



A practical toolkit for emerging combined authorities

Centre for Governance and Scrutiny (CfGS)

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Introduction

Audience

This report will be of specific interest for:

- Those in local areas not yet with a combined authority but who may be seeking to explore the idea;
- Those in devolved areas (especially governance professionals) seeking to explore and refine their relationship with Government following new legislation;
- Those carrying out national work on devolution.

Background

This paper will be an update on the work CfGS carried out on devolution issues in 2016 and 2017 which involved the production of three pieces of national research:

- “Devo how, devo why” (2016)
- “Cards on the table” (2017)
- “Devolution: charting the way” (2017)

There are a range of legislative provisions and routes to establishing a combined authority (CA). CAs do not have a single model and can be set up either with or without a directly elected Mayor.

Under the original procedure from the [Local Democracy, Economic Development and Construction Act 2009](#), a council or group of councils may decide to initiate the process by carrying out a ‘governance review’. Following this, a ‘scheme’ recommending the creation of a CA must be published, requiring the consent of the local authority areas included and a public consultation. The Secretary of State may then agree to create a CA as a legal body using secondary legislation -- Combined Authority Orders. CA Orders specify the functions, powers and constitutional structures for each individual authority.

Alternatively, the [Cities and Local Government Devolution Act 2016](#), enables the Secretary of State to establish a CA, if the councils in the relevant area consent. This route also requires the publication of a ‘scheme’ and a public consultation. The Secretary of State must be satisfied that the establishment of a CA is likely to “improve the exercise of statutory functions” in the area in question.

It must be noted that whilst the 2009 Act requires CAs to be led by councillors from constituent authorities, the 2016 Act allowed the addition of a directly elected Mayor, and enables CAs to achieve the most ambitious devolution package. The 2016 Act also introduced two governance requirements for CAs – to establish at least one overview and scrutiny committee, and an audit committee.

Existing CAs may transition to a Mayoral CA via a further Order made by the Secretary of State. This further Order establishes the changes to governance and constitutional arrangements, and the additional delegated functions to the Mayor and the CA. Existing powers and funding exercised and accessed by the previous CA remain unchanged.

However, the 2016 Act contains the provision that any authorities not consenting to this change in governance model must be removed from the CA when the Mayor is elected, as has been the case in the changes to the North East Combined Authority after the North of Tyne Mayoral Combined Authority was established.

There is also secondary legislation setting out further details on CA scrutiny arrangements which can be found in the [Combined Authorities \(Overview and Scrutiny Committees, Access to Information and Audit Committees\) Order 2017](#).

Executive summary

Creating and negotiating a devolution deal involves a plurality of possible geographies, strategies and governance models - where the outcome is always subject to change. Emerging combined authorities (CAs) face a number of challenges given the range and complexity of the issues they seek to address.

One such challenge involves the balance of power between local areas pursuing greater independence in decision-making and central Government creating restricted conditions for devolution 'deals'. With the news that the long-awaited Devolution and Local Recovery White Paper will now be delivered as the Levelling-up White Paper later this year, the Government's plans and priorities for devolution remain unclear.

In establishing a new devolved tier of governance, CAs must manage the reality of navigating competing local interests and intentions, whilst needing to secure legitimacy in the eyes of residents and other levels of governance. Beyond this initial set-up is the ongoing challenge of adapting the broader public service regime to demonstrate that devolved powers and funding result in democratic and accountable decision-making, and ultimately, that devolution can deliver better outcomes for communities.

Improved outcomes for local people is what devolution needs to be driven by, but this will not arise automatically. It will also not arise purely as a result of agreement on governance arrangements. Many of the benefits will rely on relational aspects - the shared attitudes, behaviours and values that will define how devolution will work. Devolution being a process, not an event, means that although outcomes are imperative, devolved arrangements will continue to evolve, and CAs will need organisational capacity, flexibility and resilience to develop.

The sequence

In material published in 2016 we established that there was a sequence to the development of devolution deals:

- Agreement of geography (which councils are included as constituent authorities);
- The development of a proposal to submit to Government;
- Negotiation with Government;
- Agreement of that deal;
- “Selling” the deal to the public and partners in the area;
- Design of arrangements to implement the deal;
- Implementing the deal (setting up a CA and holding the first round of Mayoral elections).

Devolution has been an evolving process, and a new framework for devolution is being developed by Government at the moment which is likely to change what has gone before.

We have distilled the current sequence above into three parts, which we will expand upon to provide practical advice for the next cohort of combined authorities.

