



## BRIEFING PAPER

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# Devolution Deals and Housing (England)

By Antonia Jones

### Contents:

1. Background
2. Devolution deals and housing
3. What additional powers do areas want?
4. The future of housing devolution



# Contents

<b>Summary</b>	<b>3</b>
<b>1. Background</b>	<b>4</b>
1.1 Cities and Local Government Devolution Act 2016	5
<b>2. Devolution deals and housing</b>	<b>6</b>
2.1 Public land commission / joint asset board	6
2.2 Mayoral Development Corporations	7
2.3 Compulsory purchase orders (CPOs)	7
2.4 Spatial strategy / framework	8
2.5 Call-in powers / consultation on strategic planning applications	8
2.6 Housing Investment Fund	9
Greater Manchester	9
East Anglia	9
West Midlands	10
2.7 Community Infrastructure Levy	10
<b>3. What additional powers do areas want?</b>	<b>11</b>
3.1 Flexibility of existing funding streams	11
3.2 HCA powers	11
3.3 HRA debt cap	12
<b>4. The future of housing devolution</b>	<b>13</b>

## Summary

Devolution to English cities and regions emerged as a prominent policy issue during the 2010-2015 Parliament. The first devolution deal with an English region was signed in November 2014, with Greater Manchester. Deals have since been agreed with ten other areas:

- Greater Manchester ([November 2014](#), [July 2015](#), [November 2015](#), [March 2016](#))
- Sheffield City Region ([October 2015](#))
- Tees Valley ([October 2015](#))
- North East ([October 2015](#)) – rejected
- West Midlands ([November 2015](#))
- Liverpool City Region ([November 2015](#), [March 2016](#))
- West of England ([March 2016](#))
- Greater Lincolnshire ([March 2016](#)) - rejected
- Cornwall (no CA/mayor) ([July 2015](#))
- Cambridgeshire ([June 2016](#))
- Norfolk / Suffolk ([June 2016](#)) – rejected

The deals are underpinned by the Cities and Local Government Devolution Act 2016, which enables the Secretary of State to lay secondary legislation to establish an elected mayor of any combined authority area, and to confer local authority and public authority functions onto combined authorities.

All of the deals signed so far refer to housing and planning policy, with some features common across all or many deal areas and others only available to one or a few of the areas. Many of the deals also include a commitment to the exploration of further powers being devolved in the future.

Housing and planning powers that feature in one or more devolution deals include:

- Public land commission / joint assets board
- Establishment of Mayoral Development Corporations
- Compulsory purchase orders\*
- Creation of a spatial strategy / framework\*
- Call-in powers / consultation on strategic planning applications\*
- Control of a new Housing Investment Fund
- Community Infrastructure Levy

Areas that have agreed devolution deals with Government have generally indicated that they do not feel the deals go far enough and that they will continue to push to see more powers devolved. The funding streams and responsibilities on housing that have been devolved in deals fall short of what areas asked for in their initial proposals, which include:

- control over a Housing Investment Fund (grant or recyclable loan), like that agreed in Greater Manchester;
- greater flexibility around the distribution of existing funding streams, including Right to Buy receipts, with the ultimate aim of pooling streams into a single housing pot;
- closer collaboration with the HCA, with the ultimate aim in some areas of taking over HCA powers to direct investment in housing and regeneration;
- consolidation or lifting of the Housing Revenue Account (HRA) debt cap.<sup>1</sup>

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<sup>1</sup> [Devo-housing: the emerging agenda](#), by Paul Hunter, Smith Institute, July 2016, section 2: View from the Combined Authorities; [September devolution submissions by area](#), February 2016, on [www.local.gov.uk](http://www.local.gov.uk).

# 1. Background

Devolution to English cities and regions emerged as a prominent policy issue during the 2010-2015 Parliament. The first devolution deal with an English region was signed in November 2014, with Greater Manchester. In May 2015, then Chancellor George Osborne announced a new [\*Cities and Local Government Devolution Bill\*](#):

...a central part of our Queen's speech will be a bill to enable a radical new model of city government. Here's the deal: 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.<sup>2</sup>

Deals have since been agreed with ten other areas. The Government's primary stated objective in relation to devolution deals has been to stimulate economic growth, and the devolution agenda has been closely linked to the 'Northern Powerhouse' championed by George Osborne. The Government has argued that devolving powers to local areas will drive growth, as local leaders are better placed to design strategies which are suitable for their area. While the Government describes devolution deals as bespoke, the main powers that have been devolved are common to most of the deals, and are aimed at providing the tools to stimulate growth<sup>3</sup>. This includes powers and funding streams around skills, transport, business and employment support and housing. For more see Library note [\*Devolution to local government in England 2014-2016\*](#) (November 2016).

