a link to a spreadsheet showing which powers each area has bid to take over.

²⁹ Rachel Wearmouth, "Northern Powerhouse: Last-minute wrangling with Government set to deliver £1.5bn devolution deal", [Newcastle Evening Chronicle](#), 5 October 2015

³⁰ [Liverpool City Region Combined Authority Proposals for Greater Devolved Powers and Funding](#), 21 November 2014

³¹ These proposals have not been formally published. See also the London Assembly report [A New Agreement for London](#), September 2015

to redesign probation, court services, youth offending and community rehabilitation; pooling of health, social care and public health budgets.

Derbyshire and Nottinghamshire have both submitted proposals for separate combined authorities to DCLG.³² The two areas have published [a joint 'devolution prospectus'](#). A media report suggested that the Government were keen to see a single combined authority in the area (a single LEP covers both areas), but this has encountered local resistance.³³

The Tees Valley (Middlesbrough, Stockton, Darlington, Redcar & Cleveland, Hartlepool): a consultation document was published in late 2014, and devolution proposals passed to the Government in early 2015.³⁴

West Midlands: seven councils (Birmingham, Solihull, Coventry, Sandwell, Dudley, Walsall, Wolverhampton) published a prospectus in July 2015.³⁵ Priorities noted by this document include skills, transport, economic intelligence, a collective investment vehicle, strategic management of public sector land, productivity and mental health.

Devolution bids, or expressions of interest / prospectuses, have also been published in [Leicestershire](#); [Hampshire and the Isle of Wight](#); [Gloucestershire](#); [Lincolnshire](#); [North and East Yorkshire](#); [West of England](#) (Bristol and surrounding area); [Surrey and Sussex](#); [Greater Essex](#); and [Suffolk](#).

The *Local Government Chronicle* has produced [a map of the state of play](#) in different parts of England.

³² See Derbyshire County Council, [Proposed Derby and Derbyshire combined authority](#); Nottinghamshire County Council, [Nottingham and Nottinghamshire combined authority](#)

³³ David Paine, "Treasury asks combined authorities to rethink boundaries", [Local Government Chronicle](#), 29 July 2015

³⁴ Tees Valley Unlimited, [Have your say on the proposals for a Tees Valley combined authority](#), December 2014

³⁵ West Midlands Combined Authority, [Launch Statement](#), July 2015, p. 5

3. The Bill

3.1 The Bill in the context of devolution

The contribution of the Bill to the wider context of the devolution is to introduce elected mayors for combined authorities; and to give statutory authority to decisions to transfer powers to local areas. Much of the Bill consists of amendments to existing law (in particular the combined authority legislation in the [Local Democracy, Economic Development and Construction Act 2009](#)).

The Bill is mostly technical in nature. It has been described as an 'enabling Bill'. Almost none of the policy areas covered by devolution deals are specifically mentioned on the face of the Bill. The Bill would enable Orders to be made for each local area to transfer powers, where this had been agreed in a devolution deal. The full details of which powers are to be devolved to each locality will be found in any published agreements between local areas and the Government.

3.2 Structure of the Bill

The Bill has no separate Chapters or Parts. The different elements of the Bill are defined below by reference to clause and Schedule numbers.

The main elements of the Bill are as follows:

- 1 Requirements to report to Parliament on matters related to English devolution;
- 2 Amendments to the *Local Democracy, Economic Development and Construction Act 2009* to permit elected mayors of combined authorities, and to allow them to take on the functions of police and crime commissioners;
- 3 Powers to transfer public body functions to combined authorities;
- 4 Requirements for combined authorities to be scrutinised and audited;
- 5 The removal of certain restrictions on the boundaries of combined authorities;
- 6 Powers to devolve public functions to single local authorities, and to fast-track changes to their governance structures.

This section deals with the text of the Bill as introduced to the House of Commons, noting amendments introduced during debate in the House of Lords.

3.3 Reporting requirements (clauses 1-2)

The first two clauses of the Bill as it stands are Opposition amendments, on which the Government was defeated at Report stage in the House of Lords.³⁶ They introduce requirements upon Government to report on the progress of devolution and to assess all future Government Bills for devolution 'compliance'.

³⁶ See [HLDeb 13 July 2015 c359](#); [HLDeb 13 Jul 2015 c362](#)

Clause 1 would introduce requirements upon the Secretary of State to submit an annual report to Parliament on the progress of devolution within England. The report must include information on areas where devolution deals have been concluded, and on areas with regard to which negotiations are under way. The report must summarise the funding and functions that have been transferred under any deals agreed, and it must address the application of the principle of ‘subsidiarity’ outlined in clause 2 (see below). This clause was added via an amendment moved by Lord McKenzie (shadow minister for communities and local government), at Report Stage in the Lords.

Many of the Government’s commitments to devolve power are executive decisions and do not require Orders under the Bill’s provisions in order to be implemented. The clause seeks to ensure that Parliament has regular and comprehensive updates on the progress of local devolution: a focus purely on Orders under the Bill’s provisions would not give a full picture of what was being achieved and expected. Lord McKenzie said:

Much of the proposed health devolution in the case of Greater Manchester does not appear to need the provisions in the Bill at all.

Therefore, the amendment calls for an overall annual report on the progress of the devolution: agreements reached, work in progress, functions transferred and resources devolved. Each year, such a report would provide the opportunity to take stock of progress across the country. It would be an opportunity to see whether and how devolution was working for different types of authorities—the counties as well as the metro cities—how devolution was shaping up in rural and coastal areas, whether all relevant authorities had been able to take advantage of similar functions, and whether devolved funding was fair.³⁷

The Government was defeated by 219 votes to 162 on Clause 1.³⁸ In opposing the amendment for the Government, Baroness Williams said:

The focus should not be on the process but on the substance of implementing the devolution deals in our major cities, our counties and across the country. The Bill enables the implementation of such bespoke devolution deals and the nature of these deals will be set out individually in orders to implement changes in respect of each proposal approved and brought forward by the Secretary of State. Therefore they will be available for both Houses of Parliament to see and consider under the affirmative procedure.³⁹

Baroness Williams argued that the Opposition’s concerns were met via Government amendments requiring a report to be laid explaining each Order made under the Bill.⁴⁰ The requirements of clause 1 extend wider than reporting on the Orders themselves, to cover the full contents of devolution deals and ongoing negotiations.

