Summary

• LGIU has provided extensive coverage on devolution debates in the run up to the general election, in the major 'Devolution - A Road Map' report, and most recently in a briefing covering the second reading of the Cities and Local Government Devolution Bill. This briefing, therefore, seeks to provide advice and support to local authorities (LAs) and partners who are formulating and refining propositions for enhanced devolution in response to the Bill and wider policies of the new government.

• LAs have a number of options and choices in undertaking these types of exercises. Options explored here include the choices around elected mayors and Combined Authorities governance; issues of economic and administrative geographies - especially outside 'metropolitan city-regions'; the relationships between local growth devolution and broader public service reform; the role of other non-LA partners (e.g. business, HE, FE etc) both local and national.

• Whilst there is no single 'right' way to formulate an enhanced devolution case, a suggested approach which at least considers options and choices fully is outlined. The approach is tested against the Devolution Bill proposals.

• LAs also need to influence the final shape of national legislation and policies through individual and collective lobbying and advocacy. This is likely to be more cohesive and effective if a number of 'difficult issues' can be addressed.

• The briefing will be relevant to councillors and officers across all areas and all tiers of local government - particularly those involved with economic development, public service reform, Combined Authorities (CAs) and other types of intermediate tier governance in England.

• There is also read-across from England to local government in the devolved administrations, who may wish to progress their own enhanced devolution ambitions as new constitutional relationships are adopted between UK and Scotland, Wales and Northern Ireland administrations.
Government has moved swiftly to progress its devolution manifesto commitments. The Cities and Local Government Devolution Bill was announced in the Queen's Speech, and introduced in the House of Lords two days later. It had its second reading on 8th June and the House of Lords committee stages begin on 22nd June.

A detailed description of the Bill and some of the work that will need to be explored during its passage are laid out in the June Briefing, Devolution: 2nd reading of cities and local government devolution bill. Therefore, only the major points pertinent to the LA response will be summarised here.

The major intentions of the Bill are to give effect to the Greater Manchester Devolution Agreement, its elected mayor provisions, and subsequent measures announced prior to the general election (such as the devolution of health and social care integration responsibilities to Greater Manchester - i.e. GMCA - leadership).

Alongside the Queen's Speech and the Bill, the Chancellor has added some detail to his 'northern powerhouse' ambitions. These emphasise his requirement for single identifiable points of direct accountability (i.e. elected mayors) for ambitious metropolitan areas seeking greater powers and devolved resources. This has stimulated reconsideration of mayoral models in at least the other 2014 Combined Authorities (Liverpool City Region, North East, South and West Yorkshire).

The second reading of the Bill, and, indeed, speeches by CLG Ministers have supported the Chancellor's mayoral position, but insisted that elected Mayors will not be imposed. However, CAs or other intermediate forms of governance without direct democratic credentials are likely to be afforded lesser 'deals' as devolution proceeds.

In framing a legislative instrument that will have relevance throughout England (although arguably not in London), the Bill sets out reforms in a more general form. It seeks to allow Combined Authorities to adopt elected mayor governance, and to assume a much wider portfolio of roles and functions than those envisaged under the Local Democracy, Economic Development and Construction Act (LDEDCA 2009 - the legal basis of CAs). It suggests a permissive approach to governance, structures and boundaries proposals in areas where CAs may not be appropriate.

