



Government Response to CLG Select Committee Report: “Devolution: the next five years and beyond”

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

May 2016



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Government response to the Communities and Local Government Select Committee Report: Devolution: the next five years and beyond

Introduction

The Communities and Local Government Select Committee conducted an inquiry which initially focused on the Cities and Local Government Devolution Bill, but broadened its scope to examine the approach being taken to pursuing devolution to cities and regions more generally. Following the submission of written evidence and a number of oral evidence sessions, the Committee published its report on 3rd February 2016.

The Committee's inquiry and report have come at a time when significant progress is being made on the devolution agenda. As of March 2016, the Government had already agreed devolution deals with areas all across the country, from the Northern Powerhouse to the rural South, including extending the Devolution Deal with Greater Manchester and agreeing six further deals with Cornwall, Sheffield City Region, Tees Valley, North East, Merseyside City Region & the West Midlands. At the time of laying this response, three more deals had been announced at Budget 2016, with the West of England, East Anglia and Greater Lincolnshire. This brings the total number of deals to ten, involving a mixture of urban and rural areas and covering 30% of England by population.

The different deals agreed to date include a variety of powers, flexibilities and budgets agreed between places and Government across policy areas such as adult skills, employment support, business and enterprise support, planning and housing and transport infrastructure and franchising. The Government will continue to work with places to develop their proposals and will continue to consider any new proposals, anticipating that devolution of powers to local areas will be an ongoing process throughout the Parliament, with deals dependent on the strength of the proposals received. Additionally, in autumn 2015 the Government set out its plans to allow local authorities, by the end of the Parliament, to retain 100% of business rates, as part of a move towards the full local financing of local services. This will have significant implications for devolution, with scope for new locally-funded powers and responsibilities to be identified and for local authorities, particularly working together as Combined Authorities, to pursue policies that drive additional growth.

As places continue to build on their ambitions, and as devolution continues to grow in prominence and salience across Whitehall, ensuring continued clarity on how devolution activity is communicated, scrutinised and accounted for will become increasingly important. The Government welcomes the Committee's report and the opportunity to respond to its recommendations.

Conclusions and recommendations

The Committee made 40 recommendations. Set out below are the Committee's recommendations from the report and the Government's response to each. [Paragraph references are to the original report.]

Introduction

Recommendation 1: for most of the Orders brought forward under the Bill, parliamentary scrutiny is likely to be limited. We therefore recommend regular select committee scrutiny of statutory instruments implementing devolution and the Government's annual report on devolution, which is required by the Devolution Bill; for example, the Transport Committee might wish to examine proposals for devolution of transport powers. (Paragraph 13)

The Government recognises the critical importance of Parliamentary scrutiny in this area, but does not share the view that there is a need for additional review of the statutory instruments implementing the provisions in the Cities & Local Government Devolution Act 2016 ('the 2016 Act'). All of the Orders giving effect to the generic and bespoke provisions of the 2016 Act are subject to the affirmative procedure and will therefore be voted on, and scrutinised, by Parliament in accordance with the usual procedure. As the Committee acknowledges, and as set out in the 2016 Act, Government will lay an annual report before each House of Parliament detailing where devolution agreements have been reached or are being negotiated and the functions and financial resources that have been devolved, which the Committee and other Select Committees will be able to take into account in undertaking devolution-related scrutiny.

Devolution: objectives and approach

Recommendation 2: we believe that the Government should set out the aims of its devolution policy more clearly, preferably in a way that would, over time, allow success to be measured. The Government needs a clear hierarchy for the many things it is trying to achieve through devolution—promoting local growth at minimum cost, achieving a better balanced economy, improving integration of public services, enhancing local freedom to experiment, bringing decision-making closer to local communities and enhancing the democratic process. It also needs to be clear how the forms of devolution it favours are intended to achieve them, while recognising that there may be a different balance and mix of objectives in different areas. (Paragraph 18)

The Government notes the Committee's recommendations. The Government's key aim through this agenda is to support local places to identify and achieve their own objectives, by engaging with them in pragmatic and positive discussions. It is important to recognise that this iterative, bottom up approach to devolution has allowed for rapid progress in ensuring that devolution to local areas, and the creation of stronger local governance across functional economic areas, becomes a tangible reality, where more prescriptive, top down approaches may not have been successful. The Government is keen, however, to take this opportunity to reiterate its interest in considering proposals which support the ability of local areas to improve local economic growth and productivity; the alignment, coordination and efficiency of public services (including the quality of evidence, data and analysis); and engagement with local democratic decision-making.

Recommendations 3 / 4: our witnesses gave us many important and ambitious reasons for pursuing devolution, particularly so for health devolution. However, with the exception of increasing economic growth, we are not certain whether these are intended to be the measurable objectives of devolution and are not convinced that the Government itself is any clearer. We are also not satisfied that the Government has considered and identified how to measure the success of a devolution deal once in place. (Paragraph 21).

We recommend that the Government publishes, in order of priority, its long-term objectives for devolution, the mechanisms needed to achieve these and the means by which it will measure success. Following discussions with the local areas involved, relevant objectives can be incorporated in each devolution deal. This would enable areas to assess whether they are doing better with a deal than without. Linked to this, the Government should set up a mechanism for monitoring deals and reviewing and consulting the public on their impact. This would also make it easier to gather and disseminate best practice and lessons learnt. Local areas must have the powers needed to achieve the objectives of devolution, for example to integrate and deliver public services aligned to local needs. In the annual report (described in more detail at paragraph 45), they should state whether they have been given sufficient powers, levers and resources by each of the Government Departments involved to achieve the objectives of a deal and what more is needed. (Paragraph 22)

The Government notes that the deals announced all include a clear local commitment to putting in place a robust evaluation framework for relevant measures secured within deals, and that the Government is committed to supporting each area to develop and take forward a locally-led implementation plan. The Government considers that this is the most appropriate approach, given that places have many different objectives for seeking devolution which the Government would not wish to limit through top-down prescription. It is important that Departments work with places to ensure that each deal commitment developed between places and Government is properly monitored and that Departmental and local policy objectives are being met, given the specialised expertise of Departments and the need for robust assurance arrangements which align sensibly with accounting officer responsibilities.

The Government welcomes and encourages an ongoing dialogue with areas implementing devolution on where they would like to go further.

Recommendations 5 / 6: we believe that deal-making, which seeks to find a balance between a 'bottom-up' or 'top-down' approach, is a pragmatic way to approach devolution, and we particularly agree with Lord Kerslake's comments that a framework approach to devolution at this early stage in the process can lead to the lowest common denominator. The natural consequence of deal-making is bespoke but asymmetric devolution as places ready to take on more powers put forward proposals and agree deals ahead of others. (Paragraph 26)

In acknowledgement of this asymmetry, it should be made explicit in each devolution deal that areas may acquire further devolved powers over time. Where an area has asked for particular devolved powers but was refused them, if still desired, such powers should be available to that area if they have been given to other similar areas at a later date. By the end of the Parliament, we should have reached the position of devolution by right to local areas, with the Government having announced the powers that will be on offer to local

government. This would then provide a basis for the negotiation of further, more ambitious deals covering new policy areas and/or a more comprehensive package of devolved measures agreed between Government and local government as a whole. (Paragraph 27)

The Government agrees that the deal approach is appropriate in light of the different priorities and approaches of different places. The ability for areas to learn from each other's experiences, and build this into their ongoing discussions with Government, is a welcome and important aspect of the devolution deal process.

