



Dear Colleagues,

Paper [1/14]: Local Government

The Conservative Party knows that local authorities deliver the most effective services when they have genuine freedom to respond to what local people want, not when they are told what to do by central government. This is why since entering Government we have introduced wide-ranging reforms to increase local authority freedom, given neighbourhoods greater power to do things for themselves, reduced the size and cost of both regional and central government and enabled some of Britain's largest cities to choose a directly elected mayor. This is in contrast to the previous Labour Government which hoarded and concentrated power in central government.

Local authorities must, of course, be accountable to the local people they serve about how they exercise their power; greater accountability leads to greater trust which makes effective local government possible. In recognition of this, the Coalition Government has encouraged local authorities to publish more expenditure data, introduced a code of recommended practice for local authorities on data transparency and transformed the local audit regime.

Finally, it is more important than ever for local authorities to be innovative in how they deliver public services in order to offer the best value for taxpayer's money. Examples of such innovation include sharing services and having community groups run services. Ensuring and encouraging this innovation will be crucial in 2015.

These are some of the issues in this CPF discussion brief on which we would welcome your views. The deadline for submissions is 28 February 2014.

Yours sincerely,

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And

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1. Returning power to local communities

Under Labour, central government imposed decisions and targets on local communities. This created an overly bureaucratic system which reduced the ability of local authorities to adapt to local circumstances and stifled the innovation that helps deliver local services more effectively and at lower cost.¹

To address Labour's failure, the Government has made giving power back to local people a priority since entering government in 2010. The Government's default assumption is that decisions should be taken by those who will be directly affected by the consequences. That is why it has introduced wide-ranging reforms to increase local authority freedom, given neighbourhoods greater powers to do things for themselves, abolished unnecessary regional bodies, reduced the size and cost of central government and enabled the people of Bristol, Leicester and Liverpool to join London in choosing a directly elected Mayor.² Many of these provisions were brought into force by the Localism Act 2011.

General power of competence. The general power of competence is a new power included in the Localism Act 2011 which allows local authorities in England the legal capacity to do anything that an individual can do that is not specifically prohibited by law. For example, councils are not able to impose new taxes because an individual has no power to levy taxes.³ Essentially, instead of being able to act only where the law says they can, local authorities are now able to do anything provided they do not break other laws.⁴ The power replaced the well-being powers in the Local Government Act 2000.

The Localism Act also allows authorities to charge for, and trade in, services offered under the general power. This is in line with the powers already available to them under the Local Government Act 2003.⁵ While authorities cannot trade in services that they already have a statutory requirement to provide, they may charge enough to recover costs for any discretionary services.⁶

The general power of competence was brought into force for local authorities in February 2012. Regulations to extend the power to parish councils that meet certain criteria subsequently took effect in April 2012. Similar powers have also been granted to Fire and Rescue Authorities, Integrated Transport Authorities, Passenger Transport Executives, Combined Authorities and Economic Prosperity Boards.⁷

It should be noted that under the Act the Secretary of State has the power to remove or amend any of the statutory provisions that prevent or restrict the use of the general power, and to remove similar provisions that overlap with the general power. The Secretary of State is also allowed to restrict what local authorities can do under the general power, or to provide conditions.⁸

Standards Board. The local government Standards Board regime implemented by the previous Labour government consisted of a centrally prescribed model code of conduct, standards committees with the power to suspend a local authority member and was regulated by a central quango. This regime was not in line with the

principles of localism and allowed for vexatious or politically motivated complaints against local authority members.⁹ In recognition of the danger in this, the Coalition's Programme for Government pledged to abolish this regime. The Localism Act subsequently included provisions which: got rid of Standards for England; require local authorities to promote and maintain high standards of conduct; set up local codes of conduct and local responsibility for acting upon possible infringements; require the registration and disclosure of financial and other interests by local authority members; and make it a criminal offence to fail to comply with the statutory requirements for disclosure of financial interests. The Act also abolished the requirement for local authorities to have standards committees. Instead, principal local authorities may decide to operate a voluntary standards committee.¹⁰

