



The Implications of Devolution for England

**Presented to Parliament
by the First Secretary of State and Leader of the House of Commons
by Command of Her Majesty**

December 2014

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Any enquiries regarding this publication should be sent to us at:

Cabinet Office
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SW1A 2AS

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Introduction

The Prime Minister said on 19th September 2014 that “the question of English votes for English laws – the so-called West Lothian question – requires a decisive answer... Just as the people of Scotland will have more power over their affairs, so it follows that the people of England, Wales and Northern Ireland must have a bigger say over theirs”. The Deputy Prime Minister said that “the West Lothian question...clearly needs to be settled” and that “we need a much more radical dispersal of power within England...we must guarantee a new, legal right for local authorities to demand powers”.

This paper sets out:

- How powers have been passed to the devolved administrations so far;
- What the Coalition Government has done to transfer powers from central government to local communities in England;
- Options for further devolution and decentralisation;
- The impact of the devolution landscape for the Westminster Parliament, in particular the West Lothian Question and the issues that would need to be considered in designing a way forward;
- How the Coalition parties might respond to these challenges in the next Parliament.

Chapter 1 – Devolution so far

Following referendums in Scotland and Wales in September 1997, the majority of voters supported the establishment of a Scottish Parliament with income tax raising powers and a National Assembly for Wales. In Northern Ireland, devolution was a key feature of the Belfast (Good Friday) Agreement, endorsed by voters in referendums held in both Northern Ireland and the Republic of Ireland in May 1998. Following the referendums, Parliament passed three devolution Acts establishing the devolved administrations and setting out their powers: the Scotland Act 1998; the Northern Ireland Act 1998; and the Government of Wales Act 1998. The Acts have subsequently been amended: in particular the Scotland Act 2012 extended the powers of the Scottish Parliament and the Government of Wales Act 2006 is now the central legislation underpinning the Welsh settlement. Elections to the devolved legislatures all involve an element of proportional representation, unlike in Westminster where MPs are elected on the basis of First Past the Post.

Powers are devolved in different ways in the three devolution settlements. Issues such as foreign affairs and defence remain reserved at a UK level, but there are a number of powers which are devolved in Scotland, Wales and Northern Ireland, for example agriculture, health and housing, while other powers such as policing and criminal justice are devolved to Scotland and Northern Ireland but not to Wales. Local government is devolved in each of Scotland, Wales and Northern Ireland.

Local Government in England

There have been a succession of Acts of Parliament setting out the structure and operation of local government since the modern principle of democratic government at a local level was established in the Municipal Corporation Act 1835. The effect has been to introduce locally elected statutory bodies responsible for a range of different functions, including local authorities and the Greater London Authority. These bodies have a substantially different status to the devolved administrations, being executive rather than legislative bodies (they can make byelaws in certain circumstances, often subject to approval by a Minister).

Within England, certain powers and duties have been devolved to local government. Different tiers of local government operate in different parts of England: for example, some areas have two tiers of local government whereas others have a unitary authority; in some areas a metropolitan district operates; parish councils are usually the lowest tier of local government. Between them, these bodies are responsible for the delivery of services including education, transport, planning, fire and public safety, social care, libraries, waste management, trading standards, rubbish collection, recycling, council tax collection and housing.

In London and metropolitan areas some services, like fire, police and public transport, are also provided through 'joint authorities' (e.g. in London by the Greater London Authority) with funding attached. These powers are significantly more limited than the powers devolved to Scotland, Wales or Northern Ireland and do not include legislative powers.

Chapter 2 – Decentralisation and localism in England: achievements to date

Alongside devolution of powers to Scotland, Wales and Northern Ireland, there has also been a significant shift in where power resides in England. *The Coalition: Our Programme for Government* committed to a “fundamental shift of power from Westminster to people” and to “end the era of top down government by giving new powers to local councils, communities, neighbourhoods and individuals”. The UK’s prosperity depends on local factors including land use and transport connections as well as the availability of public goods and services. Devolving and decentralising power and enabling local people to make decisions in these areas will create the conditions for sustainable growth, better public services and a stronger society.

Key achievements on devolution and decentralisation

The Government’s approach has been to introduce policies, given effect by legislative change where necessary, that increase the powers of local institutions, enhance local accountability and transparency, reduce barriers that prevented people doing things for themselves and reduce bureaucratic and regulatory burdens. This has avoided a ‘one size fits all’ approach and allowed communities to respond to their different challenges to meet local needs.

Since 2010 the Government has undertaken the most radical programme of devolution within England in a generation and leaders across the country have risen to that challenge. There are now five combined authorities, 15 directly elected local authority mayors¹, a Metro Mayor in London, and plans for a Metro Mayor to be elected for Greater Manchester in 2017. The Regional Growth Fund, Growth Deals and Growing Places Fund have been made available to all local areas, rural and urban, providing the opportunity for bespoke deals and packages to address specific issues and opportunities and helping transfer decision-making across the country to local leaders and partnerships.

Ending top down bureaucracy

We moved fast to make significant changes including abolishing the whole tier of unelected regional government - Government Offices for the Regions, Regional Development Agencies and Regional Assemblies - and have ended prescriptive central controls and performance management. We have removed centrally-imposed regional policy in favour of self-defined Local Enterprise Partnerships based on functional economic areas, which better join up the public and private sectors to drive growth.

¹ Bedford, Bristol, Doncaster, Hackney, Leicester, Lewisham, Liverpool, Mansfield, Middlesbrough, Newham, North Tyneside, Salford, Torbay, Tower Hamlets and Watford.

The Government has adopted the principle that power should be decentralised to the lowest appropriate level, down to councils, neighbourhoods and individuals, and services must be responsive to the people they serve – held to account by citizens and their elected representatives.

Legislation

We have established a legislative framework which has supported a significant movement of powers and responsibilities to local areas and neighbourhoods, with the potential to go much further as local leadership capacity continues to grow.