Areas that have agreed deals with the Government are:

- Greater Manchester ([November 2014](#), [July 2015](#), [November 2015](#), [March 2016](#))
- Sheffield City Region ([October 2015](#))
- Tees Valley ([October 2015](#))
- North East ([October 2015](#)) – rejected
- West Midlands ([November 2015](#))
- Liverpool City Region ([November 2015](#), [March 2016](#))
- West of England ([March 2016](#))
- Greater Lincolnshire ([March 2016](#)) - rejected
- Cornwall (no CAMayor) ([July 2015](#))
- Cambridgeshire ([June 2016](#))
- Norfolk / Suffolk ([June 2016](#)) – rejected

An [initial East Anglia deal](#) covered Norfolk, Suffolk, Cambridgeshire and Peterborough. However, Cambridgeshire then voted against further participation in the deal, and the Government then went on to consider two separate deals, one for Norfolk & Suffolk and one for

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<sup>2</sup> [Chancellor on building a Northern Powerhouse](#), gov.uk, 14 May 2016

<sup>3</sup> Communities and Local Government Committee, [Devolution: the next five years and beyond](#), 3 February 2016, HC 369-I 2015-16, Ch 3

Cambridgeshire & Peterborough. Both included similar terms to those of the East Anglia deal. The C&P deal was ratified on 22<sup>nd</sup> November<sup>4</sup>, while the N&S deal was withdrawn by the Government after several participating councils voted to reject it<sup>5</sup>.

Similarly, the North East deal was withdrawn after councils refused to ratify it in September 2016<sup>6</sup>, and the Greater Lincolnshire deal also fell through in November 2016<sup>7</sup>.

## 1.1 Cities and Local Government Devolution Act 2016

The *Cities and Local Government Devolution Bill* was introduced in the House of Commons on 28 May 2015, and received Royal Assent on 28 January 2016. The Act is an enabling piece of legislation, which provides the basis for the implementation of the devolution deals that have been signed so far, and any that are signed in the future.

The Act enables the Secretary of State to lay secondary legislation to establish an elected mayor of any combined authority area, who would be a member of and chair the combined authority. It further empowers the Secretary of State to confer local authority and public authority functions onto combined authorities, and to confer the General Power of Competence onto combined authorities. Further detail about what the Act makes possible can be found in the [Explanatory Notes](#).

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<sup>4</sup> <https://www.cambridgeshire.gov.uk/devolution>

<sup>5</sup> <http://www.bbc.co.uk/news/uk-england-norfolk-38030289>

<sup>6</sup> <http://www.bbc.co.uk/news/uk-england-37312978>

<sup>7</sup> <http://lincolshiretoday.net/mag/lincolnshires-devolution-deal-officially-off-table/>

## 2. Devolution deals and housing

All of the deals refer to housing and planning policy, with some features common across all or many deal areas and others only available to one or a few of the areas. Many of the deals also include a commitment to the exploration of further powers being devolved in the future.

Housing and planning powers that feature in one or more devolution deals include:

- Public land commission / joint assets board
- Establishment of Mayoral Development Corporations
- Compulsory purchase orders\*
- Creation of a spatial strategy / framework\*
- Call-in powers / consultation on strategic planning applications\*
- Control of a new Housing Investment Fund
- Community Infrastructure Levy

\*Cornwall County Council exercises these powers as it is a single planning authority, rather than because of its devolution deal.

### 2.1 Public land commission / joint asset board

*Agreed in: all devolution deals*

All of the agreed deals make reference to a land commission or joint asset board, which will be set up to examine and provide advice about the use of public sector assets, and in some cases to identify ways to increase the supply of land available for housing. They are advisory and will make recommendations about the topics in their remit, but will not have authority to make decisions. These commissions or boards build on existing joint-working relationships between local authorities and government departments and non-departmental bodies including the Homes and Communities Agency (HCA).