As a piece of 'enabling legislation', the powers for and judgements on implementing its provisions lie with the Secretary of State. In many ways, the government has set out a relatively 'blank canvas' for enhanced devolution over 2015-20. This raises a series of questions on how LAs - individually and collectively - will fill in this canvas.
Building the case - 'first principles'

If the ‘relatively blank canvas’ description above is accepted, the December 2014 briefing, English devolution and intermediate tiers of governance, set out a structured process for LA-led formulation of enhanced devolution offers and asks. LAs and/or consortia of LAs with partners may wish to work through this type of list:-

1. "What are the distinctive, improved outcomes that can be delivered more effectively with any enhanced devolution (or decentralisation) arrangements?"
2. What areas of activity should therefore be in-scope and out-of-scope of specific proposals?
3. Which specific national policies and programmes are therefore ‘in-scope’?
4. Does delivering the improved results require an ‘intermediate tier’ of leadership and governance; and if so, on what geography/administrations; and are any of the models on offer ‘fit for purpose’?
5. Do the answers to Q3 & Q4 require structural and/or statutory reforms? If so, what should be the agreed process for negotiating and progressing these?
6. What instruments (e.g. multi-annual settlements, city or growth deals etc) and resources (e.g. capital grants, borrowing, retained business rates, ‘earnback’ mechanisms etc) are required to deliver the improved results?
7. How far can the agreed priorities be fast-tracked through opportunistically using or tweaking existing policies and programmes?"

Whilst there are different starting points for different LAs and sub-regions, and the process might not be followed strictly sequentially, the ‘blank canvas’ framework proposed by the Bill does make the above process a good discipline for proposition formulation. It resonates with the LGIU's own report, Devolution - A Road Map, which also sees devolution as a locally-led, bottom-up dynamic to which a government committed to localism should respond.

The 'Devolution Bill' and accompanying government statements are relatively clear that for the first stage of the process, the purposes of enhanced devolution should be, ideally, a combination of both improved outcomes and efficiency savings. At the very least, there is unlikely to be national support for propositions that cannot credibly demonstrate efficiency savings.

This point is important. To date, CAs have tended to eschew organisational propositions arguing for rationalisation and integration of functions at the CA level to achieve economies of scale and efficiency dividends. On the contrary, there is a well-founded reluctance to propose new layers of bureaucracy to citizens, and a LA suspicion of loss of sovereignty through ceding singular functional responsibilities to CA level structures and purposes. If, though, ‘savings’ becomes a ‘dog that barks’, the question of CA-level organisational forms and functions will become relevant - in the same way the GLA officer corps is vis-a-vis the Mayor and London Boroughs.
The Bill leaves the second and third elements of the 'building the case' process (what is in and out of scope locally and nationally) very much a matter of local discretion. This would be central to the construction of local offers and asks.

Probably the key choice to be made for the first three sections of any case building is whether the focus is going to be on local growth agendas - economic development, planning, transport and infrastructure, skills and employment; whether it is on mainstream public service reform - notably health and social care integration, young persons and elderly services, community safety; or both.

Process point 4 - the intermediate tier question - is challenging and interesting. The Bill provides a much more permissive approach to the role and functions of CAs. It also enables governance, structure and boundary reforms in (unspecified) circumstances where a CA may not be appropriate. It has suggested that 'devo-max' is only on offer for mayoral CAs; but has left prospects of 'deals' for non-mayoral CAs, and for bespoke constructs in non-CA areas 'on the table'.

A first consideration for LAs is whether there is still an argument to be made, and on what criteria, for 'deals' with individual LAs. This might well be relevant, for instance, for some Key Cities or for a unitary county like Cornwall. In principal, LAs might seek agreement with government on issues like multi-annual settlements, business rates and property taxes devolution, accelerated planning (and enterprise) zones, forward-funding and borrowing, public services boards and asset-backed vehicles – without having to create intermediate leadership, governance and institutional arrangements.

Secondly, is there a 'critical mass' for CAs and/or other bespoke arrangements? As the Bill stands, two small counties or unitaries might be able to make a case for a CA or bespoke deal. Beyond the core city regions, if the criteria for intermediate tier leadership and governance is local growth, this suggests a quite different set of geographies than if it is health and care integration. The offer of elected mayors taking on PCC functions adds a further layer of complexity.

Third, there is a more general 'England conundrum' of intermediate tier governance. Administrative regions (outside London) have tended to command modest public support, and have been regarded as top-down national impositions by LAs. Even city region-based metropolitan counties - in both public and LA terms - have a mixed track record, as the muted response to abolition in the 1980s shows.