Through the 2011 Localism Act and related measures, local authorities have been given important new powers, and communities have been given new rights. The Act strengthened the ability of local authorities to decide what happens in their area, and provided for significant devolution of power from councils and local agencies to communities:

- a. A new General Power of Competence, meaning councils are no longer limited to exercising only the powers given to them in statute but can do anything within the law that is in the wider interests of their communities;
- b. Devolving planning functions from councils to local communities through the introduction of Neighbourhood Plans, approved by the local community in a referendum;
- c. New community rights including the Community Right to Bid, giving people the opportunity to list an asset of value to the local community and then the time to bid to take over that asset if it comes up for sale; Community Right to Challenge, giving the voluntary and community sector the opportunity to bid to take over local services where they believe they can run them differently and better; and Community Right to Build giving communities powers to build local housing, shops and facilities; and,
- d. Local referendums on council tax levels – strengthening local democratic accountability over how much taxpayers pay for their services.

Financial Freedoms

We have supported an approach which creates a strong link between the action local leaders take to build homes and create jobs and the rewards local areas receive through business rate retention and the New Homes Bonus. The Local Government Finance Act 2012 enables authorities to benefit from growth by allowing them to keep a share of business rates and the growth on those revenues. Under the Business Rates Retention scheme £11 billion is now retained locally rather than redistributed via central government. The Act also enabled local authorities to undertake Tax Increment Finance through New Development Deals - borrowing against future business rates revenues to partly or wholly fund the provision of infrastructure. Government also

gives local councils a share of the increases in council tax revenues where areas deliver more homes, through the New Homes Bonus. As a result of these changes, 70 per cent of council income is now raised locally.

We have also taken more ambitious steps through City Deals and Growth Deals to further incentivise local growth and share in increases to the local tax base. This includes the Earn Back payment by results model that incentivises Manchester to invest in growth; the Leeds Growth Deal which provides for long term transport infrastructure investment dependent on the economic impact of local investments; and agreement on Gain Share in Greater Cambridge which will link long term investment plans to delivery of sustained growth in and around Cambridge.

New Development Deals were agreed as part of Wave 1 City Deals in July 2012 in Newcastle (£92 million), Nottingham (£8 million) and Sheffield (£33 million), allowing investment supported by long term business rate retention.

This Government has also increased councils' flexibility with the removal of ring fencing from many local government grants. This gives them freedom over how they spend the money they receive, and allows them to work with their residents to decide how best to spend it on local priorities.

Housing Revenue Account reforms have given councils resources, incentives and flexibility to manage their own housing stock for the long-term and to drive up quality and efficiency.

Open Public Services and Transparency

We have ensured better-quality services are more responsive to individual and community needs. Making public services more open gives more freedom and professional discretion to those who deliver them and provides better value for taxpayers' money.

We have put these principles into practice by devolving to the lowest appropriate level, determined by the type of service in question. For individual services, we have put power in the hands of the people who use them; for neighbourhood services, we are supporting elected councils to take on a greater role in service delivery, at the neighbourhood level if that is what communities choose; and for commissioned services, the Government has opened up and, where appropriate, decentralised commissioning to ensure greater quality and diversity.

Greater power for local government must go hand in hand with greater local transparency and local accountability. Our local authority transparency code helps local people understand more about how their local authority spends its money, and how local services are delivered. The availability of data can also help secure more efficient and effective local services and open new markets for local business, the

voluntary and community sectors, and social enterprises to run services or manage public assets. We have also abolished top-down inspection and are putting in place better local audit arrangements that give more local choice and transparency in place of the Audit Commission.

Local Growth

Local people and businesses are best placed to understand the strengths and weaknesses of their local economies. Some obstacles to growth may be national or global in character, but many are local and require local knowledge to remove. Similarly, growth opportunities need to be seized at both a national and local level.

Local Enterprise Partnerships have brought together local political and business leaders and given them responsibility for driving local growth. They use their local knowledge to decide the priorities for investment infrastructure, skills and innovation in their area.

The first wave of City Deals was agreed in 2012 and a second wave was launched in October 2013. These included decentralising agreements, passing down more financial control to a local level. For example, £23.8 million of skills funding has been passed down to Sheffield and West of England was permitted to retain business rates in five Enterprise Areas to enable growth. Government has now agreed Deals with 26 English cities and their wider functional economic areas, as well as one with Glasgow and the Clyde Valley which was agreed earlier in the year.

In July this year the Government also announced Growth Deals with all 39 Local Enterprise Partnerships in England– with government commitments totalling over £6 billion and including substantial localisation of infrastructure and skills capital funding. Growth Deals will devolve at least £12 billion from 2015/16 to 2020/21. However, these deals were about more than just funding. Each deal involved bespoke agreements to support local places to drive forward economic opportunities in their areas. From taking on new responsibilities for training and skills, to new approaches in transport and business support, Growth Deals agreed a huge range of policy interventions designed to empower local areas to have more control over local decision making.

The Government has also established 24 Enterprise Zones where the Local Enterprise Partnership can retain 100 per cent of business rate growth for 25 years, as well as benefit from simplified planning and the roll-out of superfast broadband; agreed Enhanced Capital Allowances in certain Enterprise Zones within EU assisted areas; and in the Vauxhall Nine Elms development area has committed to allow the Greater London Authority to undertake up to £1 billion borrowing backed by business rates to support the London Underground Northern Line extension.

Public Services

The Coalition Government has given local areas control over the delivery of public services. We have responded to the lack of accountability of police authorities to the communities they serve by introducing elected and accountable Police and Crime Commissioners.

The Government supports locally-driven public service transformation which focuses on the needs of the customer and brings together separate strands of service provision such as health and social care. We have reduced bureaucracy by abolishing Strategic Health Authorities and Primary Care Trusts. Instead, we have devolved power and responsibility for commissioning services to healthcare professionals closest to patients by introducing clinical commissioning groups to ensure services are designed by those who know patients best. We have also empowered local authorities to lead on public health provision, resourced by ring-fenced public health budgets.

Individuals and local communities are having a greater say over how their children are educated as a result of free schools and academies. Parents, community groups and others can set up free schools to meet the educational needs of children in their local areas and have a greater influence over what and how they are taught. Similarly, academies have more freedom than other state schools over their finances, curriculum and length of terms and schools days.