Predetermination. The Localism Act clarifies how the common law concept of 'predetermination' applies to councillors in England and Wales. Predetermination occurs if a councillor has a closed mind before voting on an issue. If a councillor is said to be 'predetermined' the validity of the vote's outcome could be challenged. While initially rules on predetermination were introduced in order to ensure that councillors came to council discussions with open minds, in practice interpretation of the concept saw councillors being prevented from speaking or voting on issues simply because they had spoken or expressed a view about them previously. As a result, in some instances, councillors were warned from campaigning or publically expressing views on local issues for fear of being accused of bias or facing a legal challenge.¹¹ The Localism Act therefore included provisions clarifying predetermination in local government so that councillors are able to participate in the debate with their local communities about council business.¹² More specifically, the Act clarifies that councillors will not be deemed to have had (or to have appeared to have had) a closed mind when making a decision just because: they had previously done anything that directly or indirectly indicated what view they took, would or might take, in relation to a matter; and the matter was relevant to the decision.¹³ Furthermore, the Act clarifies that if a councillor has campaigned on an issue or made public statements about their approach to an item of council business, he or she is still able to participate in discussion of that issue in the council and to vote on it if necessary, provided they keep an open mind ahead of and during the discussion.¹⁴

Directly elected mayors. Directly-elected mayors were first introduced as a model for council leadership across England by the Local Government Act 2000.¹⁵ Prior to 2000, decisions in all English local authorities were taken through council committees. The Local Government Act 2000 required most local authorities in England and Wales to make "executive arrangements" to replace the previous committee system. The new system was designed to make it clear where the responsibility for a particular decision lay.¹⁶ Local authorities were given three main alternative decision-making models: a leader and cabinet; a directly-elected mayor and cabinet; or a directly-elected mayor and council manager. The latter two options involved directly-elected mayors. If one of these two was adopted, a referendum needed to be held to obtain the consent of local electors.¹⁷



The Local Government and Public Involvement in Health Act 2007 amended the system further by removing the "Mayor and Council Manager" model as an option. Under the Act all authorities that were operating executive arrangements were required to adopt either a directly elected mayor and cabinet on a four year term or a leader and cabinet elected by the council itself for a four-year mandate.

The Coalition's programme for government promised "to create directly elected mayors in the 12 largest English cities, subject to confirmatory referendums and full scrutiny by elected councillors."¹⁸ This reflected commitments made in the Conservative local government policy paper, 'Control Shift', in 2009. As such, the Localism Act 2011 gave the Secretary of State the power to issue an order requiring a specified authority to hold a referendum on whether the authority should operate the mayor and cabinet executive model. Draft orders for referendums to be held in eleven cities were laid before Parliament on 5 December 2011, as were regulations governing the conduct of referendums. Referendums were subsequently held in ten cities in May 2012.¹⁹ While voters in nine cities²⁰ chose not to adopt a mayoral system of governance, Bristol voted in favour and subsequently held a mayoral election in November 2012.

The Localism Act also included provisions allowing any local authority to return to the previous committee system if it wishes to do so. This gives real choice to councils and local people to decide how their council should be governed by allowing them to move away from the executive system proscribed by Labour should they wish.

Business rates. Local council support for the local economy is crucial to improving local life. In line with this, the Localism Act granted councils greater freedom to offer business rate discounts in order to attract more investment.²¹ More specifically, the Act provides a new discretionary power for billing authorities in England and Wales to reduce the business rates of any local ratepayer. The local authority may only grant the relief if it would be reasonable to do so having regard to the interests of council tax payers in its area. The relief may also not transgress state aid rules.²² Before these changes, local authorities were able to grant discretionary rate relief only in specified circumstances. Further to this, the Local Government Finance Act 2012 introduced the Business Rate Retention Scheme, which came into effect in April 2013.²³ The scheme makes alterations to the distribution of business rates between local authorities and central government, in that Councils are now able to keep a proportion of the business rates revenue they receive as well as any growth on the revenue that is generated in their area.²⁴ These reforms give councils a direct, financial incentive to promote local economic growth and have been estimated to increase economic growth by £10 billion over the next seven years.

