
REPORT TO THE MEETING OF THE EXECUTIVE 23 SEPTEMBER
PORTFOLIO: OVERALL STRATEGY & POLICY DIRECTION

REPORT FROM THE CHIEF EXECUTIVE

**SUBJECT: STRENGTHENING LOCAL DEMOCRACY –
CONSULTATION PAPER**

1 DECISION BEING RECOMMENDED

- 1.1 Subject to member comments, to endorse the response to the consultation as set out in Appendix 3.

2 REASON/S FOR RECOMMENDATION

- 2.1 To provide a formal response to the consultation produced by the Department of Communities and Local Government (DCLG) just prior to the summer recess.

3 ALTERNATIVE OPTIONS CONSIDERED

- 3.1 Not to respond to the Consultation.

4 OTHER SALIENT INFORMATION

Background

- 4.1 The Department for Communities & Local Government published a consultation paper, *Strengthening local democracy: consultation* just prior to the summer recess. This followed on from the government paper, *Building Britain's Future*, published in June 2009. The consultation paper develops the discussion on this, setting out a range of questions for consultation, with responses required by 2 October 2009.

Content

- 4.2 The main body of the document is set out in Appendix 1. It sets out a range of measures which aim at promoting democratic renewal and strengthening the power and responsibility of local government. It seeks to achieve this through:-
- Strengthening councils' ability to lead and coordinate services in their area. It is proposed that councils are given more scope to scrutinise the spending and decisions of local service providers
 - Exploring whether there are barriers to using existing powers and whether there are other powers which councils should have
 - Ensuring councils have the powers and responsibilities they need to tackle climate change

- Exploring how the powers and responsibilities of sub-regional structures should be matched by clear and accountable leadership
- Exploring how to articulate, develop and support the relationship between central and local government so that the respective functions are clear and transparent to citizens

The consultation states that the Government sees a powerful new role for local authorities where they:-

- Play a central role for citizens in delivering their entitlements, and have flexibility and autonomy in meeting local needs
- Take on the responsibility for responding to emerging local challenges – particularly climate change and housing
- Take greater responsibility for scrutinising and oversight of public money spent on local service delivery in an area, in order to drive improvements in services and increase value for money

The document claims that the new measures outlined, together with other recent reforms, would amount to the biggest transfer of power to elected councils in a decade.

The Local Government Association, who have produced a briefing on the consultation paper, included as Appendix 2, dispute this claim and consider it is difficult to identify any proposals in the document which genuinely transfer power or provide new opportunities for local government. Whilst the paper does make some progress, it does not represent a real transfer of governance and decision making, resources and real power to the local level.

5 RISK IMPLICATIONS

- 5.1 The risks associated with this consultation relate to managing operations against reality. The suggestions outlined in the consultation do not represent a major shift in power from the centre to the more local level.

I confirm that the above recommendation does not depart from Council policy and that appropriate consideration has been given to any budgetary and legal implications.

SMT Lead Officer Signature: _____

Paul Warren

Chief Executive

Background Papers:-

None

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Strengthening local democracy

Consultation

July 2009

Strengthening local democracy

1. *Building Britain's Future*¹ set out how government wants to work with the people of this country to reform our democracy, overcome the recession and build the next generation of public services. It makes clear that this will involve a radical dispersal of power both to the citizen and to their local elected representatives.
2. The founding principle of local government is that citizens have the right to influence the decisions that affect their lives and their communities. Sometimes they may exercise this right through personalised services and sometimes by influencing local services – for example, by having a direct say over how their neighbourhood is policed. And sometimes it will be through lobbying their council.
3. **But a key way in which local citizens are able to exercise that right is their ability to elect a strong local council which can lead and shape their area.**
 1. There is a large and untapped pool of people who would like more say in what happens in their area. It is right that both central and local government do more to give them greater direct control over the decisions that affect their lives and their community and councils are doing much to help them explore the opportunities available to engage and participate. But we must also recognise that in today's time poor society, citizens only have limited time to give.
 2. That is why the role of councillors and councils, with their unique democratic mandate is critical to making sure that local services are responsive to the needs of their local communities. Citizens have a right to have their voices heard, and to expect those delivering services to care what they think.
 3. **So councils must be fully equipped with the powers they need to act decisively and effectively on behalf of their citizens: the powers and ability to scrutinise, influence and shape other services. This is a much stronger role for local government, placing it firmly at the centre of decision making in their community.**
 4. There are other imperatives driving the need for stronger local government.
 - First, **strengthening democracy**. Councils are unique among public service providers in being directly elected, but also in the range of services which they directly provide or indirectly secure, their role in leading and contributing to local partnerships, and their oversight of the well-being of their citizens and communities. That means they are best placed to provide local leadership and make sure that public services are being fairly and effectively delivered.

¹ <http://www.hmg.gov.uk/buildingbritainsfuture.aspx>

- Second, **promoting greater value for money**. Since 2004, councils have saved £4.5bn through efficiency measures – a significant achievement. The recent work by Sir Michael Bichard² shows that there is scope to go further: not simply achieving value for money in councils own spending, but by giving councils greater oversight of all the money being spent in their area. This will reduce overlap and duplication, making sure that all money is being spent effectively and efficiently: fostering innovation and improvement and driving up standards of service.
 - Third, **promoting economic development**. The current economic situation has reinforced the crucial role that councils can play in supporting their communities. The best have taken active steps to mitigate the worst impacts of the downturn through, for example, offering debt services, supporting new apprenticeships, or looking to create new jobs through the Future Jobs Fund. Councils are uniquely positioned not just to work with other partners, but to lead them, in preparing for recovery and future growth.
 - Fourth, **delivering personalised services**. As the drive continues to deliver personalised services and enforceable entitlements it will become ever more important to ensure that local services are delivered flexibly and in response to local needs.
5. Finally, as *Building Britain's Future* makes clear, there are major global and national challenges facing this country, including rising expectations of public services; the need to restore public trust in politics and democracy; the need to promote economic recovery; and the need to adapt to the threat of climate change. Local government has a crucial part to play in addressing these challenges as their citizens' elected representative. We want citizens to have a real say in how these challenges are tackled, and on what happens in their communities³. This could include getting involved in local budgeting decisions, having a say in how local public services are run, taking part in petitions, or by taking over facilities for their community. Local government is the point at which citizens can get involved in the decisions which affect them and a way of reconnecting citizens to the public domain by empowering them to influence decisions that affect them.
 6. As a result of recent decisions we have taken, councils have greater financial stability, greater powers and more responsibilities. The three year finance settlement offers councils much greater financial certainty and the prudential system for borrowing and investments removed the need for local authorities to get central government consent to borrow for capital purposes. They also have powers to promote the economic, social, and environmental wellbeing of their area. Councils also now have some powers of scrutiny to challenge other service providers and hold them to account. In short, they now have a much greater capacity to make a difference.

² http://www.hm-treasury.gov.uk/vfm_operational_efficiency.htm

³ These issues are set out in *Communities in control: real people, real power*, Communities and Local Government, July 2008

7. We now need to go further, making sure that local government has the powers it needs to respond to these emerging challenges and act decisively on behalf of their citizens to drive improvements in local public services.
8. We envision a powerful new role for local authorities where they:
 - play a central role for citizens in delivering their entitlements, and have flexibility and autonomy in meeting local needs
 - take on the responsibility for responding to emerging local challenges – particularly climate change and housing
- take greater responsibility for scrutinising and oversight of public money spent on local service delivery in an area, in order to drive improvements in services and increase value for money.
9. The combination of the new measures proposed in this consultation, together with recent reforms, amounts to the biggest transfer of power to elected councillors for a generation. But it is not designed to strengthen councils for their own sake – rather to strengthen the rights of citizens through their elected representatives.

Scope of consultation

10. This consultation sets out a range of measures to promote democratic renewal and strengthen the power and responsibility of local government by:
 - strengthening councils' ability to lead and coordinate services in their area. We propose to give councils more scope to scrutinise the spending and decisions of local service providers
 - exploring whether there are barriers to using existing powers and whether there are other powers which councils should have
 - ensuring councils have the powers and responsibilities they need to tackle climate change
 - exploring how the powers and responsibilities of sub-regional structures should be matched by clear and accountable leadership
- exploring how to articulate, develop and support the relationship between central and local government so that our respective functions are clear and transparent to citizens.
11. Given the range and depth of recent debate – notably in the context of the Lyons Inquiry – we are not consulting on the local government finance system here. We keep this system constantly under review and will continue to introduce reforms where appropriate. For example, we have given councils a new power to raise a local business

rate supplement. We have recently published a green paper on reform of the care and support system⁴, which could have important implications for local government. We have also stated in the Budget that we would explore with interested partners how to accelerate new development through innovative financing arrangements.

Local government at the centre of decision making

12. Local government already plays a crucial role in improving their citizens' lives and their areas' prospects. Councillors are recognised and respected as community leaders. Councils are directly responsible for a broad range of services: both directly delivering some, and commissioning organisations to deliver others. They also have an important role in shaping and monitoring services in their area, for example in relation to local environmental standards. And they are a major player in local strategic partnerships and other groupings which bring service providers together.
13. As such, councils are best placed to understand and respond to issue of local concern, and to bring all agencies – public, private, third sector – to tackle cross-cutting issues which affect their residents and their community.
14. We propose to strengthen their capacity to do this: specifically by giving them greater powers to scrutinise other services and how they spend their money. When they go to vote, citizens should be electing someone who can act on their behalf in relation to every aspect of local public service spending in their area. Our aspiration is that councillors should become a local point of accountability: the place where citizens can go to question how public money is being spent, how decisions are being made and how services are being delivered. This will be particularly important as public services and local councils begin to introduce entitlements to public services as set out in *Building Britain's Future*.
15. This would complement, but not replace, the direct relationships individuals already have with a range of service providers. It would mean that citizens have an easy way to make sure their voice is heard in local decision-making. Elected councillors would have a clear remit to sort out general problems and failures, maximise the value for money of local services, and reduce the burden on the concerned resident who is trying to raise concerns.
16. Councils already have powers to coordinate and scrutinise some local services. But we need to make sure those powers are being properly used, and extend them much more widely. We do not propose to introduce new powers to benefit councils and councillors themselves: but to increase their capacity to act more decisively, over a broader range of local issues and services, in the interests of their residents. This is a natural extension of their existing leadership role.

⁴ *Shaping the Future of Care Together green paper*, HM Government 2009

17. In practice this should mean that:

- the council takes greater responsibility for co-ordinating service delivery, making sure that services are properly joined up and respond to local need
- councillors are able to scrutinise and hold other services to account: other service providers would need to explain and justify their policies and spending.

18. The importance of putting the customer first and providing joined-up, more effective and efficient services, lies behind the 'Total Place' initiative announced in Budget 2009. This is designed to analyse where public money is spent and how services are delivered across a whole area, in order to see how this can be improved. The idea is that public services work together, rather than individually, in the next phase of reform, delivering better services, and reducing costs.

19. This initiative will help public services reduce complexity, bureaucracy and duplication by bringing together the evidence on customer needs, and on what is being spent, by which agencies, and on what services, to address those needs. Each of the pilots will pick at least one particular theme, such as early years, ageing or offenders to explore in more detail how the money flows and how the delivery system can be made more effective and efficient. These pilots can help identify how all areas should develop in the future, and the role that the local authority should play in driving change.

Strong local government operating in the local interest

20. *Building Britain's Future* described how Government will be introducing entitlements for citizens. Wherever they live, citizens must have confidence that key public services will deliver a certain level of service. Local authorities will have greater autonomy to decide how to deliver those entitlements, in turn offering greater freedom to innovate.