³⁷ [HLDeb 13 Jul 2015](#) c351-2

³⁸ [HLDeb 13 Jul 2015](#) c359&ff

³⁹ *Ibid.*, c356

⁴⁰ These amendments were agreed without debate and are now new sections 105B (2) and (3) under Clause 8; and clauses 16 (6) and 16 (7)

Clause 2 would require every Government Bill introduced into Parliament to include a written 'devolution statement', to be made before the Bill's second reading, stating that:

in his view the provisions of the Bill are compatible with the principle that powers should be devolved to combined authorities or the most appropriate local level except where those powers can more effectively be exercised by central government.⁴¹

This clause too was introduced by Lord McKenzie at Report Stage in the House of Lords. The Government was defeated by 224 votes to 158.⁴² Baroness Williams, for the Government, opposed the amendment:

Whatever the superficial attractions of such an approach, in practice it would descend into another tick-box process. It risks being a distraction from delivering the substance of real bespoke deals in places. Accordingly, such a requirement is unnecessary. If Members of either House feel that the Government are being inconsistent in their approach, they will have the opportunity to raise the issue with them.⁴³

3.4 Mayoral combined authorities (clauses 3-6)

A key element of the devolution deal for Greater Manchester has been the requirement for a directly-elected mayor, covering the entire Greater Manchester area, to be established. Clauses 3-6 of the Bill would permit combined authorities to establish directly-elected mayors, make provisions regarding their election, and allow Orders setting up combined authorities to determine which powers would belong to the mayor and which to the combined authority itself.

The *Local Government Act 2000* introduced the power to create a directly-elected mayor within local authorities in England and Wales. Few authorities, or electorates, have decided to establish a mayor. At the time of writing, sixteen elected mayors exist in England, amongst 352 local authorities.⁴⁴

The Coalition Government mandated referendums in the ten largest English city authorities in May 2012. This was intended to accompany the agreement of city deals with these areas. In the event, nine voted against an elected mayor.⁴⁵

No power exists to establish a single mayor for combined authorities or across more than one local government area. This idea was first proposed in the current debate in 2011,⁴⁶ and repeated in the report [No](#)

⁴¹ Cities and Local Government Devolution Bill 2015-16 [HL], clause 2 (1)

⁴² [HLDeb 13 Jul 2015](#) c362

⁴³ [HLDeb 13 Jul 2015](#) c357. Clause 1 was accepted by 219 votes to 162; Clause 2 by 224 to 158.

⁴⁴ Details can be found in the Library briefing paper *Directly-elected mayors*. A referendum is due in Bath and North-East Somerset in 2016, and one is also due in 2016 on abolishing the Torbay mayoralty. The figure of 16 mayors does not include the Mayor of London.

⁴⁵ See the Library briefing paper on *Directly-elected mayors*.

⁴⁶ See Institute for Government/Centre for Cities, [Big Shot or long shot](#), 2011

[*Stone Unturned*](#)⁴⁷ It became a core element of the devolution agenda with the publication of the Greater Manchester Agreement.

Concerns about directly-elected mayors

After the announcement of the Greater Manchester agreement, leaders of the combined authorities in Liverpool, Sheffield, Leeds and the North-East had opposed the introduction of combined authority elected mayors, with other aspiring areas (e.g. Birmingham) being lukewarm about the idea. Nick Forbes, leader of Newcastle City Council, has said:

I have got serious questions that need to be answered about how a mayor covering the area from Berwick-upon-Tweed to Newton Aycliffe would have political legitimacy.⁴⁸

However, there have been suggestions in the local government press that some are reconsidering this position in order to win more devolved powers.⁴⁹ Tim Swift, leader of Calderdale Borough Council, has said:

There are also real practical issues in how a single mayoral figure would relate to an area like Leeds and West Yorkshire, an economic area that is not simply dominated by one city but actually contains three cities and a host of proudly independent towns and communities.

On the other hand, the benefits of much greater local control over spending and decisions, even in the constrained form, the Government is granting Greater Manchester, are very real.

Some difficult choices lie ahead.⁵⁰

This is reflected in the decision of Sheffield City Region to agree to a directly-elected mayor.

Some commentators have also referred back to the May 2012 referendums, many of which took place in city councils that now form part of wider areas seeking devolution. The argument made is that it would be inappropriate for a mayor to be imposed on an area that voted 'no' at that time.⁵¹ However, the 2012 referendums took place in city council areas, whilst combined authority mayors would cover wider groups of local authorities.

Concerns have also been expressed that an elected mayoralty for a large area would concentrate too much power in the hands of one individual. Lord Shipley said:

⁴⁷ Lord Heseltine, [*No Stone Unturned in Pursuit of Growth*](#), HM Treasury, 2012, p. 57. The Government formally accepted this recommendation: see HM Treasury, [*Government's response to the Heseltine Review*](#), 2013, p.47. See also the City Growth Commission, [*Powers to Grow*](#), 2014, p. 26; Centre for Cities, [*Breaking Boundaries*](#), 2014, p. 17

⁴⁸ Rob Merrick, "North-East authorities hold out over 'metro mayors' plan", [*Northern Echo*](#), 15 May 2015

⁴⁹ See Sarah Calkin, "Northern leaders indicate willingness to reconsider elected mayors", [*Local Government Chronicle*](#), 14 May 2015; Richard Johnstone, "North East open to adopting elected mayor", [*Public Finance*](#), 20 July 2015; Mike Kelly, "North East council leaders say they will now consider an elected Mayor", [*Evening Chronicle*](#), 18 July 2015; Claire Wilde, "West Yorkshire moves step closer to having elected mayor", [*Bradford Telegraph & Argus*](#), 14 May 2015

⁵⁰ Jon Cronshaw, "Elected mayors may be unwanted, but necessary, step towards devolution", [*Wakefield Express*](#), 25 May 2015

⁵¹ David Paine, "Yorkshire leaders: Osborne wrong to tie health devolution to mayors", [*Local Government Chronicle*](#), 27 February 2015

...the range of powers is potentially so vast that I doubt one person can do it all, which means in practice that much will be delegated. We need to think very carefully about running policing, social care and health, strategic planning, housing, skills, transport, economic development and regeneration all through one person.⁵²

How central are mayors to the devolution of power?