1. Clarifying the scope and nature of the local ask

Beginning the journey to devolution requires a vision for an area, with priorities and plans set out, and powers and resources requested to deliver these. Clarity of purpose is critical - setting strong, strategic objectives, and answering the question of ‘what can devolution do for us?’.

The precise local benefits, and reasons, for devolution proposals are likely to be different for every area. The nature and size of the “prize is vital in helping local areas negotiate confidently with Government. In many of the discussions around the structures and geography of devolved arrangements, a sense of the fundamental outcomes from devolution has sometimes appeared incredibly vague.

Devolution is more than just putting together a wish list. Thought needs to be given to what the tangible outcomes might be that local people need and expect. Early local discussion and debate can help identify some of the key priorities whilst providing the opportunity for wider dialogue about devolution which will hopefully continue. Whilst it’s not necessary to

agree everything at the start of the process, it is important to be clear from the start on the steps involved and when agreement around particular decisions will need to be reached.

There will also need to be acceptance of a new governance model. Initial deals in Sheffield City Region and West Yorkshire Combined Authority were limited because some leaders and councillors were not prepared to accept a directly elected Mayor.

A critical element for Government in any proposal involves demonstrating how devolved decisions will result in better outcomes and service provision locally, and greater regional economic contributions. Perhaps most importantly, devolution gives an opportunity to rethink and redesign the approach to local democracy, the involvement of local councillors and the public, and their roles as active participants in the process.

What is the most appropriate geography?

The process of devolution often encounters difficulties in creating consensus over the most appropriate geographical area to cover, this has been compounded by complex local government geography in England, and Government so far has had an inconsistent approach in its geographical criteria for devolution (in that there isn't one).

There are some restrictions on geography - in that CA areas may not overlap and cannot fully encircle an authority or area not covered by the CA, but CA geography does not need to be contiguous. In the past some proposals have been submitted to Government without detailing a final geography for the devolution deal, one of the biggest reasons for this is a lack of agreement over the best fit between political, administrative and economic geography.

The maxim "form follows function" is often cited in relation to determining the appropriate geography for devolution. But this should be caveated with the fact that institutional designs are rarely complete, and those involved in governance have to adapt designs on an ongoing basis.

There are three key principles to consider in clarifying the geography of a devolution proposal.

- **Place:** demonstrating a regional identity united around mutual interest and narrative for the future. A shared sense of place for devolution will support strong political and public buy-in.
- **Cooperation:** demonstrating a history of partnership working and existing joint working arrangements to build upon. Having co-terminosity with other public sector administrative boundaries is a clear advantage.
- **Scale:** demonstrating a sizeable population, substantial economy and how strategic priorities and planning will be delivered more efficiently and effectively at a CA level.

Some areas have the administrative convenience of sharing boundaries with Local Enterprise Partnerships (LEPs), Integrated Care Systems (ICSs), Police and Crime Commissioners (PCCs) and Fire and Rescue Authorities (FRAs). Or they are layered on top of former regional structures like metropolitan council boundaries or Integrated Transport Authorities. These factors reflecting institutional memory can make agreement over an appropriate devolved geography a lot easier.

However, a 'perfect' geography clearly demonstrating the prior three key principles simply may not exist in some areas. Those securing and pursuing deals may not be able to turn to a long history of collaboration or shared arrangements. In this instance there are numerous arguments to be made concerning the benefits of regional governance over areas with polycentricity, geographic dispersion or institutional complexity. Establishing a CA can address historic fragmentation from previous local Government reorganisation by establishing a single, integrated regional authority.

Another issue involves a lack of trust or disparate priorities across certain geographies. Getting a clear sense of tensions, uncertainties and talking through disagreements early matters. As does cultivating relationships between the right people as devolution plans develop. Strong leadership is vital in this respect to articulate and foster devolution as a shared endeavour.

The geographic areas covered by functional economic areas (such as travel to work areas) are typically significantly larger than the areas of individual local authorities, it is likely that improvements will be made to the exercise of some statutory functions and economic outcomes through joint decision making and closer co-ordination of delivery activity across these economic areas.

Questions to ask:

What is the economic evidence providing a rationale to work across the proposed CA area? Does it operate as a coherent functional geography? Does it reflect the local housing market and 'travel to work areas'?

What are the region's economic strengths, challenges and opportunities. What mix of business sectors operate in the area, what is the growth potential, are their significant economic assets and infrastructure linking to other parts of the county?

Do the current regional governance arrangements represent the best model in terms of delivering the long-term ambitions of the authorities within the area for economic growth and delivery of public services?

Which partners may be involved?