Planning and Community Empowerment

Reforms to the planning system, coupled with the abolition of regional structures and top-down Regional Strategies which imposed targets on local areas, are enabling communities to take control of their future development. The National Planning Policy Framework dramatically streamlined national policy and reinforced the status of Local Plans with 80 per cent of authorities now having a published Local Plan.

We have given communities the power to set planning policies through a neighbourhood plan that is used in determining planning applications and to grant planning permission through neighbourhood development orders. In total, around 1,200 neighbourhood areas have started the neighbourhood planning process. These have a popular mandate: 43 referendums have taken place with an average “yes” vote of 87 per cent.

We have introduced new powers for communities to take control of and shape their neighbourhoods. Over 1,500 assets of community value have been listed and 150 transferred to community ownership. We have also promoted community shares as a means of raising finance for community projects, raising over £50 million since 2012; and 32 communities are currently campaigning to create new parish councils.

Bespoke deals

Having demonstrated our commitment to City Deals and Growth Deals, we are taking them further. These deals are about firing up our cities, towns and counties so they can become economic powerhouses; they are about backing businesses so they create thousands of jobs for people and greater prosperity for their local areas. And increasingly they are about building better local public services by giving local areas the right freedoms and support.

Growth Deal implementation is now well underway with Local Enterprise Partnerships due to draw down funding in 2015; however this is not the end of the process. In the 2014 Autumn Statement the Government announced that it will allocate a further £1 billion from the £12 billion Local Growth Fund. The Government is already discussing with Local Enterprise Partnerships their priorities for how they will use this to drive forward economic growth and these conversations are now at a detailed stage.

The Government has also been clear on the need for an economically vibrant and powerful northern economy. The need to rebalance the economy between different areas and different sectors of the economy was a key element of the Coalition agreement. Much has already been done to achieve this aim through City Deals, Growth Deals as well as other initiatives such as the Regional Growth Fund - a £3.2 billion scheme to help rebalance and drive investment and economic growth across all business sectors and across England. It supports eligible projects and programmes that are also raising private sector investment to create economic growth and lasting employment.

Earlier this summer, the Government set out the need to create a 'Northern Powerhouse', whereby a collection of northern cities would join together "as a team" to maximise the potential of the north of England and reduce the decades-old gap between London and other cities. The Government believes that GDP growth of the north could reach the projected level of GDP of the nation by 2030 – this could add £44 billion to the northern economy or £1,600 per person living there in real terms.

Through the Northern Futures consultation, the Government encouraged innovative bottom up thinking by asking local people for their ideas as to how they would drive forward economic growth across the north. In the consultation, the Government asked for people's ideas and thoughts in response to the following question: "How do we build on the strengths in the north to create an economic core in the heart of the region that can compete with the biggest cities and regions in the world?". The Government is already progressing a number of ideas raised, including the creation of TechNorth and funding to help realise the economic potential of the north's tourism assets.

On 3 November 2014, the Government signed an agreement to bring forward legislation whereby Greater Manchester will get the first directly elected metro-wide Mayor outside of London with powers over transport, housing, planning and policing.

Greater Manchester Combined Authority will also be given new powers to support business growth, skills, and help to join up health and social care budgets. These mayoral proposals will create a powerful devolved administration with strong political leadership that can drive through policy to stimulate economic growth and plan strategically across the city, as well as representing the city nationally and internationally.

In November the Government also announced that negotiations would begin with both Leeds and Sheffield City Regions regarding further devolution to these cities to help drive economic growth. The Government signed a deal with Sheffield City Region on 12 December, and hopes to conclude discussions with other cities like Leeds.

Every city or place is different, and no model of local power will be the same. It is for places to determine how best to grow their local economies and it is for Government to devolve the freedoms and flexibilities to enable them to undertake it.

Communities and Neighbourhoods

The Government's approach to devolution continues to be underpinned by our desire to pass power down to the lowest appropriate level – to councils, neighbourhoods and individuals.

We have already given neighbourhoods a role in shaping their physical environment by devolving planning functions from councils to local communities through the introduction of Neighbourhood Plans, approved by the local community in a referendum and the introduction of the Community Infrastructure Levy where its specific neighbourhoods element can bring finances even closer to the neighbourhood level.

The Government wants to see communities more involved in shaping the design and delivery of services at a local level. We are giving a greater voice and power to neighbourhoods in new areas such as crime prevention, adult social care, worklessness and preventative health – all areas where we are starting to see, through the “Our Place” initiative, communities develop effective proposals.

We will work with local authority commissioners to support them to develop new models for delivery of services at the neighbourhood level, drawing on the assets of local communities and delivering services that are better tailored to the needs of local people, through the new Delivering Differently in Neighbourhoods programme. We will be providing financial support worth £2 million in total to up to 25 authorities between now and March 2016.

We are also legislating to make it quicker and easier to set up a town or parish council as they play a vital role in helping local people make decisions on local issues. We are

providing funding to community groups as they develop their plans for a parish council and secure support in their local area.

Chapter 3 – The impact of the devolution landscape: options for further devolution and decentralisation

The changing constitutional settlement in the UK is now creating pressure from some quarters for further devolution of powers in England.

Themes for the future

Devolution to a constituent nation (England, Northern Ireland, Scotland, Wales) within the United Kingdom is different to localism and decentralisation within a country. In Scotland and Wales, many devolved powers have been held or centralised at the level of the Scottish Parliament and National Assembly for Wales; in England, a number of powers have been devolved to councils, neighbourhoods and individuals.

The demand for further devolution in England has been increased by developments in Scotland, Wales and Northern Ireland. It might also help to address the asymmetry of devolution across the UK. There would be a number of policy and technical choices to make in relation to further devolution. These would include:

- *Governance & accountability* - what powers to localise, in which places, and to which institutions or people;
- *Finance* - budgeting across the public sector including longer-term settlements, flexibility to spend and how revenue is raised and retained;
- *Fairness* - how to ensure that there was sufficiently fair distribution of resources across the country;
- *Growth & infrastructure* - delivery of housing, transport and infrastructure that meets local needs but allows for national strategies;
- *Local variation* - how to work within a differentiated system and ensure that people knew who was accountable for delivering services or making the decisions that affect them;
- *Improving public services* - how to provide greater powers to design, co-design or run local services;
- *Consequences for Parliament* - whether, if legislative powers were devolved, that might have consequences for voting rights in Parliament.