The Government has consistently linked directly-elected mayors to devolving a full package of powers to local areas. In May 2015, the Chancellor, George Osborne, said:

We will hand power from the centre to cities to give you greater control over your local transport, housing, skills and healthcare. And we'll give the levers you need to grow your local economy and make sure local people keep the rewards.

But it's right people have a single point of accountability: someone they elect, who takes the decisions and carries the can.

So with these new powers for cities must come new city-wide elected mayors who work with local councils.

I will not impose this model on anyone. But nor will I settle for less.⁵³

Greater Manchester, which has agreed to have an elected mayor, has been offered the broadest devolution deal. Sheffield has been offered more powers after agreeing to a directly-elected mayor. However, Cornwall has been offered a multi-year transport budget and bus franchising powers without being required to establish an elected mayor.

The Government has refused to be drawn on the question of which powers require a directly-elected mayor to be in place in order to be devolved and which do not. It was challenged on this point in debates on the Bill in the House of Lords. For instance, Lord Woolmer of Leeds said:

If the Government are clear about what it is essential to have a mayor for and what powers would tip the balance, they should be able to say. If local authorities are left in the dark, each one will bid a different thing. If each asks a different question, they might get a different answer. That makes no sense. If the Government are clear that a mayor is essential, at least in the large metropolitan conurbations, I would like to be much clearer, certainly in Committee, about the tipping point—the critical power that the local authorities would get that led to a mayor being appointed.⁵⁴

For the Government, Baroness Williams replied:

We have deliberately avoided specifying and putting down criteria because it is a bespoke deal between local areas and the Secretary

⁵² HLD 8 Jun 2015 c659

⁵³ HM Treasury, "[Chancellor on building a Northern powerhouse](#)", 14 May 2015. See also HLD 8 Jun 2015 c653

⁵⁴ HLD 8 Jun 2015 c688. See also [HLD 22 Jun 2015 c1420](#); [HLD 13 Jul 2015 c381](#).

of State. So no prescriptions are laid down; it is a matter for discussion between the local areas and the Secretary of State.⁵⁵

Provisions for mayors in the Bill

Clauses 3 to 6, and **Schedules 1 and 2**, would introduce amendments to the *Local Democracy, Economic Development and Construction Act 2009* to permit the introduction of a directly-elected mayor of a combined authority. They specify the procedure through which an elected mayor for a combined authority may be established; the functions that would be available to an elected mayor; and the financial powers that would be available to him/her.

Clause 3 would introduce a new section 107A into the *Local Democracy, Economic Development and Construction Act 2009*. It would permit the Secretary of State to make an Order establishing a directly-elected mayor for a new, or an existing, combined authority. The mayor would be elected by the local government electors for the area (sub-section (3)). The mayor will both chair and be a member of the combined authority (sub-section (7)).⁵⁶ If a combined authority were to adopt a directly-elected mayor, it could not revert to being a non-mayoral combined authority (sub-section (8)). The only way to abolish the mayoralty would be to abolish the combined authority altogether.

Sub-section (2) of section 107A was added via an Opposition amendment in the House of Lords. It would provide that making an order for a directly-elected mayor could not be used as a condition for the transfer of functions to the local level. This followed perceptions that Greater Manchester had been obliged to adopt an elected mayor in order to obtain its devolution deal.⁵⁷ The Government was defeated by 240 votes to 175.

Clause 3 would also introduce new section 107B into the 2009 Act. This allows the Secretary of State to introduce an elected mayor for a combined authority if it and its member authorities (or prospective member authorities) agree. This provides an alternative option to the requirement in the 2009 Act to undertake a review, agree upon a written 'scheme', and consult upon it, in order to make this change. Thus, this clause would simplify and speed up the introduction of a mayor. If one of the combined authority's member authorities does not want to establish a mayor, then an Order can be made to remove it from the combined authority and to set up an elected mayor for the remainder of the area (new section 107B (3) and (4)).

Schedule 1 makes further provision about elections for combined authority mayors. The standard mayoral term of office is to be four years (paragraph 2), and elections are to coincide with local authority

⁵⁵ [HLDeb 22 Jun 2015](#) c1420

⁵⁶ Sub-section (6) provides that the mayor may call him- or herself 'mayor'. A media article in July 2015 suggested that county authorities seeking devolution deals might be more willing to accept a single-person executive which was not called a mayor. The term 'sheriff' was suggested in the article. See Dan Peters, "Counties keen on sheriffs", *Municipal Journal*, 30 Jul 2015, p. 4

⁵⁷ See, for instance, Lord Smith of Leigh's statement that "...the price to pay was to have the elected mayor. ...I am not the greatest fan of the elected mayoral model but, quite frankly, the prize was worth it.": [HLDeb 22 Jun 2015](#) c1413.

elections. The first mayoral election must take place not less than six months after an order brings the position of elected mayor into existence. These standard provisions can be adjusted by order (paragraph 3), to enable election timetables to be harmonised if necessary.⁵⁸

Combined authority mayors would be elected by the supplementary vote system (paragraphs 4 and 5). A combined authority mayor cannot be a councillor in a constituent council of the combined authority, and their council seat will become vacant on their election as mayor (paragraph 7): but this provision would not stop an existing local authority mayor from simultaneously being mayor of the combined authority. Mayoral candidates face the same range of disqualifications as local authority election candidates (paragraphs 8 and 9).

Clause 4 would insert section 107C into the 2009 Act, making provisions concerning deputy mayors. A directly-elected mayor would have to appoint a deputy mayor from amongst the other members of the combined authority (sub-section (1)), and their terms of office will coincide (sub-section (3)). The deputy mayor must act if the mayor cannot (sub-section (5)); for instance, if the mayor is ill or has resigned his/her post. This resembles the system in the Greater London Authority, where the Mayor must appoint a deputy mayor from the London Assembly who must act if the Mayor cannot.

Clause 5 would introduce provisions regarding the powers that can be exercised **only** by the elected mayor in the context of a combined authority. This is accomplished via inserting new sections 107D and 107E into the 2009 Act. The new section 107D makes a distinction between three types of power: the mayor's powers; the powers that belong to the combined authority as a whole; and the mayor's powers as the Police and Crime Commissioner (PCC: see below).

The Order establishing the combined authority must specify which functions are to belong to the mayor and which to the combined authority; but the combined authority must assent to this division of powers (sub-section (8)). The mayor will exercise 'general functions', though s/he may delegate them to officers or members of the combined authority (sub-section (3)). This power reflects that available in local authorities, where an elected mayor or leader may delegate functions to cabinet members, councillors or officers.⁵⁹ However, sub-section (4) permits the Secretary of State to specify by order the functions that a mayor may delegate, and/or those that the mayor may not delegate.