Some of the deals infer an obligation on the new body to establish a database of all public land in the deal area. There are some specifications that are unique to certain deals. The Sheffield City Region deal commits the Government to “explore whether a right of first refusal for 28 days on all central government land and assets due for disposal can be developed that accelerates the pace of disposal”<sup>8</sup>. The West Midlands deal makes reference to a “proposed Land Remediation Fund to support bringing brownfield sites back into use for employment and housing provision”<sup>9</sup>. Greater Manchester’s Land Commission will also oversee the development of a business case for a Land Programme.

#### ➤ Implementation to date

An initial meeting of the Greater Manchester Land Commission was held in January 2016. The first formal meeting is expected to take place

The Homes and Communities Agency (HCA) is a non-departmental public body, sponsored by the Department for Communities and Local Government (DCLG). It is the national housing and regeneration agency for England, controlling a capital investment budget of around £4bn, and also regulates social housing providers.

<sup>8</sup> [Sheffield City Region Devolution Agreement](#), 2 October 2015, paragraph 23

<sup>9</sup> [West Midlands Combined Authority Devolution Agreement](#), 17 November 2016, paragraph 43

soon, and will be jointly chaired by the Mayor of Greater Manchester and the Minister of State for Housing. Greater Manchester Combined Authority has approved the formation of a Land and Property Panel to support the work of the Land Commission<sup>10</sup>.

The West Midlands Land Commission was formally launched on 8<sup>th</sup> September 2016, and is expected to publish a report, recommending measures to increase the supply of land suitable for development, in early 2017<sup>11</sup>.

## 2.2 Mayoral Development Corporations

*Agreed in: Greater Manchester, Sheffield City Region, Tees Valley, Liverpool City Region, Greater Lincolnshire, West of England*  
*Under discussion in: West Midlands Cambridgeshire & Peterborough, Norfolk & Suffolk*  
*Exercised by: Mayor, with consent of the member of the Combined Authority for the area that the MDC will be in.*

Mayoral Development Corporations (MDCs) allow an elected mayor to set up a body to manage large-scale regeneration projects. Once established, they can become the planning authority for the area, acquire land, and, with the consent of the Secretary of State, exercise compulsory purchase powers (see section 2.3 below). The *Cities and Local Government Devolution Act* makes it possible for the Secretary of State to copy powers that are available to one area to another area, meaning the powers to establish an MDC that were conferred onto London as part of the [Localism Act 2011](#) can be transferred to any area with an elected mayor, without the need for new legislation.

## 2.3 Compulsory purchase orders (CPOs)

*Agreed in: Greater Manchester, Liverpool City Region, West Midlands, West of England.*  
*Exercised by: Mayor, with consent of the relevant Combined Authority member.*

Compulsory purchase orders allow certain bodies to purchase land or property when there is a compelling case in the public interest. Individual local authorities already have this power, as does the Homes and Communities Agency (HCA) in certain circumstances. Each of the devolution deals contains different wording on the conferral of compulsory purchase powers. However, in all four areas, the Mayor will be able to exercise compulsory purchase powers with the consent of the local authority in which the powers are being used. In the Liverpool City Region deal, it is specified that CPOs can only be used to aid “delivery of key sites through Mayoral Development Zones”<sup>12</sup>.

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<sup>10</sup> [Greater Manchester Land and Property Update](#), Councillor Sue Derbyshire, 29 April 2016

<sup>11</sup> [“West Midlands Land Commission launched to help unlock sites for development”](#) on West Midlands Combined Authority website, 8 September 2016

<sup>12</sup> [Liverpool City Region Devolution Agreement](#), 17 November 2016, paragraph 22d

## 2.4 Spatial strategy / framework

*Agreed in: Greater Manchester, Sheffield City Region, Liverpool City Region, East Anglia deals, Greater Lincolnshire, West of England.*

The spatial strategies outlined in the devolution deals aim to develop a planning strategy across a larger area than a single local planning authority. In this sense, the frameworks mentioned in the deals share some similarities with regional spatial strategies that were in place between 2004 and 2010.

There are differences among the deals as to the status of the frameworks; in Greater Manchester, Liverpool City Region and West of England, the deals state that the framework will be statutory, while in the East Anglia deals the framework is non-statutory, and the Greater Lincolnshire and Sheffield City Region deals do not specify. In all deal areas, the strategies require unanimous agreement among the members of the Combined Authority.