Options for further devolution

A number of different views, from inside and outside of Government, have been outlined for the various potential routes to achieving greater decentralisation in England.

Some have called for greater encouragement for local areas to prioritise economic growth by enabling them to share the risk and reward that comes with all economic

growth policies from infrastructure projects to skills programmes. This might involve Payments by Results mechanisms, or increasing local retention of business rates. The Government could potentially go further in making mechanisms such as Tax Increment Financing (an investment tool for financing infrastructure and other related development), earnback and gainshare schemes more widely available for local investment.

There are also some calls for cities to have greater power – like that given to Transport for London – to co-ordinate and better connect local road, rail and bus services to benefit people and businesses. Greater powers over integrated transport services could include better bus services, and better connectivity and infrastructure such as smart ticketing.

A further option for further devolution that has been proposed is a ‘devolution on demand’ model. The proponents of this model have said that under such a system, local areas where there is genuine demand underpinned by popular support would be able to take powers. Areas would be able to ask central government to transfer powers based on what was most appropriate and useful at local level. There would be a presumption in favour of devolution, but checks in place would aim to ensure powers were not granted inappropriately. This system could include giving local authorities more autonomy managing their budgets and could also enable local areas to devolve policies to the most appropriate and efficient level of government.

Key issues to consider in relation to further devolution for England

There are different proposals from academics, commentators and the political parties on how further devolution could work, with implications which include:

Implementation issues – a process would need to be designed to implement further devolution. As part of this, decisions would need to be taken on: which powers would be available and whether this would include primary legislative powers; who would be able to request these (i.e. tiers of local government, other groups?); how local areas should request the devolution of powers; who would consider the requests and make decisions on whether requests are granted; what criteria would be used; and how devolution would be implemented once agreed.

Local variation – local variation in the way services are run is a feature of devolution. Different powers will be held by different bodies across the country meaning that understanding how to access services, who is responsible for service delivery and holding bodies to account would need to be considered. The cross-border impact on areas next to those with additional devolved powers also needs to be considered.

Impact on Executive authority – further devolution could impact on the ability of the Executive to legislate and manage the economy. These implications are potentially far-reaching and would also need to be considered as part of decisions on scope.

Chapter 4 – The impact of the devolution landscape: implications for Westminster

The last two decades have seen substantial shifts in where power resides in the United Kingdom, with decision-making responsibility moving from central government to new legislatures, local government, communities and individuals. Decision-making processes in Westminster have remained largely the same over that period.

The West Lothian Question

All Members of Parliament at Westminster have the same voting rights on all matters whether they represent constituencies in England, Scotland, Wales or Northern Ireland. At the same time, different parts of the UK have different devolved powers. This means, for example, that MPs representing constituencies outside England may vote on legislation which does not affect their constituents while English MPs are not able to influence these policies in the other nations where they are devolved.

This issue became known as the West Lothian Question in the debates about devolution to Scotland and Wales during the 1970s. The recent referendum in Scotland has re-ignited interest in this. Various potential responses to the issue have been proposed, including further decentralisation in England, or a reduction in the number of MPs outside England. Another response would be to reform voting arrangements within Parliament itself to enhance the voice of English MPs on English issues, or English and Welsh MPs on issues affecting England and Wales.

McKay Commission

The Coalition Government established the McKay Commission in January 2012, following a Coalition Agreement commitment, to consider how the House of Commons might deal with legislation affecting only one part of the UK following devolution to Scotland, Northern Ireland and Wales. The Commission reported in 2013 and its main conclusion was that “decisions with a separate and distinct effect for England (or England and Wales) should normally only be taken with the consent of a majority of MPs for constituencies in England (or England and Wales)”. It recommended that Parliamentary procedure be changed to enhance the voice of English MPs in the passage of legislation applying to England (or English and Welsh MPs in legislation applying to England and Wales) by adding stages to the consideration of legislation to facilitate that, but that the whole House should continue to have the final say. The Commission presented a menu of options for achieving this and set out a number of implementation issues for consideration.

Key issues to consider in relation to changing MPs' voting rights

Any of the approaches that have been proposed would have implications for the operation of Parliamentary decision-making and/or the conduct of Government. Consideration would also have to be given to potential UK tax, spending and fiscal policy implications. There would be a number of policy and technical choices to make in deciding how any changes to Parliamentary procedures to take forward the “English votes” (or “English and Welsh votes”) option might be carried out, as well as a number of implications to be worked through. These would include:

- A decision would need to be made on **how the principle of giving English MPs a greater say over English issues, or English and Welsh MPs a greater say over English and Welsh issues, could be applied in procedural terms**. This could be through an English, or English and Welsh, consent vote on legislation; through allowing English MPs, or English and Welsh MPs, to consider and amend a Bill either in its entirety or in part; or through a combination of those approaches. The consent vote could relate to the whole Bill or only specified parts, as necessary, and could take place at one or more stages of the legislative process. The amending option would require a separate stage to allow only English MPs to amend those parts of a Bill affecting England only (or English and Welsh MPs for parts of a Bill affecting England and Wales only). Additional amending stages would have implications for the design of legislation and the time it takes to pass, whereas the consent option might have more limited implications in these respects. Decisions would also be needed on how any new procedure might be applied to **secondary legislation** and take into account voting rights on **Lords amendments**;
- A mechanism would be needed to determine **which legislation should be subject to any new procedures**. This function could be carried out by the Speaker – who might certify to which parts of the United Kingdom legislation applied, and so what procedures should apply to it – or by the whole House on the basis of a Government motion proposing how the House should consider the Bill. Decisions on whether a clause or Bill was substantively “England only” or “England and Wales only” might sometimes be technically complex and subject to political debate;
- **Which MPs should be entitled to vote on England or England and Wales matters**. There is a difference between the coalition parties on whether this should be done on a proportionate basis, as devolution in Scotland, Northern Ireland and Wales has been, or on the basis of First Past the Post;
- It would need to be decided **whether English, or English and Welsh, votes or consent would be provided in an advisory capacity to inform a final decision made by the whole House, or whether they would have a binding effect** (so enabling English, or English and Welsh, MPs to defeat a Bill or parts of a Bill). A decision would also be needed on whether new arrangements

should be implemented through a new convention, amendments to the House of Commons Standing Orders or by enshrining them in legislation;