The Bill is silent on the issue of referendums to legitimise intermediate tier arrangements, and propositions are very much within the 'gift' of LAs. Nevertheless (as for instance with Smith Commission recommendations on Scotland), LAs will wish to consider measures, within any proposals, for legitimising new intermediate tier governance arrangements with the citizens and communities affected.
Process point #5 - on statutory and structural reforms - is not really augmented by the Bill in terms of formulating an initial proposition. There still needs to be a governance review, consultation on proposed reforms, and approval of all constituent councils - prior to Secretary of State and parliamentary processes. Presumably this will also be the expected process with non-CA proposals.

There are, however, changes to make it easier to amend schemes for existing CAs, and also to enable an individual LA to leave a CA when such changes are made.

LAs building a case probably need to reflect on the character of governance review (and consultation) they undertake in support of a proposition. 2014 and aspirant CA reviews (such as the Nottingham and Nottinghamshire, Derby and Derbyshire - 'N2' and 'D2' - proposals) are a mixed bag of methodological approaches. They vary widely in level of detail. They undertake limited appraisal of alternative options, and of impact assessment on neighbours.

The Bill reconfirms a Secretary of State requirement to assess these issues. LAs, and the LA community in general, therefore may wish to form a view on 'what makes a good, robust governance review'? This will be particularly important for two tier areas adjacent to, and/or where district councils are members of, existing CAs. Arguably, for instance, the N2 and D2 reviews deal much too lightly (and differentially) with the options for relationships with and the impact on Sheffield City Region/South Yorkshire CA.

On the sixth and seventh elements of a 'building the case' process, the Bill and the second reading make it clear that enhanced devolution will continue to be a negotiated (and competitive-oriented) 'deal'-based process. Local leadership teams will build a case and negotiate it on an item-by-item and department-by-department/agency-by-agency basis. The Secretary of State then has discretion and powers to determine and enact the outcomes of those negotiations.

At one level, 'deals' are an intuitively sensible approach to functional 'multi-level governance, and constitutionally correct. It instills a helpful discipline and specificity into bottom-up case-building, compelling local leadership teams to define precisely what they are seeking, and for what outcomes/results (both nationally and locally).

Alternatively, however, this could become the antithesis of devolution - deal-based 'field administration', of results government wants CAs to achieve; with ministerial patronage of powers and resources government will cede in order to deliver them.

The LA community may wish to act collaboratively in three related areas. Firstly, to firm up the roles and functions that are on a potential menu for enhanced devolution - especially those currently outside the local growth 'orthodoxy' (of transport; skills and employment; some elements of housing and planning; and some co-design of business support/growth hubs). Can skills, for instance, include higher level HE and/or some parts of the school agendas? Innovation, welfare, environment, etc., are also contested policy domains where 'new national-local settlements' may be sought.

Second, there remains a huge issue around fiscal devolution - with both Treasury and local leadership teams seemingly reluctant to consider strategic 'game-changers' in deal-based approaches. (City and Growth) Deals to date have tended to be an instrument for distributing government capital grants - when the major...
challenges facing LAs over the coming period will be revenue resourcing. Fiscal devolution is explored further in the section below.

Third is the whole principle of 'deal-based' devolution. The major principles are explored further below, but, at a practical, tactical level, issues to be determined include 'how long a deal lasts?', 'how and by whom may it be changed'? The Bill's default position is the Secretary of State, with unanimous agreement of the CA constituent authorities (of whom a maximum of one could leave if they dissent).

The briefing is NOT arguing that the above process is the only or the best framework for 'building the case' for enhanced devolution. However, it does try to assist LAs and LA consortia think through the components of a case - and to understand how the Devolution Bill addresses these. It illustrates the complexity and challenges of building a compelling case - whether for existing CAs, or for other ambitious areas.