## 2.5 Call-in powers / consultation on strategic planning applications

*Agreed in: Sheffield City Region, West of England, Liverpool City Region, Greater Lincolnshire, Norfolk & Suffolk (no call-in powers)<sup>13</sup>  
Exercised by: Mayor; in Liverpool City Region with consent of the relevant Combined Authority member.*

The power to 'call-in' a planning application enables a Combined Authority Mayor to make a decision on a specific planning application, taking it away from the local planning authority, where the application is of strategic importance to the area.

The deals do not specify what is meant in practical terms by 'consultation'. In London, the Mayor must be consulted on applications of "potential strategic importance", which are those that fit certain criteria – 150 or more residential units, over 30m in height (apart from inside the City), and development on the Green Belt on Metropolitan Open Land. In these cases of "consultation" the Mayor can do one of three things:

- Allow the London borough to determine the planning application ([article 5\(b\)\(ii\), MoL Order 2008](#)).
- Direct the London borough to refuse the planning application ([article 6\(1\), MoL Order 2008](#)).
- "Call in" the planning application ([article 7, MoL Order 2008](#)).

Under [Part 7 of the Greater London Authority Act 2007](#) (GLAA 2007), the Mayor has the power to "call in" certain planning applications for determination ([sections 2A-2E, Town and Country Planning Act 1990](#)).

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<sup>13</sup> This power was also discussed in relation to the Greater Manchester deal, but the GMCA decided against seeking to bring it into the Mayor's jurisdiction.



The Mayor may issue a direction to call in an application of Potential Strategic Importance if all of the following criteria are met:

- The development or any of the issues raised by it are of such a nature or scale that it would have a significant impact on the implementation of the London Plan.
- The development or any of the issues raised by it have significant effects that are likely to affect more than one London borough.
- There are sound planning reasons for issuing a direction.

## 2.6 Housing Investment Fund

Most of the deals include a reference to ongoing discussion around the devolution of housing funds; only the Greater Manchester and East Anglia deals included firm plans.

### Greater Manchester

Greater Manchester's deal included commitment to a £300m Housing Investment Fund over 10 years, intended to support delivery of 10,000 - 15,000 houses. The fund is made up of loans, funded from existing Government programmes such as Help to Buy. The Combined Authority will have control over how these loans, which are only available to the private sector, are distributed, and the funds distributed may be recycled within the private sector before being repaid to the Treasury. Greater Manchester will guarantee 80% of the principal plus interest earned. The repayments profile has yet to be agreed between Greater Manchester and the Government. The deal document stipulates that if Greater Manchester is not able to demonstrate that it will be able to guarantee the repayment schedule, the HCA will take over administration of the fund.

➤ Implementation to date

Greater Manchester Combined Authority has committed over £97m of its £300m fund to build 1,184 units at nine sites across the region.<sup>14</sup>

### East Anglia

The Cambridgeshire & Peterborough deal includes £100m in ring-fenced grant funding for housing and housing infrastructure, including at least 2,000 affordable homes, to 2021. The current wording of the deal states that Cambridgeshire & Peterborough will have "flexibility over the right tenure mix... which could include affordable rental homes as well as affordable home ownership."<sup>15</sup> However, unlike the Norfolk & Suffolk deal, there is no mention of Shared Ownership or a particular proportion of the total funding that the Combined Authority will have flexibility over. In addition, the Government commits to provide an additional £70m capital funding to 2021, ring-fenced for Cambridge to meet housing requirements.

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<sup>14</sup> [Greater Manchester Housing Fund](http://www.greatermanchester-ca.gov.uk) on [www.greatermanchester-ca.gov.uk](http://www.greatermanchester-ca.gov.uk)

<sup>15</sup> Cambridgeshire and Peterborough Devolution Proposal, available at: <https://www.eastangliadevo.co.uk/>

The proposed Norfolk & Suffolk deal included a commitment to a ring-fenced capital grant of £100m from 2016/17-2020/21, to be devolved to fund the development of new homes. The fund was primarily intended to deliver the Shared Ownership programme, but the Combined Authority would have had autonomy over 15% of the funding in order to “achieve the right tenure mix for the area”, to be used for both affordable home ownership and rental properties. However, the Government would retain the right to check that the proposals would provide value for money and lead to sufficient housing output. The deal also included a commitment to a further £30m over the five years to be split between Ipswich Borough and Norwich City Council to help meet their housing needs.