However, the expectation – from the Government, but also from local communities – that devolved governance and delivery structures should be rigorous and effective will remain a paramount consideration as the agenda develops, and the Government would not wish to see this undermined. For example, it is perfectly plausible that within a given policy area, a particular place could have secured a package of devolved measures, while another place was still at the stage of establishing the robust partnership and governance arrangements that would be needed to deliver on those new responsibilities.

Agreed deals

Recommendations 7 / 8: the Greater Manchester deal provides a prime example of the type of governance arrangements expected by the Government and the powers that might be devolved. As it is a product of the particular circumstances of that city which are unlikely to be reproduced in other areas in all their aspects, this deal should not be assumed to be a model for other areas pursuing devolution, even cities. However, other areas pursuing deals may wish to reflect upon and cultivate Manchester's characteristics: a history of joint working between authorities, trust between leaders, acceptance that devolution will take place gradually and proactively presenting Government with ideas and solutions for their city. (Paragraph 34)

Due to the city's unique circumstances, and also the fact that the population, their health challenges and the health economy are different from other places, health devolution in Greater Manchester is not a model for other areas. What is happening in Greater Manchester is, however, something for other areas to learn from. (Paragraph 36)

The Government agrees with the Committee that, while all areas are unique, Greater Manchester's longstanding work in this area offers a range of learning points and examples which other areas may well find helpful, and notes that this will also be true of the other Mayoral Combined Authority areas which are emerging.

Recommendation 9: we appreciate that there will be areas of commonality between deals as certain powers, for example transport and business support, are natural candidates for devolution to local areas because of their role in driving economic growth. However, we have heard that areas are making imaginative and ambitious requests for specific powers only to have them turned down, which leads us to question the commitment across Government Departments to truly bespoke devolution (we consider this issue further in paragraphs 41-45). In each deal, we would expect to see more than "a few items" that are not common to other deals being devolved and are devised by an area as a unique response to its geography, economy or social needs. In addition, we would expect to see that commonly devolved powers reflect and respond to the geography, economy and social needs of the local area to which they pertain. (Paragraph 40)

The Government agrees that there are some inevitable areas of commonality in the levers of economic growth over which places aspire to gain greater control, such as transport, business support and skills provision. However, the Government is clear that deals should be bottom-up, bespoke and place-led, in terms of the specific measures agreed but also in the way in which those measures are implemented locally. Inevitably, pioneering new measures carries greater challenges than implementing measures where there is a precedent, and both Government and places must rise to these challenges. In particular, this places even greater emphasis on the quality of the evidence base, business case and evaluation framework underpinning proposals, and on the need for imaginative thinking on how best to drive growth and other positive outcomes in a challenging fiscal context. Finally, as has consistently been emphasised in discussions with places, deal agreements should be seen not as a one-off opportunity, but as part of an ongoing discussion between places and Government on devolution, growth and public service reform.

Recommendation 10: there is an obvious difference between joint working and devolution, namely that devolution involves a transfer of responsibilities from, in this case, the DWP to a combined or local authority. With 'joint working', there is a risk that Departments will carry on without changing their practices. Devolution, on the other hand, leaves decision-making in the hands of local politicians, with accountability to local voters. We recommend that, where the terms 'joint working', 'joint commissioning' and 'co-commissioning' appear in a deal, they are challenged and defined in practical terms. In such cases, we would expect to see local areas actively involved in designing the project, performance management and its integration with existing local services. Joint working on or co-commissioning of services should be considered as a first step towards eventual fuller devolution. (Paragraph 42)

The Government recognises the importance of clarity of definition in ensuring a common interpretation of agreements and building trust between Departments and places. Notwithstanding this, the detail of particular working arrangements in practice will inevitably need to vary between places according to ambition, capacity and readiness. It is worth noting that deal 'headline' documents provide a useful starting point for both places and Government as a concise overview of the scope of a deal; thereafter, the Government is committed to working intensively with devolution areas to ensure that the detailed implementation of their deals, and the way in which relevant budgets are spent in their areas, fully support their ambitions. The Department for Work and Pensions has already begun to work closely with devolved areas on how future employment programmes in their area will support local labour markets and work to integrate existing and future local services.

Recommendation 11: the Devolution Bill is just one part of enabling devolution. There also needs to be an enthusiasm for it across all Government Departments and a commitment to it as the 'default position', resulting in the devolution of substantial powers. Devolution should be as of right, not subject to the fluctuating enthusiasm of central government. The Devolution Bill should be seen as a first step towards a more comprehensive devolution framework for the whole of local government, covering significant spending and tax raising powers. Without this, economic growth, real public service reform, service integration, or any of the other objectives cited for devolution, will not be realised. (Paragraph 44)

The Government considers that the broad, enabling framework set out by the Cities and Local Government Devolution Act provides a good basis for the devolution agenda to continue to evolve over time. The Government's commitment to the ongoing devolution of substantial powers, including where these touch on fiscal levers, is most notably demonstrated by the plans announced in October 2015 to move to 100% business rates retention within local government.

This will have fundamental impacts on both the funding of local services and local areas' ability and incentives to invest in growth. Additionally, it is the Government's view that the direct accountability, local recognition and clear public platform associated with Combined Authority-wide Mayors, where local areas opt for this model of governance, has considerable potential to help support a direction of travel in favour of ongoing devolution. Though London has its own unique circumstances, the evolution of the London Mayorality since its creation provides some support for this view.

Recommendation 12: we would like to see a culture of devolution embedded in all Government Departments. The annual report on devolution, which is required under the Devolution Bill, should be prepared with input from a wide range of Departments, such as the DWP, the Department of Health, the Department for Education and the Department for Business, Innovation and Skills. A section of this report, left unedited by Government, should comprise local authorities' reports back on the Government's commitment to devolution and rating their experience of different Departments, in terms of what the Department was like to work with and whether it fulfilled its part of the deal. The Committee will use the report as a means of scrutinising the Government, and it may also be of use to other stakeholders in holding the Government to account. (Paragraph 45)

The Government welcomes the emphasis placed by the Committee on embedding a culture of devolution, and is committed to an ongoing dialogue with places on this, including taking on board local feedback on experiences of the deal process. However, the Government considers that there are appropriate vehicles through which local authorities to set out their experience of the deal making process outside the Secretary of State's annual report on devolution, the scope of which is clearly set out within the Cities and Local Government Devolution Act.

Recommendation 13: all contact and communications about a deal with a local area should be made through the Cities and Local Growth Unit, regardless of which Department leads a deal. This would ensure consistency of approach across Government Departments and have the practical advantage of being a single channel of communication for local authorities. (Paragraph 47)

The Government recognises the importance of a clear channel for communication on deals and welcomes the positive way in which places have engaged with the Cities and Local Growth Unit in this regard. The Government will continue to build on this positive progress as the devolution agenda develops. However, this should in no way be seen as precluding discussions taking place directly between places and Departments, which will remain an important part of developing the detail of deals under many circumstances.