21. So a future question being posed for consultation is whether councils have the right powers to address the challenges their areas face today and deliver improved and more efficient services for citizens; or whether there are areas in which they need greater control or influence.

22. We also ask whether there is further scope to reduce the burden of inspection on local authorities.

23. We also need to consider how best to support councils to reverse the decline in satisfaction shown by recent surveys⁵, despite increasing performance on key public

⁵ The latest Citizenship Survey (April to September 2008) results show that 81 per cent of the population are satisfied with their areas as a place to live; the 2008 Place Survey shows that only 45 per cent of the population are very or fairly satisfied with the way their council runs things. <http://www.communities.gov.uk/publications/corporate/statistics/placesurvey2008>; <http://www.communities.gov.uk/publications/corporate/statistics/citizenshipsurveyq2200809>

services⁶. We ask whether granting further powers to local councils should depend on rising public confidence in the local council.

Local authorities tackling climate change

24. A number of councils are already at the forefront of action to tackle climate change. This consultation asks how we can help them to take the next natural step, and contribute to meeting national carbon emissions targets perhaps through developing their own local carbon budgets.

Sub-regional working

25. Partnership working is vital to tackle those problems which cross local authority boundaries – especially to promote economic growth across a wider area. Some of these partnerships formalised these relationships through Multi-Area Agreements (MAAs). The Government has also announced two city-region pilots. These will test how greater freedom and responsibilities for the partnerships in these areas can help them to deliver greater economic prosperity. This consultation document asks how the powers of city- and sub-regions could be further strengthened.
26. But we also need to ensure that greater powers and responsibilities are matched by clear, democratic and accountable leadership, so that citizens are aware of, and can influence, their decision-making.

Clear relationships with local government

27. All these developments raise the question of the nature of the relationship between central and local government. We ask whether and how we should articulate that relationship in order to make these respective roles and responsibilities clearer to citizens. We suggest a series of principles on which central-local relations should operate in the future.
28. We need to consider how this could work in practice: specifically, how to monitor how each of us is fulfilling our responsibilities without overstepping the boundary. This may include scrutiny from a joint Parliamentary select committee with a standing mandate to regularly review the state of central-local relations, as proposed by the Communities and Local Government Select Committee and/or an ombudsman style body. In time, more effective local scrutiny by councils, coupled with entitlements for citizens, could reduce the volume of central prescription and inspection by central Government.

⁶ For example, the number of single-tier and county authorities rated as top performers by comprehensive performance assessment in 2002 was 22; by 2008 this had risen to 62

Notes

29. Some of the changes proposed in this paper could be achieved rapidly but it also sets the parameters for the debate over the next five to ten years.
30. The Impact Assessment relating to proposals in this consultation paper and their potential impact across a range of sectors is expected to be issued within two weeks and will be published on the Communities and Local Government website alongside this consultation paper.⁷ An equality impact assessment initial screening has been completed and full assessment will follow. Some of the options mentioned in this consultation would require new primary legislation.
31. The proposals set out in this paper will impose costs on local authorities and will also deliver significant savings. In line with the Government's new burdens doctrine, any net additional cost to local authorities will be fully and properly funded by the Department for Communities and Local Government so that no additional pressure is placed on council tax bills.

⁷ The Impact Assessment will be linked to from: www.communities.gov.uk/publications/localgovernment/localdemocracyconsultation

Chapter 1

Local government at the centre of decision making

32. Local government plays a crucial role in delivering better outcomes for their citizens and in shaping the local area. They are themselves responsible for a broad range of services – either directly or through commissioning and for monitoring how services are delivered. They lead or act as one of the major players in many partnerships. They also regulate issues such as environmental health.
33. Beyond this, however, councillors are community leaders – taking a broad view of the well-being of local people and communities in a way which is not expected of other public service providers. So they are best placed to understand and respond to local concerns, bringing all the relevant agencies together – public, private, third sector – to tackle cross-cutting issues.
34. In each local authority area, billions of pounds are spent every year by a wide range of service providers, including the National Health Service, the local police service and the local authority itself. For example, a recent analysis in Cumbria demonstrated that £7.1bn of public money was spent in the county in 2008.⁸
35. This consultation proposes that councils should have greater scrutiny and oversight of this spending. This will give citizens, working with their councillors, greater influence over how public money is spent. We propose to broaden local authority scrutiny powers and extend them to a wider range of organisations, so that they can better influence local decision making.
36. This would go beyond simply monitoring spending by other bodies and put councils at the centre of local decision making, challenging other services to improve. This stronger role for councils acting on behalf of citizens should be part of their contribution to coordinating frontline delivery across service providers.

The challenge

37. Local residents should be able to influence the shape of their area and the services they receive. We want citizens to have a real say in how these challenges are tackled, and on what happens in their communities. This could include getting involved in local budgeting decisions, having a say in how local public services are run, taking part in petitions, or by taking over facilities for their community.⁹

⁸ Nuclear decommissioning, a national benefit with a large local impact, accounts for a quarter of total expenditure in Cumbria

⁹ These issues are set out in *Communities in control: real people, real power*, Communities & Local Government, July 2008

38. However, most people only have limited time or opportunity to become directly involved in decisions which affect them. So alongside the right to directly shape and influence services must go the right to elect a local authority with real power to champion the needs of their local area – one that is clear about its responsibilities to local citizens. Citizens also need to be confident that when decisions are made about things that affect them, it is informed by their concerns and not just by the interests of those running the service. That is why we believe that elected councillors, selected by voters to represent their interests, should have greater influence over unelected service providers.
39. Our aspiration is for councils to become a local point of accountability for services across their area. The clearest and most effective way to do that is to give councillors greater oversight and responsibility for public spending in their area. Councillors, on behalf of their citizens, should be able to scrutinise public spending provision, influence decision making and hold other service providers to account. Councils also represent the interests of local organisations, including business and third sector.
40. This has the potential to better deliver the personalised services people want and expect, while at the same time ensuring that every taxpayer's pound is used to maximum effect. By giving councils the capacity to look more coherently at public money spent delivering local public services in an area; people will be able to see more clearly how and by whom their money is being spent. Understanding and overseeing expenditure on local service delivery will be a priority for the whole council – its leaders and all members.
41. The Calling and Counting Cumbria project¹⁰ which inspired the current Total Place initiative showed that £7.1bn of public money was spent in 2008 in the county. £1.9bn was controlled or directed by local bodies of which:
- forty-two per cent was from the county council
 - thirty-seven per cent from NHS bodies and
 - fourteen per cent from district councils
- six per cent from the police authority.
42. The sums involved show how important it is to have one body monitoring this spending to make sure it is being used to best effect. It is clear this role should fall to councils, with their direct mandate to act on behalf of citizens.
43. Expenditure – while hugely important – is not the only issue on which councils should be able to call other agencies and services to account. We see councils as central to delivery of the minimum entitlements set out in *Building Britain's Future* which citizens must expect. So councils should:

¹⁰ <http://www.cumbria.gov.uk/communications/countingcumbria.asp>

- be able to make other service providers explain and justify their policies, in order to make sure they are properly responding to local need
 - co-ordinate front-line service delivery, so that citizens receive the properly joined-up, personalised services that they are entitled to.
44. The best way to support councils take on this stronger role is to increase their powers of scrutiny. Councils do currently have some well-established powers of scrutiny over health and police services. But these have not yet had the impact which we believe is necessary. We therefore set out proposals to:
- broaden the scope of powers which councils can use to carry out their scrutiny function
 - widen the range of organisations over which these powers can be used
- ensure that local people and their needs are the driving force behind these enhanced powers.

The current picture

Local expenditure

45. A great deal of work has gone into making public money in local areas go as far as possible, and making sure it is used to best effect. Since 2004 councils have achieved £4.5bn of efficiency savings – a significant achievement.
46. The Total Place initiative will show what more it is possible to achieve. In pilot areas, all public spending is being assessed, in order to make sure that it is best, and most efficiently, used to deliver what the local communities need. We have also consulted on how to develop local spending reports further and will be publishing an account of responses shortly. We will make decisions on how best to take forward these reports in the light of the total place pilots.

Total Place

Big efficiency savings have already been delivered while services have improved. But more services can and should be designed around the needs of individuals, rather than around the convenience of institutions. This should both improve the standard of service people receive, and encourage the innovation and efficiency, that are vital to delivering the high standards and value for money that people quite rightly demand from their services. This means finding new ways of doing things, sharing best practice and acting jointly for the common good.

To deliver the improvements needed in public services, we need a deeper understanding of the needs of the community, space for local responsiveness and innovation, and effective co-operation – between public services locally and between central and local government. The Total Place pilots aim to demonstrate the clear benefits of service providers working together effectively to improve services by removing inefficiency and duplication between organisations and putting the needs of users first. They will seek to highlight where central Government can remove unintended barriers which prevent services working effectively together, so creating stronger incentives for co-operation and joint improvement

How does scrutiny currently work?

47. Scrutiny powers are a potentially powerful tool which enables councillors to represent the views of citizens on services which the council is not directly responsible for. Councils use scrutiny committees in a similar way to select committees in Parliament. These committees of non-executive councillors are able to challenge the council leadership on the issues they are responsible for. They also carry out reviews into local issues of importance and make reports and recommendations for change to those taking the decisions.
48. Overview and scrutiny has a different scope for different services – with health, and crime and disorder being the most advanced. For other bodies, the requirements relate to the LAA targets. The bodies that are currently required to engage in overview and scrutiny in relation to LAA targets include Environment Agency, Fire and Rescue Authorities, JobCentre Plus, Youth Offending Teams, Police Authorities, Primary Care Trusts, Regional Development Agencies, Learning and Skills Council, and the Homes and Communities Agency¹¹.
49. There are, however, no formal limits on what local government scrutiny can look at – committees can examine any issue of importance to the community. Many committees look at the work of a range of public and private service providers and they can request information from these bodies. They work in partnership with health bodies and police forces to scrutinise local health and crime and disorder issues, meaning that elected members can already have a voice over how these services are delivered. This autumn we will publish statutory guidance for local authorities, people working in the NHS and interested people that will set out how overview and scrutiny can be improved in the health services.

¹¹ A full list of duty to co-operate bodies is included at Annex A.

50. We are also strengthening the scrutiny function¹² so that:

- councils will also be able to scrutinise other public bodies working with the council on the priority targets set out in the local area agreement
- councils will be required to designate a dedicated scrutiny officer
- residents will be able to appeal to the scrutiny committee if they are not satisfied with their council's response to a public petition.

Scope of scrutiny arrangements

51. Scrutiny powers have come a long way since their introduction in the constitutional changes brought into force in 2000. However, scrutiny too often relies on the voluntary cooperation of service providers.
52. For scrutiny to really punch its weight, there needs to be a strong connection between scrutiny committees and local people. In many authorities, members of the public can, and do already get involved in scrutiny in a range of ways, including suggesting topics for review, or by being a co-opted member of a committee. There are good examples of this working in practice – for example, when Tower Hamlets carried out a review of young people's participation in sports leading up to the Olympics, an extensive consultation informed by the views of around 300 young people helped to shape the recommendations made by the scrutiny committee. However, as yet this level of involvement remains relatively limited¹³.
53. The duty on councils to promote democracy, requiring them to explain the opportunities for people to influence decisions affecting public services and how they can get involved, should go some way to address this. But we are seeking views on how we could go further still and make sure that citizens have a stronger connection to their scrutiny committees.
54. We know that democracy is stronger when it is fully representative, and as such, we have been working to increase diversity amongst councillors. This will help to ensure that both executive and scrutiny functions of local authorities are fully representative and able to take proper account of the diverse communities that they serve. There are, also, wider related issues around councillor recognition and conduct, however, these do not form part of this consultation.

