



Library Note

Cities and Local Government Devolution Bill [HL] (HL Bill 1 of 2015–16)

The [Cities and Local Government Devolution Bill \[HL\]](#) received its first reading in the House of Lords on 28 May 2015 and is scheduled to receive its second reading on 8 June 2015. The Bill is intended to support the Conservative Party's [manifesto](#) commitment to “devolve powers and budgets to boost local growth in England”. The Bill would provide the Secretary of State for Communities and Local Government with a series of order and regulation making powers, allowing for the devolution of functions currently owned by central government and local public bodies. It is intended as the means of delivering local “devolution deals”, agreed between combined authorities and central government, such as the [Greater Manchester Agreement](#).

These proposals for constitutional reform also form part of the Government's strategy for the creation of a ‘Northern Powerhouse’, to enable cities in the north of England to work more closely together on policy areas such as transport, housing, strategic planning, health, social care and skills training, and to compete more effectively with London in terms of economies of scale and access to human capital.

The Bill would amend the Local Democracy, Economic Development and Construction Act 2009 and enable combined authorities to have an elected mayor. These elected mayors would take on powers agreed with central government, and established in the relevant order from the Secretary of State. These mayoral functions could include taking on the role of a Police and Crime Commissioner. The Bill would also enable the remit of combined authorities to be expanded. Combined authorities would be required to establish overview and scrutiny committees under the Bill.

Although the Government has said that its preferred model for accountability as part of the new devolution deals would be for the creation of a mayoral combined authority, it has stated that this may not be appropriate in all contexts, such as for areas outside cities. The Bill also includes measures to enable changes to be made to the role and the powers of local authorities in England where the Government agrees that it may not be appropriate to establish a combined authority.

Prior to the publication of the Bill, there had been [criticism](#) from some representatives of local government that the Government was exclusively focusing on devolution for cities. The inclusion of local government as well as cities in the remit of the Bill was broadly welcomed by local authorities. During the debate on the Queen's Speech on [1](#) and [2 June 2015](#), there was support in the House of Lords for the aims of the Bill with regards to the devolution of more power to cities and local authorities. However, some Members raised concerns about how these proposals might be implemented. The House of Commons debated the Government's devolution agenda on [3 June 2015](#), during which a motion criticising the Government's approach to devolution was defeated.

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1. Introduction

The [Cities and Local Government Devolution Bill \[HL\]](#) (HL Bill 1 of session 2015–16) received its first reading in the House of Lords on 28 May 2015, and is scheduled to receive second reading on 8 June 2015. This Library Note provides an outline of the proposals for reform to the role, structure and powers of combined authorities and local authorities as set out in the Cities and Local Government Devolution Bill. It also provides background information on the Government's broader agenda for devolving powers from central government to local authorities. This Note also provides a summary of the reaction to the publication of the Bill in the national and regional press, in parliament and from think tanks and campaign groups.

The House of Commons Library has published on its [blog](#) initial impressions of the Bill.¹ The House of Commons Library has also published the following Notes which summarise changes to the relationship between central and local government since 2010:

- [Regional Development Policy 2010–2015: A Summary](#), 30 March 2015, SN07159
- [Devolution to Local Government in England](#), 20 May 2015, SN07029

2. The Government's Proposals for Devolution to Local Government

On the morning after the vote by Scotland to remain part of the UK following the Scottish independence referendum, the Prime Minister, David Cameron, delivered a statement in which he outlined a series of proposals for further devolution of powers from central government.² As well as further devolution to the Scottish Parliament and the Welsh Assembly, proposals regarding the devolution settlement in Northern Ireland, and changes to the voting rights for MPs in Westminster on legislation affecting different parts of the UK, the Prime Minister stated that the further decentralisation of powers to local government was necessary. Mr Cameron advocated the widening of civic engagement in the UK and the empowerment of “our great cities”.³

The House of Lords held a debate on 11 December 2014 entitled “that this House takes note of the case for enabling economic leadership for cities”.⁴ The House of Lords Library published a Note for this debate entitled [Enabling Economic Leadership for Cities](#), which provides background information on proposals for the devolution of decision making powers to cities.⁵ This includes information on the introduction of Cities Deals and provides statistics relating to cities.

The Conservative Party [manifesto](#) for the 2015 general election included the following on the devolution of powers to cities:

[A Conservative Government] will devolve far-reaching powers over economic development, transport and social care to large cities which choose to have elected mayors. We will legislate to deliver the historic deal for Greater Manchester, which will

¹ Mark Sandford, '[New Powers for Local Government: Early Observations on the Cities and Local Government Devolution Bill](#)', Second Reading, 2 June 2015.

² Prime Minister's Office, '[Scottish Independence Referendum: Statement by the Prime Minister](#)', 19 September 2014.

³ *ibid.*

⁴ HL *Hansard*, 11 December 2014, [cols 1924–63](#).