Sub-section (6) provides that the order establishing a mayoral combined authority may provide for members or officers of the combined authority to assist the mayor with regard to 'general functions'; give the mayor ancillary powers to the general functions; and permit the mayor

⁵⁸ The standard provisions were introduced into the Bill by means of Government amendments in the Lords: previously all these matters were to be settled by orders. This followed criticism from the Delegated Powers and Regulatory Reform Committee's [1st Report, 2015-16](#): see paragraphs 3-6

⁵⁹ A general power to this end can be found in section 101 of the *Local Government Act 1972*.

to appoint a political adviser, also setting the terms and conditions of that appointment. Sub-section (7) provides that the ancillary powers may not include the power to borrow money.

Power for mayors to become Police and Crime Commissioners

Clause 5 would also introduce new section 107E into the 2009 Act. This would permit the combined authority mayor to become the Police and Crime Commissioner (PCC) for the area of the combined authority (sub-section (1)), with the consent of the combined authority and its members (sub-section (4)). All or some of the functions of a PCC may be transferred to the mayor, but there is no obligation in the Bill for an elected mayor to become the PCC.⁶⁰

If the Mayor does become the PCC for an area, certain core functions must be passed to the mayor, such as issuing a police and crime plan; holding the chief constable to account; and appointing and (if necessary) suspending or removing the chief constable.⁶¹ The regulations must also apply the main aspects of the legal framework covering PCCs to mayors acting as PCCs. For example, there must be a police and crime panel to scrutinise the Mayor; the Mayor must maintain a fund, and produce an annual budget, in relation to PCC functions; and the Mayor must have regard, when exercising PCC functions, to the [Policing Protocol](#) which sets out the respective roles of the Home Secretary, the Chief Constable and the PCC.

In the Lords, Baroness Williams stated that the Government's intention is either to pass all PCC powers or none of them to the elected mayor, depending on whether PCC and combined authority boundaries align:

On this basis, we have set out in the Bill specific functions that will be applied to every mayor for a combined authority area that takes on police and crime commissioner functions. We envisage that, generally, all remaining functions will transfer across. ... We will ensure that the level of accountability, transparency and service applied to a mayor taking on a PCC function will be the same as is the case for PCCs across the rest of England and Wales.

...

[If] there was a combined authority with a mayor for part of a police force area and that mayor was given police and crime commissioner powers to exercise ... there would need to be an adjustment of force areas as necessary ... If a mayor's area did not make sense in policing terms, the mayor would not be given policing powers.⁶²

Under sub-section (5), the Secretary of State must cancel a PCC election if the PCC is to be abolished and its functions transferred to the mayor. In Greater Manchester, the PCC's term of office ends in May 2016.

⁶⁰ Many combined authority areas may not wish to exercise this function, as the police authority covering their area may not be co-terminous with (i.e. covering the same boundaries as) the area of the proposed or existing combined authority.

⁶¹ The police and crime panel's powers to suspend a mayor who is a PCC would only apply if the mayor has been charged with a serious criminal offence. The power to suspend would extend to the mayor's actions with regard to PCC matters only, not to the mayor's general functions.

⁶² HLDeb 24 Jun 2015 c1620-2

Indications so far from the Government are that the first election for the mayor of Greater Manchester is expected in May 2017. To avert two elections to the PCC role taking place in quick succession, the Secretary of State can postpone or cancel a PCC election by order (sub-sections (5) and (6)).⁶³

The mayor can appoint a deputy mayor to exercise PCC functions on his behalf, though this cannot be the same person as the deputy mayor appointed under clause 4 (schedule 2 paragraph 3).

Power for mayor to raise council tax precept

Clause 6 would permit a mayoral combined authority to introduce a precept on the council tax bills of residents in the combined authority area. This gives the mayor an independent source of finance, and the revenue must be used for the Mayor's 'general functions' (sub-section (2)). Mayors who are PCCs will also set the PCC precept, but this must be kept separate (this will be achieved by regulations under sub-section (3)). The mayor's precept would be covered by the council tax referendum regime.⁶⁴ The Secretary of State will be able to make orders regarding the Mayor's budget and how it should be scrutinised (sub-sections (5) and (6)).

3.5 Combined authority functions (clauses 7-8)

This part of the Bill would create a power to transfer functions from other public bodies to combined authorities, where this is necessary to implement a devolution deal.

Exactly which statutory functions will be transferred to which areas will not become clear until Orders are made in respect of the individual devolution deals agreed. Some transfers of powers will be achieved by other routes. For instance, the integration of health and social care in Greater Manchester is to proceed via joint arrangements under section 75 of the *National Health Service Act 2006*.

As a result, there are few references to specific functions or policy areas within the Bill. The provisions which allow a mayor to become the PCC for a relevant area, plus the restrictions regarding health functions in clause 19 (see below), are the only points at which reference is made to specific policy areas.

Clauses 7 and 8 would provide the framework within which functions may be transferred to combined authorities. Functions would be transferable from central government or from local government; and could be transferred to new or existing combined authorities.

The *Local Democracy, Economic Development and Construction Act 2009* already permits local authorities to transfer their functions to a

⁶³ Tony Lloyd was also selected as 'interim mayor' by the members of the Greater Manchester Combined Authority, on 29 May 2015. The post of interim mayor, to which an appointment may be made for up to two years, is intended as a stop-gap until the directly-elected mayor can be elected.

⁶⁴ See the Library briefing note [Council tax: local referendums](#) (SN05682) for more details on the council tax referendum system.

combined authority of which they are a member. Currently, this must be done via an Order made by the Secretary of State, and the functions must promote the economic development and regeneration of the area.⁶⁵ It must also be preceded by a governance review and a published 'scheme'. **Clause 7** would remove the references to economic development and regeneration in the 2009 Act, permitting regulations to be made to pass any local authority functions to the combined authority (sub-section (2)).

Clause 8 would provide a general power for the Secretary of State to transfer public bodies' functions to a combined authority by order. It would introduce new sections 105A and 105B into the 2009 Act. Orders could provide for functions to be exercised jointly or concurrently by the combined authority and the public body (sub-section (3) of new section 105A); or for the public body to be abolished, and/or its property to be transferred to the combined authority (sub-section (4)).