Comment

Introduction

There should be opportunities for LAs to raise issues related to the narrative above during the passage of the Bill. Addressing these points forcefully and persuasively, though, probably requires the LA community to act cohesively and collectively. To do this, there are a number of 'even more difficult issues' that need to be addressed. Some of these are considered in the section below.

Building the case II - (even more) 'difficult issues'

Elected Mayors

The apparent adoption by George Osborne of an elected Mayor as a prerequisite for a 'devo-max' deal is a major value judgment by government. They have never presented the evidence that has persuaded them to assert that directly elected (metro-)Mayors are effective (and in what terms). Indeed, the track record in England for 2000 Act Mayors is mixed.

Nevertheless, in the face of Osborne's Manchester speech, and Clark's apparent backing at CLG, a Centre for Cities blog suggested the debate on elected Mayors has moved on from whether or not to have one, to how powerful the post-holder should be. In the same week, The Economist quoted a prediction from Tony Travers (LSE and London Finance Commission) of six metro-mayors being in place by 2020.

Whilst these comments may be premature, local leadership teams should revisit the case(s) for elected mayors. England already has the London Mayor, operating at 'world city'/regional scale, and sixteen further directly-elected mayoralities. These cover a total population of 3.6 million, including two core cities. So, there is significant experience on which to draw in positing a post-Devolution Bill proposition.
In appraising such a proposition - in terms of focus and powers - LAs have a number of strategic choices that could be rehearsed in devolution proposition formulation.

First, an elected mayorality must strike a balance between a relatively tight focus on local growth, and responsibility for public services reform as a whole. The genesis of metro-mayor debates, and the content of 'city deals', tended to emphasise the former. However, Greater Manchester agreements have extended to health and social care integration. The Bill explicitly allows Mayors to encompass Police and Crime Commissioner roles.

Second, there is a difference between strongly executive mayoral models, and those where the Mayor is more of an influencer and place advocate.

Many existing Mayors have assumed direct executive leadership of functional services (including Mayors of Liverpool and Bristol), with managerial responsibilities for the performance of their administrations. In principle the metro-Mayor may take over (or be assigned by the Secretary of State) singular leadership of specific functions, and may precept for the discharge of those responsibilities. However, the Greater Manchester agreement suggests more a 'collaboration of equals' with Leaders of Constituent Authorities. To date, no Combined Authorities (CAs) have envisaged distinctive operational teams akin to London's GLA.

The strategic champion of place, influencing major local institutions, chairing the Local Enterprise Partnership is a key mayoral rationale, particularly for local growth agendas. This role has been central for the London Mayor. However, how effective would that have been without a directly-reporting administration (the GLA paid service) with powers and resources to execute mayoral decisions?

Third, there is nothing, a priori, to prevent intermediate tier directly-elected mayors in non-metropolitan settings (even in county two tier areas). The Devolution Bill is a blank enough canvas to enable non-metropolitan areas to devise a quasi-mayoral proposition. Indeed some such areas have floated a 'weak-Mayor' variant of the model - building on experience with, for instance, 'Lord Lieutenants' who are appointed by the Queen, or directly-elected Police and Crime Commissioners.

Fourth, the local government community as a whole (e.g. through the LGA) has been quite reluctant to accommodate mayoral models in their national working (for instance in formula to determine LGA political control and operational boards). It makes sense to revisit the treatment of mayoral and CA level authorities as the Devolution Bill becomes an Act and is thereafter implemented.

Fiscal Devolution

Scotland Bill and other devolved administration (DA) reforms envisage increasing DA autonomy for revenue-raising and borrowing. This includes income and property-based taxes. London Finance Commission/GLA ambitions for property-based and other fiscal devolution are still 'live'. England local government will be at considerable
disadvantage (for local growth AND social policy) if the enhanced devolution landscape does not address an element of substantive fiscal devolution.

