



# **THE LOCAL GOVERNANCE OF ENGLAND**

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and

# **THE DRAFT LOCAL GOVERNMENT (ENGLAND) BILL**

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## **Foreword**

Both the Conservative and Labour Parties have been struggling to reform local government in England for a long time. The results of their efforts have been mixed and most voters, and perhaps even some of their elected representatives, would feel tested were they to be asked to explain succinctly the structure of local government in what is over eighty per cent of their country.

There is a strong feeling that our current arrangements represent, at best, work in progress. However, if reform is to result in a coherent system, the process will certainly take more than one electoral cycle and will therefore require at least agreement on direction of travel between the main political parties.

Such an agreement is not unprecedented. We saw it at work in the Adonis/Gove educational reforms.

It is in that spirit that David Lidington and John Denham, two former cabinet ministers, have co-authored this pamphlet which is published by the Constitution Reform Group, itself composed of people from all parties and from none, as a contribution to the debate.

In conformity with its previous practice, the CRG is simultaneously publishing a draft Bill which, if enacted, would put into effect the pamphlet's proposals. Our view is that a draft Bill, by setting out the measures and the mechanics, grounds the proposals in practicality.

Were these proposals, or something like them, to become law, much greater powers would devolve to local government with greater demands being placed on the shoulders of elected councillors and officials. Logically, there would also be consequences for central government which would in turn require changes in Whitehall.

Much work and deliberation has gone into the production of both the pamphlet and the Bill. The list of those who attended either or both of the two conferences which saw their conception can be found at the back of the pamphlet, but as a group we are particularly grateful to several of our number: to David Lidington and John Denham for their authorship of the pamphlet; to Charles Aldington who coordinated many of the financial aspects; to Mark Sandford whose expertise made a substantial contribution to the enterprise; to Bryony Darnell who drafted the Bill; to James Arroyo, Aydin Saribal and the staff at Ditchley Park who acted as hosts to the second conference; to the Institute for Government for generously permitting the use of their premises for our launch; and to Shana Fleming who has administered the project.

I hope that you will find both the pamphlet and the Bill stimulating reads and that they will encourage you to contribute to the debate.

Robert Salisbury, Chairman, Constitution Reform Group

## **Executive Summary**

The governance of England has been left largely unchanged since the new UK constitutional settlement of 1998. Today, England is more centralised than any comparable western European nation, whether measured by devolution of spending or revenue raising or the autonomy enjoyed by local policymakers.

Academic analysis has identified a clear link between England's poor and uneven economic and social performance and the centralisation of its governance. Major political parties have acknowledged the value of devolving additional powers and resources to local leaders. Yet successive initiatives have struggled to embed a lasting, stable, and comprehensive devolution settlement for the whole of England outside of London.

In this paper, we focus on the reasons why England remains so centralised and analyse the progress of - and obstacles to - devolution policy in England to date. We set out proposals that would place English local government on a sound constitutional basis, making it an empowered partner with central government for the effective governance of England.

There are three core reasons why, despite the ambitions of successive governments, Whitehall has found it so hard to devolve. Firstly, department-based spending and accountability have proved major obstacles to radical devolution within England. Secondly, the term 'devolution' is used widely but loosely, creating uncertainties over devolved geographies and 'how big' an authority needs to be. Finally, English local government has experienced a long period of deep austerity, creating concern in Whitehall that local authorities lack the capacity to make effective use of devolution.

This paper looks at the achievements of current devolution policy to date. Examples of progress include the formation of Mayoral Combined Authorities (MCA), which has enabled some mayors to become well-recognised advocates for the city regions, using their soft powers as well as their formal powers. However, progress to date has been too slow and limited for several reasons. For instance, the mayoral model has often worked less well in rural areas and even leading devolution deals have been inadequate to address regional problems because too little power or resources are devolved to make a real difference. Additionally, and crucially, devolved English local government does not have a clear constitutional status, making it far too weak in relation to central government. While the London Mayor and Assembly have a strong legal status rooted in primary legislation, in stark contrast, none of the MCAs have been established under primary legislation.

The remaining paper shows how our proposals would bring a comparable level of constitutional devolution to England outside of London to that currently enjoyed by the metropolis and its Mayor and Assembly.

Our proposals aim to reconcile seemingly conflicting objectives that can pose a challenge to devolution policy. They would aim to devolve revenue and spending

powers, essential if devolved leaders are to have genuine responsibility for their decisions, while still ensuring that the UK government's overall borrowing and spending controls and policy framework are respected. Additionally, the proposals would provide for devolved authorities big enough to think and work strategically, while simultaneously respecting local and sub-regional loyalties and identities and enabling citizens to feel that they have a real say in their local area.

One of the key proposals outlined is the creation of a National Devolution Framework, which would secure a strengthened constitutional position for English local government. To lead the negotiation and maintenance of this framework, a new statutory body should be created to represent England's system of devolved local government. English local government would then act as an effective partner of central government in shaping devolution policy. The National Devolution Framework would set out the powers available to local authorities by right, and those that they can request, as agreed between central government and English local government.

Provisions of the National Devolution Framework should enhance devolution to both Upper-Tier Authorities (UTAs) and Combined Local Authorities (CLAs). New Combined Local Authorities should be established across England over the next five years to create an empowered layer of local government across England outside London. The additional powers and resources available to CLAs, for functions that can best be delivered over a wider geographical area, will create a strong incentive for Upper-Tier Authorities to collaborate in their establishment. All powers and resources available to new CLAs and their UTAs will also be available to existing MCAs. Current government policy sets out the powers that might be available to existing Combined Local Authorities, but it does not create any legal right for local authorities to access those powers nor any legal duty on central government to ensure that they are properly financed.