The scope of this clause is extremely wide, as the Delegated Powers and Regulatory Reform Committee noted:

Paragraph 28 of the [departmental] memorandum [on the Bill's powers of delegation] states that the purpose of the power is to widen the scope of the functions which may be conferred on a combined authority; and that the order-making power is necessary to give effect to devolution agreements between the Government and a particular city or other area. But it says nothing about how in practice these powers might be used, or why it is not appropriate or practicable to include a description of the types of function covered by the power on the face of the Bill.⁶⁶

In principle, a very large number of public authorities could see their functions transferred to local authorities under these provisions. Of particular interest is new section 105A (1), which permits the Secretary of State to "make provision for conferring on a combined authority in relation to its area a function corresponding to a function that a public authority has in relation to another area". This would allow the Secretary of State to create a power in a combined authority that currently only exists elsewhere: in other words, to 'copy and paste' powers from other localities. For instance, the Government's intention is to use this clause to create a statutory spatial strategy in Greater Manchester, a power currently only available to the Mayor of London and the GLA (hence avoiding the need for further legislation to create a statutory strategy for Greater Manchester).

Sub-section (5) specifies that a combined authority cannot take on, through this procedure, the function of regulating an activity that it itself performs. This provision was introduced by the Government at Report Stage in the House of Lords. Baroness Williams, for the Government, said:

I can see a case for excluding from the scope of Clause 6 the functions of any national regulatory or supervisory body

⁶⁵ See section 105 (2) and section 91 (5) of the *Local Democracy, Economic Development and Construction Act 2009*.

⁶⁶ Delegated Powers and Regulatory Reform Committee, [1st Report, 2015-16](#), paragraph 10.

overseeing the exercise of functions by public authorities. Such an exclusion would put it beyond any doubt that the regulator responsibilities of, say, Monitor and the Care Quality Commission could not be devolved to combined authorities. Moreover, if a combined authority is provided, by order, health functions, perhaps to be exercised jointly with the local clinical commissioning groups, the combined authority should not also be conferred with the functions of the clinical commissioning groups' regulators.⁶⁷

An amendment introduced by Lord Warner, which strengthens further the prohibition of functions and their regulation being devolved to the same body, was also passed in the Lords: see section 3.9 below.

New section 105B would allow powers to be transferred either to a new or existing combined authority. The combined authority must consent to this (sub-section 1 (b)). An order transferring powers must be accompanied by a report explaining why the Secretary of State considers it appropriate, the effect of the order, plus any consultation undertaken and responses received (sub-sections (2) and (3)).

3.6 Scrutiny and audit (clauses 9-11)

These clauses of the Bill would apply provisions for audit, and overview and scrutiny, to combined authorities. Provisions would be applied in the Order setting up, or amending, each combined authority. The provisions would be likely to resemble existing practice in local government.

Local authorities are required to have in place overview and scrutiny committees, which must monitor the decisions and performance of the executive. Each council must establish at least one overview and scrutiny committee, and the powers available to such committees are set out in Schedule 2 of the *Localism Act 2011*. Overview and scrutiny committees consist of councillors who are not part of the council's executive, and their membership must reflect the number of seats held by the political parties represented on the council.

Combined authorities are joint bodies, managed by boards or 'cabinets' of the leaders (or other representatives) of the member councils. The cabinet is in effect the 'executive' of the combined authority, and it would therefore not be able to exercise independent scrutiny of its own decisions. Thus arrangements for the scrutiny of combined authorities must take a different form.

Of the existing combined authorities, four (North-East, Liverpool, Sheffield and West Yorkshire) have arrangements for overview and scrutiny set out in the Orders establishing them. In each case, back-bench councillors from the local authorities across the area sit together in a scrutiny committee. The membership takes account of the political balance across the combined authority area. Similar arrangements apply in Greater Manchester (though these are not specified in its Order).

⁶⁷ [HLDeb 13 Jul 2015](#) c449

Clause 9 of the Bill, and Schedule 3, would require each combined authority to appoint at least one overview and scrutiny committee and an audit committee.⁶⁸

The overview and scrutiny committee may review the decisions of the authority and produce reports and recommendations, and it may also report on “matters that affect the authority’s area or the inhabitants of the area” (paragraph 1 (2)).⁶⁹

An overview and scrutiny committee would have to publish a document setting out its approach to scrutiny (paragraph 1 (5)), for which it would have to obtain approval from the combined authority (paragraph 1 (6)). The committee would be able to require members and officers of the authority to attend to answer questions (paragraph 2 (6)). It would have an explicit power to halt a decision of the combined authority or mayor whilst it is under review (paragraph 1 (4)). This mirrors the ‘call-in’ power available to overview and scrutiny committees in local authorities. The exact terms under which this power can be used are expected to be agreed locally, though the Secretary of State will be able to make regulations concerning this (paragraph 3 (2) (h)).

The committee’s membership may include members who are not councillors from the combined authority’s constituent members (paragraph 2 (5), though such members may not form a majority (paragraph 3 (3)). However, it may not include members of the combined authority itself (i.e. the members of the ‘cabinet’ or board, as noted above). The chair of the committee may not be from the same party as the elected mayor (or, if there is no mayor, as the majority party on the combined authority: paragraph 3 (4-5)). The scrutiny committee would be subject to the standard transparency requirements for local authority committees (paragraph 2 (4)).

The Secretary of State may issue guidance regarding the exercise of the overview and scrutiny committee’s functions, and may also make more detailed provisions regarding them by order, including membership, chairs, scrutiny officers, and requirements for the combined authority to respond to their reports.

Paragraph 4 (1) requires combined authorities to appoint an audit committee, and paragraph 4 (2) specifies its functions. The Explanatory Notes to the Bill state that the audit committee’s role would be:

...to review and scrutinise the authority’s financial affairs, and review and assess the authority’s risk management, internal control, corporate governance arrangements, and the economy, efficiency and effectiveness with which resources have been used.⁷⁰

Paragraph 4 (3) permits the Secretary of State to make provisions regarding the appointment of the committee’s members, and

⁶⁸ Under this provision, a combined authority would need to appoint these committees irrespective of whether they were provided for in the Order setting the combined authority up; but this would not prevent the Order containing further requirements.