- There might be **implications for the practice of Government**. Procedures that adjusted the involvement of MPs for constituencies outside England in voting on some areas of policy could, depending on the approach chosen, mean that a UK Government would not necessarily command a majority for legislation in some policy areas relating to England only, or England and Wales. This could mean that Governments might approach legislating in a different way in such circumstances; might have to implement legislation they disagreed with; or might explore the scope for greater non-legislative activity;
- Consideration would need to be given to how MPs from **Scotland, Wales and Northern Ireland** would participate in debates and/or votes when legislation also applies there and/or only applies there;
- Consideration would also need to be given to MPs with **constituencies near the borders of the UK's constituent nations**, for example in areas in Wales which rely on services provided by the NHS in England and vice versa. The treatment of spending or tax decisions which impact on funding to the devolved administrations would require particular consideration; and
- Parliament might consider whether the membership of **select committees** should reflect the extent to which the issues they address were devolved, for example with only English MPs serving on committees considering predominantly English issues (or English and Welsh MPs for predominantly English and Welsh issues).

Chapter 5 – Constitutional convention

A number of independent commissions have looked at devolution issues in various parts of the UK, including the Scottish Constitutional Convention and the Calman Commission on the operation of the devolution settlement in Scotland, the Silk Commission in Wales, and more recently the Smith Commission in Scotland. There have been calls for a constitutional convention in the light of the potentially extensive changes to the devolved settlements in the UK. There are a large number of issues which could potentially be in scope for a constitutional convention, including: the UK-wide implications of devolution, both national and by region; devolution within England (and other nations too); reforms at Westminster, including electoral reform on voting age; the case for a written constitution.

A decision would need to be taken about the **terms of reference and scope** of the Convention. The **composition of the convention** would also be a key consideration. There are a number of ways a convention could be approached, ranging from an exercise carried out by an Independent Chair and panel of experts to a body made up of citizens and representative of the nations and regions, and local Government, and with a strong element of public consultation. Parliament could decide how those on the convention from such groups would then be selected and what proportion was independent or belonged to political parties.

Decisions on the scope and composition of the convention would have a significant impact on **timescales**. The House of Commons Select Committee on Political and Constitutional Reform recommended that the Government considers establishing a forum or ‘pre-Convention’ with public participation to involve the English people in the resolution of these issues. In their view this would provide a useful opportunity for people to discuss “whether and how they wished to follow Scotland, Wales and Northern Ireland and access statutorily defined substantial devolved powers for their local communities”.

Similarly, further work would be needed to consider how a constitutional convention would **interact with changes which are happening in parallel** (e.g. further devolution to Scotland) and how that might impact on timing, the scope of the issues under consideration and what action should be taken. A decision would also need to be taken on how the convention would report, what commitment the Government should make on taking forward recommendations and the timescales for doing so. Again, this would depend on the nature of the exercise and its scope. Parliament may wish to have a binding commitment from the Government to consider the proposals of the Convention, report on them, and to put them to a vote – either in Parliament or through a referendum.

Chapter 6 – Party proposals

CONSERVATIVE PARTY

The Conservative position on further devolution within England is based upon the view that England is a great nation, proudly forming a constituent part of the union of the United Kingdom of Great Britain and Northern Ireland. We believe that the Westminster Parliament is, and should remain, England's law-making body.

However, we also believe that, without a local voice, communities are made weaker because social responsibility and civic involvement are inhibited; local communities are strongest when everyone has a free and fair say in the decisions that affect them. This is why Conservatives in the coalition government have worked with their coalition partners to deliver significant decentralisation of power and finance within England. But we believe that there is more to do.

The Conservative Party takes the view that, in the years before 2010, central and regional government across England too often undermined local democracy and allowed people too little say over decisions that directly affected them. We argue that power should be decentralised down to the lowest appropriate level – down from Europe, down from Whitehall, to councils, to community groups and to individual taxpayers: giving power to the people.

Therefore in the next Parliament we wish to continue with the empowerment of neighbourhoods and parishes in England, not least through a huge further increase in neighbourhood planning. The aim is to extend community rights and thereby mobilise what Edmund Burke called the 'little platoons', strengthening social and civic responsibility and building social capital -- fostering the Big Society.

Conservatives believe that greater localism should be accompanied by greater local accountability, with democratic checks and balances to ensure the responsible use of greater local power. We will continue to support the tried and tested method of first past the post elections for the Westminster Parliament and for all levels of local council in England. But we believe that there should be greater use of direct democracy, such as allowing local people to hold local referendums on local issues. Conservatives also aim to extend and strengthen the transparency and accountability which the current Government has championed, and help support the press and public in holding local politicians to account.

In addition, we want to go further and deeper with the localist reforms that have taken place in England during this Parliament. This will include delivering more bespoke Growth Deals with local councils, including metropolitan mayors where locally

supported, and working with Local Enterprise Partnerships and councils to promote jobs and growth. To save taxpayers' money and improve front-line services, we propose to continue the drive to help local authorities join up different public services, taking forward projects such as Community Budgets, the Better Care Fund, joint working between the emergency services, and the Troubled Families programme.

Our view is that patterns of local government should reflect England's local identities and traditions. We will champion England's long-standing towns, boroughs, cities and counties, and will continue to oppose the imposition of artificial regional structures. We take the view that enabling locals to determine local structures locally will encourage civic and national pride across class, colour and creed – in our municipalities and neighbourhoods, in the nation of England and in the United Kingdom.