⁵ House of Lords Library, [Enabling Economic Leadership for Cities](#), 8 December 2014.

devolve powers and budgets and lead to the creation of a directly elected Mayor for Greater Manchester. In Cambridgeshire, Greater Manchester and Cheshire East, we will pilot allowing local councils to retain 100 percent of growth in business rates, so they reap the benefit of decisions that boost growth locally. We will devolve further powers over skills spending and planning to the Mayor of London. And we will deliver more bespoke Growth Deals with local councils, where locally supported, and back Local Enterprise Partnerships to promote jobs and growth.⁶

A Bill to “to provide for the devolution of powers to cities with elected metro mayors, helping to build a Northern Powerhouse” was included in the 2015 Queen’s Speech.⁷ Following publication of the Cities and Local Government Devolution Bill on 28 May 2015, the Government published a press release stating that the Bill would enable combined authorities to gain “new wide-ranging powers over budgets and spending” and enable them to control policy areas such as “transport, housing, strategic planning, health, social care and skills training to boost growth”.⁸ The Government also stated that the measures in the Bill to encourage stronger local leadership would be accompanied by stronger scrutiny of decision-making. The 2015 Queen’s Speech also referred to a separate Bill which would enable combined authority areas to gain responsibility for running local bus services. This Bill has yet to be introduced in parliament.⁹

2.1 Devolution Deals

The Bill provides for the Secretary of State for Communities and Local Government to make orders and regulations changing the powers and constitutional arrangements of combined authorities and local authorities. Combined authorities are joint local government structures, established under the Local Democracy, Economic Development and Construction Act 2009, with a limited remit over certain areas, including transport and economic development. The Government has stated that the powers provided to the Secretary of State to make orders and regulations under the Bill are the means of enacting the proposals set out in local “devolution deals” agreed between the Government and local areas.¹⁰

In November 2014, the Government published a devolution deal for Manchester, entitled the [Greater Manchester Agreement](#), signed by the Chancellor of the Exchequer and leaders of the Greater Manchester Combined Authority. Following the publication of the agreement, the Chancellor of the Exchequer, George Osborne, said that this would lead to the creation of “the first metro-wide elected mayor outside of London” and would enable Mancunians to enjoy “better transport links, an Oyster-style travelcard, and more investment in skills and the city’s economy”.¹¹ On 29 May 2015, the ten councils forming the Greater Manchester Combined Authority selected Tony Lloyd, Greater Manchester’s Labour Police and Crime Commissioner,

⁶ Conservative Party, [The Conservative Party Manifesto 2015](#), April 2015, p 13.

⁷ HL [Hansard](#), 27 May 2015, [col 6](#). For more information on the Northern Powerhouse proposals, see section 2.2 of this Note.

⁸ Department for Communities and Local Government (DCLG), [‘Bringing Our Country Together: Cities, Towns and Counties to Get Stronger Powers’](#), 29 May 2015.

⁹ Cabinet Office, [The Queen’s Speech 2015](#), 27 May 2015, pp 100–1.

¹⁰ DCLG and Home Office, [Cities and Local Government Devolution Bill: Memorandum by the Department for Communities and Local Government and Home Office to the Delegated Powers and Regulatory Reform Committee](#), 28 May 2015, p 6; Further information on combined authorities is provided in the House of Commons Library Note, [Combined Authorities](#), 27 March 2015, SN06649.

¹¹ HM Treasury, [‘Manchester to get Directly Elected Mayor’](#), 3 November 2014.

to act as the interim mayor.¹² An election for a mayor for the combined authority is planned to take place in 2017.

Since the publication of the *Greater Manchester Agreement*, two further devolution deals have been published:

- HM Government and West Yorkshire Combined Authority, [Leeds City Region and West Yorkshire Agreement on Devolution](#), 2015
- Sheffield City Region, [Devolution Deal, Sheffield City Region Agreement on Devolution](#), 2015

2.2 The Creation of a Northern Powerhouse

In June 2014, in a speech at the Manchester Museum of Science and Industry, the Chancellor of the Exchequer, George Osborne, argued for the benefits of the creation of a ‘Northern Powerhouse’.¹³ He argued that cities of the North of England, such as Manchester, Liverpool and Leeds, might better be able to build on the economic growth that had taken place over the previous 30 years if they worked together more closely. He argued that the devolution of powers from central government to local authorities was one of four means by which cities could be joined more closely together. This devolution of power would need to be accompanied by: improvements in transport links; support for science and universities in these cities; and support for areas where clusters of successful industries had developed.

In arguing for the creation of a Northern Powerhouse, Mr Osborne said that cities might better be able to compete with London. This would be made possible, Mr Osborne added, through greater access to human capital:

Over recent decades economists have explored all the different reasons why cities raise their residents’ productivity: specialisation is greater, competition and economies of scale increase, ideas and innovation spread faster. Crucially, cities are also where clusters of successful industry are created—like the financial services cluster in London, or the digital economy of California’s Silicon Valley. Not so long ago, people thought that the internet might make physical location less important. But it seems in the modern knowledge economy businesses and entrepreneurial types want to flock together more than ever. To form clusters where they can learn from and spark off each other.¹⁴

The creation of a Northern Powerhouse featured prominently in the Conservative Party [manifesto](#) for the 2015 general election:

[The Conservative Party, as part of the former Government] have devolved powers to Scotland and Wales, and set out long-term economic plans to raise the growth rate of all parts of England, bringing areas which have grown more slowly up to at least the national average. Over the last year, the North grew faster than the South. By connecting up the North with modern transport links, we will enable its great cities and towns to pool their strengths. We will invest a record £13 billion in transport for the North. We will electrify the main rail routes, build the Northern Hub, and provide new trains for the North. We will upgrade the A1, M62, M1 and A555 link road. And that is

¹² Andrew Bounds, ‘[Greater Manchester Picks Interim Mayor to Get More Power](#)’, *Financial Times*, 29 May 2015.