CAs are collaborative organisations by their very nature and statute, and must be supported by the partners involved. An order for the establishment of a CA has to have the consent of all of the constituent authorities. But exactly who will be formally involved depends on whether geography is being set by Government, and if unitarisation is likely to form a part of a proposal.

Local discussion and determination is vitally important and there are a number of relationships which need to be aligned in order for devolution to work effectively. To be an effective collective decision-making body CAs need to be built on a firm foundation of trust and the will to collaborate.

Some two-tier areas have had contentious relationships, and devolution discussions can become a tussle between a county and its corresponding districts. This has been instigated in some areas by the prospect of unitarisation – either promoted by Government, or by one or more councils in an area at the “expense” of others. Government has indicated that it sees devolution discussions being aligned with reorganisation, and therefore it is reasonable to assume that the two processes will run in parallel.

Only mutual trust and dialogue will overcome suspicions that power will be “drawn away” from individual two-tier councils to a unitary and CA. Ultimately, things come down to good interpersonal relationships. There will need to be a focus on cultivating effective working relationships between the leaders of the councils across the area. As it is local council leaders who will eventually sit on the CA Board chaired by the Mayor, as well as scrutinising Mayoral spending plans and other decisions. These relationships have to work across party and geographical lines if a CA has any hope of governing effectively. Maintaining good relationships at Chief Executive level will also be vital for collaborative working to succeed.

Devolution has significant implications for local partners including LEPs, NHS bodies, police and fire services so early conversations must seek their input and ongoing involvement. Proposals need to be developed with and supported by these partners, and local leaders will need consensus and clarity around their series of ‘asks’ in opening up dialogue with Government about a potential devolution deal.

The relationship with business is integral to any proposal, although CAs have adopted different approaches to the role of LEPs. In many cases the chair of the LEP is a member of the CA, generally as a non-voting member, and the Mayor represented on the LEP Board.

Furthermore, in developing the proposal opportunities should also be explored in collaborating with local authorities outside the CA membership and neighbouring CA areas. Making a distinction between constituent authorities (that is full members of the CA) and non-constituent authorities, whilst seeking to work closely with them, can be a useful way to manage relationships with CA neighbours in a complex geography.

Questions to ask:

How do the LEPs, ISCs, PCCs, and FRAs fit into the bigger picture?

Will proposals to establish a CA have a positive impact on the interest and identities of local communities? How have these views and interests been represented?

Local priorities and objectives for devolution

The delivery of better outcomes for communities is the core purpose of devolution, and as such, local needs must drive the devolution process. But this clearly needs to be within a framework defined by what, and how far, Government is prepared to devolve.

Certainty on the direction of devolution from Government will make it easier for areas to build in conversations with a wider range of partners on the actions that could be formulated to develop objectives in a local context. This is not about subsuming local priorities into a central notion of what is important, but using those national objectives as a framework for a necessary local discussion about how local priorities can be delivered within that framework.

Local priorities and objectives for devolution will need to be evidence-based and persuasive, with a clear rationale that all actors in the system can understand. There will need to be multiple perspectives fed into a unified voice that can strengthen conversations with Government. They should be developed through strong collaboration across local partners providing a framework of priorities against which to invest. Priorities and objectives also need to be deliverable with a credible strategy for implementing them, detailing the capacity and resources necessary. Clarifying what outcomes local authorities are aiming to achieve by working together as a CA, and whether other partnership models help to achieve those ends.

Priorities set by Government will emphasise improving the exercise of statutory functions by reducing complexity and streamlining the delivery of public services within the area. The legal criteria for establishing a CA requires that in making the order to create a CA the Secretary of State must have regard to the need “(a) to reflect the identities and interests of local communities, and (b) to secure effective and convenient local Government.” - The 2009 Act provides this statutory basis.

Articulating local priorities and objectives should be an open process by which areas come together to ascertain what type of devolution deal is right for them. It is about democracy, bringing other voices into the debate, other than the “local elite” of political leaders, senior officers and other prominent partners. Devolution is also about subsidiarity - the idea that decisions should be made at the lowest appropriate level - decisions previously taken centrally, being taken closer to the people affected. For some services, this might be at a CA level, in others it may be at a county, districts or unitary level. It might even be an individual town, ward, parish, or neighbourhood.

What subsidiarity means in practice will come down to local appetite for meaningfully pushing power down, framed by realism around where some services will be best delivered on a larger scale, and as resources allow. Whether local priorities entail building affordable housing, improving the transport system, tackling the climate emergency, inclusive and cleaner growth across the region, boosting productivity or addressing inequalities and deprivation – there also needs to be an understanding these priorities are inexorably linked.