Recommendation 14: we are not at all convinced that the Government will have the capacity to work through all the bids that have been submitted and also to return to agreed deals to negotiate additional powers and then go on to deal with a ‘second wave’ of devolution proposals at a later date. Extra capacity will also be required to consider the wider, long-term implications of devolution for the Government and how it will change its modus operandi to deal with these. While it appears that the work is currently being adequately resourced, the Government should make an explicit commitment to provide the necessary additional resources as the number of deals under negotiation increases and, as discussed at paragraph 27, work on more extensive devolution develops. A programme of secondments of staff from the Cities and Local Growth Unit to local authorities, and vice versa, would aid sharing of knowledge, best practice and understanding of the different environments. (Paragraph 49)

The Government is clear that devolution is a high priority across Government and remains committed to ensuring that it is adequately resourced. The Government is more than willing to explore initiatives for knowledge sharing and improving mutual understanding between local and central Government.

Bids, negotiation and agreement of deals: key themes

Recommendations 15 / 16: for devolution to take root and fulfil its aims, it needs to involve and engage the people it is designed to benefit. There has been a consistent very significant lack of public consultation, engagement and communication at all stages of the deal-making process. This is due to areas having limited time in the run up to the 4 September deadline. The Government drove the first wave of devolution deals through at a rapid pace (considered in more detail in the next section) which meant there was no opportunity for engagement with residents, or for residents to have their say on the principle of devolution or the framework of the specific deal proposed in their area. Despite this, we believe that local leaders could have communicated more effectively and extensively with their residents about the deal process, the contents of the deal and how it would affect them. It should, for example, have been clear to any citizen what their elected leaders were seeking to secure for the area in negotiating a devolution deal with the government. In addition, deals involving complex negotiations between national and local politicians do not lend themselves to public engagement. However, from now on, efforts should be made to engage, consult and communicate with the public at all stages of the process—in the preparation of proposals, their negotiation and following agreement. Strategies to involve the public may include citizens’ juries, public meetings and, within the NHS and local government, staff engagement sessions. Once a deal is entrenched and its reforms have had the chance to take effect, the public should be consulted on their experience of its practical effects. (Paragraph 53)

We think it is too late to engage the public only once a deal has been agreed. While it is reasonable that the actual negotiations are not open to the public, steps should be taken to inject more openness into the process by publishing on the relevant authorities' websites:

- **Devolution proposals and the Government's counter-offers, within a reasonable time of them being made;**
- **An outline of what is being negotiated; and**
- **Drafts of the deal, and the text of the final deal.**

The Government should also publish the criteria it uses to assess and agree proposals so local areas can refer to these when drawing up their devolution bid. A similar level of transparency should continue to be maintained once the deal has been agreed. (Paragraph 56)

The Government agrees that devolution needs to involve and engage the public, and would see continued value in engagement once a deal has been agreed. Deals are iterative (as evidenced by the progress made by Greater Manchester) and the Government's expectation would be that elected representatives in the local area should seek the views of their constituents through whatever means they deem appropriate. The Government would expect devolution deals, negotiated between locally elected leaders and central government, to reflect what people in the local area want and need. Additionally, when establishing, or amending, a Combined Authority there is a statutory requirement to hold a public consultation, while local authorities in deal areas also remain subject to the Best Value Duty with its associated requirements around consultation related to commissioning in particular.

The Government does not share the Committee's view that there should be assessment criteria to agree deals. This is because there is no blueprint for devolution proposals; the only stipulation is that the governance arrangements should be commensurate with the powers being devolved. All devolution deals are bespoke and will vary depending on the asks from local areas.

All of the devolution deals agreed to date include clear commitments from Government and local areas on implementing, monitoring, evaluating and ensuring accountability, and the text of all agreed deals has been published online. The Government is committed to continuing to publish deals as more are agreed.

Recommendation 17: the Government is moving devolution forward at a rapid pace, which is welcome. However, some areas, particularly non-metropolitan areas, found it very challenging to meet the 4 September deadline. There is a risk that they may be rushing into bids which have not been properly planned and are based on relationships with neighbouring areas which have not had sufficient time to bed down. The Government also appears to be setting deadlines in accordance with events in the parliamentary and political calendar. We welcome the Secretary of State's acknowledgement that some areas may take longer than others to submit bids and recommend that any deadlines imposed should take this into account. Then, once a bid has been submitted and negotiation on the content of the deal begins, the parties should decide on an agreed and prompt timeframe, with fixed deadlines, not influenced by political criteria, for negotiation and agreement of the deal. It is essential that this takes into account the time needed to undertake consultation and engagement with the public. (Paragraph 60)

The Government recognises fully that different places will proceed at different speeds and has set this out on a number of occasions. It is worth noting, however, that the publicity occasioned by fiscal and other events has at times provided a powerful means of support to places in maintaining the momentum of deal negotiations and implementation. The Government is keen to provide as much clarity as possible for places undertaking negotiations, but considers that an overly rigid 'framework' approach would not be helpful in maintaining a bottom-up approach to devolution.

Recommendation 18: in addition, in accordance with the evidence given by the Minister, we suggest that the Government makes a clear statement that devolution will take place at different speeds in different places, and that taking time to craft a proposal to take account of local specificities will not adversely affect the Government's response to it. This would encourage areas to spend longer building relationships, preparing proposals and consulting residents, and would be particularly beneficial for non-metropolitan areas. (Paragraph 61)

The Government recognises the importance of not seeking to impose a one-size-fits-all model or timescale on places seeking devolution. This has been emphasised on many occasions by Ministers in Parliament and elsewhere, including by the Secretary of State at the Third Reading of the Cities and Local Government Act¹ in the House of Commons. The Government is pleased to take the opportunity afforded by this response to reinforce this message and is committed to continuing to engage with places to resolve specific doubts and issues where these may arise.

Recommendation 19: the recommendations we made above—encouraging devolution at different speeds and setting out a timeframe—would provide a clear process for parties to follow and would help to counter the perception that the Government is exerting too much influence over the deal-making process. (Paragraph 62)

The Government is clear that the negotiation and implementation of deals is a partnership endeavour between local places and Government and welcomes further discussion of how this message can effectively be reinforced.

¹HC Deb 7 December 2015, vol 603, col 824:

Julian Sturdy: I praise my right hon. Friend for all his work bringing the Bill to the House, but does he accept that some areas might need more time to come to the right devolution deal, rather than rushing a bad deal? Will he assure those areas that they will not be penalised for taking their time over what might be, for certain areas, quite a difficult decision to get the right conclusion?

Greg Clark: I can certainly give that assurance to my hon. Friend, who has played an active role in talking to his local authorities and businesses to build a consensus. It is clear that different places will proceed at different paces, as they have done already, but I and my hon. Friends are completely committed to inviting every part of the country to put forward and negotiate a deal that is right for them.

Recommendation 20: it is often argued that urban areas are increasingly the source of the highest levels of economic innovation and growth and that, if the objective is economic rebalancing, this requires greater devolution to city regions. We understand and sympathise with this approach. Nevertheless, the agreement of a devolution deal with a non-metropolitan two-tier area would help to address any sense that the Government is biased towards devolution to city regions. The next non-metropolitan deal will therefore be particularly significant and we look forward to one being agreed in the next six months. (Paragraph 63)

The Government accepts the Committee's recommendation. Devolution to local areas is an important element of the Government's Rural Productivity Plan. At the time of laying this response, three more deals had been announced at Budget 2016, with the West of England, East Anglia and Greater Lincolnshire. All three include substantial rural areas, and the latter two bring together local authorities across a range of different tiers. This brings the total number of deals to ten, involving a mixture of urban and rural areas and covering 30% of England by population.