¹³ HM Treasury, ‘[Chancellor: “We need a Northern Powerhouse”](#)’, 23 June 2014.

¹⁴ *ibid.*

on top of our £50 billion commitment to build High Speed 2—the new North-South railway linking up London with the West Midlands, Leeds and Manchester—and develop High Speed 3 to join up the North. We will back scientific and technical strengths by creating new institutions such as Health North; the Royce Institute for Advanced Materials in Manchester, Leeds, Liverpool and Sheffield; the National Centre for Ageing Science and Innovation in Newcastle; the Cognitive Computing centre at Daresbury; and by making investments in energy research in Blackpool, Cumbria and Thornton.¹⁵

Following the 2015 general election, George Osborne, returning as Chancellor of the Exchequer, spoke again in Manchester to announce his intention to create “a radical new model of city government”.¹⁶ In his speech, Mr Osborne set out his view of the impact of the *Greater Manchester Agreement* and future devolution deals:

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. London has a mayor. Greater Manchester has agreed to have a mayor as part of our Northern Powerhouse—and this new law will make that happen. My door now is open to any other major city who wants to take this bold step into the future.¹⁷

2.3 Reaction to Proposals for Devolution to Cities

Prior to the publication of the Cities and Local Government Bill, concerns had been raised by local authorities outside cities that the Government's devolution proposals would focus solely on city areas. The *Local Government Chronicle* has reported comments from the County Councils Network chair, Councillor David Hodge (Conservative) and District Councils' Network chair, Councillor Neil Clarke (Conservative), who both raised concerns about a “two-speed” approach to devolution which was “too narrowly focused on city regions”.¹⁸ The inclusion of local government in the title of the Bill that was eventually published was welcomed by Councillor David Sparks (Labour), chair of the Local Government Association (LGA):

[The Bill] was very much trailed as a cities devolution bill but it's actually a Cities and Local Government Devolution Bill and from our perspective that is very important. To us devolution has always been within the context of devolution throughout the UK, following the Scottish referendum, but it is not just about combined authorities. The LGA has been making the case for a long time that any devolution must reach all parts of England because the opportunities around jobs, economic growth, public service transformation are relevant and important to everywhere in England. It's good that Greater Manchester and others have been leading the agenda but there's so much more possibility out there. So it's a really positive, if not perfect, step to acknowledging that in the legislation.¹⁹

¹⁵ Conservative Party, *The Conservative Party Manifesto 2015*, April 2015, p 11.

¹⁶ HM Treasury, “[This is a Revolution in the Way We Govern England](#)”, says the Chancellor of the Exchequer, [George Osborne](#), 14 May 2015.

¹⁷ *ibid.*

¹⁸ David Paine, “[Devolution Bill Name Change “Encouraging”](#)”, *Local Government Chronicle* (£), 27 May 2015.

¹⁹ *ibid.*

3. Provisions in the Bill: Mayoral Combined Authorities

The Government has stated that the devolution of powers to combined authorities should be accompanied by the creation of an elected mayor for that combined area. The Explanatory Notes to the Bill, published by the Department for Communities and Local Government (DCLG), stated the following:

With the devolution of powers from the centre to cities to give them greater control over transport, housing, skills and healthcare, the Government considers that it is necessary for the people of the area to have a single point of direct accountability. In the Government's view city-wide, elected mayors for combined authority areas will achieve this and ensure the continuation of strong democracy.²⁰

The Government has also stated that the authority to be given to the Secretary of State, to enable powers to be devolved, could be used flexibly. This would allow the appropriate governance structure to be established in each local area.²¹ The memorandum to the Delegated Powers and Regulatory Reform Committee on the Bill, published by DCLG and the Home Office, has stated that the order making powers given to the Secretary of State under the Bill would be such as to "ensure flexibility in the regime and so that each combined authority is able to adapt and provide the appropriate governance for the powers conferred on it and the needs of the area".²² According to the memorandum, the location of a combined authority could be one factor that might dictate whether or not a combined authority might adopt a mayoral model:

Where major powers are devolved and conferred on a combined authority there needs to be a clear point of accountability for the exercise of those powers. The Government believes that for cities, this point of accountability can best be provided by an elected mayor, an internationally proven form of city governance. However, away from cities, where a combined authority's area comprises towns and counties, mayoral governance may not be appropriate for any combined authority which the councils there may wish to form. This order-making approach allows for flexibility, enabling the model of combined authority to be adopted which the councils concerned and the Secretary of State agree is most suited for the circumstances of that authority.²³

The Chancellor of the Exchequer, George Osborne, speaking in Derby on 1 June 2015, stated that the Government's plan for devolution of powers to cities and local authorities would be flexible, and that the Government did not intend "imposing solutions on people, or dictating a specific approach".²⁴ However, he also stated that the creation of an elected mayor would be viewed by the Government as being necessary in some cases, depending on the degree of powers devolved:

We'll work with local council leaders across the party divide, assess each case on its merits, as every area is different. And I know that one size doesn't fit all. But I'm also

²⁰ DCLG, [Cities and Local Government Devolution Bill: Explanatory Notes](#), 28 May 2015, p 4.