Delivering significant new responsibilities and investment that will benefit communities and businesses across CA area, gives an area greater financial freedom and flexibility to manage investment choices according to local priorities.

Devolution to a CA can provide a visible, stable and streamlined body corporate to which Government can have confidence in. A single directly elected individual can provide greater local accountability and can make the delivery of strategic decisions more streamlined and efficient, by removing the requirement for each constituent authority to ratify the same decision separately. The collective nature of the CA Board leadership and decision-making power will involve the Mayor working in partnership with constituent councils, the LEP and Government to achieve outcomes.

2. Key matters to resolve on local governance: as a proposal is developed

Around the time a formal proposal is being developed most areas will be starting to think about the practical steps they will need to take to establish and operate CA, and how they will demonstrate this as a collective endeavour.

To break down this part of the devolution process – prospective authorities are required to carry out a governance review and conduct a public consultation exercise, in order to decide whether or not to proceed. If a prospective CA area concludes that it would like to proceed, it must prepare a scheme to explain its plans. Following consultation, the Secretary of State may make an order establishing a combined authority, having regard to the scheme while doing so.

The key elements of the scheme will in effect form the first draft of the order that the Secretary of State must lay before Parliament. Some governance considerations forming part of this are:

- **Mayor** – How will the election be conducted? What will be the length of the Mayoral term? What will be the process for Mayoral remuneration?
- **Membership** – What will be the composition of elected members from constituent councils and those from non-constituent councils? Will there be nominated individuals from the LEP(s)? Who will be voting members, who will be non-voting members?
- **Voting arrangements** – Which decisions require unanimous approval, Mayoral approval or majority approval without the Mayor? Will the Mayor have power of “Mayoral review” allowing a referral of decisions back to the Board if the Mayor disagrees?
- **Decision-making** – Will the Mayor establish a ‘cabinet’ or Board made of constituent authority leaders and designate portfolios? Which functions will the Mayor delegate to Board members, committees, or officers? Will the Mayor also appoint a single ‘political adviser’?
- **Partnership arrangements** – Will the Mayor become a member of a LEP Board? Will the CA enter in joint arrangements with other local authorities?
- **Scrutiny and Audit** - Membership should reflect balance of political parties of the constituent authorities where possible. How will co-opted independent members be appointed?

- **Functions** – Which will be conferred solely on the Mayor? Will the Mayor have responsibility for Police and Crime Commissioner functions? Which non-Mayoral functions will be conferred on the CA collectively?

What role will different partners play?

The stage at which a governance review and public consultation exercise is being developed is a good point to work out what is politically possible, and to agree the broad framework within which leaders, chief executives and others might make decisions later. Without clear framing of the options surrounding governance, articulating a shared narrative and demonstrating a unified proposal will be a challenge.

Clear leadership is not only important as a means to articulate and define objectives for the CA, but also to connect and broker the demands of Government. In addition, leadership of the devolution process will have to undertake wide and sustained engagement with those who sit beyond the negotiating table - backbench councillors, residents and voluntary and community groups and others.

In developing the proposal there is a logic in building up momentum to ensure that agreement can be reached without negotiations descending into disarray. For resolving matters on local governance there will need to be commitment and regular engagement from council leaders and chief executives. Without effective programme management and a forward plan of milestones and decisions the process can become convoluted with all the moving parts involved. Having clear roles and responsibilities, backed up by dedicated resources will help manage the process effectively.

Institutional arrangements that emerge from the 'bottom up' through a voluntary federation, rather than being imposed by Whitehall, will have the advantage of being familiar and most likely self-sustaining. Looking at the relationships between longstanding partners and the strategic role of key actors in leading the bid process should provide a good basis for consensus.

The role of local leaders is a critical factor in the process to build consensus on future governance arrangements. Where leadership is clear, through publicly identifiable spokespeople and strong negotiators, there will also be greater opportunity to influence the devolution process with national civil servants and politicians. Members of Parliament have played a prominent role as local areas have developed proposals and sought to negotiate with Government, but without underlying leadership behind the CA proposal, it is hard for accountability for the negotiations to be established at the local level.

Where the local context is characterised by mistrust, leadership in the devolution process may well be contested and fragile. In conditions of uncertainty, organisations tend to borrow institutional rules – whether or not they are best suited to their own needs. Whilst it is expected that localities will look to precedent in the form of devolution deals already agreed in other areas, the lack of clear and consolidated leadership can leave areas vulnerable to adopting default options presented by Government, rather than making a proactive lobbying case based on specific and agreed local priorities.