2. Transparency

Expenditure data. Transparency is at the core of delivering efficient and accountable Government. This is why the Government has pledged to "throw open the doors of public bodies, to enable the public to hold politicians and public bodies to account".²⁵ As part of this promise, in June 2010 Communities Secretary Eric Pickles announced a programme for greater transparency in local government which

included encouraging councils to publish online details of all items of expenditure over £500. Such financial disclosure enables local taxpayers to see how councils are spending money, which in turn reveals waste, establishes greater accountability, trust and efficiency, opens up new markets and improves access for small and local businesses and the voluntary sector.²⁶

Councils were initially given until the end of January 2011 to disclose this information. By the beginning of January 2011, three-quarters of London's Conservative councils had published details of their expenditure, while Labour-controlled councils in London lagged far behind.²⁷ By March 2011, all local authorities in England, except Nottingham City Council, had published details of their £500 spend online.²⁸

In September 2011, following consultation, the Government published a code of recommended practice for local authorities on data transparency. The code sets out the minimum expectations of the data to be published by local authorities. Under the code, the public data that should be released as a minimum are: expenditure over £500; senior employee salaries – defined as all salaries which are above £58,200 and above (irrespective of post), which is the Senior Civil Service minimum pay band; and an organisational chart of the staff structure of the local authority including salary bands and details of currently vacant posts.²⁹ A further consultation took place in late 2012 on whether to make the code legally binding. The Government published its response to this consultation in December 2013. The consultation set out the Government's intention to make it a statutory obligation for all councils with gross income or expenditure above £6.5 million to adhere to the previously voluntary code.^{30,31}

Pay policy. The Localism Act 2011 contained provisions requiring each council to publish and approve a pay policy statement which sets out: the remuneration of chief officers; the remuneration for the lowest paid employees; and the relationship between the remuneration of the most senior employees and that of other employees. This must be approved by a resolution of the authority before it comes into force. The Localism Act 2011 also requires each council to prepare a register of members' financial interests.

Audit regime. The Government announced in August 2010 that the Audit Commission would be abolished and replaced by new decentralised arrangements for the audit of local public bodies.³² While most of the Commission's functions have now ended, the formal abolition will take place through the Local Audit and Accountability Bill 2013-14, currently making its way through Parliament. Under the Bill, local authorities will choose their own auditors, and a new decentralised audit regime covering local government, police and health bodies will be established. The Financial Reporting Council will become the primary regulator within this new framework and the National Audit Office will prepare and maintain the Code of Audit Practice and associated guidance to auditors.³³

3. **Innovation in public services.** The Government believes that innovation in public services can offer greater value for taxpayers' money and better results for local

communities.³⁴ In recognition of this several initiatives have been introduced that encourage local authorities to pursue new and innovative ways to deliver public services in their communities.

Community right to challenge. The best councils are always seeking new and better ways to design and deliver services to their community. Many recognise the potential of social enterprises and community groups to provide high-quality services at good value, and deliver services with and through them. However, in some instances, voluntary and community groups who have innovative ideas have not been able to be properly heard. This is why the Localism Act 2011 provided for a power allowing local communities the right to challenge how local authorities provide and run services. More specifically, the Act introduced the 'Community Right to Challenge' which allows voluntary and community groups, charities, parish councils, local and fire and rescue authority staff to bid to run authority services where they believe they can do so differently and better. This may be the whole service or part of a service.³⁵ Under the 'community right to challenge' these organisations can make an "expression of interest" to a relevant authority. The local authority must consider and respond to this challenge; and where it accepts it, run a procurement exercise for the service in which the challenging organisation can bid.³⁶ 'Expressions of interest' can only be rejected in certain circumstances. These provisions came into force in June 2012. Final statutory guidance on the power was simultaneously published by the Communities Secretary. The guidance notes that the right only applies to the provision of a service, and that the responsibility for the function itself remains with the local authority.³⁷

Community right to bid. Every town, village or neighbourhood has buildings or amenities that play an important role in the community. In many authorities when these local amenities have faced sale or closure, community groups have stepped in to take them over. However, in some instances community groups who have attempted to take over assets have faced significant challenges because they need more time to organise their bid or raise money than their private sector counterparts.³⁸ To help community groups with these challenges, the Localism Act introduced the 'community right to bid' scheme. The scheme requires local authorities to maintain a list of assets of community value which have been nominated by the local community. When these listed assets come up for sale or change of ownership, the Act then gives community groups the time to develop a bid and raise the money to bid to buy the asset when it comes on the open market.³⁹ In general, in order to be listed, the building must further the social wellbeing or social interests of the local community, or have been used to do so in the recent past.⁴⁰ Residential property is excluded from listing, except where an asset that could otherwise be listed contains integral residential quarters.⁴¹ Parishes and community organisations are also able to nominate local assets to the local authority to be included in this list of assets. The scheme was brought into force in September 2012.