Recommendation 21: nevertheless, we are concerned that this will not be the case for small towns and county areas outside the South East which risk being left out and left behind. The Government should consider this a major issue and monitor the impact of devolution deals on adjoining or nearby areas to assess whether such areas are benefitting or being left behind. (Paragraph 64)

The Government acknowledges the Committee's concern and reiterates that this is a universal, rather than simply an urban, agenda. While ensuring that this is clearly communicated, it will also be important to reinforce that the onus is on places to develop the partnerships and proposals that will best serve their local communities and come forward to discuss their proposals with Government.

Governance and Accountability

Recommendation 22: international comparisons aside, we heard evidence that there are benefits to be gained from having an elected Mayor; for example leadership, strong accountability and a 'go to' voice for business. However, we believe elected Mayors are likely to be better suited to urban areas. The scale, geography and economic diversity of non-metropolitan areas mean elected Mayors are unlikely to be an easy fit. Local areas should be allowed to decide whether or not they wish to have an elected Mayor. Those which do not want an elected Mayor, but nonetheless want substantial devolved powers, should be allowed to propose an equally strong alternative model of governance. (Paragraph 70)

The Government does not consider that there is any discrimination between rural areas and urban areas. Several city-regions which have agreed devolution deals also include substantial rural areas, including Greater Manchester, Sheffield City Region, North East and Tees Valley. The three deals announced at Budget 2016, with East Anglia, Greater Lincolnshire and the West of England, all include substantial rural areas. The deals with Greater Lincolnshire and East Anglia will see directly elected Mayors in two-tier, non-metropolitan areas, based on strong local consensus and ambition.

The incorporation of an elected Mayor into governance proposals is a choice for local areas and relates to the scope and scale of the powers they are seeking. It is for each local area to come forward with proposals for strong and accountable local governance that best fits the local area.

Recommendation 23: in fact, where a Combined Authority has been created, the Mayor could be seen as a fifth tier of local government. Aside from the potential for confusion, which we discuss below, we think that the public will probably be left feeling that there is too much bureaucracy and too many politicians. There is a risk that this could lead to low turnouts at Mayoral elections, which would have implications for the democratic legitimacy of elected Mayors. This is a consequence that needs to be addressed in the long-term, possibly by a move to having more unitary authorities (Paragraph 71)

The Government recognises the importance of clear communication in local areas about the changes being made and the opportunities arising from them. However, the Government does not consider that Mayoral Combined Authority arrangements would lead to confusion. The Mayor is the chair, and a member, of the Combined Authority, not an extra tier of government. The ability for the public directly to elect a Mayor – who then effectively works with a Cabinet of local authority leaders to take forward their strategies and decisions – offers opportunities to improve local democratic engagement. It is also worth noting that Mayors will be scrutinised by the local overview and scrutiny committee(s) and audit committee. Furthermore, the 2016 Act also gives local areas the opportunity to come forward with proposals for simplified and more streamlined local authority governance, and the Government has been clear that it is open to any such discussions.

Recommendation 24: as the DCLG says, the overview and scrutiny requirements in the Bill are an initial framework to be used as a basis for more robust provisions, which we believe have a role in fostering public confidence in the new arrangements, as well as balancing vested interests. These should be developed to suit the characteristics of the local areas as a result of deliberate efforts to hold active discussions at local level, with residents involved in designing new and more open methods of scrutiny. Local areas need to give active consideration to how the Mayor will work with the council leaders and how s/he will be held to account. Although the elected Mayor is intended to be a 'first among equals', s/he may soon establish, or already have, a profile and position which makes this balance difficult to achieve. (Paragraph 77)

The Government agrees that robust scrutiny arrangements are crucial. As provided for in the 2016 Act, Combined Authorities must establish at least one overview and scrutiny committee and an audit committee, who will scrutinise the decisions and actions of Mayors and combined authorities. These committees can publish reports and make recommendations. An overview and scrutiny committee may require the Mayor, members and officers of the authority to attend and answer questions before it, and this requirement must be complied with. They can 'call-in' decisions and recommend that they are reconsidered or reviewed, during which time the decision cannot be implemented. The Government intends to make detailed provision through secondary legislation, reinforcing these general requirements and, as appropriate, tailoring the scrutiny arrangements to the local circumstances of each Combined Authority and deal.

Recommendation 25: there will be a complex division of responsibility between local authorities, the Combined Authority and the elected Mayor which will not necessarily be apparent to the public. However, as the figurehead, people are going to hold the elected Mayor accountable, regardless of whether or not s/he has responsibility. As a result, careful thought needs to be given to determining the division of responsibility in a way that provides a coherent set of powers and makes sense to the public; this should be an integral part of the deal-making process with the division of responsibilities written into the deal. (Paragraph 79)

The Government agrees that the public should know who is responsible for local decision making and how responsibilities are divided. It is for each local area to determine the division of responsibilities between the Mayor and the Combined Authority, and to set this out in the devolution deal proposal and, later, in the Combined Authority's constitution. When agreeing deals, it is the Government's view that the governance arrangements agreed should be appropriate for the scale and ambition of the particular deal. To date, Mayors have taken on overarching functions such as transport and strategic planning, but the only function reserved exclusively for the Mayor within the legislation is the exercise of Police and Crime Commissioner functions.

Health devolution

Recommendation 26: health devolution has great potential. In the context of some areas, such as Greater Manchester, it is a necessary step to design health and care to suit the circumstances of a particular place, to speed up and enhance existing work on integration and help address the cultural challenges posed by joint working for the NHS and local government. In other areas, however, health devolution may not be needed in the short term to advance and improve health and social care. But, to achieve a great deal more in the longer term, real devolution and a transfer of more power to local government is needed. (Paragraph 85)

The Government supports further exploration of health devolution to local areas and agrees with the Committee that devolution, in the right circumstances, has great potential to achieve considerable benefits for health and social care, including further support to progress towards better integration. The Government wants to build on the foundation set by the Better Care Fund, which has already provided a significant impetus to join up health and social care services, and to go further and faster to deliver joined up care.

The Spending Review set out an ambitious objective that by 2020 health and social care will be integrated across the country. The Government will support the NHS and local government in determining the best ways of achieving this objective in different localities, and parts of the country are already demonstrating different approaches, including the devolution deals agreed with Greater Manchester and other local areas.

The discussions taking place before and after the agreement of devolution deals often bring local partners together in a way not seen before, focusing on the needs of people and communities, rather than organisations. This has been the case in Greater Manchester where commissioners (NHS and local authority) and providers (from large foundation trusts to primary care and the voluntary sector) are collaborating effectively.

Devolution should also enable the greater involvement of local communities in the design and delivery of the local services that affect them.

The recently published NHS planning guidance (Delivering the Forward View: NHS shared planning guidance for 2016/17 – 2020/21) outlines a new approach to help ensure that health and care services are planned to meet the needs of local people, rather than being organised around individual institutions. Devolution deals are one option for ensuring that every local area's plans for improving health and social care are centred on place and community.