²¹ DCLG and the Home Office, [Cities and Local Government Devolution Bill: Memorandum by the Department for Communities and Local Government and Home Office to the Delegated Powers and Regulatory Reform Committee](#), 28 May 2015, p 4.

²² *ibid.*

²³ *ibid.*

²⁴ HM Treasury, [Chancellor: The Midlands Should Be Britain's Engine for Growth](#), 1 June 2015.

clear that with new powers come new responsibilities. It's right that there's a single point of accountability, someone elected to take decisions and carry the can. And that means, if we go for the full suite of devolved powers, a metro wide mayor.²⁵

3.1 Establishment of the New Elected Mayors

Clause 1 would establish the power of the Secretary of State to make an order to enable a mayor to be elected for a combined authority area. This mayor would be the chair of the combined authority and a member of that combined authority. Schedule 1 of the Bill establishes the system for electing these new mayors. Where only three or fewer candidates stand in the election, the mayors would be elected by a simple majority. If there were to be more than three candidates, a supplementary vote system would be used.²⁶

The Explanatory Notes to the Bill set out that the Secretary of State would make an order for the creation of a mayoral combined authority in the following circumstances, summarised below:

- An order may follow a formal proposal for the creation of a new mayoral combined authority, made under the new Section 107B, to be added by the Bill to the Local Democracy, Economic Development and Construction Act 2009.²⁷ This proposal may be made either by an existing combined authority, or by each county and district council within the area of a proposed—or existing—combined authority, or made with their consent. A proposal could also to be included as part of the existing procedure for the creation of a new combined authority area, set out in the Local Democracy, Economic Development and Construction Act 2009.
- Alternatively, an order could be made without a formal proposal for the creation of a new mayoral combined authority.²⁸ This would only take place if the Secretary of State considered it appropriate and he or she had the consent of all the constituent councils.²⁹

Such an order could also be made under subsection (3) of new Section 107B without unanimous support of the appropriate authorities.³⁰ The appropriate authorities are defined by the Bill as the county or district councils which are wholly or partly within the area of the combined authority, and any existing combined authority.³¹ The Secretary of State would be able to make an order for the creation of a mayoral combined authority if all the appropriate authorities, bar one county or district council, indicated that they wished to proceed. In this circumstance, the Secretary of State would then be required by subsection (4) of new section 107B to make an order changing the area of the combined authority and removing the constituent council which did not support the change.

²⁵ *ibid.*

²⁶ DCLG, [Cities and Local Government Devolution Bill: Explanatory Notes](#), 28 May 2015, p 6.

²⁷ DCLG has published keeling schedules indicating the changes that are to be made by the Bill to the [Local Democracy, Economic Development and Construction Act 2009](#) and other Acts. These are available on the [deposited papers](#) section on the parliament website.

²⁸ This would be made under subsection (3) of new Section 107B, set out in Clause 1 of the [Cities and Local Government Devolution Bill](#), HL Bill 1 of 2015–16.

²⁹ DCLG, [Cities and Local Government Devolution Bill: Explanatory Notes](#), 28 May 2015, p 6.

³⁰ *ibid.*

³¹ Subsection (6) new Section 107B, set out in Clause 1 of the [Cities and Local Government Devolution Bill](#), HL Bill 1 of 2015–16.

Clause 2 of the Bill would add a new schedule to the Local Democracy, Economic Development and Construction Act 2009, enabling the Secretary of State to make an order as to the dates on which the elections for the new mayors would take place and the length of the term of office of an elected mayor.³² Clause 2 would also add a new section to the 2009 Act, requiring the new mayor to nominate a deputy mayor from the members of the combined authority.³³ This deputy would take over the function of the mayor in case of the mayor's incapacity or if the office was vacant.

3.2 Functions of the Mayors and Mayoral Combined Authorities

Clause 3 of the Bill would add a new section 107D to the Local Democracy, Economic Development and Construction Act 2009 to enable the Secretary of State, by order, to provide that certain functions of the mayoral combined authority—referred to in the Bill as “general functions”—are to be exercisable by the mayor.³⁴ Clause 3 would also amend the 2009 Act, enabling the mayor to delegate particular functions to his or her deputy and other members or officers of the mayoral combined authority.³⁵ Such an order would need to be approved by affirmative resolution in Parliament, requiring both Houses to approve the order before it could become law.

The Bill would also insert a new section 107E into the 2009 Act to allow the Secretary of State to make an order enabling the mayor to exercise the functions of a Police and Crime Commissioner.³⁶ This would provide the elected mayors with similar powers for policing as are currently enjoyed by the elected Mayor of London. Such an order might only be made following the consent of all the appropriate authorities. Schedule 2 of the Bill would insert a new schedule 5C into the 2009 Act, further to the transfer of these powers from Police and Crime Commissioners to an elected mayor.³⁷

An order issued by the Secretary of State would also enable the mayor to be assisted in his or her functions by members or officers of the mayoral combined authority, or by political advisors appointed by the mayor. These political advisors would be appointed under conditions, such as set terms of office, established in the order. The order might also confer ancillary powers on the mayor.³⁸

The memorandum to the Delegated Powers and Regulatory Reform Committee on the Bill provides the following example of what the kinds of general functions conferred on the mayor would be:

The functions to be conferred on a combined authority and which of those functions are to be general functions and hence exercised with the high degree of accountability that a mayor brings, are matters that it is expected the Secretary of State will agree in the context of agreeing a bespoke Devolution Deal with an area. For example, in November 2014, the Government agreed the Greater Manchester Deal and to seek the

³² DCLG, [Cities and Local Government Devolution Bill: Explanatory Notes](#), 28 May 2015, p 6.