¹² Including through provisions in the Local Democracy, Economic Development and Construction Bill currently before Parliament.

¹³ A recent survey by Centre for Public Scrutiny for example showed that public engagement in scrutiny is low with 51 per cent of authorities reporting that they had not received any suggestions from the public for scrutiny reviews in 2007.

Future options

55. Increasing the power and range of scrutiny is absolutely central to our vision of independent, strong and effective local government. It is a major route through which the voice and interests of local people, through their elected representatives, can be brought to bear on the national and local institutions which provide the local services which are vital to all of our lives. Of course, councils are not the only point of accountability, since people will still have a direct relationship with individual services, but they are an important place where residents can raise their concerns and expect that their elected representative will take appropriate action. In addition, services have other points of accountability, such as the national or regional level.
56. We should not expect people to have a detailed knowledge about the intricacies of local service provision – funding streams, management structures or spheres of responsibility – in order to raise a concern or complaint. Nor should they be expected to do so at the administrative convenience of those bodies. And co-operation between these bodies should not be left to chance. Scrutiny committees have a vital role to play in making sure that these services work as effectively as possible.
57. The extensions of scrutiny proposed in this document may raise issues of relevance to policing. It is intended that where consultation responses relate to this important local service they will be considered through the White Paper on policing which is planned for the autumn¹⁴. For practical reasons Regional Development Agencies are not considered to be part of this consultation in relation to proposed extensions to scrutiny, beyond current arrangements and those in the Local Democracy, Economic Development and Construction Bill currently before Parliament.

Extending the scope of formal scrutiny arrangements

58. We want to examine whether the scope of scrutiny powers should be increased so that they cover all of the issues that matter to the local community. Other than for health, and crime and disorder matters¹⁵, formal scrutiny powers are currently limited to those bodies that are under a duty to co-operate with a local authority in setting and delivering the priorities established in the Local Area Agreement (LAA)¹⁶. Other than on crime and disorder, and on health, scrutiny committees can only use these powers when the issue at hand falls under the scope of priorities set out in the LAA.
59. But the issues which matter to local people often go beyond the scope of LAAs. And they relate to many other organisations than just those who are responsible for delivering the priorities set out in this agreement. Although in some places, other local

¹⁴ The recent report *A People's Police Force: Police Accountability in the Modern Era*, Rt Hon David Blunkett MP, 2009 will also be an important piece of work to consider in thinking about the accountability of local bodies going forward, including the police.

¹⁵ Separate provision is made for the scrutiny of health and crime and disorder matters through the NHS Act 2006, and Police & Justice Act 2006.

¹⁶ The duty to co-operate applies to named public sector agencies working in partnership with local authorities through local area agreements. A list of these agencies appears at Annex A.

service providers who have not formally signed up to the LAA – for example utility companies – voluntarily co-operate with council scrutiny reviews, this is not always the case. Whilst they each have their own accountability arrangements and standards to uphold (for example Ofgem’s role for gas and electricity companies), there are currently no requirements to respond to issues raised by council scrutiny committees despite the impact that the activities of these bodies can sometimes have on the local area. In too many cases, in order to address issues of concern, scrutiny committees have to come up with ways to persuade or shame other agencies into attending their meetings or co-operating with reviews. In some cases, their requests are flatly refused.

60. If they are to act effectively on citizen’s behalf, on all the issues which matter to them, we need to further strengthen the scrutiny powers which councils have. This would mean:
- **broadening** the number of bodies which can be subject to scrutiny committees: not limited to those responsible for health, crime and disorder or council functions, nor just those responsible for priority targets set out in the LAA
 - **enhancing** the powers which these committees have. Officers and board members could be required to appear in front of the committee
 - **enabling** scrutiny committees to make reports and recommendations to a wider range of bodies for their consideration, and these bodies could be required to have regard to the recommendations and formally respond to scrutiny committees
61. This consultation will seek views on the issues which should be subject to this enhanced scrutiny.¹⁷ Subject to views, we propose to offer councils greater scrutiny over:
- **police strategies in local authority areas**, plans for which will be developed for consultation by the Home Office in the autumn
 - **fire and rescue authorities**, to make sure their plans¹⁸ fully reflect the right balance of protection, prevention and response for different communities; and to examine performance of individual fire and rescue authorities against their published equality and diversity plans
 - **local authorities’ delivery of high-quality educational provision** to meet local demands and aspirations as well as for supporting and challenging schools to

¹⁷ These proposals build on the issues considered in the ‘Improving Local Accountability Consultation’ (published 7 August 2008) which sought views on the approach to the legislative framework underpinning the extension of council scrutiny powers to LAA partner authorities in the *Local Government and Public Involvement in Health Act, 2007* and the further proposals for strengthening scrutiny announced in the *Communities in Control White Paper, 2008*.

¹⁸ Each fire and rescue authority is required to consult and publish its integrated risk management planning (IRMP). IRMP is about improving public safety, reducing the number of fire incidents and saving lives. Integrated risk management has shifted the focus in planning to put people first, looking at the risks arising from all fires and other emergency incidents, and at the options for reducing and managing them.

improve. These issues as set out in the Department for Children, Schools and Families' White Paper on 21st Century Schools would ensure further support to these issues that are of great importance to parents and more widely to local communities

- **probation authorities** over issues such as release of ex-offenders into an area, or making sure that they have timely access to local services that may be critical to prevent further offending. Councillors could also have a role in scrutinising the other partners involved in supporting reducing offending
 - **provision of public transport and transport infrastructure**
 - **Jobcentre Plus** and other employment related services in the local area
 - **utility companies:** for example, where repairs which are badly organised and co-ordinated, causing unreasonable inconvenience, the overview and scrutiny committee would be able to look into the matter and make recommendations which the utility company would be required to have regard to, on future improvement programmes
- **young people's education and skills issues**, while recognising the independence of colleges and other learning providers. These services have a high degree of relevance for local communities, as shown by 84% of areas having at least one of the skills indicators in their Local Area Agreement and this has been recognised by the Government's decision to transfer funding to local authorities for education and training for 16–18-year-olds, supported by the creation of the Young Person's Learning Agency. Ensuring that these broader scrutiny powers apply to this issue and the range of partners involved will enable the ambition to put the young learner at the heart of a system to be fully realised. The Learning and Skills Council and its adult skills successor body, the Skills Funding Agency, will continue to be subject to the duty to co-operate through the LAA process.

Making scrutiny work more effectively for citizens

62. Those scrutiny committees which are really effective are those which are well supported by their local authority. We are already requiring lead councils to designate an officer to support the scrutiny committee, which will help raise the profile and visibility of scrutiny.
63. The proposals in this consultation will further increase the status of scrutiny as one of the council's central roles. As the democratically accountable leaders of their areas, it will be a priority for every council leader to ensure that their council's scrutiny activities are effective. This will involve leaders and council executives considering carefully the resources that are devoted to scrutiny and the status accorded to those leading the scrutiny work.

64. One option is to place a duty on council chief executives to ensure that committees have adequate resources to carry out their work. While recognising the importance of scrutiny, this would also mean that final decisions on how best to organise resources are left with those who are best-placed to make them.
65. We also believe that scrutiny should take greater visibility and recognition as befits its vital role. A visible commitment by a local authority to the importance of overview of scrutiny would be ranking the position of chair of certain overview and scrutiny committees in the authority on a par with a cabinet post. This might include the special responsibility allowance for this post being equal to that of a cabinet member in the authority.
66. There is also the question of whether, and how, in extending scrutiny, executive members could be further involved in these activities in relation to the full range of local public services. This would have to be consistent with the need to avoid conflicts of interest between the executive's decision making role and the ability of the non-executive councillors to scrutinise those decisions.
67. There are also more open questions about the support that councils and those individuals charged with carrying out this function may need. As well as fully understanding how their council operates, councillors will need to fully appreciate the complexities of partnership working, and the context and legal framework in which those partners operate. They may well benefit from
 - expert advice from citizens or interest groups
 - more training and support
- wider opportunities for sharing best practice
68. This consultation asks how best, in addition to any statutory measures, the local government scrutiny function can best be supported, possibly through measures identified above.

Summary

69. Building on the current arrangements in place, we propose to strengthen the existing scrutiny powers as follows (a summary of the relationship between current and potential future local government scrutiny powers is included at Annex A including a list of duty to co-operate bodies):
 - making the description of scrutiny powers more explicit about local councils' role in scrutinising expenditure on delivery of local public services in an area
 - bringing a range of local public services fully under the scrutiny powers of local authorities with a focus on what matters for local people and local communities

- extending scrutiny powers in relation to LAA partners by removing the current limitations to scrutiny of specific LAA targets, and extending scrutiny powers more generally to a wider range of bodies whose activities may be crucial to the development of the area
 - extending scrutiny powers to enable committees to require attendance by officers or board members from partner bodies to give evidence at scrutiny hearings (similar to the powers already in existence for health and police)
70. At their most developed, the proposals in this consultation paper could mean a total of almost £250 billion public money would be subject to council scrutiny. This includes councils' own spending plus potentially more than £100 billion of public money a year spent on key local public services that were delivered locally but not by local government¹⁹.
71. In all these proposals it will be important to strike the right balance to ensure that the operational independence of external bodies is not compromised. These proposals are not about scrutinising the day to day actions of police officers, or clinical decisions, for example, but rather to enable councils to scrutinise the way in which services are delivered. We have a duty to citizens to ensure that bodies spending public money and delivering public services in local areas are open to appropriate, proper challenge and effective scrutiny by the democratically elected councillors for that area. We are also clear that local scrutiny must keep to those issues which affect local service delivery.
72. These proposals are not intended to add additional layers of bureaucratic process. On the contrary, they are intended to simplify the existing arrangements by removing certain limitations and restrictions that exist within the current legislative framework. Nor do we see these proposals leading to a free for all investigation of external bodies, or multiple requests for information from individual councillors. Many scrutiny committees will continue to operate as they do now; investigating issues of concern to local people as part of an agreed programme of work for the year and most of those issues are likely to relate to priorities already identified in the local area agreement. For those issues that do not, scrutiny committees would be able to use their enhanced powers in order to fully investigate on behalf of local people. In using their powers, scrutiny committees would be expected to consider the potential burdens of their requests on external bodies (in the same way as they will for LAA scrutiny under the current arrangements). This is an important issue, generally, but is more so when a body that will be scrutinised has a relationship with a number of individual councils. In these instances we would expect the individual councils to consider the impact of this 'many to one' situation in when and how they approach other bodies, for instance in issues of common interests joining up of requests with others. We will consider how best manage this issue In taking forward any proposals from this consultation.

¹⁹ Estimated cost of public services delivered locally but not by local government in 2007-08 is based on a subjective analysis of Table 10.1 from Public Expenditure Statistical Analyses 2009, Cm 7630, published by HM Treasury.

Consultation questions

Do you agree that we should extend scrutiny powers in relation to Local Area Agreement (LAA) partners to cover the range of their activities in an area, not just those limited to specific LAA targets?

Do we need to make scrutiny powers more explicit in relation to local councils' role in scrutinising expenditure on delivery of local public services in an area? If so, what is the best way of achieving this?

Do you agree that we should bring all or some of the local public services as set out in this chapter fully under the local authority scrutiny regime? Are there other bodies who would benefit from scrutiny by Local Government?

How far do you agree that we should extend scrutiny powers to enable committees to require attendance by officers or board members of external organisations to give evidence at scrutiny hearings, similar to the powers already in existence for health and police?