### West Midlands

The West Midlands deal did not include any firm plans for a Housing Investment Fund, but it has been reported that the Combined Authority has developed a proposition for an investment fund. The WMCA proposes to combine the borrowing powers of the seven local authorities to create a revolving fund of £500m, which would be doubled through private sector loans<sup>16</sup>.

## 2.7 Community Infrastructure Levy

*Agreed in: Greater Manchester*

*Exercised by: Mayor, with the consent of all ten members of the Combined Authority.*

The Government has agreed to pursue the necessary legislation to give Greater Manchester the power to introduce a Community Infrastructure Levy (CIL). The CIL allows charging authorities to raise funds from developers that are undertaking new projects in order to fund infrastructure projects in the area<sup>17</sup>, and is currently exercised by many (although not all) Local Authorities and the GLA. The CIL will be exercised by the elected Mayor (as in London), but will require the consent of all ten local authority members of the Combined Authority.

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<sup>16</sup> <http://www.insidehousing.co.uk/wmca-plans-1bn-housing-investment-fund/7017551.article>

<sup>17</sup> [Community Infrastructure Levy: an overview](#), May 2011, on [www.gov.uk](http://www.gov.uk)

## 3. What additional powers do areas want?

Areas that have agreed devolution deals with Government have generally indicated that they do not feel the deals go far enough and that they will continue to push to see more powers devolved. The funding streams and responsibilities on housing that have been devolved in deals fall short of what areas asked for in their initial proposals, which include:

- control over a Housing Investment Fund (grant or recyclable loan), like that agreed in Greater Manchester;
- greater flexibility around the distribution of existing funding streams, including Right to Buy receipts, with the ultimate aim of pooling streams into a single housing pot;
- closer collaboration with the HCA, with the ultimate aim in some areas of taking over HCA powers to direct investment in housing and regeneration;
- consolidation or lifting of the Housing Revenue Account (HRA) debt cap.<sup>18</sup>

### 3.1 Flexibility of existing funding streams

Local areas argue that the 'one-size-fits-all' approach to housing programmes has not worked for them, and has historically been skewed by London-centric views. They believe that flexibility over grants that are currently ear-marked for particular national projects would enable them to respond to changing market conditions and better meet targets for new affordable housing. This position is generally supported by the housing sector<sup>19</sup>. There is a concern, however, that allowing full flexibility over housing funds – i.e. a 'single housing pot', would result in failure to hit national targets and a sub-optimal tenure mix on a national scale. The Government has pointed out that a substantial majority of the population prefers home ownership, and that national policies are required in order to reverse the decline in the level of home ownership.

### 3.2 HCA powers

Greater collaboration between local areas and the HCA and increased input from local leaders into HCA decisions are features of most of the devolution deals, and many also include commitment to exploring further joint working. However, full devolution of HCA functions and holdings is currently only enjoyed by London, and there have been no indications that the Government is considering offering these powers to other devolution deal areas. Areas have argued that devolution of HCA powers to the Combined Authority level would allow them to

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<sup>18</sup> [Devo-housing: the emerging agenda](#), by Paul Hunter, Smith Institute, July 2016, section 2: View from the Combined Authorities; [September devolution submissions by area](#), February 2016, on [www.local.gov.uk](http://www.local.gov.uk).

<sup>19</sup> ["NHF: flexibility could see 300,000 homes built"](#), *Inside Housing*, 19 July 2016

coordinate housing projects with large-scale infrastructure and other investment projects.

### 3.3 HRA debt cap

A cap on the level of borrowing that local authorities are able to undertake in order to fund development of social housing was introduced by the Coalition Government as part of the move to a self-financing regime for stock holding local authorities. The caps were based on the debt that authorities were holding when the cap was introduced. Local areas argue that existing HRA debt caps are arbitrarily limiting the volume of social housing that can be built, and that lifting these restrictions would hugely increase capacity to deliver on local targets. This viewpoint is shared by the LGA and the Chartered Institute of Housing<sup>20</sup>. On the other hand, the Government has argued that allowing unrestricting borrowing could have a negative impact on the Public Sector Borrowing Requirement (PSBR), which was the original reason for introducing the cap.<sup>21</sup>

For more information on the debt cap see Library paper: [Local housing authorities - the self-financing regime: progress and issues](#).