We strongly believe that localism must not be a way of imposing new taxes: the English taxpayer already pays too much tax. Instead, we wish to strengthen the fiscal incentives that councils have to support enterprise and growth -- for example, by further extending the local retention of business rates. Following the course already set by the coalition government, in the next Parliament we will further reduce ring-fencing and ensure that councils are more self-sufficient -- building on the fact that 70 per cent of council income is now raised locally.

Conservatives want all parts of England to enjoy prosperity and growth -- north and south, shire and municipal, rural and urban. Rather than playing one part of England or Britain against another, we want to let local people in all parts of England keep the proceeds of local growth -- thereby providing strong incentives for all local governments to work with local business to support jobs and improve quality of life locally.

English Votes for English Laws

The Conservative Party believes that it is vital to ensure a balanced settlement for the future of the United Kingdom that is fair to people in England, Scotland, Wales and Northern Ireland.

Localism and decentralisation is crucial in revitalising our cities and regions, but it does not and cannot answer the West Lothian Question. Introducing English Votes for English Laws, or English and Welsh Votes for English and Welsh Laws, is crucial and cannot be ignored any longer.

At the last three General Elections, the Conservative Manifesto has included a commitment to constitutional change to resolve the 'West Lothian' question. In the same period there have been five major reports analysing the issue and the possible solutions. It is now a question of political will to implement change that will strengthen our United Kingdom for the future.

We cannot put off ensuring that our Parliament works in a way that is fair to all parts of the UK. Just as the people of Scotland will have more power over their affairs, the people of other parts of the UK must have a bigger say in their affairs. Their rights need to be protected, preserved and enhanced as well, through effective functioning of devolution in Northern Ireland and more powers in England and Wales.

In particular, we believe that on legislation relating to England only or England and Wales only, we must enhance the role of MPs from English constituencies, or English and Welsh constituencies. This must be done in parallel to the implementation of the Smith Commission in Scotland: as a matter of fairness and for the long-term good of the Union.

Guiding Principle

The Conservative Party supports the guiding principle set out in the McKay report, that:

‘decisions at the United Kingdom level with a separate and distinct effect for England, or for England and Wales, should normally be taken only with consent of a majority of MPs for constituencies for England, or for England and Wales’.

We believe that all Parties should adopt the McKay principle as a minimum basis for implementing English Votes for English Laws, or English and Welsh Votes for English and Welsh Laws. Furthermore, the arrangements for implementing this principle should have a status equivalent to that of the new rights of the Scottish Parliament.

The Sewel convention states that Parliament will not normally legislate with regard to devolved matters in Scotland without the consent of the Scottish Parliament. The Smith Commission has recommended that the Sewel convention is placed on a statutory footing. We therefore believe the arrangements for England or for England and Wales should also be put on a statutory footing, even if they are implemented in the first instance through changes to Standing Orders in the House of Commons.

English Votes for English Laws – answering the West Lothian Question

We believe that proposals for English Votes for English Laws, or English and Welsh Votes for English and Welsh Laws, must be clear, decisive and effective, and that they must fulfil the McKay principle. Changes should not significantly increase either the complexity of the legislative process, or the amount of time taken to pass legislation, both of which would be to the detriment of our democracy. Furthermore, the changes must have the effect of helping to bind together the United Kingdom for the long term.

We have narrowed down the proposals to three options that meet these criteria. We

are not in favour of proposals to address the West Lothian Question by creating an English Parliament or by reducing the number of Scottish MPs at Westminster. A Conservative Government will reform the Parliamentary boundaries in order to create more equal sized constituencies so that votes in some constituencies no longer count more than others, and we will also cut the cost of politics by reducing the size of the House of Commons. These reforms are also fundamental to fairness in all parts of the United Kingdom.

Option 1: Reformed consideration of Bills at all stages

The 2000 Commission on Strengthening Parliament, set up by the Conservative Party and chaired by Lord Norton of Louth, recommended that legislation relating only to England, or to only England and Wales, would only be considered by MPs from those parts of the United Kingdom.

- A Bill would be certified by the Speaker as applying to a particular part of the UK.
- Where it related only to England or England or Wales, the Bill would have its second reading in a Grand Committee, comprising all the MPs from the relevant nation(s).
- The Committee stage would be similarly restricted, and Report and Third Reading would be governed by a convention whereby MPs from other nations did not vote.
- Bills that dealt exclusively with English matters already devolved to the other nations would proceed entirely through an English-only process.
- Legislation that covered areas which were both devolved and reserved would need to pass through two parallel processes, one for each part of the bill.

The key advantage of this proposal is its simplicity and the absence of the need for any new stages in the legislative process.

Option 2: Reformed Amending Stages of Bills

The 2008 Democracy Task Force, chaired by the Rt Hon Ken Clarke MP, proposed that the amending stages of legislation relating only to England, or only to England and Wales, would be considered only by MPs from those parts of the United Kingdom.

- It recommended that bills certified as relating solely to English, or English and Welsh matters, would pass as normal at Second Reading.
- The Committee Stage would be taken by those MPs only, in proportion to their party representation in the House of Commons.
- At Report stage the bill would be voted on by those MPs only
- At Third Reading the Bill would be voted on by the whole House.

The key advantage of this proposal is that it allows MPs from England, or from England and Wales, to have the decisive say over the content of legislation while not excluding MPs from other stages and not introducing any new stages to the legislative process.

Option 3: Reformed Committee Stage and Legislative Consent Motions

A significantly strengthened version of the McKay Commission proposals could be established. Under this proposal, the Committee stage of legislation relating only to England, or only to England and Wales, would be considered only by MPs from those parts of the United Kingdom. Furthermore those Members would have an effective veto over such legislation.

- Second Reading would be taken as normal by all MPs.
- The Committee stages of English or English and Welsh only bills would be taken in Committee only by MPs from those countries, in proportion to their party representation in the House of Commons.
- This procedure would also apply to the English or English and Welsh parts of bills that contained both English or English and Welsh only clauses, and UK wide clauses.
- Report Stage would be taken as normal by all MPs
- An English Grand Committee would then vote after Report stage but prior to Third Reading, on a Legislative Consent Motion. English or English and Welsh MPs would therefore be able to grant their consent or veto a bill, or relevant parts of it.
- Such decisions would have the same status as those of the Scottish Parliament on devolved matters. A bill could not pass to Third Reading without passing the legislative consent vote.
- Third Reading would be taken as normal by all MPs, but only if the legislative consent motion was passed.
- The English Grand Committee could have other functions, including determining the distribution of expenditure within England, such as local government finance or police grants, and it could also have additional questions to Ministers in departments with English only functions.
- The principle of requiring consent from an English Grand Committee could be applied to levels of taxation and welfare benefits where the equivalent rates have been devolved to Scotland or elsewhere.

