



**Government Response to the House of Commons
Political and Constitutional Reform Committee Report:
The prospects for codifying the relationship between central and local
government**



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Presented to Parliament
by the Secretary of State for Communities and Local Government
by Command of Her Majesty

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**Government response to the Political and Constitutional
Reform Committee report:
The prospects for codifying the relationship between central
and local government**

Introduction

1. The Political and Constitutional Reform Committee announced in October 2010 that it was to conduct an inquiry into the prospects for codifying the relationship between central and local government in England. The Committee took oral evidence in 2010 and 2011 before seeking written comments on a draft code for relations between local and central government. The revised version of the draft code was published for wider public consultation from February to November 2012. The Committee published its report on 29 January 2013.

Committee conclusions and recommendations

2. Set out below are the Committee's general conclusions and recommendations about the potential for a new constitutional settlement for local government and the Government's response to each. The Government is responding to the potential for a new constitutional settlement for local government in England as distinct from the arrangements that define relationships between different tiers of Government in other parts of the United Kingdom. General conclusions and recommendations have been grouped together around similar points, and the Government has not responded to points that have been addressed to political parties.

Localism and decentralisation

We welcome the commitment of all parties to the concept of localism and the Government's willingness to devolve powers from Whitehall to local government. (Paragraph 33)

The constitutional position of local government is evolving. We hope the new City Deals will devolve powers and finance from central government to enable local councils to help tackle problems specific to their areas. We see this as a good start to a process which should continue until all local matters are dealt with locally. (Paragraph 39)

3. The Government welcomes the recognition given by the Committee that progress is being made. We share the same aims for localism. The Government also welcomes the Committee's continued interest and for sparking debate about the future.
4. The Government has consistently argued that power should belong at the lowest appropriate level. There are clear benefits from moving power away from Westminster and Whitehall: stronger local democracy, innovation and

local growth. In areas as broad as education, public health, welfare and planning, reforms that devolve power are now in force.

5. The Government has taken significant steps to free local government in England as much as possible from Whitehall control. The regional tier of Government has been removed; ineffective performance management has been abolished; and large amounts of costly bureaucracy have been eliminated. The Localism Act 2011 has passed power down, with the general power of competence reversing the position on local authority vires. The Act has also brought about a re-invigorated role for local councillors in the leadership of their area.
6. Responsibility for commissioning public health services have been decentralised to local government. School reforms are reducing bureaucratic burdens with accountability rooted in the power of parents and pupils. Police and Crime Commissioners provide a breakthrough in the accountability of police forces to local people.
7. City Deals are providing local areas with the tools to deliver economic growth for their communities and testing new and innovative ways of doing things. For example, powers and levers negotiated as part of City Deals for core cities include:
 - Earn Back: a payment by result model that incentivises investment in growth in return for a share of the national tax take. (Greater Manchester)
 - Local skills funding model: a new model of skills funding to provide a budget, which cities will control, to invest in the skills that local businesses need. (Sheffield City Region)
 - Rail devolution: devolving greater responsibility for commissioning and managing franchise arrangements for local and regional rail services (e.g. Northern Rail). (Bristol and West of England, Leeds City Region, Greater Manchester and Sheffield City Region)
8. The core cities have estimated that the new powers and tools negotiated in the first wave of deals will create 175,000 jobs over the next 20 years and 37,000 new apprenticeships. This process is also establishing a different relationship between localities and Whitehall, providing a determined focus on local economic growth to support UK economic recovery.
9. The Budget announced a further package for local growth and confirmed the Government's view that local leaders know what is best for their local economy. Further devolution of funding and flexibilities to local areas will also come through the second wave of City Deals that the Government hopes to conclude over the next year.
10. The Government has announced that it will be taking forward the vast majority of Lord Heseltine's recommendations in his review "No Stone Unturned". The Government views the City Deals process as the start of the dialogue on the move to a Single Local Growth Fund. We will draw on the process that has encouraged collaboration for wider economic benefit in exchange for greater freedoms – both within all City Deal areas and

Local Enterprise Partnerships. This means that every Local Enterprise Partnership will have a similar discussion by the end of this Parliament and will ensure that no place gets left behind.

11. This approach is fundamentally localist, making a further powerful case for increased devolution of economic power. Local Enterprise Partnerships already have strategic oversight of over £1 billion of local economic funding in this Parliament. The Government will devolve a greater proportion of growth-related spending by creating a Single Local Growth Fund that will bring together the key economic levers of skills, housing and transport funding at a local level.
12. Taken together, local authorities have unprecedented freedom and power to innovate and support their communities. The result is a shift in the balance of power with local communities put back in charge of their own affairs. We welcome the Committee's interest and ideas for further localism but they should be seen in the context of the action that the Government continues to take.