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<sup>20</sup> Economic Affairs Committee, *Building more homes*, 15 July 2016, HL 20-I 2016-2017

<sup>21</sup> For more information see Library note [Local housing authorities – the self-financing regime: progress and issues](#)

## 4. The future of housing devolution

While powers over housing have been passed to local government through devolution deals, the [Housing and Planning Act 2016](#), which received Royal Assent in May 2016, gives a number of new powers to the Secretary of State. The Opposition argued that the Act serves to further centralise housing and planning powers and thus directly contradicts the principle of devolution. Labour's then-Shadow Cabinet Minister for Housing, John Healey MP, wrote:

It effectively ends a local authority's ability to secure the mix of new homes needed in their local area, and it will inevitably lead to fewer affordable homes when the need has never been greater.<sup>22</sup>

Some local authorities are equally opposed to some of the new measures, such as the Secretary of State's new power to override planning obligations if they obstruct the delivery of starter homes<sup>23</sup>. A recent report by the Public Accounts Committee on devolution echoes this, stating:

We are moving in two directions at the same time: for example, on housing, local authorities are limited in their freedom to accept planning applications, based on rules set by central government.<sup>24</sup>

The Government's position, however, was that affordable housing should mean affordable home ownership, and therefore national programmes must focus on ensuring sufficient supply of homes for purchase. There have been recent indications that the Government's position on building for the rental market is relaxing. Housing Minister Gavin Barwell stated at the National Housing Federation (NHF) 2016 annual conference that "We need more homes for sale, we need more homes for private rent and we need more sub-market homes for rent".

Equally, a number of local authority leaders and officials in devolution deal areas have expressed concern that the agenda is losing momentum since the change of Government. As Chancellor, George Osborne was a key driver of the policy, and it is unclear whether his replacement, Phillip Hammond, will be as committed to extending devolution deals to new regions, although he did announce in the 2016 Autumn statement that Devolution remains at the heart of this Government's approach to supporting local growth"<sup>25</sup>. Taking over from Greg Clark as Secretary for Communities and Local Government, Sajid Javid stated that devolution would remain a priority<sup>26</sup>, but no further deals have been

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<sup>22</sup> ["This Bill is one of the most centralising and anti-council pieces of legislation I have seen"](#) John Healey, *Labour Press*, 26 October 2015

<sup>23</sup> [Devo-housing: the emerging agenda](#), by Paul Hunter, Smith Institute, July 2016, section 2: View from the Combined Authorities

<sup>24</sup> Public Accounts Committee, [Devolution in England: governance, financial accountability and following the taxpayer pound](#), 18 December 2016, HC 866, paragraph 19

<sup>25</sup> <http://www.themj.co.uk/Autumn-Statement-Devolution-remains-at-heart-of-government-approach/206129>

<sup>26</sup> ["New DCLG secretary outlines priorities"](#), *The MJ*, 14 July 2016

## 14 Devolution Deals and Housing (England)

announced since the reshuffle. Indeed, several deals have been cancelled. There have also been indications that the new Prime Minister and Chancellor are not as dedicated to the introduction of elected mayors in return for devolution deals<sup>27</sup>. Thus it is difficult to predict whether devolution will be extended to other areas, and what form the deals will take if it is.

However, all of the devolution deals that have been agreed so far have included a line confirming that “Further powers may be agreed over time and included in future legislation”, and the Government has also confirmed that the devolution process is iterative – illustrated by the numerous deals that make up Greater Manchester’s devolution settlement thus far. Areas have indicated that they intend to push for further powers to be devolved, and housing powers are likely to be among their priorities.

To date, The Government has been reluctant to go further on housing powers, and there are no indications that this is likely to change in the near term. Thus, if further deals are agreed, particularly without an elected mayor as part of the package, it is unlikely that more substantial powers than those already agreed in existing deals will be devolved. However, four of the deals – Sheffield City Region, Tees Valley, Liverpool City Region and the West Midlands – included a commitment to discussions about introducing a housing investment fund similar to what has been agreed for Greater Manchester. No timescales were specified, so it is unclear when progress can be expected on these discussions, but it seems likely that agreements on housing loan funds in these four regions will be the next step in housing devolution.

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<sup>27</sup> [“May to abandon Osborne’s plan for regional mayors”](#), *The Times*, 22 August 2016

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