³³ *ibid*, p 6.

³⁴ The term “general functions” is defined in the context of [new Section 107D \(2\)](#) of the Bill as being “any functions exercisable by the Mayor other than [Police and Crime Commissioner] functions”.

³⁵ Subsection (3) of new section 107D, as set out in Clause 3 of the [Cities and Local Government Devolution Bill](#), HL Bill 1 of 2015–16.

³⁶ DCLG, [Cities and Local Government Devolution Bill: Explanatory Notes](#), 28 May 2015, p 7.

³⁷ *ibid*, p 10.

³⁸ *ibid*, p 7.

necessary legislation for its implementation. In that deal it is agreed that the mayor would be responsible for a consolidated transport budget, strategic planning, and a housing investment fund. Integration of health and social care would not, for example, be a mayoral function.³⁹

The Secretary of State may also establish in the order the extent to which general functions might be delegated to a deputy or other members or officers of the mayoral combined authority.⁴⁰ The order for the allocation of functions and the delegation arrangements in a specific mayoral authority would need to be approved by affirmative resolution in Parliament, requiring both Houses to approve the order before it could become law.⁴¹

DCLG have described the process by which this order would be formed as being agreed with cities in a way to best reflect the particular needs and priorities of the city.⁴² The memorandum to the Delegated Powers and Regulatory Reform Committee provides the following indication of how the arrangement for the devolution of power in a particular area might be made in practice:

“[decisions] about the mayoral budget may be matters which it is decided, in the context of a particular deal, should not be delegated”.⁴³

3.3 Mayoral Combined Authorities and Local Government Finance

The Bill includes changes to the role of the new mayoral combined authorities with regard to local government finance. Clause 4 of the Bill would amend the Local Democracy, Economic Development and Construction Act 2009, adding a new section 107F, to enable the Secretary of State to make provision for the mayor to maintain a budget for the exercise of the mayor’s functions.⁴⁴ The Bill would amend the Local Government Finance Act 1992, to establish mayoral combined authorities as a major precepting authority for the purposes of local government finance, enabling them to establish local government funding for the mayoral functions.⁴⁵ The Bill would also enable the Secretary of State to make provisions for the cost of the mayoral functions to be met by precepts issued by a combined authority. The Bill would also make provision for an annual mayoral budget, which may be subject to scrutiny and approval in draft by the combined authority, as specified in the relevant order from the Secretary of State.⁴⁶

4. Provisions in the Bill: Changes to the Role for Combined Authorities

4.1 Changes to the Remit of Combined Authorities

The Local Democracy, Economic Development and Construction Act 2009 limited the functions of combined authorities to improving economic development and regeneration of

³⁹ DCLG, [Cities and Local Government Devolution Bill: Memorandum by the Department for Communities and Local Government and Home Office to the Delegated Powers and Regulatory Reform Committee](#), 28 May 2015, p 6.

⁴⁰ DCLG, [Cities and Local Government Devolution Bill: Explanatory Notes](#), 28 May 2015, p 7.

⁴¹ DCLG, [Cities and Local Government Devolution Bill: Memorandum by the Department for Communities and Local Government and Home Office to the Delegated Powers and Regulatory Reform Committee](#), 28 May 2015, p 6.

⁴² DCLG, [Cities and Local Government Devolution Bill: Explanatory Notes](#), 28 May 2015, p 7.

⁴³ DCLG, [Cities and Local Government Devolution Bill: Memorandum by the Department for Communities and Local Government and Home Office to the Delegated Powers and Regulatory Reform Committee](#), 28 May 2015, p 7.

⁴⁴ DCLG, [Cities and Local Government Devolution Bill: Explanatory Notes](#), 28 May 2015, p 7.

⁴⁵ *ibid.*

⁴⁶ *ibid.*

their areas and the issue of transport.⁴⁷ Clause 5 of the Bill would amend the 2009 Act to enable the Secretary of State to broaden the functions of a combined authority beyond these areas.⁴⁸ Such an order would be laid either if the authorities concerned produced a scheme for the devolution of powers following a review or if the Secretary of State considered the order appropriate and had the consent of the relevant authorities.⁴⁹ This process would replace the current statutory test, established in the 2009 Act, which requires the Secretary of State to consider how changes to the role of the combined authority might improve economic development, regeneration and transport.⁵⁰

4.2 Taking on the Functions of Existing Public Authorities

Clause 6 of the Bill would insert a new section 105A into the Local Democracy, Economic Development and Construction Act 2009.⁵¹ This would enable the Secretary of State to allow, by order, for any power or function which is exercisable by local public bodies or a Minister, in relations to a particular combined authority area, to be undertaken by that combined authority. This would be done either jointly with that public body or the combined authority would take over the role of the public authority entirely.⁵² The order may enable the transfer of property, rights and liabilities from the public authority to the combined authority or abolish the public authority if it no longer had any functions. This order would be made either following a proposal from the relevant public authority or following the consent of an existing combined authority, accompanied by a decision of the Secretary of State that this change would improve the exercise of these relevant functions.⁵³