Local areas that have decided not to institute a directly elected Mayor have been invited to propose 'alternative governance arrangements' – Cornwall and the North East Combined Authority are the only areas to have negotiated and continued with a non-Mayoral devolution deal. Alternative governance arrangements could involve district council mergers or the creation of unitary authorities.

What will devolution help achieve?

Perhaps one of the most important things to emphasise is that devolution is an iterative process. Not everything can be decided at the outset, and there will be uncertainties in place that will only be resolved with time and experience.

We have spoken previously about the “prize” of devolution, and this may only become clear once a CA is up and running. However, understanding and communicating what devolution will help achieve for an area, which is not possible under current arrangements, forms the bulk of making the “case for change” to Government.

The required governance review will set out the “prize” of devolution and “case for change”, making clear the substantive objectives and how decision-making and service delivery will be better through being devolved. The purpose of these governance reviews has been to consider the potential of different governance models available for the proposed geography and functions of the CA – and whether or not they will lead to improved outcomes. The options include: maintaining the status-quo, strengthening existing arrangements, establishing joint arrangements, or creating a CA.

The review needs to be able to demonstrate how the creation of a CA would satisfy statutory tests - how it will: improve the exercise of statutory functions; secure more effective and convenient local Government for the area; and have a positive or neutral impact on the identities and interests of local communities.

Each of the reviews will also depend on local requirements, built on consensus, presenting how the creation of a CA is a strong case for helping to solve particular regional challenges, and achieve the area's full growth potential.

Some common devolution outcomes identified in the governance reviews that have taken place so far include:

- a robust governance model investing public money with clear transparency and accountability for decisions and impact;
- a stable long-term platform to access greater devolved powers and funding in the future;
- alignment of decision-making at a strategic level across a broad range of functions, such as economic development, planning and transport;
- consistency in the governance arrangements for strategic transport and other infrastructure assets that span across a wider geography;
- moving beyond siloed governance bodies towards joint working across the public sector to pool resources and strengthen capacity for service delivery;
- improved voice of the local business community in decision-making.

Another driver behind the process of establishing a CA is how decision-making more generally will be made better through the devolution of power. It is helpful to establish a clear set of principles to determine the level at which different categories of decision are best taken, from local communities, to parishes, through unitary authorities, to a new CA. The democratic argument is what will give devolution long term salience rather than a deal being a “delivery agreement”.

This point in the devolution process is also a key opportunity for constituent authority scrutiny to get involved. Good scrutiny can ensure buy-in, manage political disagreement, unpick the proposal, and rebuild it to be stronger. In doing so, a wider corps of councillors become stakeholders in the devolution process.

The buy-in of a wider range of councillors is crucial to success, and is important in ensuring that deals, once they are done, are robust enough to succeed. Councillors being sighted on the proposal at this stage will be more prepared to make a political commitment to a deal which can be particularly difficult to broker – and political fallout from a failed deal may be easier to limit.

Scrutiny’s involvement at this point will be important, but it will only have the time to look at the key headlines in the governance review, so it may need to be light touch.

Questions to ask:

We think that the use of the “five key tests” for devolution deals, which were suggested by the Local Government Information Unit in their publication “Devolution: a road map¹” provide a useful guide for questions that scrutiny members can ask:

- Will a local deal along the lines being asked for deliver real benefits to local people, through growth or more sustainable local services?
- Will public resources be spent legally, honestly and transparently?
- How will councils ensure that return on spend is at least as effective as the current system?
- Will the benefits of the local deal be fairly distributed?
- How will new arrangements ensure accountability and engagement?

Engaging a wider range of people in refining this vision

The lack of openness involved in the process of devolution provides an additional impetus for transparency. Local people and stakeholders for whom the negotiation is hidden, despite their having a stake in its outcomes, need to understand and contribute to the devolution priorities being agreed upon.

Areas will need to think about how they design their governance arrangements and how a wide range of people will play a part in the overall system. This is a continuing process, which legally requires public consultation to be carried out. Many CAs have undertaken

¹<http://www.lgiu.org.uk/report/devolution-a-road-map/>

consultation with nearby authorities, key stakeholders and local residents following the completion of the governance review.

Starting to think about these consultation plans early will provide a foundation for further discussion and consensus once a deal is done. Furthermore, if meaningful public consultation does not take place at this stage then the Secretary of State will be required to carry out a separate exercise. At this point, there is a real opportunity to design in good governance from the ground up. It presents a vital chance to integrate the principles of accountability, transparency and involvement into the CAs way of working with the public from the outset.