Some 'building blocks' have been laid - Business rates retention, the power to levy supplements (as per Crossrail) and the March 2015 budget 'whole-retention' pilots; TIF; Local Government Municipal Bonds Agency etc. 'Earnback' and 'Gainshare' were proposed in some city deals - but there appears to be some reversion on putting these into full practice. There are a number of other proposals and ideas that have been floated. There is also an intriguing set of questions around the potential for Mayoral precepts, CA levies, and CA borrowing.

However, arguably, outside the DAs and London, fiscal devolution remains tactical and incremental rather than transformational. There are specific cases to be made for greater freedoms and flexibilities on council tax, business rates, Housing Revenue Account (borrowing), fees, and charges. There is a debate to be had concerning the extension of DA and London reforms to other areas of England. Within this, the requirements for changes to national funding formulas and resources equalisation according to need have to be resolved. Certainly, the impact of agreements with DAs, London, GMCA, and even of city and growth deals on adjacent and other areas, has not been well-covered in 'deals' to date.

The resolution of these issues in advance of implementation of further reforms - especially any that covered London whose influence on national resource availability is huge - is urgent for both Government and LAs. Otherwise, a 'deal-based' system, whose legislative basis provides the Secretary of State with extensive discretion, is likely to come under increasing challenge through the courts from aggrieved areas.

Economic and administrative geographies

This briefing has already commented on the England 'intermediate tier' conundrum, major mismatches between economic geographies and convenient administrative governance, uncertain impact of asymmetric reforms on neighbouring areas. Government continuously adds complexity to these issues - with LEPs, CAs, PCCs, health and care administrative constructs potentially part of Devolution Bill equations.

It is extremely challenging for local leadership teams - especially those across administrative boundaries - to reconcile and make sense of the geography of enhanced devolution, and what government is trying to achieve through it. This is the case at both 'regional'/pan-regional and local levels.

For instance, what is the 'northern powerhouse' in terms of geography, purposes, and instruments for achieving those purposes? Osborne's 'building a northern powerhouse' moved seamlessly between individual 'deals' for major infrastructure investment and scientific institutes; devolution to city regions adopting metro-mayors; to the concept of a cohesive 10 million population 'region' of Liverpool, Manchester, Leeds, Sheffield, Lancashire, Cheshire and Yorkshire. And it is not entirely clear whether the purpose of the policy is national rebalancing away from London and the Greater South East; or a specific 'northern' response to Scotland's new powers.
Each of the ‘northern powerhouse’ purposes and strategies requires different sets of spatial structures and processes.

How would a web of CAs in different stages of evolution, LAs, LEPs and government agencies collaborate to shape a meaningful, joined up ‘northern powerhouse’. What’s ‘in it’ for the many struggling cities and communities of the north? And what does a ‘northern powerhouse’ mean for CAs and consortia of LAs in other parts of England?

There is now also major complexity and confusion for ‘city leadership’ of urban policy. London is unique, and GMCA seems to be similarly a ‘special case’ in its mix of geographical coherence, institutional longevity (with AGMA working collaboratively since the mid-1980s) and leadership stability.

Core Cities Group has tended to set the pace for urban policy outside London, but de facto is only a group of eight individual metropolitan city councils. Each faces highly differentiated CA and ‘city region’ contexts; relations with Key Cities, other metropolitan neighbours, county and district councils and LEPs etc. How far will practical difficulties of either replicating ‘devo-Manc’, or of positing a consistent ‘core city region’ model and process further balkanise enhanced devolution 2015-20?

There is the enduring challenges of non-metropolitan two tier areas. Should these be structured around ‘regional cities’, administrative counties, or a consortia of both to achieve critical mass and profile? In this respect, the Devolution Bill’s offer of bespoke arrangements might either be a catalyst for innovation, or spark a further prolonged bout of unitary campaign conflicts.