4.3 Other Provisions concerning Combined Authorities

Funding of Combined Authorities

Clause 8 of the Bill would provide combined authorities with the opportunity to raise levies and borrow money.⁵⁴ This would amend section 74 of the Local Government Finance Act 1988 to allow the Secretary of State to make regulations to enable a combined local authority to levy for transport or other specified non-mayoral functions with the consent of the constituent councils. However, a levy may not be introduced for those functions which are exercisable individually by the mayor.⁵⁵ Clause 8 would also amend the section 23 of the Local Government Finance Act 2003 to allow the Secretary of State, by making an order, to enable combined authorities to borrow to fund these specified functions, with the consent of the constituent councils. These regulations would be subject to affirmative procedure in Parliament, requiring the active consent of both Houses.⁵⁶

⁴⁷ This is established in the relevant sections contained in Part 6 of Local Democracy, Economic Development and Construction Act 2009.

⁴⁸ DCLG, [Cities and Local Government Devolution Bill: Explanatory Notes](#), 28 May 2015, p 8.

⁴⁹ *ibid.*

⁵⁰ *ibid.*

⁵¹ *ibid.*

⁵² *ibid.*; and DCLG, [Cities and Local Government Devolution Bill: Memorandum by the Department for Communities and Local Government and Home Office to the Delegated Powers and Regulatory Reform Committee](#), 28 May 2015, p 11.

⁵³ DCLG, [Cities and Local Government Devolution Bill: Explanatory Notes](#), 28 May 2015, p 8.

⁵⁴ *ibid.*

⁵⁵ *ibid.*

⁵⁶ DCLG, [Cities and Local Government Devolution Bill: Memorandum by the Department for Communities and Local Government and Home Office to the Delegated Powers and Regulatory Reform Committee](#), 28 May 2015, p 13.

The memorandum to the Delegated Powers and Regulatory Reform Committee, published by DCLG and the Home Office, has stated that all the constituent councils would be responsible under the regulation for maintaining these revenue streams in support of these agreed combined authority functions.⁵⁷ However, the memorandum also states that funding from a particular group of the constituent councils might be possible on particular projects:

[...A] combined authority may be incurring expenditure on specific one-off projects to which only some of its constituent councils wish to contribute; it would be appropriate for such expenditure to be funded by agreed contributions from the councils concerned, not by a general levy.⁵⁸

Overview and Scrutiny Committees

Clause 7 of the Bill would add a new Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009 which would require all combined authorities to establish one or more overview and scrutiny committees.⁵⁹ New Schedule 5A would establish how these committees are to be constituted and how they would operate, including what obligations there would be on individuals to respond to their reports and recommendations.

General Power of Competence

The Bill would enable the same general power of competence currently enjoyed by individual local authorities to be extended to combined authorities.⁶⁰ Clause 9 of the Bill would enable the Secretary of State to make an order, with the consent of the constituent councils, conferring on a combined authority a general power of competence. The general power of competence is specified in Chapter 1 of the Localism Act 2011 and gives local authorities the same power to act as an individual, provided they are not prohibited from doing so by other legislation.

5. Changes to Local Authorities in England not forming a Combined Local Authority

The Bill would also enable the Secretary of State to propose changes to the role and the powers of local authorities in England, where it may not be appropriate for existing local authorities to establish a combined authority. Clause 10 of the Bill would enable the Secretary of State to make regulations concerning the governance arrangements of local authorities as well as their constitution and membership.⁶¹ The Secretary of State would also be able to make regulations with regards to the structural and boundary arrangements of local authorities.⁶² The Government has stated that these changes would only be made with the consent of the local authorities to which the regulations would apply, as part of Devolution Deals.⁶³ The regulations would be subject to the affirmative procedure in Parliament, requiring the active consent of both Houses.⁶⁴

⁵⁷ *ibid.*

⁵⁸ *ibid.*

⁵⁹ DCLG, [Cities and Local Government Devolution Bill: Explanatory Notes](#), 28 May 2015, p 11.

⁶⁰ *ibid.*

⁶¹ DCLG, [Cities and Local Government Devolution Bill: Explanatory Notes](#), 28 May 2015, p 9.

⁶² *ibid.*

⁶³ DCLG, [Cities and Local Government Devolution Bill: Memorandum by the Department for Communities and Local Government and Home Office to the Delegated Powers and Regulatory Reform Committee](#), 28 May 2015, p 15.

⁶⁴ *ibid.*

The Government has stated these regulations would be introduced in the following context:

The expected context in which this power will be used is that where Devolution Deals, conferring powers and budgets on an area, are agreed by the Government with areas where it may not be appropriate simply for the existing councils to establish a combined authority.⁶⁵

DCLG's Explanatory Notes to the Bill provide the following example of when the powers outlined in Clause 10 might be used:

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.⁶⁶

The *Local Government Chronicle* has reported that the proposals in Clause 10 function to extend the devolution agenda beyond combined authorities.⁶⁷ The paper reported the following comments from Paul McDermott, partner in the public sector commercial department at legal firm Trowers and Hamlins, concerning the scope of Clause 10:

This opens the door to a form of devolution for counties that might at the moment not be as full-on as it is for combined authorities but [the legislation] is not over-limiting about what is going to be devolved to them either.⁶⁸

6. Reaction to the Publication of the Bill

6.1 Local Government

Following the publication of the Cities and Local Government Devolution Bill, the *Guardian* reported reaction from local council leaders to the Government's proposals.⁶⁹ This included comments by the chief executive of Birmingham City Council, Mark Rogers, who welcomed the Bill and argued that it presented an opportunity for liberating cities and city regions from what he described to the paper as "the inertia of central government diktat".