⁶⁹ This reflects the provision in the *Greater London Authority Act 1999* that allows the London Assembly to investigate ‘issues of importance to Londoners’.

⁷⁰ [Cities and Local Government Devolution Bill Explanatory Notes](#), 2015, p. 14

paragraph 4 (4) provides that at least one member must be independent (with the nature of 'independence' to be defined by the order). The requirement for an audit committee was introduced via a Government amendment. Lord Beecham, who had previously tabled a similar amendment, said:

Given the potential role of the combined authorities, part of whose *raison d'être* will of course be to achieve economies of scale and ensure the most effective use of resources devolved by government departments and public bodies, something akin to a local version of the Public Accounts Committee would be a highly desirable addition to the role of overview and scrutiny, especially if independently chaired.⁷¹

Clause 10 would extend the power of combined authorities to impose *levies* on their constituent councils. They may already impose levies, but only for transport-related purposes. Clause 10 (1) provides that combined authorities may levy in respect of exercising any of their functions (including transport).

The levying power is separate from the power to *precept* that the Bill would make available to an elected mayor (see the discussion of clause 6, above). Clause 10 (2) provides that levy revenue may not be used to exercise the mayor's 'general functions' set out in clause 5.

Clause 10 (3) would allow regulations to be made permitting combined authorities to borrow money, for purposes to be set out in the regulations. The consent of all member authorities to the making of the regulations would be required. Borrowing powers can be made available to either mayoral or non-mayoral combined authorities. In either case, the borrowing would be subject to the Prudential Code and it would have to be related to the combined authority's functions.

Clause 11 would include a power for the Secretary of State to apply the *general power of competence*, available to local authorities, to combined authorities by Order. The general power of competence, introduced in 2011, is a power for local authorities to do "anything that individuals generally may do". Further details can be found in the Library briefing paper [Local authorities; the general power of competence](#).

Currently, combined authorities have a more restricted version of the power of general competence:

- (1) An EPB or combined authority may do—
 - (a) anything it considers appropriate for the purposes of the carrying-out of any of its functions (its "functional purposes"),
 - (b) anything it considers appropriate for purposes incidental to its functional purposes,

⁷¹ HLDeb 24 Jun 2015 c 1682; see also HLDeb 21 Jul 2015 c1041. The concept of a 'local public accounts committee', supported by the Labour Party before the 2015 general election, originated in a report from the Centre for Public Scrutiny, [A local public accounts committee for every place: a CfPS proposal](#), December 2013.

(c) anything it considers appropriate for purposes indirectly incidental to its functional purposes through any number of removes...⁷²

In other words, at present combined authorities' use of their general power must relate to the exercise of their functional purposes as set out in the 2009 Act: economic development, regeneration and transport. Clause 11 would allow the Secretary of State to extend combined authorities' general power to any function that they exercise in the future. All of the member councils of the combined authority must agree to this for it to be done.

3.7 Geographical restrictions on combined authorities (clauses 12-15)

These clauses of the Bill would enable new combined authorities to cover a more diverse range of boundaries than is currently possible.

Currently, combined authorities may not include areas which are geographically detached. Hence, York City Council cannot currently be a full member of the West Yorkshire Combined Authority, as the two are separated by the area of North Yorkshire County Council. Instead it is an 'associate member' of the West Yorkshire Combined Authority. Combined authorities also may not form a 'doughnut' shape i.e. entirely surrounding a council that is not a member of the combined authority.⁷³

The Government issued a consultation in April 2014 on removing both these prohibitions on combined authorities via a Legislative Reform Order,⁷⁴ and a subsequent consultation in December 2014. On 27 March 2015, a draft Order and explanatory note were published.⁷⁵ The draft Order would have removed the prohibitions noted above.⁷⁶

The Delegated Powers and Regulatory Reform Committee noted that the LRO had been laid before Parliament at the same time that the Bill had been introduced into the House of Lords:

It seems to us that operating in one policy area through two separate legislative vehicles, which are progressing in parallel though at different speeds, presents particular difficulties to the House in considering the combined effects of the changes proposed.⁷⁷

⁷² [Local Democracy, Economic Development and Construction Act 2009](#), s113A, inserted by section 13 of the Localism Act 2011.

⁷³ These restrictions also apply to Economic Prosperity Boards (EPBs), a more limited legal vehicle for joint working that was also included in the 2009 Act. One has been set up so far, in Cheshire and Warrington. The Government's proposals to remove the restrictions applied equally to EPBs and to combined authorities.

⁷⁴ DCLG, [Proposal to amend legislation relating to combined authorities and economic prosperity boards](#), 30 April 2014; see also DCLG, Proposal to use a Legislative Reform Order to give local authorities greater flexibility in forming a combined authority or economic prosperity board: consultation, December 2014

⁷⁵ DCLG, [Proposal to use a Legislative Reform Order in forming a combined authority or economic prosperity board](#), March 2015; see also the draft [Legislative Reform \(Combined Authorities and Economic Prosperity Boards\) \(England\) Order 2015](#)

⁷⁶ *Ibid.*, p. 10-11

⁷⁷ Delegated Powers and Regulatory Reform Committee, [1st report 2015-16](#), HL Paper 8, 19 June 2015, p. 17

As a result, the Government decided to incorporate aspects of the draft Order on the face of the Bill, and to withdraw the draft Order.

Combined authorities also may not include only part of a county council within their area without the consent of the county council. This is a potential obstacle for some of the current combined authority areas, as the Local Enterprise Partnerships (LEPs) associated with them cover wider 'functional economic areas'. The Sheffield City Region combined authority includes a number of district councils from north Derbyshire and Nottinghamshire as 'associate members'.

Clause 13 would remove the requirement for the constituent authorities of a combined authority to be geographically contiguous, and the requirement that they do not form a 'doughnut' shape around another local authority or authorities. The Secretary of State must consider the likely effects of such a combined authority on the exercise of equivalent functions in neighbouring areas (sub-sections (5) and (6)): this requirement applies both to new combined authorities and proposed changes to existing combined authority boundaries. **Clause 12** would make an equivalent provision for Economic Prosperity Boards (EPBs).⁷⁸ Additionally, the 2009 Act's prohibition on transport functions for part of a county area being transferred to a combined authority is removed, by Schedule 4 paragraph 4.