This is a bottom-up approach whereby a local area can come forward with their ambitions for new powers and budgets, and devolution deals will be tailored to the particular needs and circumstances of that local area. While there will be benefits from sharing the learning from Greater Manchester, the Government has always been clear that there is no one-size-fits-all approach. Local context and local priorities will shape the way each area takes forwards its plans. For this reason, the provisions of the Cities and Local Government Devolution Act 2016² provide a broad menu of flexible options available to local partners and NHS England as they seek to take collective steps towards better health and care and greater financial sustainability. A number of local areas are deciding to work towards better integration of health and social care services through section 75 arrangements and/or strengthening the strategic oversight role of Health and Wellbeing Boards.

Existing legislation already enables NHS England to delegate to or share with clinical commissioning groups (CCGs) the responsibility for certain health functions, such as commissioning of GP services. It also allows enables local authorities and NHS bodies to work together and pool budgets for particular functions and for CCGs to work together and pool funds. The Act now introduces additional flexibilities which will enable NHS England's partners, including combined authorities, local authorities and CCGs, to work together on the exercise of specified functions, and with NHS England. The Act also enables Government to devolve a range of powers and functions currently carried out by Whitehall departments or public authorities like NHS England to a Combined Authority or a local authority.

Having put in place this flexible and enabling legislative framework, the Government will continue, with NHS England and other national bodies, to support local areas coming forward with proposals to join up local services and achieve better health and care outcomes. As with other areas of policy, but particularly given the significance of health services to the public and the range of stakeholders involved, it will be especially important that places seeking to progress health devolution can demonstrate sufficient local will (at both political and operational levels), robust governance arrangements at a strategic geographic level and effective partnership delivery structures.

² Where this response refers to the enabling powers in the Cities and Local Government Devolution Act 2016, this includes amendments the Act makes to enabling powers in the Local Democracy, Economic Development and Construction Act 2009, which concern transfers of local authority and public authority functions to combined authorities, by order. The 2016 Act also contains free-standing enabling powers in respect of public authority functions which may be conferred on specified local authorities by way of regulations.

NHS England will assess proposals for voluntary arrangements involving its functions on an individual basis against agreed principles and decision criteria, taking into account the local context and information from the local health and care economy. One of the key criteria for NHS England is for a local area to demonstrate that its devolution proposals will not disadvantage any population that is not within the boundaries of the devolution deal, for example patients in Wales using specialised services in Greater Manchester. These proposals will also be assessed against the wider potential impact on NHS England and its functions and responsibilities.

Whatever powers are devolved or delegated to local areas, the Secretary of State for Health will continue to be bound by relevant duties set out in the National Health Service Act 2006 and in relation to the NHS Constitution.

Recommendation 27: However, health devolution has arrived at a particularly difficult time for the health and social care system and its staff: there has been significant structural change in recent years and there is now an unprecedented level of financial challenge. With such uncertainty, we are concerned about the long-term consequences and recommend that, over an appropriate timescale, the Government gathers evidence on the impact of these reforms. It is important that areas should not pursue formal health devolution at the expense of health and social care initiatives with similar aims that are proving fruitful. Areas that do wish to pursue health devolution must have clearly defined objectives for what they expect it to deliver. (Paragraph 86)

As identified in the NHS Five Year Forward View, the Government, national partners and local areas need to work together to address the significant challenges in the years ahead in order to avoid widening gaps in health and wellbeing, care quality and funding. To support the future transformation required, as a result of the Spending Review, NHS funding will be £10 billion higher in real terms by 2020-21 than it was in 2014-15. The Government will be providing the NHS with £3.8 billion more in 2016-17, over and above inflation, and almost £6 billion of the £10 billion in the first two years of the six year period. This demonstrates clearly that the Government has listened and responded to what the NHS has said about the profile of investment it needs to deliver the Five Year Forward View. The Government believes that the answer to the challenges faced by the NHS lies in changing the way services are delivered and keeping people well and independent for longer, not in altering the fundamental principles that underpin the NHS.

Devolution is about enabling and unleashing collaborative local efforts towards long term transformation. Devolution deals are voluntary arrangements which are designed to complement and work alongside other programmes of work such as the new models of care set out in the Five Year Forward View. As the Government made clear through the passage of the Cities and Local Government Devolution Act, existing accountabilities, statutory obligations and national standards for NHS services will still apply under devolved arrangements, including the NHS Constitution and the Government's Mandate to NHS England.

It is important to the Government and to local areas that the benefits of existing successful programmes can be maintained and built on through devolution. In the right circumstances, devolution to local areas has the potential to achieve considerable benefits for health and social care, including:

- Support for further progress on **local integration** of health and social care, leading to better experience for service users, improved health and care outcomes and more efficient use of local resource.
- The ability to design and deliver better health and care services facilitated by greater **involvement from local communities** and decision making at the most local level.
- The ability to join up across wider public services and to create better conditions for **growth** by supporting people to live longer, healthier and more productive lives. Devolution could bring significant benefits in terms of tackling the wider determinants of health and putting health and wellbeing at the heart of proposals focused on economic growth, transport and public service reform.

Before conferring any functions on a combined or local authority under the Cities and Local Government Devolution Act, the Government will expect to be satisfied that this would lead to an improvement in how those functions are exercised. In making any decision to delegate functions to, or work jointly with, local health and care commissioners, NHS England must adhere to its duties under the National Health Service Act 2006. This includes, for example, duties to promote the NHS Constitution, to exercise its functions effectively, efficiently and economically, and to exercise its functions with a view to securing continuous improvement in the quality of services.

Any local area putting forward proposals for a devolution deal including health and social care will need to have clearly defined objectives, demonstrating in particular how these proposals will benefit their local population and how they will contribute to longer term service and financial sustainability.

The process of developing Sustainability and Transformation Plans (STPs) during 2016-17 will help all areas, including those implementing or developing devolution agreements, to plan more clearly how to improve health and social care. By summer 2016, all localities will have set out in their STPs how better health, better quality of care, and sustainable finances will be delivered in the coming years.

All areas with devolution deals will be required to put in place robust arrangements for monitoring, agreed with the relevant Government department to ensure alignment with Parliamentary accountability arrangements.

Local areas are also required to commit to an appropriate framework for evaluation, which they are supported in establishing through the cross-departmental implementation process. For health and social care, there is already a rich array of data sources which can help evaluate the impact of devolution, integration and other transformational initiatives. For example, there is a range of existing indicators of provider performance, in terms of quality, access and financial performance. NHS England is consulting on a new CCG Improvement and Assessment Framework which will provide quantitative insights into a range of measures of the health and wellbeing of citizens across England in every CCG locality.

In addition, Government has existing data sources arising from the NHS, public health and social care outcome frameworks which can provide quantitative insights into outcomes for users of the health and care system. All of these frameworks continue to apply to areas with devolved arrangements.

The Secretary of State for Health will continue to use data from the outcomes frameworks to meet his statutory duty to assess the performance of the health service overall. Through the new mandate to NHS England, the Government will continue to hold NHS England to account for performance against the NHS Outcomes Framework, as well as for reducing local variation in performance against the new CCG Improvement and Assessment Framework.

The Government agrees with the Committee that it will be important to use the available data to better understand the possible impact of new integrated, delegated or devolved arrangements, both in terms of improved outcomes and quality of care, and longer term financial sustainability.