What more could be done to ensure that councils adequately resource and support the local government scrutiny function to carry out its role to full effect?

How can council leaders ensure that scrutiny is a core function of how their organisations do business and have a full and proper role in scrutinising the full range of local public services?

What more could be done to better connect and promote the important role of local government scrutiny to local communities, for example, citizens as expert advisers to committees?

Chapter 2

Strong local government operating in the local interest

73. A critical question for this consultation is whether councils have the right powers to (a) address the challenges their communities face today and (b) to deliver improved and more efficient services for citizens.
74. This is particularly important given the introduction of entitlements as set out in *Building Britain's Future*. As local authorities start to respond, and as they become responsible for greater scrutiny and oversight, it is right that we ask whether they have the capacity they need to deliver for their local citizens.
75. The Government also wants to reduce bureaucracy and the burdens associated with inspection. This consultation considers how we can build upon the introduction of the new system of comprehensive area assessment.

The challenge

76. Councils have a clear and direct mandate from local people to govern their areas. Councils, therefore, need to have the necessary power and responsibility to meet the legitimate expectations of local people. This is at the heart of strong local government.
77. There are three important issues under consideration here.
 - **First, do councils require strategic functions to meet the needs of local people?** If so, do they need additional powers to do so? For example, some authorities – or even groups of authorities – wish to have a more visible, active, and tangible role in dealing with climate change (this is addressed later in this consultation). There are likely, however, to be other similar areas where local authorities could play a bigger role.
 - **Second, are there barriers to councils exercising the powers they already have?**

- **Third, can we lighten the central Government inspection regime?** Government has already done much to free councils from unnecessary performance management. However, the introduction of entitlements and the effective use of scrutiny may allow councils to identify and resolve performance issues earlier, and therefore reduce the need for central government intervention. This is not to say that intervention will never happen. It is right that Government should intervene where there is critical or sustained underperformance, especially in the case of services that safeguard the most vulnerable. However the aim is for such underperformance to be rarer, and as a consequence for intervention to be limited to the most serious concerns.
78. These changes would need to be matched by growing public confidence in local authorities' ability to shape services or their area. As such, the continuing transfer of power depends on citizens' demonstrable and growing confidence in councils.
 79. Councils need governance models that readily deliver (a) strategic leadership, (b) sharp accountability, and (c) effective and efficient decision taking. It is recognised that this can be achieved through a range of models, including with a mayor. The Local Government and Public Involvement in Health Act 2007 builds on the experience of the 12 English local authorities who adopted directly elected mayoral forms of governance, and relaxed the procedure for changing council governance arrangements. Where a council wishes to move to the mayoral model it can either hold a referendum or, following consultation and the drawing up of proposals for change, to resolve to make the move to a directed elected mayor. Government believes this is the right approach for the current time.
 80. Government is looking at issues on councillor recognition and conduct separately and they do not form part of this consultation.

The current picture

Current levels of devolution

81. Since 1997 local authorities have gained significant powers, responsibilities and financial freedoms from central government. This has included the three year finance settlement, a new prudential borrowing regime, and powers to promote the economic, social, and environmental well-being of their area. Through Local Area Agreements (LAAs), councils work with their partners to target local priorities and meet local needs.
82. Local councils have also taken a direct leadership role in supporting their communities through difficult times. Many have been offering practical help to those experiencing trouble with debt or at risk of repossession; others have been supporting new apprenticeships or looking to create new jobs through the Future Jobs Fund.

83. Parliament has recently agreed to give a discretionary power for councils to raise and retain a supplement on the national business rate and to use those funds to support additional projects aimed at the economic development of their local area.
84. Following the Review of Council Housing Finance, the Minister for Housing has announced a consultation on plans to dismantle the housing revenue account subsidy system and replace it with a devolved system of responsibility and funding for local authorities – self-financing. This will allow local authorities to keep the receipts from the sale and rent of council homes to reinvest in new housing. We are also passing the leadership of over £0.5 billion of skills spending, dedicated to English for Speakers of Other Languages and informal adult learning is currently being passed from the Learning and Skills Council to local authorities.
85. The measures proposed in this consultation, together with recent reforms, represent the most substantial and radical transfer of power to councils for a generation.

Entitlements

86. *Building Britain's Future* sets out the Government's programme for further reform of public services, based on moving from a system based primarily on targets and central direction to one where individuals have enforceable entitlements over the service they receive. Wherever they live, citizens will be able to have confidence that public services will deliver a certain level of service.
87. For local authorities, this will bring greater autonomy to decide how these entitlements will be met and generate greater freedom to innovate.
88. The Government's green paper on Rights and Responsibilities²⁰ recognises that a broad range of related entitlements are already embedded in UK legislation and reflected in the institutions which oversee their implementation. Many of these entitlements are enforceable, either because mechanisms to ensure their delivery (such as tribunals) are explicitly provided for in legislation or because they are susceptible to judicial review by the courts. Legally enforceable entitlements to a variety of social and economic welfare provisions are not a new concept in the UK. But in considering ways to set out new entitlements, including in relation to local government, there is a range of possible options which lie across a continuum. As explored in the green paper the options range from a set of legally enforceable provisions, to duties and responsibilities placed on public authorities, to statements of principle which would not be justiciable in the courts but would be enforceable through non legal means. Some of these issues are explored further in chapter 5 on clear relationships with local government.

²⁰ *Rights and responsibilities: delivering our constitutional framework*, Ministry of Justice, 2009

Current powers

89. Councils already enjoy wide ranging powers – most significantly, the ‘well-being power’ introduced in the Local Government Act 2000, which gives councils a general power of first resort to promote and improve the economic, social and environmental well-being of their areas.
90. Councils have used this to adopt a number of innovations. One local authority has taken quick and effective action to purchase houses on an estate in rapid decline with anti-social behaviour and drug-related problems. A London borough used the well-being power to support involvement in a new form of partnership arrangement with the primary care trust, purchasing a holding in the company that will be the basis of future partnership arrangements. This has given the council an ongoing stake in the activities of the company, even though it involves interests beyond the council’s boundaries²¹.
91. However, evidence suggests that this power is not as widely used as it might be²², there is an on-going debate about the need for a general power of competence and a recent court case²³ has established that the well-being power is not available to enable councils to set up a mutual insurance company. These issues are addressed later in this chapter.

Wide-ranging local government responsibilities

92. Through LAAs, councils and other local agencies are working in partnership to identify and focus their efforts on the things that matter most to local people and which will make the most difference to the quality of life in their area.
93. This focus on local need and ambition drives innovation in other areas. Partners are increasingly recognising the links between their work – for example, planning policy has been influenced by the recognition that a well-designed built environment can promote health and well-being and help develop sustainable communities, providing opportunities for people to build physical activity into their lives. Planning also helps ensure the provision of high-quality health and social care facilities.
94. A growing number of primary care trusts and local authorities are working closely together to deliver their commitments to health and social care in the local area. This has been encouraged by the joint approach to issues set out in the joint strategic needs assessment and includes pooling/aligning of budgets, joint appointments and shared oversight.

²¹ See *Practical Use of the Well-Being Power*, Communities and Local Government 2008, for details of these and further examples

²² The 2006 survey of English Local Strategic Partnerships (LSPs) found that 92 per cent of responding LSPs were aware of the well-being power and 19 per cent had considered using it, but only 8 per cent had actually done so.

²³ *Brent London Borough Council; Risk Management Partners Limited; London Authorities Mutual Limited & Harrow London Borough Council*: 2009 EWCA Civ 490

Reducing bureaucracy and inspection

95. Effective performance is an important part of building trust between citizens and local government. Central government is committed to safeguarding citizens' interests whilst reducing the burden of bureaucracy and inspection. As a result, since 2003-04 we have reduced the cost of public service inspection by a third.
96. Government has improved and refined the system of inspection for councils and has agreed an improvement and efficiency strategy published jointly with the Local Government Association²⁴ which deals with the issue of when government should intervene. These reforms should further reduce inspection and bureaucracy for local councils. With these changes comes responsibility for councils to ensure that they exercise all their functions transparently, fairly, efficiently and in the best interests of the people they serve.
97. Through the new comprehensive area assessment (CAA), Government has committed to proportionate, integrated assessment of local public service. All councils will be assessed, but stronger performers can expect to be inspected less often. CAA will bring together assessments of performance across each local area and focus more on the delivery of outcomes, on citizens' experiences and perspectives, and on places and partnerships rather than just individual institutions. This new system will also be much more open and visible for citizens – for example, the inspectorates are developing a user friendly web-based reporting tool for their assessments which are due to be published by the end of the year.
98. The six inspectorates of local services are working together more closely than ever before. Inspectorates are working along 'Collect Once, Use Numerous Times' (COUNT) principles. And we are committed to further reducing the burden of inspection by making best use of local performance management arrangements and existing data to inform judgements, rather than requiring further evidence.
99. The effect of CAA will mean that inspection is targeted where it can have the greatest impact or where the risks of failure are most significant. Over time, we expect that other performance frameworks will become closely aligned with CAA so that it becomes the main assessment of public services. We will monitor progress to make sure that CAA brings the expected benefits.
100. Even in well run organisations, things will go wrong from time to time. When they do it is essential the council puts things right quickly and wrongs are righted. Elected councillors have a crucial part to play in ensuring this happens – that high standards are set and maintained and that services are responsive to the needs of their residents.
101. But in some cases specialist support will be needed from outside the authority. The improvement and efficiency strategy makes it clear that this support should come first from others working in local government.

²⁴ *National Improvement and Efficiency Strategy*, Communities and Local Government/Local Government Association, 2008

102. Central government retains the ability to intervene where there is critical or sustained underperformance, for example where entitlements are not met. In such instances, the required action by government may range from: an improvement notice (issued by the appropriate Secretary of State); use of statutory powers to direct the organisation to take specific action to secure recovery or improvement; or in the most serious cases, the relevant Secretary of State may appoint a nominee to exercise certain specified functions of the authority.

Future options

103. A strong, revitalised local democracy needs the appropriate powers and freedoms to drive forward results for local people. In addressing the challenges facing our country there are important questions about the nature of local government's role. This is given separate consideration in chapter 3 with relation to local authorities' role tackling climate change.

Entitlements

104. *Building Britain's Future* advanced a new agenda for our public services and local government. It outlined how the next stage of public service reform will be characterised by moving from a system based primarily on targets and central direction to one where individuals and communities will have enforceable entitlements over the services they receive.
105. **The introduction of new entitlements will require public services to ensure that residents' rights to these are met. Local government will have a key role in ensuring these entitlements are delivered and the proposals for enhanced scrutiny in this document will help councillors deliver this.**
106. As entitlements to public services are introduced we shall review the possibility of reducing the number of LAA targets agreed with government. This builds on the recommendation in the Treasury's report on the Operational Efficiency Programme²⁵ and will give local areas and services greater autonomy in delivering improved outcomes. However, as the experience of LAAs has demonstrated, there is great value in important local needs and priorities being formally recognised between central government and local agencies. We will, therefore, consider how a reduction in LAA targets may work in practice, for example by being accompanied by proposals to ensure that public services in an area pledge to meet the most important priorities of their citizens.

Formal powers

107. The well-being power is vital for local authorities to act in the interest of their local communities and we want to support local authorities to make use of it.