Clause 14 would allow the member authorities of an EPB to apply to the Secretary of State for an order be made altering the nature of the EPB's constitution, its functions, or its funding. This is achieved by adding a new section 101A to the 2009 Act. Sub-section (5) of section 101A provides that the Secretary of State may make such an order if he believes that it will improve the exercise of statutory functions regarding economic development or regeneration in those areas.

Clause 15 would amend the 2009 Act to provide for a streamlined procedure to create a combined authority, or to amend the structure of an existing combined authority. It would provide an alternative to the current statutory requirement for the relevant local authorities to produce a 'scheme'; under clause 15, the Secretary of State may simply make an order to establish a combined authority, though s/he must have regard to any scheme that has been published. This provision will permit an agreed scheme for a combined authority to be introduced more quickly than at present. If such an order is made, the Secretary of State must consult the public in the relevant area, unless this has already been done by the relevant local authorities or the combined authority (sub-section (4)).

⁷⁸ Economic Prosperity Boards are an alternative form of joint governance for local authorities, established under the *Local Democracy, Economic Development and Construction Act 2009*. One has been established at the time of writing, covering Cheshire and Warrington, with a shadow board operating in Coventry and Warwickshire.

3.8 Devolution to single local authorities (clauses 16-18)

In some parts of England, there is no strong drive to establish combined authorities, due to a lack of agreement over area boundaries or due to the structure of local government. Therefore, the Bill includes provisions to devolve the functions and powers of public bodies to single local authorities acting alone. These are equivalent to the powers to devolve functions to combined authorities found in clauses 7-8.

Clause 16 would allow orders to be made to introduce fast-track changes to local authority structures in respect of boundary reviews and local authority governance. The Explanatory Notes to the Bill explain what matters this would cover:

...Governance arrangements mean the arrangements an authority operates for taking decisions - executive arrangements, the committee system, or prescribed arrangements as provided for under Part 1A of the Local Government Act 2000.

... For structural, boundary, or other changes, the context in which this power could be used is where Devolution Deals, conferring powers and budgets on an area, are agreed by Government with areas where it may not be appropriate simply for the existing councils to establish a combined authority, or indeed where a combined authority is not appropriate.

... An example may be 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, and all the constituent councils involved agree that the strong and accountable governance needed for the new powers and budgets to be conferred on the area necessitates simplifying the local government structures for the area. That may involve mergers of councils, moves to unitary structures, or changing the democratic representation of the area with different electoral cycles and fewer councillors (i.e. mayoral, cabinet and overview and scrutiny structures).⁷⁹

Any such orders must be agreed to by the relevant local council (sub-section (3)), and a report explaining the orders must accompany them when they are laid before Parliament (sub-section (5)).

Baroness Williams explained during debates in the Lords that the effect of this clause is to speed up existing procedures, not to introduce new procedures:

The regulations...are not themselves about creating new governance structures, for example creating new unitary councils or merging councils. Rather, the regulations are about modifying the processes in particular cases. An example would be enabling, in the case of a particular deal, the processes for establishing new governance arrangements to be fast-tracked if all the councils involved consent. It may be that a bespoke devolution deal is agreed with an area which involves changing the governance arrangements in the area in a way that results in a move to more

⁷⁹ [Cities and Local Government Devolution Bill Explanatory Notes](#), 2015, p. 11

unitary structures, perhaps also involving some merging of authorities.⁸⁰

Clause 17 contains a general power that would allow the Secretary of State to transfer the functions of public bodies to local authorities by order, reflecting the power in respect of combined authorities found in Clause 8. As with Clause 8, the function may be fully transferred, jointly held, or concurrent, and public bodies may be abolished if they no longer have any functions. Local authorities may not take on regulatory powers over functions that they exercise. 'Conditions or limitations' may also be applied to the exercise of transferred powers (sub-section (2)). Clause 17 does not apply to London boroughs.

Clause 18 would provide that the local authority must consent to any transfer order under clause 17 (sub-section (1)), and that the Secretary of State must believe that the order will improve the exercise of statutory functions in the area. A report must be laid before Parliament alongside any such order, explaining why it has been made and what effect it will have (sub-sections (4-5)), and including any representations made about the order.

3.9 Miscellaneous

Clause 19 of the Bill was introduced via an amendment in the House of Lords, by Lord Warner. The Government was defeated by 217 votes to 152 on its introduction. It would ensure that, if any orders were made to devolve NHS functions to local authorities, the Secretary of State would remain responsible for fulfilling his/her statutory duties (sub-section (1)); would not be able to transfer regulatory or supervisory functions belonging to national bodies (sub-section (2)); and would be responsible for ensuring that bodies carrying out health functions adhered to the applicable national standards and accountability obligations (sub-section (3)).

Lord Warner stated:

I am not opposed to using the Bill for devolving NHS functions to properly accountable combined authorities or new public bodies. I just want the Bill to contain clear safeguards which recognise that some essential national characteristics of the NHS should continue to function. I do not think it sufficient, as many of us have tried to explain to the Minister, to use individual transfer of function orders to reserve certain functions to the Secretary of State. That pays insufficient attention to the statutory NHS duties placed on the Secretary of State for Health that he simply cannot offload on to other bodies.⁸¹

Baroness Williams, for the Government, responded:

As I have made clear, there is no intention or possibility of the Bill changing these duties of the Secretary of State.... if a combined authority were, for example, to have conferred upon it a function to commission certain health services, the provision in Clause 8 ... would allow us to require that the combined authority, when

⁸⁰ HLDeb 29 Jun 2015 c1901

⁸¹ [HLDeb 21 Jul 2015 c1048](#)

exercising its commissioning functions, must likewise be subject to these core NHS duties, such as to promote the NHS constitution.⁸²

The clause would provide a wider safeguard than the provisions in clause 8 (5) and clause 17 (5), which prevent a body from exercising a regulatory power over a function that it itself performs.

As noted earlier, the health and social care devolution plans for Greater Manchester were expected to take place via section 75 of the *National Health Service Act 2006*. It is not clear therefore that this clause would impact upon the Greater Manchester plans. However, functions could be transferred to combined authorities from the NHS in future under the Bill.