Codifying the relationship between central and local government

We have listened to the points that were raised during the consultation—not least those from local government—and attempted to address them. However, we repeat, the draft code is not designed to be a finished product and we would welcome similar engagement with central government to define it further. It is meant to illustrate what could be the first step in codifying the relationship between central and local government to give local councils the ability better to shape their services to the needs of local people. We believe that with further work such a code would be able to command widespread consensus and establish a settled constitutional role for local government. (Paragraph 63)

Even with the noblest of intentions, all previous attempts to rebalance the relationship between central and local government have had, at best, limited effect. With commitment and goodwill, this time it can be different. We see this report as the beginning, not the end, of the discussion. We believe that the next steps are to continue the dialogue with central government and to move, consensually, ever closer to a genuinely equal partnership between central and local government. We believe such a partnership would strengthen both the local and central arms of government. (Paragraph 119)

13. The Committee acknowledges the failure of previous approaches to codify the relationship between central and local government, such as the 2007 Central-Local Concordat. The Government believes this failure is less about legal status or content but because such documents are, first and foremost, about processes, rather than policy intended to improve outcomes. Instead of liberating local leaders, the codified relationship proposed could simply serve to focus energy on theoretical debate rather than shared-endeavour, problem solving and action.

14. The Government's approach is therefore to introduce policies, linked to legislative change where necessary, that increase powers of local institutions, enhance local accountability and transparency, reduce barriers that prevent people from doing things for themselves and reduce bureaucratic and regulatory burdens that take up time and energy. This avoids a "one-size-fits-all" approach and allows different responses to different challenges. It supports communities to do different things in different ways to meet their different needs.
15. For example, the general power of competence has fundamentally reversed the previous position of local authority vires. Local authorities should use it as their primary source of power, confidently and without seeking permission. Where they believe they have come across a barrier to using the power the Government is happy to look at removing such blockages.
16. The Government has demonstrated that it is possible to remove burdens through practical reforms. The Single Data List for local government, first published in 2011 by the Department for Communities and Local Government, has placed a limit on data collections from local government. Since 2010, nearly 30 per cent of the inherited stock of data collections has been stopped. The Government is seeking to remove further bureaucratic burdens placed on local authorities.
17. The Government's approach is necessarily incremental. But we believe this provides a more effective means to deliver reforms rather than seeking to establish a more rigid, constitutional blueprint through a statutory code.

Financing greater local autonomy

In looking at the traditionally complex area of local government finance, simplicity was our watchword. We have therefore proposed no change in income tax rates, no change in the method of income tax collection, and no change in the equalisation formula. The change we propose is that of 'tax transparency'. (Paragraph 87)

The concept of tax transparency would allow local people to see more clearly what their taxes pay for locally and encourage them to hold local councils to account for their expenditure. We recommend that central and local government seriously consider the concept of local authorities receiving a share of existing income tax, to see if a viable figure can, after careful consideration, be arrived at. (Paragraph 92)

On equalisation, we propose that the very same civil servants will continue to apply the equalisation formula. The only change we suggest is that in future they should be answerable to a joint board of representatives of central and local government. We urge that for the foreseeable future little or no change should be made to the equalisation formula. (Paragraph 109)

18. The Government agrees with the Committee that the transfer of power must be accompanied by greater local control of finances. We have described earlier the approach to economic growth. There is now much greater local control over finances. The system of local government finance has been changed from one that sustained dependency to one that rewards success. The scheme incorporates a safety net to provide support to authorities and proposals could deliver a £10 billion boost to national GDP by 2020.
19. Local authorities in England that are forward thinking, build more houses, create more jobs and start up new businesses now have a financial reward for doing so. Around 70 per cent of money spent locally will now be raised locally with local authorities keeping nearly £11 billion in business rates and the growth on that share – a direct financial incentive to help deliver economic growth. This is in addition to new borrowing powers to carry out Tax Increment Financing, which provides a powerful incentive to break down barriers to investment.
20. There are also macro-economic impacts from local taxation that need to be considered. The Government inherited the largest deficit since the Second World War (11.2 per cent of GDP in 2009-10) and is taking action to return the public finances to a sustainable path. By the end of 2011-12, almost 40 per cent of the annual fiscal consolidation planned for the Spending Review 2010 had been achieved, with almost 30 per cent of the spending and around 70 per cent of the tax consolidation in place. As a result, public sector net borrowing as a percentage of GDP has been reduced by more than a quarter over the last two years, falling from 11.2 per cent to 7.9 per cent of GDP between 2009-10 and 2011-12.
21. It is reasonable, therefore, for the Government to maintain oversight to ensure an efficient, predictable, simple and fair tax system in the national interest. Furthermore, the House of Commons should remain sovereign over taxation policy maintaining a fundamental and long established principle at the heart of the British constitution.
22. Like the Committee, the Government is extremely positive about the merits of greater transparency. While there are no plans to introduce arrangements as conceived by the Committee, the Government agrees the public should be able to hold local authorities to account through access to information on decisions the council takes and how they are spending public money. The Government intends to make the Transparency Code¹ a legal requirement, via regulations, to ensure council taxpayers can see how their money is being spent, what was purchased, for how much and from whom.