The key advantage of this proposal is that it would give English, or English and Welsh MPs, a crucial say over the content of legislation and a secure veto over its passing, while not excluding other MPs from its consideration in the full House of Commons.

Alternative versions of this option include consideration of a Legislative Consent Motion at an earlier stage, before Second Reading, or determining whether or not

there is English or English and Welsh consent by means of a double majority system. This would see relevant legislation needing the support of a majority of MPs in the UK but also a majority of MPs from England, or England and Wales.

Next steps

The Conservative Party will be seeking views on these three options and will make an announcement in the New Year of a Conservative Party decision to support one of these options, or a combination of them. Details of how to respond to the party proposals are provided at the end of the paper.

Constitutional Convention

The Conservative Party believes that any future constitutional convention or commission should be concerned with the effective working of the constitutional arrangements for each part of the Union, including the new arrangements for England, to build a better and fairer settlement within our United Kingdom.

Such a body could consider the case for a 'Statute of the Union' to enshrine and reinforce the constitutional arrangements for each part of the Union, and to assist in achieving a stable, long-term settlement across the United Kingdom.

The establishment of any such convention or commission should not delay the implementation of the Smith Commission in Scotland and equivalent changes in the rest of the United Kingdom, including the introduction of English Votes for English Laws, or English and Welsh Votes for English and Welsh Laws.

LIBERAL DEMOCRAT PARTY

In the wake of the Scottish Referendum result and the Smith Commission process it is right that Government and all political parties should consider the implications for England, and indeed the rest of the United Kingdom. The Liberal Democrats believe it is now time to set out a reform programme to devolve more powers within England and to address the so called “West Lothian Question.”

We believe that the most important step that must be taken by Government is a very large expansion of devolution, giving power – including crucially tax raising and legislative powers - to the cities, counties and regions of England. These areas often have population and economies equivalent to, or larger than, the current devolved parliaments, so there is no reason why they could not take on many of the similar powers and responsibilities. If we agree it is right to give the 5 million people in Scotland and 3 million people in Wales a greater say over their local services, then we cannot ignore the 5 million people in Yorkshire who have the same rights to local democracy and empowerment. We detail below how this could happen. Liberal Democrats believe that devolving power leads to better decision-making, improved public services and greater efficiency.

By empowering England in this way we would significantly reduce the policy areas in which the so called “West Lothian Question” applies - as powers currently resting with Westminster for England but not Scotland would be devolved away from Westminster for much or all of England too.

However, we recognise that even with widespread devolution inside England there potentially remain outstanding anomalies with the existing legislative process and we explain our thinking on this question below. We also recognise that attempting to deal with the so called “West Lothian question” in isolation for England is likely to raise as many constitutional questions as it settles. Therefore we believe that any agreement in this area should actively engage the wider general public rather than simply being seen as an issue for the political parties. We outline our support for a Constitutional Convention below. A Constitutional Convention is of crucial importance not only in seeking public consent for major change, but also in ensuring that such change is coherent and properly thought through and does not inadvertently unravel our United Kingdom.

“Devolution on Demand”

Instead of only rearranging the Westminster legislative process, the Liberal Democrats

believe a much more radical approach is needed. In recent years there has been a very clear trend of growing demand for devolution inside England², driven by demands from the big English cities and, as we have seen more recently, other leaders of local government. As outlined in Chapter 2, this Government has taken significant steps in meeting those demands through the Localism Act 2011 and in particular the “general power of competence”³, the introduction of neighbourhood plans across the country and asset transfers to local communities. We have also made important progress through our “City Deals”, and Deputy Prime Minister Nick Clegg has been at the forefront of delivering these through Government and ensuring that they are radical and innovative. This must remain a priority.

That is why the Liberal Democrats are firmly committed to going further – both in terms of the powers available and the areas to which they can apply. We are guided by the twin principles of subsidiarity and accountability, as we believe people can best hold politicians to account if those elected locally are in charge. And we also believe that taking decisions at a lower level means better decision-making, more responsive public services and greater value for money.

At the same time we must learn the lessons of previous attempts at a Regional Assembly. The means recognising that the requirements of different areas are not the same and that demands for new powers should be bottom up not top down. We also do not want to see any unnecessary extra layers of politicians or administrative cost. For this reason, the Liberal Democrats have called for a process of “Devolution on Demand.” We would deliver this through an “English Devolution Enabling Bill” and Liberal Democrats would introduce legislation in the next Parliament which would empower local areas within England.

The “English Devolution Enabling Bill” would provide for areas to be able to demand from Westminster and Whitehall the powers that they want from a menu of options. The menu would include many of the powers devolved to the Welsh Assembly, though the exact details of the powers available would be subject to cross-government confirmation and the UK Government would retain a list of reserved powers. In order to successfully claim the powers they wished, a given area would need to demonstrate it met tests around geography / population, competence, local democratic mandate, a fair electoral system and a transparent and accountable governance structure. No area would have a specific governance structure imposed upon it from Whitehall and Westminster as condition of new powers being granted. There has been considerable work done⁴ that demonstrates how these tests could work. There would always be a presumption in favour of powers being granted to an area.