²⁵ *Operational Efficiency Programme*, HM Treasury, 2009

108. However, the recent court case on mutual insurance has dented confidence in the ability of councils to use this power to take forward complex arrangements.
109. Changing the well-being power or introducing another form of general power would not be certain to ensure local authorities could engage in mutual insurance arrangements.
110. **Government is not opposed to local authorities developing this and similar types of arrangement. Subject to this consultation we are therefore proposing to introduce, at the first legislative opportunity possible, a specific power to enable councils to engage in mutual insurance arrangements.**
111. We also ask whether there are other similar arrangements – beyond mutual insurance – which councils believe could be beneficial but which are potentially out of scope of existing powers. We will use the evidence gathered here to decide whether further action should be taken.

Building confidence in councils

112. As established above, a continuing transfer of power needs to be clearly linked to citizens' demonstrable and growing confidence in councils. A key issue is therefore how councils can build confidence amongst local people in their ability to deliver for the area. This is important to begin to reverse the decline in confidence shown by recent surveys.
113. We are asking how that can best be achieved, including how central government can support local government in their efforts to rebuild declining confidence.

Health and social care functions

114. There are already many strong links between local government and Primary Care Trusts, reflecting the importance of joint working in this area and reflecting the community leadership role of local government.
115. This can be seen in relation to:
- issues of public health – such as teenage pregnancy and obesity – where local government already plays a direct role
 - recognising the links between a good local environment, local service provision and general good health and
 - an increasing sense that local primary care health services play an important community role – whether supporting people back into work or enabling people to access broader ranges of advice and support beyond direct health intervention.

This is reflected in:

- the importance of health indicators in LAAs
 - government's further commitments to allow commissioning and provision for health to be locally led
- strengthening the overview and scrutiny function of local authorities so that they can make a pro-active contribution to local decision making across the NHS.
116. Many Primary Care Trusts and local authorities are already working together on joint appointments with the ambition to improve joint working between health and local government. Joint appointments are being explored in a number of local areas around: joint commissioning managers of children's services; joint heads for integrated commissioning for adult services; older people commissioners and mental health services.
117. Local authorities are also responsible for provision of social care for their communities. Again, there has been concern to ensure strong links between health, social care and wider services to enable high quality services for local people.
118. Within the current statutory framework, our approach is permissive not prescriptive. Our aim is to give local organisations the space to innovate, not to impose organisational change upon them. In the NHS we maintain there will be no top down reorganisation of Primary Care Trusts or Strategic Health Authorities. We believe that there are considerable benefits to be gained from developing further closer relationships between local authorities and Primary Care Trusts. We would support local initiatives to share staff and to further develop joint accountability and scrutiny arrangements.

Ensuring effective integrated transport

119. The Local Transport Act 2008 allows cities and other places to make proposals to improve the way transport is planned and delivered in their area. Integrated Transport Authorities, with powers specifically tailored to the place in question, can then be created through secondary legislation. The Local Democracy, Economic Development and Construction Bill, currently before Parliament, would pave the way for a similar arrangement covering wider functions as well, such as like land-use planning and economic development.
120. The developments of scrutiny proposed in this document will support good local engagement within cities, as elsewhere. It will be important to ensure that whilst city-wide bodies are responsive to the needs of local communities, they act in the best interests of the city as a whole, as discussed later in this document.

121. However, there remain questions of what more can be done to ensure ITAs and councils support each other in developing effective transport for local communities and also whether ITAs, that cross council boundaries, have sufficient powers, incentives and levers to meet their ambition. These are issues that this consultation would welcome comment on.

Reducing bureaucracy and inspection

122. The improvement and efficiency strategy²⁶ published jointly with the Local Government Association sets out the Government's approach to intervention. The principles set out in chapter 5 may offer scope to increase the weight to this established position, making it more explicit that local government should be free to exercise its functions in the interests of their citizens without unnecessary direction or control from central government or other agencies. This principle reflects the current Government position on intervention.
123. We will also discuss the results of the recent Local Government Association/Improvement and Development Agency consultation on sector-led support²⁷ to establish an agreed joint approach to tackling failure and underperformance, including the roles and responsibilities of elected councillors and ministers.
124. There is a powerful case for the next stage of development to be one where effective local scrutiny, coupled with entitlements, leads to reductions in the volume of central prescription and inspection. This will not be an immediate change, and relies on local government delivering on the use of powers and responsibility given, but responses to this consultation should bear this long-term ambition in mind.

Partnerships

125. Strong local partnerships are needed to deliver the high quality public services that citizens expect and democratically elected leaders and councillors are getting involved in partnerships to good effect. The first assessments of the Audit Commission and other inspectorates under the comprehensive area assessment are looking at the delivery of outcomes delivered in partnership.
126. But we cannot take effective partnership working for granted. Effective partnerships generally share a number of strong characteristics that seek to actively empower and engage with their partners and communities. Research into Local Strategic Partnerships and Beacon councils has identified that partners need:
- informal as well as formal ways of working
 - developed trust and understanding
 - strong connections to the democratic processes

²⁶ *National Improvement and Efficiency Strategy*, Communities and Local Government/Local Government Association, 2008

²⁷ *Setting the Pace: Developing a framework for sector-led help*, Local Government Association/Improvement and Development Agency, 2009

- mechanisms for scrutiny and holding partners to account
 - to raise aspirations and are ambitious and challenging
 - to keep things simple
 - transparency on what partners contribute
 - space to innovate – to look for new solutions
 - good information systems.
127. **Whilst much partnership working is useful and effective, we also need to ask whether all the partnerships are needed or whether they could be streamlined. We need to make sure that each is essential, with a clear purpose and remit, with easily understood responsibilities.**

Consultation questions

8. ***How best should any reduction in numbers of LAA targets ensure that services are responsive to the most important local needs and priorities as well as national entitlements?***
9. ***Should councils have a power to engage in mutual insurance arrangements?***
10. ***Are there other powers needed to cover engagement in further complex arrangements of a possibly speculative nature outside of existing powers?***
11. ***Do you agree that greater powers should be premised on demonstration of local confidence? How should this be demonstrated? How can councils best reverse the decline in confidence?***
12. ***Are there core issues that should have greater council control which councils believe they are currently prevented from undertaking? If so what are they and what is the case for councils to take on these roles?***
13. ***Do you agree that there should be a review of the structure of local partnerships with a view to identifying unhelpful overlap and duplication? Are there particular issues on which such a review should focus?***

Chapter 3

Local authorities tackling climate change

128. Climate change is the greatest long-term threat facing the world today. The potential costs of climate change are huge, estimated as being up to 20 per cent of global Gross Domestic Product. Mitigating these effects will require decisive international, national and local action. So a critical question for this consultation is whether councils have the right powers and responsibilities to help address climate change.
129. This consultation invites views on proposals to give local authorities a greater role in tackling climate change perhaps through local carbon budgets or other mechanisms. This step change in local councils' broader strategic functions will not only support the future of our nation but has the potential to engage local citizens in action to fight climate change in a way that is meaningful for them.

The challenge

130. As *Building Britain's Future* outlined there are a number of global and national challenges facing this country and local government has an important part to play in meeting these. One of the most pressing is climate change. The recent *UK Low Carbon Transition Plan* sets out how the UK will make the shift towards becoming a low carbon country²⁸. We want to see councils increasingly active in reducing carbon, taking a key role in meeting UK carbon targets and adapting to the consequences of climate change.
131. Local authorities are already responsible for planning, building control, and management of waste. But they can also develop entirely new roles and services. We want the decisions that local authorities make in this area, and their performance, to drive for local engagement and renewal.

The current picture

132. Almost all (97%) of Local Strategic Partnerships chose to include one of the three carbon indicators in their Local Area Agreements (LAAs), and a significant number also chose the adapting to climate change indicator for their LAA. This demonstrates the commitment that exists in local areas for tackling new challenges beyond their traditional remit. But using the direct mandate they have from local people to lead and inspire local responses to issues like climate change is exactly what strong local government should be doing.

²⁸ *The UK Low Carbon Transition Plan*, HM Government, 2009

Climate change at a local level

To tackle climate change, Government has committed to reducing carbon emissions by at least 80 per cent by 2050, and to set and meet carbon budgets to keep us on track. This will mean huge changes in the way that we generate and use energy in every form, at home, at work, and at leisure, how we travel, and how land is managed.

As a society, we will face choices about how to make the changes that we need. Some choices will be best made nationally. But many will be better made – or can only be made – locally. Often decisions made nationally – such as on energy policy – will have profound effects at a local level or can only be delivered by local bodies and with the consent they can build.

In setting out its carbon budgets, and policies and proposals to meet them, the Government is presenting a national routemap for the changes we need to make. For this to take root, it will need to be driven in every community across the country. We believe that people should increasingly be able to look to their local authority not only to provide established services, but also to co-ordinate, tailor and drive the development of a low carbon economy in their area, and in a way that suits their preferences. The consent built through a strong and vibrant local debate of the choices we face will be essential to make the change a success. And in setting out their ambitions for carbon, where there are clear local plans with local support, the Government would support the goal of going beyond national targets on carbon.

Future options

133. The fact that almost all local authorities have included carbon indicators in their LAAs demonstrates local government's commitment to help fight climate change. Innovative authorities are leading and inspiring local responses, including Kirklees, Southampton, Woking, Barnsley, Barking & Dagenham, Reigate & Banstead. The Carbon Reduction Commitment, which we are introducing next year, will provide a further incentive to action.
134. There is scope for councils, working with their partners including the third sector, to go further. This would build on – but not be limited to – their existing responsibilities for planning, transport, building control, and management of waste. The decisions that local authorities make in this area, and measures of their performance, should:
 - make it easier for individuals to judge the choices that their local authority is making – both on the extent and nature of their actions – and whether that meets their expectations and preferences, reinforcing local accountability

- encourage the development of locally tailored responses and innovation to deliver the changes needed in a way that commands local support and
 - ensure fairness between areas, but supporting those who take an active approach.
135. Government has now set out its proposals for managing carbon budgets at the national level. We will explore the role that local government could take in meeting the UK carbon budgets, and how this might work at a local level. There is already a strong tradition of cooperative working between national and local government on fighting climate change. This includes reviewing the operation of the climate change planning policy statement, building carbon into the 'single conversation' that the Homes and Communities Agency conducts, and encouraging schemes that bring together initiatives at the local level.
136. There is also an economic role for local authorities in ensuring that communities benefit from low carbon economic development, working with Regional Development Agencies and others. Where relevant, this will include playing a key part in the establishment and successful operation of low carbon economic areas as announced in the *Low Carbon Industrial Strategy*²⁹.
137. Such new roles and new activity could have profound effects – changing our expectations of what local government is and what it does for people. To unlock this potential, we must carefully consider what powers and resources local government needs, and the conditions under which they can be exercised.
138. Set out below are the issues which need to be addressed and possible ways in which these might be taken forward.³⁰ Views are sought on these, which will then be used to shape specific policy options, in partnership with the sector. These are:
- The role of local authorities in coordinating funding streams to support low carbon activity in local areas. This might include working with energy suppliers on targeting work to improve energy efficiency, and to make best use of new support for renewable electricity and heat. We will consider the case for greater local influence over the supplier obligation.
 - Supporting authorities who wish to offer innovative financing for energy efficiency and renewable energy, and perhaps even green mortgages. Authorities should be able to play a full role in developing local energy markets, acting as investor where they wish to.
 - Empowering authorities to deliver cost effective and publicly supported infrastructure plans. We will examine the degree of public support that would be needed to establish the case for such schemes. Local authorities may also need the ability to require existing, as well as new, developments to connect to heating schemes.