For Government – and even for some local leaders – there is a compelling reason for secrecy. A tightly defined negotiation ensemble can work through and refine proposals rapidly. The theory is that it is easier and more expedient to request input from partners and the public after the negotiation process is concluded. However, the collapse of some devolution deals thus far can be attributed, at least in part, to limited public involvement.

Increased public involvement at an early stage will lead to a more informed local debate and can help those leading the negotiations to understand what a “good” settlement for local people might look like. It will also lend legitimacy to any devolution deal by having its negotiation informed by a wider group of stakeholders.

The shape that this conversation with members of the public, businesses and other stakeholders takes will differ from area to area. A wide variety of options exist to ensure meaningful public input and influence in refining the vision. What such methods of engagement have in common is that they would see local people being able to talk about how they would want and need to influence decision-making when new governance arrangements are established.

Traditional public consultation exercises like surveys can yield limited results, but employing more participatory and deliberative processes such as online platforms, focus groups, citizens’ juries and standing advisory panels has the potential to produce more sophisticated findings.

One of the principal challenges, however, lies in cost and time. Local areas will have to weigh up the social value and impact of the investment made in this form of public involvement, and the pressure of timescales may make widespread public engagement and dialogue difficult. But without public input to the process of devolution and refining a vision for the area, support will be harder to garner further down the line.

The most important thing is that the system as a whole surrounding devolution is democratic and deliberative in nature – not that every single element of it needs to be. In the instance that the public has confidence in the process, there can be flexibility about individual elements not allowing for public influence.

3. Key matters to resolve on local governance: once a deal is agreed

What are the governance needs and most effective arrangements?

Once all constituent authorities agree to the Government's devolution deal offer, they will need to give approval to trigger the statutory process for creating a CA with, or without, an elected Mayor. Currently, the governance arrangements of a CA are largely determined by the bespoke Order that creates the new body and its constitution. In future there may be a single Statutory Instrument which defines all governance arrangements.

An essential element of any devolution deal is the Investment Fund, under which Government allocates annual funding over a 30-year period. As part of this, CAs are required to enter into an Assurance Framework with the Ministry of Housing, Communities and Local Government (MHCLG). The framework sets out the key roles and responsibilities in relation to decision-making on the allocation of the Investment Fund and is largely developed between MHCLG and officers from constituent authorities. However, lead members will need to be consulted throughout and will need to delegate certain authorities and finalise the terms of the framework.

CAs will have to recognise that whatever governance framework is put in place by Government is just a framework, and that relationships between the key local players will be a critical issue to get right and will look different for every area.

The deal has often been seen as the end product of the process, but really it is only the beginning of the story. The deal presents the basis for a continuing round of negotiation – both between the local area and Government and within the local area itself. Devolution deals will evolve over time and those tasked with leading the CA will be thinking about emerging contexts and opportunities – not least the pandemic recovery planning, but also changing demographics and changing organisational, and area, priorities.

There is a significant sales exercise for local leaders to undertake once a deal has been signed and an opportunity to reveal more about the deal itself and what it will help achieve. This “sell” will need to be undertaken after the deal is done and – most likely – before the election of a Mayor for the CA, possibly a year or so later.

Practicalities and clear processes for how decisions are made and who makes them are fundamental to understanding and progressing the ambitions for the deal. Namely, how a CA will undertake its functions working in partnership with constituent authorities, and how a Mayor will make decisions.

As experienced by many new CAs, the remit and responsibility of the devolved organisation and the elected Mayor is not always immediately understood by stakeholders and the general public. Engagement and formal opportunities to participate has a key role in raising this awareness over time.

Furthermore, there will need to be consideration of the consistency in governance arrangements for the CA and its various strategic functions, such as transport, and how governance arrangements enable closer working with the public sector. CAs should

develop a locally decided governance framework - as different powers and functions will be devolved, at different speeds, to different areas. A one size fits all approach is therefore particularly inappropriate.

The CA's bespoke order, and resulting constitution, will need to define the different types of members (such as the chair of a LEP, or non-constituent authorities) and their different voting rights. It will also need to set out how executive arrangements and the powers of any executive bodies (such as a CA Board) will be enacted.

Governance frameworks should contain statements on public involvement, on policy development and on performance (how policy would be developed by a CA, how performance would be monitored, and how non-executive members could be involved in these processes), on partnership working, and on the structures and resources to support these systems and arrangements.