The *Birmingham Mail*, reporting on a visit by the Chancellor of the Exchequer, George Osborne, to the city following the publication of the Cities and Local Government Devolution Bill, stated the following support in the region for the creation of a mayoral combined authority:

Birmingham, Walsall, Dudley and Sandwell councils have already agreed in principle to create a new combined authority which could take control of housing, public transport,

⁶⁵ *ibid.*

⁶⁶ DCLG, [Cities and Local Government Devolution Bill: Explanatory Notes](#), 28 May 2015, p 9.

⁶⁷ David Paine, "["Permissive" Devolution Bill Leaves Door Open for County Deals](#)", *Local Government Chronicle* (£), 29 May 2015.

⁶⁸ *ibid.*

⁶⁹ Kim Thomas, '[Public Service Reform: The Challenges that Lie Ahead](#)', *Guardian*, 2 June 2015.

policing and more, while Solihull and Coventry have both announced their intentions to join.

[...] In a statement on behalf of all the authorities involved in the planned new body, Sandwell Council leader, Darren Cooper, said: “for our area this is a once in a generation opportunity to move power from Whitehall to the West Midlands and have a much bigger say in making the key decisions that will drive economic growth in relation to transport, housing, regeneration and jobs”.

“There is a real sense of urgency in the region and politicians are grasping the nettle to transform how our councils work together and to present a credible, ambitious and compelling business case to government”.⁷⁰

Prior to the publication of the Bill, the chair of the Combined Authority for Merseyside and Halton councils, Councillor Phil Davies (Labour), has stated his opposition to the creation of an elected mayor being a condition of the devolution of further powers to Merseyside.⁷¹ He has argued that a referendum on the creation of an elected mayor should take place prior to the finalisation of any agreement with central government.

6.2 House of Lords

In the debate following the 2015 Queen’s Speech, there was broad support for the principle of greater devolution of power for local authorities, although Members of the House of Lords raised the issue of how the proposals might best be implemented. During his contribution to the debate, the Bishop of Leicester stated that there was “much to applaud” in the Bill, citing conversations he had had with people in the East Midlands who had said that the balance of power between local and central government was not right.⁷² However, the Lord Bishop quoted comments by the elected city mayor of Leicester, Peter Soulsby, who had said that it was “important that differences in local political geography are recognised” when creating new local governance structures.⁷³

The Labour frontbench spokesperson for Communities and Local Government in the House of Lords, Lord Beecham, stated his support for the devolution of powers envisaged by the Cities and Local Government Devolution Bill, arguing that the plans should be extended across the whole of local government and not only “a few essentially urban areas”.⁷⁴ He also argued that the Government had undermined the role of local government through cuts in funding and a failure to reform council tax bands and that the Government should reinstate regional offices as a means of ensuring better collaboration between Whitehall departments and agencies and local authorities.⁷⁵

The Liberal Democrat frontbench spokesperson for Communities and Local Government in the Lords and vice-president of the Local Government Association, Lord Shipley, spoke to offer his

⁷⁰ Jonathan Walker, ‘[Chancellor in Birmingham to Urge Council Leaders to Create West Midlands Super-Council](#)’ *Birmingham Mail*, 29 May 2015.

⁷¹ Liam Murphy, ‘[Referendum on Merseyside Metro Mayor Moves a Step Closer](#)’, *Liverpool Echo*, 14 May 2015.

⁷² *HL Hansard*, 1 June 2015, [cols 176–8](#).

⁷³ *ibid.*

⁷⁴ *HL Hansard*, 2 June 2015, [cols 334–7](#).

⁷⁵ Kate Proctor, ‘[Lord Jeremy Beecham Claims Government not pledging Enough to Protect Local Councils](#)’, *Newcastle Chronicle*, 2 June 2015.

support for the “broad thrust” of the Government’s policy on devolution.⁷⁶ He welcomed the indication from the Government that the Bill would provide the opportunity for local devolution outside city areas, and argued that the devolution of powers from Westminster must include those necessary to ensure that more housing could be built.⁷⁷

During the debate on the 2015 Queen’s Speech, Lord Purvis of Tweed (Liberal Democrat) argued that the devolution of power to local authorities in the UK ought to form part of the broader discussion of the way in which the UK was governed.⁷⁸ Lord Purvis has sponsored a private member’s bill in the 2015–16 session, entitled the [Constitutional Convention Bill](#), which would establish a convention to consider the constitution of the UK. Lord Norton of Louth (Conservative) also spoke in favour of the need to look at the constitution of the UK as a whole, as part of what he considered should be a ‘constitutional convocation’. Lord Norton advocated a move:

[...] from the current approach of generating measures that are disparate and discrete and look at our constitution as a whole. Let us take the measures in the Queen’s Speech that affect different parts of the United Kingdom. It is not just that we have a Scotland Bill, a Wales Bill and a Northern Ireland Bill. We also have a Cities and Local Government Devolution Bill. I am not suggesting that we have a grand, all-encompassing devolution Bill [...] but I think that these measures make the case for standing back and making sense of how the different parts of the United Kingdom fit together. Otherwise, we are in danger of creating a rather haphazard and potentially unstable patchwork.⁷⁹

Background information on constitutional conventions is provided in the House of Lords Library Note [Constitutional Conventions: Possible Options in the New Parliament](#).⁸⁰

6.3 House of Commons

Jonathan Edward, the Plaid Cymru MP for Carmarthen East and Dinefwr, speaking on the first day of the House of Commons debate on the Queen’s Speech, criticised the Bill in the context of the Government’s devolution proposals for Wales.⁸¹ He argued that the Cities and Local Government Devolution Bill could lead to a situation where cities in England would have more devolved power than the Welsh Assembly Government. He also said that the devolution settlements for local government bodies in England could be introduced without the need for a referendum, while a referendum might be required before changes could be made to the devolution settlement in Wales.⁸²

On 3 June, the House of Commons held the fifth day of its debates on the 2015 Queen’s Speech, concentrating on the issues of devolution and growth across Britain.⁸³ During this day’s debate, the Shadow Secretary of State for Business, Innovation and Skills, Chuka Umunna, moved an amendment to the motion for the humble address to indicate the House’s regret at

⁷⁶ HL *Hansard*, 2 June 2015, [cols 393–5](#).

⁷⁷ *ibid.*

⁷⁸ HL *Hansard*, 1 June 2015, [cols 228–9](#).

⁷⁹ *ibid.*, [col 233](#).

⁸⁰ House of Lords Library, [Constitutional Conventions: Possible Options in the New Parliament](#), 20 March 2015, LLN 2015/008.

⁸¹ HC *Hansard*, 27 May 2015, [cols 98–9](#).

⁸² *ibid.*

⁸³ *ibid.*, 3 June 2015, [cols 611–704](#).

the Government’s “piecemeal measures” on devolution across the UK.⁸⁴ The motion also stated that devolution needed to be broader and more coordinated than “a limited series of one-off deals done by the Chancellor”. This motion was defeated in a division, the first of the 2015–20 parliament, with 331 votes against the motion and 275 in favour.⁸⁵

6.4 Campaign Groups and Think Tanks

Following the announcement in the 2015 Queen’s Speech that the Government was to introduce a Bill in the 2015–16 session on the devolution of power to local government, the Local Government Association (LGA) stated that the Government’s plans for devolution in England should reach all parts of the country, including non-metropolitan areas, if it were to successfully meet England’s economic and social challenges.⁸⁶ In May 2015, the LGA published a report entitled [English Devolution: Local Solutions for a Successful Nation](#). This report included proposals for devolution of power to local authorities which, the LGA argued, could save between £9.4 billion and £20.6 billion over five years across local and central government.⁸⁷

The *Guardian* has reported comments from Gillian Fawcett, head of public sector at the Association of Chartered Certified Accountants, and Jacqui McKinlay, executive director of the Centre for Public Scrutiny, who have both argued that the increased devolution of powers must be accompanied by appropriate levels of scrutiny and accountability in local government.⁸⁸

The chief executive of the Local Government Information Unit think tank, Jonathan Carr-West, argued that the devolution of fiscal power to local authorities would be essential over the next five years if local government was to maintain services in the face of further cuts to funding from central government:

Having already cut central government funding by about 40 percent since 2010 we are now looking at about the same level of cuts again over the next parliament. Effectively the revenue support grant will vanish to the point of irrelevance.⁸⁹

Mr Carr-West argued that the ability of local government to maintain good levels of satisfaction amongst the public with council services had been “one of the great untold success stories of the last five years”.⁹⁰ Savings had been achieved through reducing head count, rationalising assets and more efficient commissioning of services, Mr Carr-West wrote. However, for local government to be able to maintain consistent levels of services, he argued that further devolution of fiscal powers to local authorities was necessary. Although the Local Government Information Unit welcomed the Cities and Local Government Devolution Bill, arguing that it presented “a real opportunity to rebalance the political and economic landscape of the UK away from Westminster”, Mr Carr-West stated that the Government needed to go further to achieve “real fiscal devolution”. He also argued that local authorities must be allowed to develop their own plans for devolution, specific to their area, and “a cumbersome Whitehall led process for devolution” should be avoided.

⁸⁴ *ibid.*, [cols 611–20](#).

⁸⁵ *ibid.*, [cols 698–704](#).

⁸⁶ LGA, [‘LGA sets out Alternative Proposals to Cities Devolution Bill’](#), 21 May 2015.

⁸⁷ LGA, [English Devolution: Local Solutions for a Successful Nation](#), May 2015, p 7.

⁸⁸ Kim Thomas, [‘Public Service Reform: The Challenges that Lie Ahead’](#), *Guardian*, 2 June 2015.

⁸⁹ Jonathan Carr-West, [‘Local Government Needs Fiscal Devolution, More Power in the Hands of Councils and Communities and Respect from the Centre’](#), Democratic Audit UK, 2 June 2015.

⁹⁰ *ibid.*