²⁹ *The UK Low Carbon Industrial Strategy*, HM Government, 2009

³⁰ Government will ensure that any schemes which fall within the definition of business support are Solutions for Business compliant

- Encouraging authorities to consider using their new powers under the Business Rates Supplements Act 2009 to raise funds to support emissions reductions projects, provided the link to economic development can be established.
 - Encouraging authorities, using existing powers, to ensure minimum energy efficiency standards for housing. Following the Rugg Review, we are consulting on proposals for a national register of private landlords to increase the professionalisation of the sector and help improve the quality of the worst stock especially where category 1 hazards under the Health and Safety Rating System are found. The register may also be a valuable tool in making landlords more aware of the reasons to improve the energy performance of their properties, and measures which are available to help them.
 - Moving planning authorities forward in their thinking about how to tackle climate change, and to encourage more community engagement to develop locally owned low carbon energy solutions. The Climate Change Planning Policy Statement sets out how planning should contribute to reducing emissions and stabilising climate change. Much has changed since this was published in 2007 and planning authorities and other stakeholders have an opportunity to shape a new Planning Policy Statement to deliver innovative approaches to low carbon communities.
 - Helping, and challenging local authorities make the contribution we are asking from them in delivering the low carbon transport strategy, including supporting a shift to new technologies and promoting lower carbon transport.
139. We will examine how a range of possible incentives might be used to reward areas that make progress, and explore the case for developing mechanisms that will allow local authorities wishing to make faster progress than our national plans can do so, with support from less ambitious authorities. Some authorities have experimented with voluntary carbon trading, as part of a Local Government Information Unit research project looking forward to the introduction next year of the carbon reduction commitment. We are interested in learning from these authorities' experience, in particular identifying what we can draw on to support the ideas we have set out here.
140. **Some authorities may choose to put their efforts into a broad spread of activities; others may want to focus on more narrowly defined schemes. The common thread is that new freedoms and responsibilities will be delegated to councils which put in place plans that add value to our national policy, and that command local support.**
141. Not all local authorities will have the capacity to be at the forefront of this issue or wish to pursue these opportunities. The aim is to support and encourage those who do, and to unlock the local potential and positive intent we know is there.

Consultation questions

- 14. *How is the current national indicator system working to incentivise local authorities to take action on climate change? Should Government take new steps to enable local authorities to play a greater role in this agenda?***
- 15. *Where can local authorities add most value in meeting climate change aims, and what should Government do to help them do so, giving consideration to the proposals set out in this chapter?***
- 16. *How do we ensure that national policies reinforce local efforts – for example, around transport, renewable energy, and energy efficiency?***

Chapter 4

Sub-regional working

142. Many local authorities have come together to form partnerships across city-regions and other kinds of sub-region. Some of these partnerships have entered into Multi-Area Agreements with central government and other partners, and the Government has also announced two city-region pilots. We know that this joint working is the right way to drive forward the economies of local areas.
143. As sub-regional structures grow in power and influence, it is important that greater power is matched by clear, democratic and accountable leadership. The form of democratic accountability that should exist will need to be considered as partnerships move forward and this chapter sets out the issues and options to be considered.

The challenge

144. People rightly expect councils to be the centre of decision making for their local area. However the challenges that they face often do not fit neatly into current administrative boundaries. Councils increasingly need to work together to tackle difficult issues and improve outcomes for citizens. This is particularly the case on economic challenges, as the area across which local economies function is often significantly larger than the area covered by any one local authority. Councils and other agencies have started to come together in voluntary partnerships to drive economic growth in their areas and to take joint decisions about important issues such as housing, regeneration, employment and skills.
145. The Government believes that joint working between authorities is the best way to deliver improvements in economic outcomes and has been encouraging councils to cooperate more closely through mechanisms such as Multi-Area Agreements (MAAs). This has led to a growth in sub-regional working to address issues which cross council boundaries but are not so large as to need a regional approach.
146. As these partnerships of authorities have developed it has become more difficult for citizens to understand who is doing what on their behalf. It is vital that local people and organisations understand how these partnerships work, and how they can influence what takes place at this higher level.

147. **We want to ensure that existing and planned mechanisms for joint working between authorities at the sub-regional or city-regional level are as accessible, transparent and accountable as possible.**
148. We also want to look ahead to the longer term. In *Building Britain's Future*, the Government committed to a debate about the powers that should be devolved to the city-regional level. If city- and sub-regional structures are to assume greater responsibilities, it is all the more critical that they are fully accountable to local residents.
149. The acid tests for ensuring the accountability of mechanisms for city- and sub-regional working have to be:
- Are citizens clear about how those arrangements work and what they do?
 - Do people know who is making the decisions?
 - How can citizens hold them to account through the local democratic process – and what does this mean for getting the right form of democratic accountability at that level?

The current picture

Multi-Area Agreements

150. MAAs are voluntary agreements between a group of local authorities, other local partners and the Government to deliver particular improvements for an area. MAAs derive their democratic legitimacy and political accountability from both the local and national level as they are agreed through negotiations between a partnership of local authorities and central government. They also have specific local accountability arrangements, tailored to individual partnerships – for example, joint governing boards made up of local authority leaders with delegated authority to oversee partnership activity.

MAAs and city-region pilots

There are currently ten multi-area agreements (MAAs) with a further six agreements in prospect. When these agreements are signed, MAA partnerships will cover 70 top-tier authorities and 37 per cent of the English population.

Common themes across most MAAs are employment, skills, transport and housing. Beyond the powers already available to the member local authorities, MAA partnerships do not have formal powers. However, the Government has agreed through MAAs to provide certain freedoms and flexibilities to partnerships to help them accelerate local growth and improve services to the public.

The Local Democracy, Economic Development and Construction (LDEDC) Bill will give groups of authorities the option of creating an MAA with statutory duties. This will mean that authorities and their partners will be under a formal duty to co-operate in agreeing and delivering the MAA's targets, and places such MAAs on a similar statutory footing to LAAs. However, creating an MAA with duties will not in and of itself lead to greater powers or flexibilities.

Two of the existing MAA partnerships – Greater Manchester and Leeds City Region – have been announced as City Region pilots. They will benefit from increased flexibilities than those currently available to MAAs, including the stronger integration of planning, housing, transport, regeneration, employment and skills programmes, which are intended to increase their ability to drive sustainable growth.

Formal sub-regional structures

151. Other, more formal, sub-regional structures are available to groups of local authorities to help them address specific issues. These include joint waste authorities and integrated transport authorities.
152. Further sub-regional structures are planned to allow for formal joint working between authorities on economic development and regeneration. These new structures will be known as 'Economic Prosperity Boards' (EPBs). Our intention is to also allow councils to create 'combined authorities', so that the economic development and regeneration functions of an Economic Prosperity Board can be brought together with the transport functions of Integrated Transport Authorities into a single body. These developments take the MAA approach further by allowing those local authorities who wish to, to create legally recognised, corporate bodies that can take on economic development responsibilities across their combined area.

153. All of these existing and planned sub-regional structures derive democratic legitimacy through elected councillors from their member local authorities controlling their activities.

Regional developments

154. The Local Democracy Economic Development and Construction Bill provides for the establishment in each region of a Leaders' Board, made up of local authority leaders from the region, which will work in partnership with the Regional Development Agency to prepare a regional strategy. Local authorities in each region will need to prepare a scheme for the establishment and operation of a Leaders' Board. Before approving a scheme, the Secretary of State will need to be satisfied that the scheme adequately addresses a number of issues. These include how the Leaders' Board will be held to account by local authorities, how it will be representative of all significant political parties and how it will engage with the Regional Development Agency, in particular the process by which joint decisions will be made. The planned guidance on Leaders' Boards will cover these issues and set out how the Secretary of State will take them into account in approving the schemes put forward by the local authorities.

Accountability

155. There are various mechanisms in place or planned for holding these formal sub-regional bodies, referred to above, to account and to allow local people to get involved in their activities. These include:
- a planned requirement on new structures for their board and committee meetings to be open to the public, and papers and minutes available for inspection, as is already the case for existing structures
 - an intention for the 'duty to involve' to apply to Integrated Transport Authorities, Economic Prosperity Boards and combined authorities, meaning that they will need to take steps to ensure local people are consulted and can get involved
 - a planned requirement on principal local authorities to promote understanding of their sub-regional arrangements, including any formal structures that they are engaged in
- an intention to enable local authorities to establish joint overview and scrutiny arrangements to allow them to examine any matter that is of relevance to the area. Authorities could use this mechanism to establish a committee that would be able to scrutinise the activity of local authorities working together at the sub-regional level

Future options

156. Good progress has been made in developing mechanisms for joint working between local authorities. This is delivering valuable results for local people by ensuring that councils and other key organisations in an area are working towards common goals.
157. Over the long term, we want to see an even stronger role, with greater responsibility, for city- and sub-regional level working as this provides the best fit for real local economies. Given this, it is the right time to look at how the accountability and the transparency of these structures can be strengthened, so that any greater powers for the sub-regional tier go hand-in-hand with strengthened accountability.
158. In the first instance there is a strong case for strengthening existing and planned structures through:
 - requiring the activity of sub-regional partnerships to be subject to scrutiny arrangements
 - enabling joint overview and scrutiny committees to require sub-regional structures, and their partners, to provide them with a broader range of information and to consider their recommendations on sub-regional matters and
 - applying a duty to respond to petitions to apply to Integrated Transport Authorities, Economic Prosperity Boards and combined authorities³¹.
159. These options would give individual councils greater ability to hold sub-regional structures to account, on behalf of local citizens. Applying a duty to respond to petitions would also make these structures more directly responsive to citizens.
160. This raises the question of whether sub-regional structures are sufficiently visible and accountable to citizens. If they are to be granted significant powers and responsibilities, it is vital that local people are able to understand and be involved in the arrangements that are in place to manage activity and make decisions at this level.
161. Any new proposals will need to fit with the ideas set out in the first chapter of this consultation of local residents understanding of where they can hold local services in an area to account. We also wish to raise the question of whether citizens should be more directly involved in electing representatives to structures at this level, if significant additional powers, as was the case with London, are to be granted. Any reforms in this area would of course require public support. Whilst the government's policy on mayoral governance at local authority level remains as outlined early in chapter 2, we are interested to hear views on other possible options including:

³¹ Using powers under clause 20 of Local Democracy Economic Development and Construction Bill

- establishing 'city-region leaders' – existing sub-regional partnerships could elect, from among their members, a single leader who would be a figurehead for the partnership. This would not lead to more powers but would provide greater visibility for the work of the partnership to citizens
- creating new sub-regional local authorities – rather than current and planned sub-regional bodies, which are limited to specific issues such as economic development and transport, new sub-regional local authorities could be established with a much wider range of powers. Any direct elections to these authorities would lead to greater engagement with the sub-regional level but there would need to be a clear division of responsibilities between the new and existing tiers, and scrutiny could be complex
- mayors for city- and sub-regions – executive mayors with powers over strategic issues could be created for city- or other sub-regional areas and be directly elected by the population. This would provide strong accountability but there would again need to be a clear division of responsibilities. The role of existing local authorities would be reduced, although they could scrutinise the activity of the mayor
- a combination of a directly elected executive mayor and directly elected sub-regional scrutiny body – this is similar to the model of the mayor and assembly established in London. The mayor would have executive power, potentially over a wide range of issues, and would be held to account by a body of people directly elected by citizens for that purpose.