It is important to note that there is no community right to *buy* the asset, only to bid. In other words the local community bid may not be the successful one – the owner can sell to whomever they choose and at whatever price.⁴²

Helping local councils save money. In December 2012 the Department for Communities and Local Government published the document '50 ways to save: Examples of sensible savings in local government' outlining practical tips and guidance on how local council's can make savings to help pay off Labour's deficit. The document not only highlighted ways that councillors can challenge officers to deliver savings, but also ways that taxpayers can challenge councillors. In addition to advice on how to share back office services, tackle duplicate payments and clamp down on fraud and waste, the document contained tips on improving council tax collection rates, sharing senior staff, reducing the number of publications and saving money on procurement.⁴³

Shared Services. An increasing number of local authorities are making use of schemes to share services, relating to both 'back office' and 'front line' functions. Indeed the Local Government Association has found that, as of December 2012, at least 337 councils across the country are engaged in 325 shared service arrangements resulting in £278 million of efficiency savings. This means that at least 95 per cent of all English councils are sharing services with other councils.⁴⁴ This is a 60 per cent rise from a year earlier when a Local Government Association survey found that 219 councils had set up 143 shared services.⁴⁵

Some of these arrangements have taken the form of shared services or shared staff between authorities. The best known of these is probably the 'Tri-Borough' arrangement between Hammersmith and Fulham, Westminster, and Kensington and Chelsea. Others have taken the form of companies being set up crossing public sector boundaries, such as 'Hoople' in Herefordshire, a joint initiative between Herefordshire Council and the former Primary Care Trust.⁴⁶

There are clear financial benefits from sharing services. For example, LGSS (the shared service arrangement set up in 2010 between Cambridgeshire and Northamptonshire county councils) achieved savings of £3.79 million from its total budget of £83 million in its first full year of operation by consolidating management positions and making other economies of scale efficiencies.⁴⁷

The use of shared services has historically focussed on back office services. Savings in these areas have in turn been used to help support front line services. There are a growing number of examples, however, of authorities beginning to share more front line services, particularly on adult social care and children and young people's services.⁴⁸

The Government fully supports initiatives by local authorities to share services in order to improve efficiency. In order to incentivise such arrangements the Government announced the new £9.2 million Transformation Challenge Award which will help councils across the UK emulate the 'Tri-Borough initiative' between Hammersmith and Fulham, Westminster, and Kensington and Chelsea. Of this, £6.9 million has been made available to support either of the following: radical innovations involving two or more local authorities combining their operations across all or a major part of their service delivery and back office; or local authorities, either individually or jointly, which are pursuing particularly innovative measures for

delivering efficiencies, increasing resilience, and giving better value for money for taxpayers, whilst not involving a major combination of services.⁴⁹ The 18 winners of the Award were announced in October 2013.⁵⁰

4. 'Regional' government.

The previous Labour government established an overwhelming network of regional bodies in England between 1997 and 2010.⁵¹ This system lacked democratic legitimacy because it was made up of unelected individuals. The Conservative Party came into Government with a commitment to remove this regional tier and repair the democratic deficit it had created. Since 2010, we have abolished the Regional Spatial Strategies, the Regional Assemblies/Regional Leaders' Boards, the Regional Development Agencies and closed the eight Government Offices for the Regions across England. As a Government we have also not re-appointed regional select committees.

Regional Assemblies. Regional Assemblies were set up by Labour as voluntary bodies in the eight English standard regions outside London in 1998-99. Over the next ten years they wrested powers on transport, housing and planning powers away from local councils and acquired more funding streams from central Government.⁵² They were also charged with scrutinising the Regional Development Agencies' Regional Economic Strategies. In 2007, funding of the Regional Assemblies ceased in favour of new Local Authority Leaders' Boards. This change became law under the Local Democracy, Economic Development and Construction Act 2009 and most assemblies reconstituted themselves as leaders' boards in advance of April 2010 (the date set by the Act for the formal change). The secretariats of the Assemblies became the secretariats of the Leaders' Boards in each region.⁵³

The Coalition Government announced in June 2010 that the funding and powers of the Leaders' Boards would be dismantled. In doing so we removed a needlessly complex bureaucracy and put local authorities firmly back in control of their areas. The Localism Act 2011 formally repealed the part of the Local Democracy, Economic Development and Construction Act 2009 concerned with leaders' boards and regional strategies.⁵⁴