² See for example RSA City Growth Commission work, the London Finance Commission, the work of the Centre for Cities, various reports of the Political and Constitutional Reform Select Committee etc

³ http://www.local.gov.uk/c/document_library/get_file?uuid=83fe251c-d96e-44e0-ab41-224bb0cdcf0e

⁴ Various models have been proposed such as the Core Cities Amendment to the 2011 Localism Bill and the “star chamber” option of the RSA City Growth Commission

Under this proposal we would see cities, counties, regions and other appropriate geographic entities develop their own elected bodies with their own suite of administrative, legislative and taxation powers which worked for the people and communities in their area. Our aim is that over time all parts of England would be covered by these arrangements. Such a radical overhaul of the way power is distributed in England is long overdue and would be a significant step in restoring confidence in the political system and driving efficiency and accountable public services and would support more balanced growth across our country. The Liberal Democrat party welcomes views on how this can be taken forward. Details of how to respond to the party proposals are provided at the end of the paper.

“Fair English Votes for English Laws”

The devolution of powers over major areas such as tax to the Scottish Parliament makes it vital that we ensure that England is properly and fairly governed and that the so called “West Lothian Question” is addressed. It cannot be right that a future Government could pursue policies on England in areas devolved to the Scottish Parliament, using votes of the Scottish MPs, even if this was not supported in England. The so called “West Lothian Question” can no longer go unanswered. The Liberal Democrats believe that English MPs at Westminster should have a stronger voice and a stronger veto over purely English only issues and that this should be achieved without an extra layer of government or additional expense⁵.

Every stage of the devolution process in the UK so far – in Scotland, Wales, Northern Ireland and London – has been accompanied by a move to some form of proportional representation electoral system. In Scotland, Wales and London this has been through the “Additional-Member System” and in Northern Ireland through “Single-Transferable Vote.” Directly elected Mayors are also elected under the “Supplementary Vote” system. This has helped secure the broad political support for those new institutions.

The Liberal Democrats believe that it is right that any new stage in the Westminster legislative process which would limit the involvement of MPs to those from English constituencies should operate on the same fair basis. This would also prevent a possible, and indeed plausible, outcome where a UK Government which was composed of a coalition of parties which had won both a majority of UK MPs and of English voters, but not a majority of English MPs, risked having much of its domestic legislative programme vulnerable to defeat at an English only stage in the legislative process – because of the unfair “first past the post” electoral system.

⁵ We have used England throughout the text in this section, but we recognise that for some pieces of legislation – where the relevant powers have been devolved to Scotland but not Wales and / or Northern Ireland - the “English” stage would include MPs from Wales and Northern Ireland too

Our preferred method of addressing this would be for there to be votes for Westminster elections using the Single Transferable Vote system. However there is currently no cross-party consensus for this. We instead propose that the composition of those serving on any new stage, for example a “Grand Committee of English MPs”, should reflect the votes of the electorate in England⁶ and not the quirks of our unfair electoral system. This is a fundamental point of principle for the Liberal Democrat party.

As the work of the “McKay Commission”⁷ has demonstrated there are a number of alternative ways in which an English only stage could be inserted in the legislative process and a strong case can be made for a number of options. It is also clear that there are complex and detailed questions that remain over possible practicalities and implementation – e.g. who defines the geographic status of a Bill and what happens in respect of Lords amendments.

We believe that any new stage in the legislative process needs to be agreed on a cross-party basis. We welcome the chance to further engage with the Conservative and Labour parties, and the minority parties, on these points in more detail. However the Liberal Democrat starting point is that for measures which unambiguously affect England only and which are not devolved below the Westminster level, there should be a new parliamentary stage before third reading or equivalent, composed of MPs proportionately representing the votes cast in England to allow them to scrutinise proposals and to employ a veto if they so wish. This process would ensure that English voters can be sure that decisions that only affect England cannot be imposed on them by a minority of English MPs along with MPs from Scotland. So any legislation affecting England only would be subject to a “Double Lock” – it would need approval by both a majority of UK MPs and by English MPs representing a majority of the English vote at the last General Election.

A Constitutional Convention

As outlined in Chapter 1 the Constitutional settlement of the UK has been transformed since 1997. This Government has continued that transformation apace, with the Scottish referendum and then the work of the Smith Commission, the Silk Commission in Wales and the creation of a Cabinet sub-committee to explore ideas around increased devolution inside England and the “English question”. These developments have occurred rapidly in constitutional terms and many of the implications of their interactions are still being understood. Given this, the time is right for a Constitutional Convention to discuss the relationship between the constituent parts of the UK and also to explore the values and principles which bind us together.

⁶ Or, as above where appropriate, the votes cast in Wales and Northern Ireland too

⁷ <http://www.parliament.uk/business/publications/research/briefing-papers/SN06821/the-mckay-commission-report-of-the-commission-on-the-consequences-of-devolution-for-the-house-of-commons>

A Constitutional Convention should be composed of representatives of the political parties, academia, civic society and members of the public. The Convention should be led by an independent Chair agreed by the leaders of the three main political parties. The remit of the Convention should be decided by parliament through legislation, if possible on a cross party basis. The Liberal Democrats believe this should include the consideration of the appropriate level for political decision-taking in the UK, the powers of the devolved administrations, the interactions between the different institutions of the UK and the voting rights of MPs. The working practices and way in which it chose to approach the remit should be decided by the Convention itself.

The Liberal Democrats believe that a Constitutional Convention should be legislated on at the earliest possible opportunity so its work can start as soon as possible. We would expect the next Government to recognise and engage with the outcome of the Convention and put its proposals to a binding vote of parliament in the most appropriate possible way.

Summary

We welcome the emerging debate in this area, and strongly share the desire to grasp this opportunity for radical reform.

The proposals we have laid out above would allow for significant new powers to be enjoyed by communities across England, would give the public a chance to have their say on a renewed UK constitutional settlement and offer a fair and reasonable way to address any outstanding anomalies in the Westminster legislative process. We hope that other parties will join us in moving forward with these proposals.

Responding to the paper

If you would like to respond to the text in chapters 1 – 5, please contact the Cabinet Office:

Economic and Domestic Affairs Secretariat
Cabinet Office
70 Whitehall
London
SW1A 2AS

If you would like to respond to the party proposals outlined in chapter 6, please contact the relevant party via the following links:

Conservative Campaign Headquarters
4 Matthew Parker Street
London
SW1H 9HQ

chairman@conservatives.com

Liberal Democrats
8-10 Great George Street
London
SW1P 3AE

englishdevolution@libdems.org.uk

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