There is no obvious solution to these issues. However, there is a real risk that the complexity and incoherence of asymmetric arrangements will be so confusing to the public and local communities, that it will lead to a disengagement that will put enhanced devolution in some areas back a generation (e.g. as the Banham Commission did after the early 1990s.

LEPs and other partners

The arguments above look and sometimes sound like an increasing debate between national government and local councils.

It is increasingly clear that a focus on elected mayors and CAs under the LDEDCA or indeed the Devolution Bill relegates LEPs to a business advisory board (as is the de facto and de jure case in London); and other important role players (e.g. Universities, Colleges, social partners) to ‘consultees’.

This runs major risks for the LA community and their enabling and support of broadly-based local leadership teams. First, if LEPs are merely field administrations for government and EU programmes, and/or sounding boards for elected mayoral or LA Leader-led CAs, will business remain enthusiastic and proactive partners?
Second, with further impending revenue austerity, LAs increasingly need HE, FE and social partners at 'top tables' of local public decision-making and implementation.

**Capacity, commitment and performance management**

As can be seen from the above, LAs and partners need to mobilise and deploy major capacity to build well-founded cases individually and for the sector as a whole. With enduring revenue pressures, this will not be easy. In itself, this argues for sub-regional, 'regional' and sector-wide collaboration.

Central government, too, does not have capacity to process multiple, CA cases, and thereafter to manage and support such a differentiated patchwork of intermediate tier structures and processes. Necessary rationing by Government of the processing of enhanced devolution proposals is a further lever by which ministers can exercise patronage to 'cherry pick' favoured areas.

Both these contexts argue for collaborative and collective design, development and implementation processes, action learning, and evaluation programmes.

However achieving these does require LAs commitment to CAs to be much more deeply-rooted than mechanistically producing a GMCA-lite proposition in the expectation of receiving some degree of improved city deal dividend.

Paradoxically, a willingness to commit to devolving up functions to (shadow) CAs might deliver critical mass of capacity and capability, build a genuine rather than opportunistic pan-LA partnership, and deliver revenue savings to make CAs a win-win proposition for both government and LAs.

'Real' as opposed to 'shell' CAs will also help address a very underplayed area of the performance management of 'intermediate tier' structures. As things stand, it is very difficult, beyond peer Leader pressure, for a CA to bring a low performing constituent LA up to speed. There is no obvious mechanism for an elected mayor to do so - and nor has this ever been a role that the London Mayor (or GLA) has tried to discharge.

Nationally, there has been little discussion of how to define and respond to perceived 'failing CAs; and of the incentives and sanctions that might be brought to bear to improve performance.

**Conclusions: From 'deals' to devolution...**

Much of this briefing has been shaped by government's adoption of 'deals' as the overriding 'model' for progressing enhanced devolution ambitions in England. The Devolution Bill - with its 'blank canvas' approach to roles and functions of intermediate tier governance, and Secretary of State determination of proposals -
reinforces a deal-based model founded on ministerial and political patronage, rather than any clear criteria.

This need not have been the case. Proposals from other parties and think tanks (like the Cities Growth Commission) for some sort of Constitutional Convention and an independent Devolution Commission could have brought a more reflective rigour to post-general election progress. LGIUs own 'road map' report outlines a coherent consistent process towards progressing asymmetric propositions. Government, after the passage of the Bill, might consult on and produce more explicit guidance to shape and drive a rational approach to enhanced devolution. There might have been a requirement for public endorsement (perhaps a referendum) to give legitimacy to local 'deals'.

As things stand, though, it falls to individual and consortia of LAs with partners, and to the broader LA community, to bring a thorough and robust approach to enhanced devolution - and to mobilise community and partner support for it . It is hoped that this briefing provides some assistance in that important endeavour.

Related briefings

**English devolution and intermediate tiers of governance**, December 2014

**Leadership and governance of local growth: pre general-election round-up**, March 2015


**Devolution: 2nd reading of cities and local government devolution bill**, June 2015

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