Recommendation 28: we reiterate, however, that, from now on, the public must be engaged, consulted and communicated with throughout the devolution process and once a deal has been agreed. Public engagement is particularly important in the case of health devolution where the complexity of the systems in place make understanding the consequences of change more difficult in an area where the public's response is likely to be more emotional. (Paragraph 87)

The Government agrees that engagement, consultation and communication with the public will be crucial to successful implementation of all aspects of devolution deals, and acknowledges the particular importance of this in the case of health and social care. The Government would expect that any formal request for a conferral of health functions under the provisions of the Act would include information about public engagement and consultation which had been undertaken to support development of devolution plans. Once implemented, devolved arrangements should enable greater involvement of local communities in the design and delivery of local services, bringing more decision making to a local level.

Locally elected politicians play an essential role in representing and being the voice of their constituents and local communities, including in relation to health and care, and as such have much experience in making difficult decisions. This role will not change under devolved arrangements. Local Healthwatch organisations, which are in place in every local authority area, can also play an important role in highlighting the views of local communities and supporting effective engagement. Effective engagement with service users, communities, frontline staff, elected members and any other interested parties is key to securing the success of any devolution deal.

In the case of Greater Manchester, there is an extensive engagement programme for health and social care devolution. Greater Manchester has published the final draft of a Strategic Plan, 'Taking Charge of our Health and Social Care in Greater Manchester,' along with ten locality plans representing the people and place based ambitions for each of the ten areas of Greater Manchester. Many of the ambitious plans set out in the Greater Manchester and local programmes are the culmination of years of engagement with staff, patients and the public. In their contribution to December's Strategic Plan, each of the ten Greater Manchester boroughs has set out the work they have done to engage with staff and the public around prevention, integration and new models of care.

Frontline health and care staff have been engaged in the development of the work streams which underpin the health and social care devolution programme, and in many cases they are leading their development. For example, the Greater Manchester Healthier Together programme was clinically led and the development of the Greater Manchester primary care transformation strategy is led by clinicians within primary care.

The Strategic Plan was publicly launched in December and the people of Greater Manchester are being encouraged to share their views on the plan. In February 2016, a Greater Manchester wide 'Taking Charge Together' campaign was launched. This campaign works to improve the understanding of the public, staff and stakeholders of the impact and benefit of devolution.

Recommendation 29: Accountability in health and social care is already extremely complex and further changes, such as the creation of an elected Mayor, are likely to leave patients feeling confused about who they should approach for information or to pursue complaints. Any health devolution agreement should be accompanied by plans for how the changes taking place will be communicated to residents. Residents should be informed about the new structures and responsibilities and be told where to go for information and advice and to make complaints. (Paragraph 88)

The Government agrees that clear communication of local responsibilities and points of contact will be a critical aspect of successful implementation.

It is worth noting that the Greater Manchester deal involves the Combined Authority exercising functions in partnership with CCGs, NHS England and other relevant local partners, rather than these functions being conferred on the Mayor alone.

In addition, where local areas move to integrated, delegated or devolved arrangements, existing accountabilities, statutory obligations and national standards for NHS services will still apply, including the NHS Constitution and the Government's Mandate to NHS England, and the Act provides Government with enabling powers to achieve this. Information should be provided to people living in that local area about who is responsible for their health and care services and where they can go for information, to raise issues or to pursue complaints.

As stated above, Greater Manchester has put in place a programme of extensive engagement and communications work, known as 'Taking Charge'. This has involved the use of various communications channels including websites, media, social media, partner channels, and national and regional events. Communication with the public on the Greater Manchester Strategic Plan

has been supported by a comprehensive public facing engagement toolkit, co-designed with the community and voluntary sector.

It is important that service users, their carers or their representatives feel able to provide feedback about their care in a way that feels fair, open, and respectful of their views. This includes having clear, simple information about complaints processes, and advice and support if they need it.

All providers of NHS-funded healthcare are under a legislative duty to make information available to the public as to their arrangements for dealing with complaints, and how further information about those arrangements may be obtained. The legislative duty covers all organisations falling within the scope of the 2009 complaints regulations³, including CCGs, NHS England and local authorities (with regard to their adult social care functions). These duties will remain under delegated or devolved arrangements, and where health or social care functions are transferred to a combined or local authority, Government will be able to use the enabling powers in the Act to ensure those duties are also applied.

Recommendation 30: we found this explanation [of accountability for services] confusing. It is unclear to us how accountability will work in practice. (Paragraph 89)⁴

The Cities and Local Government Devolution Act 2016 does not change the position of the Secretary of State under section 1 of the National Health Service Act 2006. This provides that the Secretary of State for Health must continue the promotion of a comprehensive health service in England and that he retains ministerial responsibility to Parliament for provision of that health service. NHS England is responsible under the provisions of the National Health Service Act 2006 for commissioning primary care services and, through regulations under this Act, has also been given responsibility for commissioning certain other services such as specialised health services. CCGs are responsible for commissioning most other NHS services. CCGs are accountable to NHS England for their performance, and NHS England is accountable to the Secretary of State, particularly as to its delivery of the objectives set in the annual Mandate to NHS England.

Local authorities are held accountable by their local communities for the services and outcomes that they deliver for residents, including adult social care and public health. The Department and other partners publish data and information about local authorities' delivery of outcomes so that local residents can hold their councils to account. Further local government structures (such as statutory Health and Wellbeing Boards and overview and scrutiny functions) also provide opportunities for locally elected councillors to represent the views of their constituents, and to challenge on their behalf.

³ The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (SI 2009/309) as amended, in particular by SI 2013/235.

⁴ Depending on which bit is under pressure, the buck stops with providers for providing services and they remain responsible under a devolved process, as they would anywhere else. [...] But the Secretary of State remains responsible for the core duties of the NHS and how they are carried out. [...] The buck remains with those who currently have the responsibility for the services or who will be commissioning the services. Locally, electorally, a new devolved authority or a Combined Authority will need to answer to their own electorate as to how they are running services and in what configuration, but in terms of quality and standards, we have made very sure that the regulatory regime remains the same as it is and, ultimately on NHS services, the buck stops with the Secretary of State.

Where any NHS functions are transferred to a combined or local authority, the Cities and Local Government Devolution Act provides enabling powers allowing the transfer order (or regulations) to include conditions so that relevant statutory duties that apply to NHS England and CCGs apply also (with suitable modification as required) to the combined or local authority.

These safeguards enable the Secretary of State to ensure that where a Combined Authority or local authority takes on any responsibility for health functions, that authority is held to account in the same way as NHS commissioners are held accountable now.

As well as providing powers for transfer of health functions to combined or local authorities, the Act introduces amendments to the NHS legislation that give NHS England additional flexibility to delegate commissioning functions to, or exercise those functions jointly with, combined authorities, local authorities and CCGs⁵. Where responsibility for NHS England functions is delegated or shared in this way, NHS England retains overall accountability for how those functions are exercised.

CCGs and local authorities could also choose, as part of wider devolution deals, to use existing legislative flexibilities to pool resources and set up joint or lead commissioning arrangements. In these cases, CCGs and local authorities retain their accountability for the commissioning functions in question, but choose to exercise those functions in partnership with each other.