We feel that any governance arrangements adopted need to satisfy several requirements:

- **Accountability** – decision-makers must clearly take responsibility and engage with those seeking to hold them to account (non-executives, the public, and others); decision-makers also need to have the confidence that systems are in place that allow them to benefit from the insight that those holding them to account can provide.
- **Transparency** – it must be clear (elected councillor, partners and the public) who is making decisions, on what, when, why and how. Transparency is key to effective accountability (although the two or not the same thing);
- **Involvement** – a sense of being informed by the views and concerns of the public. A commitment to public involvement should be seen as central to good governance.

What are the key relationships and where will nodes of power lie?

Most devolution governance arrangements to date have required a directly elected Mayor, all of which have varying degrees of power over different matters. The three-way relationship between the Mayor, the CA and the CA scrutiny committee is the lynchpin of democratic accountability, and understanding the respective roles and responsibilities will be vital in effective CA governance.

The CA and the Mayor

Concerns have arisen over the uncertainty about the power balance between the Mayor and CA. Governance arrangements will need to consider functions to be conferred on the Mayor, functions that will be the responsibility of the CA, and its constituent authorities - and how they are exercised. A detailed explanation of the distinctions and limits of Mayoral and CA responsibilities is a legal necessity, but practically, the dividing line is likely to become blurred.

A directly elected Mayor will have certain expectations about the relationship they will have with the CA, and how decisions are made on issues that align with their responsibilities. The Mayor's direct mandate, and their (presumably) high profile in the locality, will make an expansion of their influence into CA reserved matters likely. However, it is important that the Mayor realises the limits of their executive decision-making power. The Mayor will need to consult the CA on any policy or strategy relating to the exercise of a Mayoral function and will be held to account by the CA's scrutiny committee.

CAs are, on the whole, one-member one-vote. Governance systems will need to be equitable but should not seek to "constrain" an incoming Mayor. Decision making ought to be by way of consensus with clear voting arrangements set out in the constitution for the occasions where it is not possible for all constituent members to agree.

In most CA cases, Mayors have an effective veto over CA decisions – however, Mayoral spending plans can be overturned by a two-third majority of the CA Board, raising the council tax precept requires two-thirds agreement, and spatial plans require unanimous approval. As mentioned, some of the Mayors' responsibilities are designated solely as theirs, but there are some policy areas where the Mayor has one vote with equal weight to each of the other members of the CA, meaning that the Mayor could be held accountable for decisions they have voted against.

The political make-up of constituent authorities will inevitably influence the CA-Mayor dynamic. The relationship will depend on whether the leaders on the CA are a mixed group - which has resulted in some interesting plans on voting and veto arrangements in certain areas. Or, whether the majority of those members are of the same party as the Mayor – in which a common purpose and agreement will be easier to foster.

An order may prescribe constraints on how a Mayor carries out their general functions, such as a requirement that the function is subject to the consent of a relevant local authority. Broadly speaking the only 'constraints' that will be designed into CA governance arrangements are decisions made by the Mayor being subject to overview and scrutiny, and call-in.

The CA and managing other relationships

It will be important to ensure that governance arrangements secure and enhance effective working arrangements between the CA's constituent and non-constituent authorities.

The respective duties of members and officers – and the extent of any delegation – has to be agreed. There should also be an understanding of constituent authorities' democratic structures, to facilitate a joined-up and collaborative approach to policy, delivery and decision-making.

Developing operating protocols will be helpful for the exercise of functions that are held concurrently with constituent authorities to recognise the strategic role of the CA, whilst safeguarding the role of member councils in local decision-making and delivery. In addition, and subject to agreement, constituent authorities and the CA may enter into arrangements or joint arrangements to allow delegation of functions to the CA.

Other than the Mayor, the CAs' principal partner is likely to be the LEP(s), although the future of LEPs is up for debate. Beyond these, there are a number of other stakeholders –

public sector partners; the voluntary and community sector, the wider business community, local transport providers – and of course, Government.

This could make for a confused governance landscape, as mutual lines of accountability overlap and a clear sense of who is responsible for what can be lost. There are no easy answers to the question of partner involvement, as they may not recognise the need for direct local accountability to residents.

There will, however, be a need to formally integrate partners into the decision-making systems at all levels. As responsibilities and outcomes become more intertwined – along with the funding packages to deliver them – governance must evolve to match.

Principles of working with the public need to be reflected in CA governance arrangements. Consultation and engagement have been an important element of the devolution process, but in most cases, it is post-hoc – consulting the public as part of the governance review prior to the finalisation of a deal and the agreement of an CA model.