We recommend that the Government considers how it can take its devolution of financial powers further and looks closely at the merits of freeing local councils in England to raise additional revenue, but only with the consent of their electorates. (Paragraph 103)

¹ <https://www.gov.uk/government/consultations/improving-local-government-transparency>

23. The Committee's proposals suggest local authorities should have unlimited ability to introduce their own taxation policies subject to agreement from the local electorate. The Government believes there is little public appetite for introduction of additional new local taxation and has no plans to do so. The Government is convinced of the merits for greater local control, which is why there are new protections for council taxpayers through referendums and direct democracy.

A code for relations between central and local government

We would encourage the Government to examine the possibilities of a stronger constitutional status for local government, through an entrenched statutory code, or a similar proposal. For local government to be viewed as an equal, not a dependant, and a respected partner, not a subordinate, would provide a strong indication that the constitutional relationship of the centre to local government was maturing. Central government has it within its power to release the energy, creativity, and potential of the other half of government. (Paragraph 118)

24. Across all areas of public policy, the Government's default assumption is for decisions to be taken by those directly affected by the consequences of them. The Government is seeking to open up access and services across the public sector so that individual people and communities are in the driving seat. This requires the transfer of power beyond local authorities.

25. As such, rights for communities are now in force and being used up and down the country to help make it easier for people to shape their own neighbourhoods and services in the best way for them. The Government has also consulted on proposals for town and parish councils to play a greater role in services and on proposals that make it easier to set up new neighbourhood councils where they do not exist.

26. This is the transfer of power in action and will deliver the mature, respected relationship between central and local government that the Committee describes.

A code for relations between central and local government, enforced by statute, could be beneficial to both tiers of government for several reasons. First, it could help set out exactly where powers do, and should, lie, thereby increasing transparency for the electors. Secondly, it could help redress the over-centralisation of England. Thirdly, it could provide an economic boost that the country sorely needs. (Paragraph 120)

While the proposals in the draft code may seem radical to some, local government in much of Europe has enjoyed constitutional protection for decades. The devolution of power to Scotland, Wales, and Northern Ireland has been successful and is an evolving process. England is the odd one out. There is no apparent reason why local government in England is not capable of using similar powers. (Paragraph 121)

It might be helpful to many in local and national government to see the approximate shape of any piece of legislation that could give life to a statutory code. For this reason, we will seek to turn the illustrative statutory code into a draft Bill, as part of our ongoing work. (Paragraph 128)

27. Introduction of new legislation should be subject to proper scrutiny with concern given to the potential for unintended consequences.
28. The Government is concerned that any new statutory code could also serve to support an increasingly litigious culture. This is at a time when the Government is seeking to tackle red tape and safeguard Judicial Review as a critical check on the power of the State.
29. The Government would be interested in the substance of any draft Bill published by the Committee, and reaction to it. Regardless of the merits of a statutory code, the Government does not believe that the case has been made for any amendment to the Parliament Act or for treating legislation affecting local government differently from other statute.
30. The Committee expresses concerns about the increase in statutory duties placed on local authorities and suggests the proposed code be used to supersede them. In the Government's view, an attempt at such blanket reform is unlikely to be practical and would also serve to undermine important statutory protections in place for vital frontline services such as libraries and child protection. However, the Government will seek to legislate to remove bureaucratic burdens placed on local authorities.

Next Steps

We received a great deal of support for the idea of a code for relations between central and local government. We wish the Government to use this draft code as the start of a national conversation. We urge all interested parties to engage with the debate on how greater autonomy for local government could be achieved in a lasting and meaningful way. (Paragraph 79)

We have repeated throughout this report that we are not seeking to put forward a watertight answer regarding the decentralisation of power in England, but rather we are opening up for discussion some concepts which are used extensively elsewhere and could be successfully applied in England. (Paragraph 125)

There are several ways in which we propose continuing this dialogue. We have got to this point by careful consultation and close working with local government, by the excellent partnership that we have developed with the Local Government Association, and by listening to expert witnesses. We would like to extend this thoughtful process to include central government at political and official level over the next year or so. (Paragraph 126)

We will host a conference on this issue in 2013, to consider the next steps for the relationship between central and local government. We invite the Government, Parliament, and local government to attend and play an active part. (Paragraph 130)

We hope that the mature and sensible way in which we are engaging with local government and central government and many other partners, witnesses and consultees on this issue will be seen as a positive and exemplary way forward. We do not pretend to have all the answers but we do hope that we have posed the questions in a constructive and helpful way that will ultimately result in progress towards a settled constitutional position for English local government which will last for many decades into the future. (Paragraph 131)

31. The Government agrees that it is necessary to involve people beyond those with an interest in Westminster politics, Whitehall and local government institutions. The Government welcomes the prospect of the Committee's conference this summer and will participate fully in a debate about devolving responsibility and options for practical reform.
32. Reforming one of the most centralised countries in the western world requires an ongoing commitment of political will and attention. The prize at stake is a fundamental change in the relationship between citizens and the State.



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