Regional Development Agencies. Eight Regional Development Agencies were established under the Regional Development Agencies Act 1998, and were formally launched in 1999. The ninth, in London, was established in 2000 following the establishment of the Greater London Authority.⁵⁵

Upon entering Government, the Coalition announced that the Regional Development Agencies would be abolished. The subsequent White Paper 'Local growth: realising every place's potential', published in October 2010, set out how the functions of the Regional Development Agencies would be distributed. It explained that venture capital and loans schemes, international trade development, policies towards sectors of 'national importance', and support for inward investment would pass back to central government, while the Technology Strategy Board would take on responsibility for innovation. In addition, all skills funding is now routed through the

Skills Funding Agency and the economic and social aspects of the Rural Development Programme for England have returned to central management by the Department for Environment, Food and Rural Affairs. All Regional Development Agencies were abolished in 2012.

Government Offices for the Regions. The Communities Secretary announced the Government's intention to abolish the Government Offices for the English regions outside London in July 2010. While initially established in 1994 to act as 'Whitehall for the English regions', under Labour, they became "agents of Whitehall to intervene and interfere in localities" and a "fundamental part of the 'command and control' apparatus of England's over-centralised state."⁵⁶ The Department for Communities and Local Government has since put in place an internal structure of 14 regions or 'localities' to work with local areas and provide as much clarity as possible about the Department's arrangements for working with authorities.⁵⁷ The new arrangements likewise ensure that the Department understands local concerns and then uses that understanding to shape policy making.^{58,59}

Local Enterprise Partnerships. When it was announced that the Regional Development Agencies would be closed down the Government simultaneously invited local councils to begin forming Local Enterprise Partnerships.⁶⁰ Local Enterprise Partnerships are business led partnerships between local authorities and businesses that decide what the priorities should be for investment in roads, buildings and facilities in the area. The October 2010 Local Growth White Paper announced the first 24 approved Local Enterprise Partnerships. A further 15 Local Enterprise Partnerships covering the rest of England have since been announced.⁶¹ It is important to note that the responsibilities of Regional Development Agencies have not been passed indiscriminately to Local Enterprise Partnerships. Rather, the Government has chosen a mixture of local and national provision to replace regional provision.⁶²

Further to this, Budget 2011 announced that we would establish new Enterprise Zones in Local Enterprise Partnership areas in England. Enterprise Zones have business rate discounts, simplified planning laws and high-speed broadband. The locations of 24 have now been announced.

What next? Questions for discussion

1. How can the Government further incentivise communities to take up the rights we have granted them?
2. What more could be done to drive transparency and accountability and improve trust in local government by local people?
3. How can Local Enterprise Partnerships, local and central government, as well as private and voluntary organisations do more to promote local growth and investment? In particular, what more could be done to involve local businesses and community groups in this?
4. Is there more that could be done to involve local people and communities in decision making, including greater devolvement of power and responsibility for service provision?
5. How can we provide greater incentives to councils to innovate in how they provide services?

Endnotes

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¹⁴ Guidance Note, *Localism Act 2011 - Section 25: Changes to Predetermination and Bias*, January 2012, [link](#)

¹⁵ The first-directly elected mayor was introduced earlier in London by the Greater London Authority Act 1999.

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- ¹⁷ House of Commons Library Standard Note, *Directly-elected mayors*, July 2013, [link](#)
- ¹⁸ HM Government, *The Coalition: Our programme for government*, May 2010, [link](#)
- ¹⁹ Two of the initial 12 held referendums of directly-elected mayors prior to May 2012. Leicester City Council, resolved in December 2010 to adopt a mayoral system, while Liverpool City Council resolved in February 2012 to adopt a mayoral system.
- ²⁰ Birmingham, Bradford, Coventry, Leeds, Manchester, Newcastle-upon-Tyne, Nottingham, Sheffield and Wakefield
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- ²⁶ Department for Communities and Local Government Press release, *New era of transparency will bring about a revolution in town hall openness and accountability*, June 2010, [link](#)
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- ³⁹ House of Commons Library Standard Note, *Localism Act: Assets of community value*, August 2013, [link](#)
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- ⁴³ Department for Communities and Local Government, *50 ways to save: Examples of sensible savings in local government*, December 2012, [link](#)
- ⁴⁴ Local Government Association, *National Map of Shared Services*, [link](#)
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- ⁵⁴ HL Deb 21 June 2010 c155WA
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