There is no intention that devolution deals, including those involving transfer orders, will change the accountability framework within which NHS providers operate. NHS trusts and foundation trusts and their boards remain responsible for providing high-quality and financially sustainable services. Nor will devolution deals change the statutory roles of the Care Quality Commission and of Monitor and the NHS Trust Development Authority (acting together as NHS Improvement) in overseeing providers of health and care services.

NHS Improvement is working closely with devolved areas such as Greater Manchester to support their plans. More broadly, NHS Improvement is exploring how to enable a place based approach to oversight and support, in line with the approach currently being followed for the most challenged health economies (through the 'success regime') and in line with the approach to Sustainability and Transformation Plans.

⁵ For some arrangements, this is subject to regulations being made to prescribe combined authorities and local authorities as potential partners or delegates.

Recommendation 31: in terms of regulation, we heard that regulatory bodies, such as Monitor and the NHS Trust Development Authority, would adapt to regulate the devolved area and make sure their powers covered the “wider footprint of the areas that will be commissioning and providing”. It would appear that their powers do not extend to regulating a local authority’s financial contribution to a pooled budget and it was not clear which body was in fact responsible for checking their financial position. There is also a lack of clarity about the audit and regulation of pooled budgets and, in particular, oversight of the sustainability of local authorities’ contributions. Again, we were left feeling that the arrangements the Minister described were more aspirational than a thought-through and watertight system of financial regulation. There is a need for a clear articulation of how health devolution will work and for clear governance arrangements set out in a way that residents, patients and staff can understand. This will ensure there is no adverse impact on the quality of local services and that services are accountable. We are not satisfied that there has been sufficient consideration as to how pooled budgets will be regulated and audited and how they will be handled in practice. Unless this is carefully considered, we risk both not having the flexibility to use budgets to reflect local priorities and facilitate joint working and replicating locally the silos that exist at national level. This applies to services devolved from all Government Departments, not just health We would like the Government to revisit this issue on an ongoing basis as health devolution is rolled out and embedded in local areas. (Paragraph 90)

It is essential that there are clear arrangements for regulation and audit of pooled budgets. This is an established part of the existing arrangements for pooling of budgets under section 75 of the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012 and the Cities and Local Government Devolution Act 2016). Regulations under the Act permit CCGs and local authorities to pool funds where payments may be made for certain NHS or ‘health-related’ local authority functions where this is likely to lead to an improvement in the exercise of those functions. This is the basis for pooling of budgets under the Better Care Fund.

The section 75 partnership arrangements regulations allow for one partner to take the lead in commissioning services on behalf of the other (lead commissioning) and for partners to combine staff, resources and management structures to help integrate service provision, depending on the local arrangements. The regulations set out rules that must apply to such arrangements.

As a matter of statutory provision, liability for the exercise of any function which is the subject of a section 75 partnership arrangement rests with the local authority or CCG whose function it is. There is provision in the 2009 complaints regulations mentioned above which allows service users to complain to either the local authority or the NHS body concerned where the service is delivered under a section 75 arrangement.

Each CCG and local authority partner needs to satisfy itself that the pooled budget complies with the requirements of its appropriate code of governance and annual governance reporting guidance. Each partner must also satisfy itself that all other regulatory requirements are met – for example, that discrete funding streams are spent appropriately at a local level. These arrangements will continue to apply under any devolution deals that include budget pooling under section 75.

Recommendation 32: the Government should set out the steps it will take to ensure the relevant Departments share data, for example relating to Attendance Allowance, with the NHS and local authorities. (Paragraph 91)

Health and care data plays a critical role in the design and delivery of public services and in improving outcomes for citizens. However, as the Select Committee report notes, personal health and care information is particularly sensitive and has a robust legal framework in place to protect confidentiality, emphasising the importance of strong protections in this area. Following media coverage in 2014, there has been an overriding need to build and maintain public confidence in how health and care data about individuals is used.

There are a number of existing mechanisms to enable appropriate and lawful use of health and care data in other public services, for example, linking to police services or to local troubled families' teams.

- **In terms of allowing other public services appropriate access to health and care information about individuals**, a significant step to achieving more effective integrated local data access is the co-location of health professionals, such as health visitors, with local teams (such as troubled families or police teams). The cross-government sponsored Centre of Excellence for Information Sharing has been working with local teams to promote integrated working across local teams and health professionals, providing case studies and practical guidance on data use for local areas.
- **In terms of other uses of health and social care data which do not require direct access to underlying identifiable data**, the Health and Social Care Information Centre (HSCIC) and DCLG have been discussing a project to assess the impact of the Troubled Families Programme on the health of troubled families – using high-quality data, processed and anonymised within HSCIC's secure data environment, to produce the aggregated statistics required for evaluation.

In September 2015, the Health Secretary commissioned Dame Fiona Caldicott (the National Data Guardian for Health and Care) to develop clear standards for the security of personal data, against which every NHS and care organisation will be held to account, as part of an independent data security review. Any additional proposals for access to health and care data by other public services would need to be developed in line with the legal framework and with programmes to take forward Dame Fiona Caldicott's forthcoming independent review recommendations, due in spring 2016.

Recommendation 33: while we were satisfied with the plans [for the treatment of specialised services] we received, we highlight this as an issue which needs to be carefully monitored in emerging health devolution agreements. (Paragraph 92)

The Government is pleased to note that the Committee was satisfied with the plans it received in respect of specialised services commissioning. Whilst wanting to give commissioners the flexibility to make sensible, joined-up decisions across the patient pathway, the Government also recognises that it is important to maintain consistent standards of access, quality and safety. Under amendments to the NHS Act 2006 made by Schedule 3A to the Cities and Local Government Devolution Act 2016, there is new provision made in relation to specialised services. NHS England may delegate to local bodies, or jointly exercise with them, commissioning functions in respect of specialised services, subject to certain statutory factors that NHS England must consider before deciding whether it is appropriate to enter into such an arrangement.

These provisions could enable local commissioners to shape services to best meet the needs of their local populations, and join up specialised services and other local health and care services more effectively. However, under such arrangements, NHS England will retain its overall accountability for commissioning of specialised services, and national standards will continue to apply. NHS England will remain bound by its existing duties to promote the NHS Constitution, and its duties in relation to reducing health inequalities, effectiveness and efficiency, and securing continuous improvement in the quality of services, along with its other overarching duties.

As devolution deals develop, the Government will continue to hold NHS England to account for how it is fulfilling its specialised services commissioning responsibilities.

London

Recommendation 34: devolution to London was successful because it enabled the city to meet the key challenges it faced in 2000. Sixteen years on, London faces a series of additional challenges including housing and skills, which are not addressed by the existing devolution framework. London is therefore not only ready for further devolution, but urgently needs it. In keeping with the recommendations of our predecessors, we believe fiscal devolution is essential to London's continuing success. The scale of growth of service demand alone in London requires significant investment in infrastructure for which fiscal devolution is required. (Paragraph 96)

London is an example of what a city can achieve under the leadership of a powerful Mayor and the Government is fully committed to working with the Mayor and London boroughs to support London's continued success and growth as a leading global city. In this Parliament, the Government has established the London Land Commission, is devolving further powers on planning and skills to the Mayor, and will be commissioning employment support provision jointly with the Mayor and the London boroughs.