Clause 20 was introduced as an amendment by Lord Tyler (Liberal Democrat spokesperson for political and constitutional reform) in the House of Lords. It would change the voting age for all local authority elections from 18 to 16. The Government opposed the amendment, but was defeated by 221 votes to 154.⁸³ Baroness Williams, for the Government, stated:

It is clear that lowering the voting age to 16 for local elections in England and Wales is a major change to the fundamental building blocks of the country's democracy. The starting point for making such change would seem to be that those democratically elected to represent the people of this country consider all the issues involved, seek the views of those they represent, and seek to recognise where public opinion stands on the issue and what would maintain confidence in ensuring that the elections are free and fair and give genuine voice to the people. They discuss the issues and, having carefully weighed the argument and recognised where consensus and opinion lie across the country, decide whether or not to make the change. This should be the approach to deciding whether to make fundamental changes to our election systems.⁸⁴

This clause, uniquely in the Bill, would have effect in Wales as well as England.

Clause 21 amends a feature of the provisions for elected mayors introduced by the *Localism Act 2011*. This Act provided that, where a local authority was directed by the Government to hold a referendum on an elected mayor and the outcome was a 'yes' vote, the local authority could not hold a further referendum or resolve to abolish the mayor. The only authority currently affected by this provision is Bristol City Council, where the electorate voted in favour of an elected mayor in May 2012 after the Government directed that referendums be held in England's ten largest city authorities.

Clause 21 removes this feature of the 2011 Act, providing that an authority in this position has the same right to hold a further referendum as any other authority. The amendment was introduced in

⁸² HLDeb 21 Jul 2015 c1053

⁸³ [HLDeb 15 Jul 2015 c625](#)

⁸⁴ HLDeb 15 Jul 2015 c633

the Lords by Baroness Barbara Janke, a former leader of Bristol City Council.⁸⁵

Baroness Williams, opposing the amendment on behalf of the Government, said:

The situation in Bristol is that Parliament agreed that there should be a referendum on whether to have a mayor, and the people of Bristol voted to have one. Accordingly ... I cannot accept this amendment on the grounds of both precedent and principle.⁸⁶

The Government opposed the amendment, but was defeated by 182 votes to 141.⁸⁷

Clauses 22-25 contain minor and consequential amendments, territorial extent, commencement and short title.

⁸⁵ [HLDeb 15 Jul 2015 c638&ff](#)

⁸⁶ [HLDeb 15 July 2015 c640](#)

⁸⁷ [HLDeb 15 July 2015 c641](#)

4. Further reading

4.1 Relevant documents

Communities and Local Government Committee, [Devolution in England: the case for local government](#), HC-503 2014-15, 2014

Commons Briefing Paper CBP07029, [Devolution to local government in England](#)

Commons Briefing Paper CBP07065, [Local government devolution: policy proposals](#)

Commons Briefing Paper CBP07046, [Local government devolution: fiscal proposals](#).

[Greater Manchester Agreement](#)

[Greater Manchester Health and Social Care Devolution Memorandum of Understanding](#)

[Further devolution to the Greater Manchester Combined Authority](#)
[Sheffield City Region Devolution Agreement](#) (October 2015)

[Sheffield City Region Agreement on Devolution](#) (December 2014)

[Leeds City Region and West Yorkshire Agreement on Devolution](#)

[Cornwall Devolution Deal](#)

4.2 Devolution reports in 2014-15

The following is a selection of reports from think-tanks, representative organisations and commentators proposing devolution to local areas in England.

Centre for Cities, *A manifesto for a more prosperous urban Britain*, September 2014

Centre for Cities, [Breaking boundaries](#), March 2014

Centre for London, [The Brightest Star: A Manifesto for London](#), October 2014

CIPFA, [Things can only get worse: a call for sustainable public finance](#), October 2014

City Growth Commission, [Human Capitals](#), [Connected Cities](#), [Powers to Grow](#), [Unleashing Metro Growth](#) [four papers], RSA/Core Cities Group, 2014

Commission on Non-Metropolitan England, [How the other half grows](#), November 2014

Core Cities Group, [Competitive Cities, Prosperous People](#), 2015

County Councils Network, [County Devolution: Interim Findings](#), November 2014

County Councils Network, [Our Plan for Government 2015-2020](#), 2014

- Tom Gash, Joe Randall and Sam Sims, [Achieving Political Decentralisation](#), Institute for Government, January 2014
- Grant Thornton, [2020 Vision](#), October 2014
- Independent Commission on Local Government Finance, [Public money, local choice](#), October 2014
- Independent Commission on Local Government Finance, [Financing English Devolution](#), LGA/CIPFA, February 2015
- Independent Commission on Non-Metropolitan England, [Devolution to Non-Metropolitan England: Seven Steps to Growth and Prosperity](#), March 2015
- IPPR, [The Condition of Britain: Strategies for Social Renewal](#), June 2014
- IPPR/PwC, [Decentralisation Decade: A plan for economic prosperity, public service transformation and democratic renewal in England](#), IPPR/PwC, September 2014
- John Healey and Les Newby, [Making Local Economies Matter](#), The Smith Institute, May 2014
- Key Cities, [Charter for Devolution](#), September 2014
- Local Government Association Labour Group Innovation Taskforce, [People Powered Public Services](#), July 2014
- Local Government Association, [Investing in our Nation's Future](#), June 2014
- London Finance Commission, [Raising the Capital](#), GLA, 2013
- Lord Heseltine, [No stone unturned in pursuit of growth](#), BIS, 2012, plus [Government response](#), 2013
- Lord Adonis, [Mending the fractured economy](#), Policy Network, July 2014
- Mark Morrin and Phillip Blond, [Devo-Max, Devo Manc: Place-Based Public Services](#), September 2014
- Mark Morrin and Phillip Blond, [Restoring Britain's City States](#), ResPublica, 2015
- New Local Government Network, [As Tiers Go By](#), October 2014
- New Local Government Network / Fabian Society, [Labour's local offer: ideas for a radical local manifesto](#), November 2014
- New Local Government Network, [Combined Efforts: the future governance of England's cities](#), June 2014
- New Local Government Network, [Conservatives' Local Offer: ideas for a radical local manifesto](#), February 2015
- Service Transformation Challenge Panel, [Bolder, Braver and Better: why we need local deals to save public services](#), November 2014
- Smith Institute, Labour and localism: perspectives on a new English deal, January 2014

Norman Warner and Jack O'Sullivan, [Letting Go: How English devolution can help solve the NHS care and cash crisis](#), Reform, March 2015

Zach Wilcox, Nada Nohrova and Maire Williams, [Breaking Boundaries](#), Centre for Cities, March 2014

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