

Levelling Up and Regeneration Bill

Briefing for scrutiny practitioners in England

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About Centre for Governance and Scrutiny

CfGS exists to promote better governance and scrutiny, both in policy and in practice. We support local government, the public, corporate and voluntary sectors in ensuring transparency, accountability and greater involvement in their governance processes.

Governance and scrutiny are essential for the successful working of any organisation. Now, more than ever, trusted decisions are needed. We believe that decisions are better made when they are open to challenge and involve others – whether that’s democratically elected representatives, those affected by decisions, or other key stakeholders.

At the heart of better governance and scrutiny are the right behaviours and culture. Our work champions these relational aspects and designs the structures to support them, leading to more effective decision-making and improved outcomes for organisations and people.

1. Introduction

The Levelling Up and Regeneration Bill was introduced into the House of Commons on 17th May 2022. This briefing provides a summary of some of its key provisions, with a particular focus on its impacts on accountability at local and combined authority level. The briefing does not cover the changes to planning law.

Information produced by Government to support the introduction of the Bill can be found at <https://www.gov.uk/government/collections/levelling-up-and-regeneration-bill>

One central purpose of the Bill is to place on a statutory footing to “missions” laid out in the levelling-up White Paper (LUWP) – our February 2022 briefing on the White Paper can be found here - <https://www.cfgs.org.uk/wp-content/uploads/2022-02-11-luwp-briefing.pdf>

The arrangements applying to the “missions” are that:

- They must be laid in Parliament by a minister in the form of a statement, with information on their timescales, and “mission progress methodology and metrics”;
- They must be subject to an annual report, also laid in Parliament;
- Government may alter the missions and the mission progress methodology and metrics, but this requires laying a new statement.

2. Combined authority governance

Devolution framework

The devolution framework itself sits beyond the Bill, and the most relevant information can be found in the White Paper – the Bill can be seen as a way by which it is being given statutory force.

The Bill facilitates the devolution framework by making the transfer of functions (including the transfer of functions held by other local public authorities) in part contingent on that authority’s operation of Mayoral governance arrangements, as we go on to discuss in the section below on local authorities.

Combined county authorities

In governance terms a main feature of the Bill is the creation of “combined county authorities” (CCAs), a new class of combined authority which forms part of the Government’s devolution framework.

CCAs will have general powers to take any action that helps to deliver their “functional purposes”. While this ties CCAs to action in a few key areas the Bill does also provide for the Secretary of State, by Regulation, to confer a general power of competence on a particular CCA if the constituent authorities consent (see below).

CCAs will operate in a similar way to existing combined authorities (for example, they must have an overview and scrutiny committee) but with some differences:

- Proposals for new CCAs may be submitted to the Secretary of State by a county council or unitary council (or a combined authority, integrated transport authority or economic prosperity board) within the area that the CCA is proposed to cover. It should be noted that this clause would specifically not permit shire districts to make such submissions;
- Their constituent authorities (with voting rights) may only be county or unitary authorities. Shire district councils in the area may be non-constituent members only – with voting rights only if constituent members agree. Certain individuals can also become “associate members”, with voting rights;
- The Government can confer on the CCA any powers held by a local authority or public authority in an area. This requires the agreement of

constituent councils. Powers can be exercised by the CCA instead of by the previous authority/authorities, or jointly or concurrently with them. This could see – for example – Government creating a CCA-operating children’s services function across a whole area, or a CCA waste function. It is important to note that, in the second example, Government would not need the approval of the shire districts concerned in order to provide this power to a CCA;

- CCAs may (not must) have Mayors – although the expectation is that the devolution framework will render a Mayor to be a functional necessity. Mayors can use different titles at a CCA – they can be a “county commissioner”, a “county governor” or just a “governor” or, rather confusingly, an “elected leader”. The CCA can if it wishes choose an alternative title.

The Bill also makes some consequential amendments about the transfer of certain functions, on request, to a Mayor. It makes provision for the Mayor to exercise policing and/or fire and rescue functions as well.

It could be argued that the provisions around the establishment of CCAs, and in particular arrangements for the transfer of functions, amount to the ability to pursue local government reorganisation in all but name, without the consent or input of the shire districts in the area concerned.

Combined authority governance more generally

The Bill changes some aspects of existing combined authority governance. It provides for:

- Formal reviews of combined authority constitutions;
- Changes in the area covered by a CA, if the council for that area and the CA Mayor consent;
- Changes to arrangements for non-constituent councils to nominate voting members of the CA, and provision for “associate membership” of the CA, in the manner discussed for CCAs above;
- Arrangements for new proposals for CAs, which will require that proposals for the establishment of a new CA be subject to public consultation before being submitted to the Secretary of State. The Bill also sketches out the criteria that the Secretary of State will use to determine when a proposal will be agreed – although those criteria are expressed extremely broadly.

The Bill provides a power for the Secretary of State to make an order on the payment of allowances for members of overview and scrutiny, and audit, committees. Up until now, the consent of all constituent authorities has been required to agree a remuneration scheme. Under these new arrangements it will presumably be possible for an Order to be laid to make the necessary provisions, although it seems unlikely that this would happen without the consent of the constituent authorities in any event.

Disappointingly, the Bill makes no provision for the resumption of remote meetings, even for combined authorities. The Bill also does not affect the current quoracy arrangements for combined authority committee meetings.

3. Local authority governance

The Bill makes some unexpected changes to arrangements in place allowing councils to move from one governance model to another.

The Bill imposes some fairly substantial restrictions where authorities propose to change their governance arrangements, and where those authorities are subject to a devolution deal.

In certain circumstances governance change to the committee system, or to the leader-cabinet system from the Mayoral system, may only happen with the approval of the Secretary of State. These circumstances are where Regulations have been passed which transfer certain functions of other public authorities to the council, in line with the devolution framework (ie where the council has a devolution deal in place).

Timings for governance change

The Bill also changes the timescales for making governance changes. At the moment, once a council makes a change in its governance arrangements it is “locked in” to the new arrangements for a period of 5 years (if change happens further to a resolution of council) or 10 years (if change happens further to a referendum). In future, the Secretary of State will be able to curtail those timescales entirely if the council in questions proposed to move to executive arrangements from the committee system, or to the Mayoral model from leader-cabinet.

This, like the measure described above, is clearly designed to facilitate and encourage councils to adopt Mayoral forms of governance as part of the devolution framework.

Finally – as with combined county authorities – local authority may also apply to change the name of their elected Mayor to one of the new “approved” titles.