Consultation questions:

17. *Should the activity of sub-regional partnerships be required to be subject to scrutiny arrangements?*
18. *Should councils' joint overview and scrutiny committees be able to require sub-regional bodies to provide them with information on the full range of their activities and to consider their recommendations on sub-regional matters?*
19. *Should the duty to respond to petitions be extended to sub-regional bodies?*
20. *Do current and planned models for joint working give people a clear enough voice in decisions that are made sub-regionally?*
21. *How could we go further to make existing and planned city- and sub-regional structures more accountable, in addition to the suggestions in this document?*
22. *Should we give more powers and responsibilities to city- and sub-regions? If so, what powers or responsibilities should be made available?*
23. *Is there a need for direct democratic accountability at the sub-regional level? What would be the best means of achieving this, giving consideration to the options set out above?*

Chapter 5

Clear relationships with local government

162. This section explores whether we can – and should – find a way of better articulating the relationship between central and local government to support the aims of stronger local democracy and stronger local government.
163. This would clearly demonstrate the degree of power, and therefore responsibility, that local councils have to act on the behalf of their local citizens. It will also help show where accountability does – and should continue to – lie with central government.
164. The key proposals cover consideration of a series of principles on which central-local relations should operate as a framework for future policy; and possible mechanisms to support such principles such as a Parliamentary select committee or ombudsman style arrangement.

The challenge

165. Citizens are entitled to clarity about what their council can do for them and about how they themselves can be involved in their council's affairs. They also need to know when and how central government influences those affairs and intervenes in such services. The quality and clarity of relationships between central government, local government, and citizens is at the heart of any well-functioning local democracy.
166. Every council has its own legitimacy derived from election by its citizens. That direct mandate is the reason why councils need clear space to operate in, respected by central government and its agencies. To serve our citizens best, the relationship between central and local government should be one of trust, challenge and meaningful engagement. Our challenge now is to look at this relationship, and consider whether we would work together better if we did so within a more formal framework.

Current picture

167. The tradition of democratic local government is long standing in our country, extending back to the mid 19th century and to a limited extent far earlier. It has underpinned a succession of Local Government Acts and other legislation.
168. This Government has consistently recognised the need to give proper acknowledgement to local government and has supported councils in becoming more effective, efficient and responsive leaders of their communities. In 1998, the Government ratified the European Charter on local self government, which sets out certain standards and principles that are essential to any well-functioning system of democratic local government. These have been accepted by 44 member states of the Council of Europe. This gave public and formal recognition to the role of local government.
169. Current legislation is fully compliant with those standards and principles. The way in which we engage with local government and the initiatives we have developed are informed by our recognition of councils independent legitimacy.
170. To promote this relationship further, in 1998 we worked with the Local Government Association to establish the central-local partnership as a means for on-going dialogue between representatives of central and local government. In December 2007, this was further strengthened by the signing of the *Central-Local Concordat*³², following the *Governance of Britain* green paper published in 2007. This set out, for the first time, an agreed framework for how central and local government should work together to serve the public. This represented an important milestone in central-local relations and has also laid the foundations for continuing consideration of how best to make it clear for citizens – as well as institutions – the role and the rights and responsibilities of local government in relation to their communities and in relation to central government.
171. The discussion of how best to articulate and regulate the relationship between central and local government, in order to enhance local democracy and strengthen local government, can also be seen in the context of good administration and good governance, as explored in the Government's green paper on *Rights and Responsibilities*.³³

³² <http://www.communities.gov.uk/publications/localgovernment/centrallocalconcordat>

³³ *Rights and responsibilities: delivering our constitutional framework*, Ministry of Justice, 2009

Future options

172. There is a rich debate about how best to frame central and local relations. This was set out recently in the Communities and Local Government Select Committee's report the balance of power. This raised the issue of a constitutional settlement to provide a stable framework in which local government can operate. The report also raised the question of a greater role for Parliamentary scrutiny of central-local relations. This issue has greater resonance in the context of the proposed written Constitution for the UK. The Government are now seeking views on whether principles underpinning the role of local government should be formally articulated, and, if so, what form they should take, and how best to ensure the accountability of other central and local government for their commitment in practice to such principles.
173. A set of principles designed to articulate the most effective role of local government as argued in this consultation document might take the form set out below. These principles are designed with a focus on local government but they also establish core aspects of the relationship with central government and – crucially – with citizens:
- A local government comprises councils, composed of members democratically elected by the citizens of a local area, and having powers and duties which Parliament grants, including the power to promote and improve the economic, social and environmental well-being of citizens in their area
 - B local government enables democratic local decision making and action by, and on behalf of, communities
 - C local government should be free to exercise its functions in the interests of their citizens without unnecessary direction or control from central government or other agencies, while recognising that central government should intervene where there is critical or sustained underperformance
 - D local government must exercise its functions fairly and openly, and to seek to ensure that all local citizens are aware of their rights and responsibilities in relation to those functions
 - E local government must seek to ensure that people are informed about what the council is doing, and can participate in the affairs of councils, both in accordance with electoral law through local elections, and through a wide range of formal and informal other means; these might include local polls, referendums, the 'councillor call for action', petitions, neighbourhood engagement, community planning, consultations, public meetings and engaging with their local councillor
 - F all those participating in local public life should act in accordance with the *Seven Principles of Public Life* promulgated by the Committee on Standards in Public Life, and in line with accepted standards of financial management and efficiency. Those elected as members of councils have the responsibility to maintain the trust of their electorate and to act in accordance with their council's statutory *Code of Conduct for Members*

- G local government should have the powers and the responsibility to provide leadership for its area, being responsive to its communities and having an understanding of their needs and priorities, so as to develop in partnership with local public sector partners, business, and third sectors a vision for the prosperity and well-being of the area which they will work together to deliver
 - H local government should exercise a challenge role in relation to the services provided for its citizens by other local and regional public service providers
174. Government complies already with these principles, however, there may be advantages to adopting these principles more formally. A government commitment to the principles would give them weight and significance in any case, but there is an important question of whether we could go further and put them in legislation. This would create new requirements and obligations on all parties concerned – every council as well as central government. Legislation would of course be subject to Parliament in the normal way.
175. The downside of this approach is that principles made in legislation could prove inflexible and limit the room for manoeuvre by councils and government in the future. For this reason this consultation is not proposing such an approach, but is seeking views on a more flexible approach which would still provide robust oversight arrangements to secure compliance with the principles. **We propose an ombudsman style arrangement and, at a national level, if Parliament were to consent, a joint select committee of both Houses of Parliament as recently recommended by the Communities and Local Government Select Committee.**
- The Local Government's Ombudsman role in terms of redress allows citizens to raise their concerns with an independent arbiter directly if they are unhappy with a local authority service. An ombudsman style arrangement could operate on a similar basis to cover the principles set out above. This would mean that individual citizens would be able to raise issues and concerns about their breach, rather than limiting the relevance of the principles to central and local government. It would be the case that recommendations from such a body would be non-binding as is the position for the Local Government's Ombudsman.
 - A joint Parliamentary select committee could scrutinise broad adherence to the principles and make strategic recommendations for future policy. There is a strong case for a Parliamentary select committee of both Houses as set out by the Communities and Local Government Select Committee in their report on the balance of power. We do not envisage that such a committee, were it to be established, would scrutinise the position in individual local authorities. Of course, if the consultation supported the introduction of a committee on these lines, it would be a matter for Parliament to decide.

Consultation questions:

- 24. *Should central and local government's roles be more formally established?***
- 25. *What are your views on the draft principles set out above as away of achieving this ambition?***
- 26. *Do you agree that an ombudsman-style arrangement and a joint select committee of both Houses of Parliament are the correct approaches to oversee and enforce these principles, if adopted?***

Chapter 6

Consultation arrangements

About this consultation

176. This consultation document and consultation process have been planned to adhere to the *Code of Practice on Consultation* issued by the Department for Business, Innovation and Skills and is in line with the seven consultation criteria, which are:
1. Formal consultation should take place at a stage when there is scope to influence the policy outcome.
 2. Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
 3. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
 4. Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
 5. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
 6. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
 7. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.
177. Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.
178. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

179. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.
180. The Department for Communities and Local Government will process your personal data in accordance with the Data Protection Act and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.
181. Your opinions are valuable to us. Thank you for taking the time to read this document and respond.
182. Are you satisfied that this consultation has followed these criteria? If not or you have any other observations about how we can improve the process please contact

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LGA Briefing on *Strengthening local democracy* consultation paper

22 July 2009

Strengthening local democracy: consultation

Background

The department for Communities and Local Government has published a consultation paper, *Strengthening local democracy: consultation*. This follows the government paper, *Building Britain's Future*, published in June 2009. The paper develops the discussion on this, setting out a range of questions for consultation, with responses required by 2 October 2009.

LGA key messages

We think that the Government could have been bolder. In our view these proposals are not 'the biggest transfer of power to elected councillors for a generation'. It is hard to identify any proposals for genuine transfer of powers or new opportunities to respond to the views of local citizens.

The paper does make some progress in areas where the LGA has already published substantial proposals for change. We welcome:

- the recognition of the need to create better parliamentary engagement with central/local relations, through a joint parliamentary committee, and the need to ensure the British government delivers on its commitments under the European Charter of Local Self Government
- the focus on the importance of local action on climate change, and increased scope to act locally on this
- the proposal to give greater powers to scrutinise public bodies and public spending, but not as a substitute for real decentralisation of control over services and budgets.

However, in our *Manifesto for a New Politics* and elsewhere, we have set out proposals for genuine decentralisation and empowerment of local people. In particular we are concerned about:

- the lack of proposals for any new devolution of powers, whereas we advocate a general duty to devolve, including examination of the effectiveness of current spending by QUANGOs
- the proposals for sub-regional arrangements, which provide no clear and specific devolution of powers, for example on housing and planning, employment and skills, economic growth and transport, to strengthen local economies particularly important in a time of recession
- the weak approach taken to the flaws in the power of well-being, where both we and the CLG Select Committee have advocated a new power of general competence.

The LGA will be publishing further analysis and are encouraging councils to respond to the government's consultation.

briefing

Further information on the consultation paper:

Local government at the centre of decision-making

This chapter sets out proposals for new scrutiny powers for councils. These would provide powers for scrutiny of a wider range of public services than at present, extending beyond the scrutiny of specific targets in Local Area Agreements, and with a likely duty on those bodies to take part in scrutiny meetings. A list of organisations to which scrutiny could be extended is given, including utilities and public transport. This is linked to the analysis of public spending which was piloted in the *Counting Cumbria* project and which is being taken forward by the Total Place pilots. The paper proposes a power to scrutinise this spending, which would not give councils any leverage over spending other than to express views through scrutiny reports.

The current Local Democracy, Economic Development and Construction Bill creates a requirement for councils to have a statutory scrutiny officer; the paper discusses whether there could be additional requirements for support.

LGA view: *We support the extension of scrutiny powers, which we have advocated for some time. However, the proposed power to scrutinise public spending in the area is in no way a radical decentralisation of control over services and budgets; it is a power for councillors to question and comment, but not to change the allocation of public spending.*

The analysis of public spending pioneered by 'Counting Cumbria' was an LGA Group initiative. We would expect the further development of this work to lead to real devolution of powers; it highlights the large percentage of public spending not under local democratic control, and the need for further real devolution to enable councils to respond to local needs and views.

Strong local government operating the local interest

This chapter discusses the powers of local government and the emphasis set out in *Building Britain's Future* of defining individual service entitlements. It raises the possibility that the development of service entitlements might provide a context to reduce the number of central government targets, for example in Local Area Agreements.

It discusses the power of well-being (Local Government Act 2000) and specifically the restrictions on the use of this power which have been highlighted by the recent LAML court case on the joint action by London boroughs to provide insurance in partnership, which has ruled that making more efficient use of public money was not within the scope of this power. It proposes a specific power to enable councils to engage in mutual insurance arrangements. The paper also discusses partnership working and raises the question whether there should be a rationalisation of the partnerships which are required.