In some areas, proactive approaches to engage the public have been taken earlier on in the devolution process. But on the whole, little has been done to clarify the role of the public once new governance arrangements are in place. In “Charting the Way”² a number of areas reflected that the public is not interested in “devolution” per se, but that they are interested in the outcomes of devolution. There is undoubtedly a recognition of the importance of speaking to the public, but the deal making process as it currently stands makes such general public conversation difficult.

Once CA governance arrangements are up and running with a Mayor established in their role, and as the outcomes of devolution on the ground become apparent, engagement may well become easier. But this carries a risk of complacency and it is likely that the right balance between being proactive and reactive will be different for every area.

Scrutiny, audit and organisational resilience

Every CA looks different - their duties are different, their staff complement is different, and their governance arrangements are different. While this doesn't mean that every CA has to reinvent the wheel in how it organises itself, it has led to some challenges for governance and scrutiny in particular, as the practical realities of scrutiny work have needed to be grappled with without the benefit of comparison or support from elsewhere.

CAs require strong governance to be effective and many of their accountability mechanisms are written in legislation. They are required to have appoint the following statutory officers, Head of Paid Service, a Chief Finance Officer, a Monitoring Officer and a Scrutiny Officer.

Overview and scrutiny will be the core of robust CA accountability, providing the critical check and balance between the CA and the Mayor. Other governance functions such as audit will also play a key role in accountability and CA leadership will need to demonstrate a clear commitment to making both of these functions work.

² <https://www.cfqs.org.uk/wp-content/uploads/Charting-the-way-2016.pdf>

The costs and activities of the CA and Mayor are funded through devolved budgets and potentially contributions from constituent authorities. The audit committee is responsible for making sure that the finances are properly managed, that public funds are used responsibly and for the purposes intended. The roles of scrutiny and audit are distinct, but scrutiny is likely to want to keep a watching brief over finance issues as part of its work, and the scrutiny's wider work on policy development and review of the CA's substantive activities will provide useful context for audit.

CA scrutiny is designed to assess the CA and Mayoral performance against their stated objectives at a strategic level. Scrutiny will play an important role in assuring the viability and effectiveness of CA activity, and will need to be supported and resourced accordingly. The Mayor and scrutiny will also need to understand each other and the jobs they have to perform respectively and together.

Appreciating the personal and political dynamics between those on the Board will also help scrutiny to direct its attention to the areas where it will have most impact. The Board itself will be carrying out a scrutiny function of sorts, overseeing and supporting the work of the Mayor – it is therefore important that mutual roles and responsibilities are well-articulated, and understood.

The driving force of the devolution agenda will not be the same everywhere, so scrutiny needs to look different too. Scrutiny will need to be outcome-focused, and its ways of working and ultimate forms and structures must reflect this purpose if it is to have real impact.

This understanding of outcomes is something that should come from an understanding of the deal itself, and the approach that the Mayor and CA, and their partners, plan to take to deliver it. Without acknowledging and appreciating these aspects scrutiny will find it hard to work effectively.

Some suggested areas for scrutiny to support in strategic policy development and review are:

- Understanding and overseeing the development and implementation of post-pandemic economic recovery plans;
- Reviewing the local community impact of major investment plans;
- Overseeing and evaluating how the CA prioritises decisions on major investments;
- If the CA takes a sector-based approach to its economic development plans, it might look at the ways in which individuals and organisations within those sectors are engaged and involved in the decision-making process;
- Highlighting issues or areas identified by the CA as high-risk, and studying them further.

You can find out more detail in [Overview and scrutiny in combined authorities: a plain English guide \(CfGS, 2021\)](#).

Building organisational capacity, flexibility and resilience will be vital for CAs. CAs will have to respond to new and emerging priorities including the developing devolution agenda, successful capital bids, transport options – and the resources to deliver these. There will also be key risks to be mitigated and assumptions to be challenged. Major organisational restructuring may be required to account for future emergencies or changing responsibilities. Funding certainty may also be an issue for both capital and revenue, and in the resulting medium term financial strategies.

For CAs transitioning to becoming Mayoral CAs it brings with it a range of additional capacity costs, including costs of holding an election, other corporate support costs to deliver new and expanded functions, and running a Mayor's Office and - the size and shape of which cannot be fully determined until the Mayor is in post.

Having a continued approach to evaluating the CAs organisational context and devolution priorities – informed by wide and meaningful engagement – will help ensure that governance keeps step with the evolving role of CAs.

To discuss how we can help you in the process to establishing a CA, or if you would like any advice or support on CA governance and scrutiny, contact Ian Parry - ian.parry@cfqs.org.uk