In addition, the Government strongly supports London partners' ground-breaking plans for transforming health and care provision across capital. The London health devolution agreement signed in December, between London partners, central government and its national bodies, provides a further important step in the Government's devolution agenda and will help provide better and more joined up health care for Londoners.

On fiscal devolution, fully devolved business rates will provide stronger incentives to boost local growth. The Government will consult with local areas on the mechanism and exact design of the business rates system for London. At Budget 2016 it was announced that the Government will increase the share of London's business rates retained by the Greater London Authority, transfer responsibility for funding TfL's capital projects and explore with London options for moving to 100% business rates retention ahead of the full roll-out of the business rates reforms.

Recommendation 35: we agree that, depending on what makes most sense, certain types of reform and devolution in London will and should happen at regional or sub-regional level and that arrangements will be more complicated than in other areas. However, there is a real risk of confusion for the public, and indeed for officers, in having three levels of governance and particular efforts should be given to avoiding such confusion. (Paragraph 97)

Government agrees that while London's sheer size (with a population larger than that of Scotland and Wales combined) means that some elements of devolution are more complex in the capital, efforts must be made to keep governance arrangements and lines of accountability clear. The Government is continuing to work with London on its devolution proposals, and will assist London in bringing into effect suitable governance and accountability arrangements where necessary.

Recommendation 36: both the current Mayor of London and his predecessor have been judged to be successful in their role. It remains to be seen whether elected Mayors for combined authorities are similarly successful. Not having the same profile, they are unlikely to enjoy the same level of influence and leverage as the Mayor of London. However, the office does demonstrate what an elected Mayor can do for an area. In keeping with our predecessors, we are persuaded that the London Assembly's scrutiny of the Mayor is effective, but recommend that it is given the power to call-in Mayoral decisions, veto the Police and Crime Plan and, if necessary, reject the Mayor's appointment of a Deputy Mayor. We further recommend that, as London acquires more devolved powers, the arrangements are kept under review. (Paragraph 101)

The Department for Communities and Local Government stated in its response to the Committee's post-legislative scrutiny of the Greater London Authority Act 2007 that it would look again at the powers of the London Assembly in light of any further significant devolution to London. Existing devolution plans (including further powers on planning, employment support and skills) will help the Mayor better deliver his existing economic development, planning and housing responsibilities rather than greatly increasing the scope of the Mayoralty. Nonetheless, reconsidering the role of the London Assembly and its resources as London's powers and responsibilities evolve is something that the Government is continuing to keep under review.

Recommendation 37: we believe that the overview and scrutiny committees in the Devolution Bill should be a framework for more robust arrangements developed by local areas as a result of active discussions at local level. In developing their own scrutiny arrangements, local areas might wish to adapt or adopt some of the methods used by the London Assembly, such as broadcasting question times and public meetings, to hold the Mayor of London and Greater London Authority to account. (Paragraph 102)

How local areas configure their respective scrutiny arrangements, within the framework of the Cities and Local Government Devolution Act, is up to them. However, the Government would encourage areas to adapt or adopt successful methods from other areas, including London, and would encourage all areas more broadly to consider ways of making scrutiny processes more transparent and accessible to the public.

Looking ahead

Recommendation 38: we expect to see a continued commitment by the Government to devolution throughout this Parliament, including moves towards fiscal devolution. (Paragraph 103)

The Government welcomes the thrust of the Committee's recommendation and reiterates its continued commitment to devolution as a core Government priority throughout this Parliament. The progress that has been made to date has been due in no small part to the willingness of places to engage seriously and constructively in putting forward practical proposals for their places, which are then able to inform wider policy thinking in Government. The Government is committed to continuing this pragmatic approach to expanding devolution. In addition to developing new deals, the Government will work with places to identify opportunities to extend existing deals where appropriate.

Additionally, the move to 100% local retention of business rates, as well as other financial reforms such as the opportunity for local authorities to secure longer-term financial certainty linked to efficiency plans, will provide significant opportunities to continue to take forward the devolution agenda across Whitehall.

Recommendation 39: as an immediate first step to inject more openness, transparency and public engagement into the deal-making process and assist local areas embarking on deals and preparing proposals, all information pertaining to devolution—agreed and updated deals, comparisons between deals, announcements relating to devolution, the criteria by which proposals are judged, objectives and measures, suggested timeframes, best practice in public engagement and scrutiny, the annual reports on devolution and, in time, the results from the monitoring of deals—should be published and collated on a Government website for all to access. The devolution resources hub created by the Local Government Association (LGA) performs a similar function and we suggest that, within the next two or three months, the Cities and Local Growth Unit works with the LGA to create and run its own devolution website. (Paragraph 105)

The Government acknowledges the value of ensuring that information on devolution is collated and readily accessible, and would be pleased to explore with partners how this could best be progressed, in a way which presents information most usefully and is cost-effective for both Government and others.

Recommendation 40: before the end of this Parliament, once the majority of deals have bedded in and elected Mayors have established their positions, we intend to undertake a review of the progress of devolution in England which will examine the issues that we have identified in this report. The review is likely to consider, but will not be limited to, the following:

Success and scope:

- The success of devolution deals, measured by, for example, improvements to local economies and health economies, and whether we have reached the stage where powers can automatically be devolved to local areas as of right, and whether it is time for negotiation of further, more ambitious deals and/or a more comprehensive package of devolved measures between Government and local areas as a whole.
- What further powers areas have accumulated over time, including fiscal powers, and whether there are any powers not currently being devolved to local areas which should be.
- The impact on areas which do not have a devolution deal.
- Whether the Government is capturing data at the right level—for example, city region and Combined Authority level—to assess the effectiveness of deals.
- Local authorities' views on the Government's commitment to devolution, working with different Departments and the process of negotiation and consultation.

Progress:

- Progress with the development of further devolution to London, outside of the framework of the Bill.
- The rate at which the Government negotiated and agreed the 38 devolution bids submitted by local areas for the deadline of 4 September 2015 and whether any new deals are being agreed.
- The number of deals proposed since 4 September 2015 with new areas and the number of existing deals which have been extended.

Geography:

- **The geographic spread of deals and the extent of devolution to non-metropolitan areas.**
- **Whether areas without deals which adjoin or are nearby those with deals are at an advantage or disadvantage and, if the latter, how this could be addressed.**

Governance and accountability:

- **With particular regards to health devolution, how accountability is working in practice.**
- **The impact elected Mayors are having on local areas.**
- **How scrutiny is working in practice and whether local areas are building on the scrutiny requirements set out in the Devolution Bill.**
- **The extent to which local areas are engaging and consulting the public and whether local democracy has benefitted from devolution.**

Wider issues:

- **Whether there are any signs that devolution is encouraging the restructuring of local government—for example, towards local authorities in two-tier areas becoming unitaries or a single, large authority across a Combined Authority area.**
- **How access to new sources of local finance—for example, 100 per cent retention of business rate growth—have impacted on local areas.**
- **How devolution deals relate to the debate on the UK constitution and whether the deals, once embedded in local areas, are a balance to devolution to Scotland, Wales and Northern Ireland. (Paragraph 106)**

The Government welcomes and values the Committee's continuing work in this area and its commitment to holding Government to account on the momentum and ambition of the devolution agenda. The Government looks forward to contributing fully and openly to the Committee's future inquiries in this area, including its planned review of devolution outlined in this report.

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