LGA view: *CLG's proposals in response to the LAML case on the scope of the power of well-being are quite unsatisfactory. Specific legislation on mutual insurance would do nothing to tackle the wider limitations of the existing well-being power which the case has highlighted. LGA and the CLG Select Committee have called for a power of general competence for local government which would genuinely support innovation and response to local wishes. We will be publishing further proposals on this.*

Clarifying specific public entitlements to public services is good management practice which councils have been developing and promoting, through service charters and

other means, for many years. We welcome this approach, and the new opportunities to develop it using information technologies. However, the need to reduce the expensive and inflexible apparatus of central target setting and reporting should not be tied to the creation of new central requirements and specifications. In an increasingly difficult climate for public spending, the central apparatus should be reduced to free up resources to invest on local priorities.

Local authorities tackling climate change

The paper discusses the role of councils in tackling climate change. It recognises that 97% of Local Area Agreements include climate change targets, just one illustration of the commitment of councils to this issue. It asks how the local role can be taken further, and sets out proposals on carbon budgets.

LGA view: *The LGA is pleased that the government continues to acknowledge the positive role local government and its partners are taking in addressing climate change. The LGA's central proposition is that councils (individually and working together) with local partners should lead carbon reduction locally, and should have more control over the key decisions about how public resources, including energy supplier obligations, are deployed locally to reduce carbon emissions. We therefore welcome discussions on the role that local authorities can play in meeting national carbon budgets, how this could work at a local level and possible new powers and flexibilities.*

We are calling on government to bring together many schemes for energy saving into a single central fund. This would enable systematic locally based energy saving schemes which would make installation cheaper and engage people in neighbourhood energy saving schemes. More details on our proposal are included in our recently launched publication 'Kyoto to Kettering, Copenhagen to Croydon: local government's manifesto for building low carbon communities'.

Sub-regional working

The paper discusses recent developments on Multi-Area Agreements and sub-regional working, reviewing the measures already contained in the Local Democracy, Economic Development and Construction Bill. It puts forward options on the accountability of sub-regional arrangements, such as scrutiny and a duty to respond to petitions. It sets out options for stronger sub-regional democracy, such as elected bodies or mayors, but without advocating them. It makes no proposals for powers to be devolved to sub-regional bodies.

LGA view: *We have welcomed the development of MAAs and other sub-regional partnerships on the basis that they should be developed 'from the bottom up' by local partners themselves, to reflect local priorities and be given a real devolution of powers and funding from the national and regional level. We remain concerned that so far, the pace of real devolution from central government and its agencies matches neither the government's rhetoric nor the ambitions of sub regional and city regional partnerships for a real say over housing and planning, employment and skills, economic growth and transport in our towns, cities and shires.*

This paper focuses on increasing the central controls and legislative burdens on these emerging partnerships and says nothing about what powers and funding they will be given. It raises the issue of how they can be made more accountable for the exercise of powers that they do not yet have. It continues the government's tendency to get local councils to jump over a series of ever more complex hurdles to win devolution, while moving the finishing line further into the distance.

We are clear that as one of the two layers of government directly accountable to the

voters, partnerships of local authorities have far more direct accountability than the plethora of national and regional QUANGOs that currently make decisions that affect local people. Sub regional partnerships gain their democratic accountability through the direct election of the councils that make them up.

Clear relationships with local government

This section discusses the mechanisms by which central/local relations are managed, covering many of the issues raised in the past by the LGA and by the recent Select Committee report on central local relations. In the context of the government's current interest in constitutional reform, for example via the Constitutional Reform Bill published yesterday, and a possible written constitution, this is important. The paper refers to the government's ratification of the European Charter on Local Self Government, in 1998. The paper advocates an ombudsman style arrangement which could adjudicate on central local relations. It also endorses the proposal for a joint Select Committee of both Houses of Parliament, to have oversight of central local relations.

LGA view: *We welcome the further development of this debate, and in particular the proposal for a joint parliamentary select committee. The LGA would support this; our publication 'One country, two systems' makes a range of proposals to link parliament and councils more effectively, as one element of a strengthened constitutional position for local government.*

For further information on this briefing, please contact Ben Kind, LGA Public Affairs Manager at ben.kind@lga.gov.uk or 0207 664 3216, or Jo Dungey at jo.dungey@lga.gov.uk or 0207 664 3162

Summary of consultation questions

CHAPTER 1: LOCAL GOVERNMENT AT THE CENTRE OF DECISION MAKING

1. Do you agree that we should extend scrutiny powers in relation to Local Area Agreement (LAA) partners to cover the range of their activities in an area, not just those limited to specific LAA targets?

Agreed; scrutiny powers should be extended to a range of activities, but that in itself will not place local government at the centre of local decision making. There is a need to look at governance structures and resource allocations amongst other things.

2. Do we need to make scrutiny powers more explicit in relation to local councils' role in scrutinizing expenditure on delivery of local public services in an area? If so, what is the best way of achieving this?

It would be useful if they were made more explicit, but in themselves such scrutiny powers will not deliver the improvements, transparency and accountability sought. The public already think that local government and local councillors are directly responsible for a number of activities which fall outside the control of local authorities at present – local policing, local health provision, local utilities and their upgrade, etc. Improving and increasing the power of local scrutiny, whilst going some way, will not really address this. In scrutinizing the expenditure related to the delivery of other local public services, how will local government bring about changes in the agendas of those other local public services if it has no powers in relation to the governance and decision making of those bodies.

3. Do you agree that we should bring all or some of the local public services as set out in this chapter fully under the local authority scrutiny regime? Are there other bodies who would benefit from scrutiny from local government?

Should include all the agencies listed plus the local delivery units of central government agencies such as DWP.

4. How far do you agree that we should extend scrutiny powers to enable committees to require attendance by officers or board members of external organizations to give evidence at scrutiny hearings, similar to the powers already in existence for health and police?

Agree that scrutiny powers should be extended to require attendance by officers and board members, of external organizations, but what powers of sanction will exist if they do not attend?

5. What more could be done to ensure that councils adequately resource and support the local government scrutiny function to carry out its role to full effect?

This is related to the power they are given and whether they are perceived to be relevant, effective and 'add value'. If their work is seen to be ineffective or perceived to do little in terms of influencing the local decision making processes and resource allocations of other bodies, then no amount of best practice guidance or positive publicity will help them be adequately resourced or properly supported.

6. How can council leaders ensure that scrutiny is a core function of how their organizations do business and have a full and proper role in scrutinizing the full range of local public services?

This is related to Question 5 above. However, as responded in Question 1, scrutiny should not be seen in itself as the most effective means of placing local government at the centre of local decision making and local delivery!!

7. What more could be done to better connect and promote the important role of local government scrutiny to local communities, for example citizens as expert advisors to committees?

Unless they are deemed to be effective and relevant and add value by local communities, then any attempt at better connectivity will not occur.

CHAPTER 2: STRONG LOCAL GOVERNMENT OPERATING IN THE LOCAL INTEREST

8. How best should any reduction in numbers of LAA targets ensure that services are responsive to the most important local needs and priorities as well as national entitlements?

Most citizens have never heard of local area agreements, nor do they really care. Also, they do not appear to be that engaged with targets as such. Central Government should have sufficient confidence in local government to allow authorities to deliver what they perceive are the most important local needs and priorities.

9. Should councils have a power to engage in mutual insurance arrangements?

Yes, but the question is a much broader one around tackling the wider limitations imposed by the existing well-being power.

10. Are there other powers need to cover engagement in further complex arrangements of a possibly speculative nature outside of existing powers?

See the LGA's response to this.

11. Do you agree that greater powers should be premised on demonstration of local confidence? How should this be demonstrated? How can councils best reverse the decline in confidence?

Do not agree with the statement. Feel that if central government would transfer greater responsibility onto local government, including resolution of the resource issue, then greater confidence would return to local government.

12. Are there core issues that should have greater council control which councils believe they are currently prevented from undertaking? If so what are they and what is the case for councils to take on these roles?

The key issue that remains unresolved is related to local government finance. You cannot have any meaningful debate about the transfer of power and responsibilities to local government unless it is accompanied by a resolution of the funding issue.

13. Do you agree that there should be a review of the structure of local partnerships with a view to identifying unhelpful overlap and duplication? Are there particular issues on which such a review should focus?

What would be most helpful would be a review of the different pieces of legislation arising out of differing government departments which require the establishment of partnerships of one sort or another at the local level.

CHAPTER 3: LOCAL AUTHORITIES TACKLING CLIMATE CHANGE

14. How is the current national indicator system working to incentivize local authorities to take action on climate energy? Should Government take new steps to enable local authorities to play a greater role in this agenda?

Councils (individually and working collectively), with local partners should be the lead on carbon reduction locally, and should have more control over the key decisions about how public resources, including energy supplier obligations, are deployed locally to reduce carbon emissions.

15. Where can local authorities add most value in meeting climate change aims, and what should Government do to help them to do so, giving consideration to the proposals set out in this chapter?

Government should bring together the many schemes for energy saving into a single fund. This would enable systematic locally based energy saving schemes which would make installation cheaper and engage the community in local energy saving schemes.

16. How do we ensure that national policies reinforce local efforts – for example, around transport, renewable energy, and energy efficiency?

Simplification and better consistency and coordination would be useful at the national level.

CHAPTER 4: SUB-REGIONAL WORKING

17. Should the activity of sub-regional partnerships be required to be subject to scrutiny arrangements?

This area is still evolving, with many things still to be resolved. To focus on scrutiny as such in the context of this consultation therefore seems rather superficial.

18. Should council's joint overview and scrutiny committees be able to require sub-regional bodies to provide them with information on the full range of their activities and to consider their recommendations on sub-regional matters?

As for Question 17.

19. Should the duty to respond to petitions be extended to sub-regional bodies?

Is this really a key issue at this point in time? Surely, it would depend upon whether the issues raised in the petition lie with the responsibility of the sub-regional body.

20. Do current and planned models for joint working give people a clear enough voice in decisions that are made sub-regionally?

Unless there is a clear democratic linkage and some form of direct accountability between the electorate and the sub-regional body, this will always be an issue. The current and planned proposals do not achieve this clarity of accountability.

21. How could we go further to make existing and planned city-and sub-regional structures more accountable, in addition to the suggestions in this document?

22. Should we give more powers and responsibilities to city-and sub-regions? If so, what powers or responsibilities should be made available?

23. Is there a need for direct democratic accountability at the sub-regional level? What would be the best means of achieving this, giving consideration to the options set out above?

The consultation as a whole focuses on increasing the central controls and legislative burdens on the emerging partnerships and says nothing about what powers and funding they will be given. It raises the issue of how they can be made more accountable for the exercise of powers that they do not yet have. The paper therefore seems to be focusing on only a small part of the overall debate around where the decision making and resource powers should actually reside.

CHAPTER 5: CLEAR RELATIONSHIPS WITH LOCAL GOVERNMENT

24. Should central and local government's roles be more formally established?

Think the key issue to resolve is not around formalizing the roles as such. The focus should be more on resolving the funding of local government and the relationship between central government and local government in that context. This seems to be more about process than outcomes.

25. What are your views on the draft principles set out above as a way of achieving this ambition?

Consider that any formalization of the draft principles through legislation could prove inflexible and limit the room for manoeuvre by both local government and central government. The passing of legislation in itself will do little to aid public understanding and perception around the respective roles of central and local government.

26. Do you agree that an ombudsman-style arrangement and a joint committee of both Houses of Parliament are the correct approach to oversee and enforce these principles, if adopted?

Again, the emphasis seems to be on process and it is not immediately apparent from the consultation as to what the exact value of these proposals will actually be.