We also propose embedding a legal duty of subsidiarity across the whole of devolved English local government. Legislation would give local and combined authorities the legal powers needed to further devolve their own responsibilities. CLAs and UTAs would both have a duty to set out how they would do so, to the lowest possible level including, where they exist, district, town and parish councils. Allowing them to further devolve their own responsibilities would aim to address the fact that it is tricky to prescribe a single model of local devolution for the diversity of rural, small town and larger urban areas of England.

Additionally, there is the critical question of funding to address. Devolution will not succeed unless local and combined authorities can rely on sufficient, predictable and consistent funding to underpin their autonomy. Under our proposals, legislation would require the National Devolution Framework to introduce a new, comprehensive funding formula for English local government.

When it comes to keeping track of public spending and ensuring value for public money, devolution does not create any reason to relax scrutiny, audit or accountability. Quite the opposite. Proposals laid out in this paper would strengthen scrutiny of

devolved powers. These include the establishment of a new statutory audit service for local government and the creation of independent Local Public Accounts Committees which would take a broad overview of the spending of public money (not just council spending) in a local area.

The National Devolution Framework itself will inevitably evolve. And, since it places an emphasis on allowing local areas to make their own choices, it is inevitable that some will make better choices than others. But local areas will soon learn from the experience of their counterparts. The strategy outlined in this paper is designed to be flexible and be tailored to the varied needs and challenges of different regions.

Our proposals will enable deeper levels of devolution to extend more rapidly to all parts of England. Devolution is in principle desirable whatever the level of overall funding available. In fact, it can be argued that devolution becomes more important the less money that is available: if delivered on the scale laid out in these proposals, devolution would strengthen accountability for the use of public money, improve the effectiveness with which public money is spent and make it clear where responsibility for policy outcomes lies.

## Introduction

The governance of England has been left largely unchanged since the new UK constitutional settlement of the late 1990s, which established devolved governments in Wales and Scotland, an elected Mayor and Assembly for London, and devolved institutions for Northern Ireland.

Since then, various initiatives have tried - but failed - to reform the national governance of England.

Repeated attempts to introduce devolved, sub-national structures were intended to boost economic development and improve the delivery of public services. They include the establishment of Regional Development Agencies (RDAs), which was followed by the abortive attempt to establish elected regional assemblies, as well as the never-completed merger of regional government offices and RDAs. Other attempts at devolution range from the innovative Greater Manchester devolution deal to the drive to create elected mayoral combined authorities to the establishment of Local Enterprise Partnerships (which, like RDAs before them, are now heading for closure).<sup>1</sup>

These successive initiatives have failed to make a lasting impression on the centralisation of England's governance.

English national domestic policy remains governed by uncoordinated departments of the UK government each with a different mix of England only, England and Wales, British, and UK-wide responsibilities, each funded separately by the UK Treasury.

Governments involving all three major parties have struggled to embed a lasting, stable and comprehensive settlement for the whole of England outside London. They have found it difficult to reconcile the tension between different objectives: providing for devolved authorities big enough to think and work strategically, while respecting local and sub-regional loyalties and identities; devolving the revenue and spending powers, essential if devolved leaders are to have genuine responsibility for their decisions, while ensuring that the UK government's overall borrowing and spending controls, and policy framework, are respected; and, all the while, enabling people to feel that they have a real say in their local area.

Today, England has a patchwork of governance arrangements: some parts have devolved mayoral combined authorities, but these do not enjoy a consistent list of powers and responsibilities. Other areas have unitary local authorities or both county and district councils. Central government keeps a tight hold on many aspects of local finance, but still gets the political blame when things go wrong. The pace of change has been slow, and its ambitions limited.

In recent years, numerous studies have identified stark inequalities between and within England's regions. These inequalities can be measured in economic terms, including

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<sup>1</sup> DBT / DLUHC, [Guidance for Local Enterprise Partnerships \(LEPs\) and local and combined authorities: integration of LEP functions into local democratic institutions](#), 4 Aug 2023

wealth, income and productivity; by key determinants of economic capacity such as skills, connectivity and investment in innovation, research and development; and social measures including health, life expectancy, school performance and social mobility.<sup>2</sup> England stands out alone in Europe for the poor performance of its second-tier cities and there are wide disparities between villages, towns and metropolitan urban centres.<sup>3</sup>

Today, England is more centralised than any comparable western European nation whether measured by devolution of spending or revenue raising or the autonomy enjoyed by local policymakers.<sup>4</sup> By comparing England's governance with other comparable nations, academic analysis has identified a clear link between England's poor and uneven economic and social performance, the centralisation of its governance and the concomitant weakness of leadership, capacity, powers, and resources that are exercised at a sub-national level.<sup>5</sup> Studies of local authorities of comparable size to English councils and studies of combined authorities in other countries have shown how empowered local leadership can transform economic and social progress.<sup>6</sup>

In response to the weight of evidence about entrenched inequalities in England as well as international evidence about devolution helping to tackle inequalities, the major political parties have acknowledged the value of devolving additional powers and resources to local leaders. In February 2022, the current Government set out the case for this at length in the Levelling-Up White Paper. A report by former Prime Minister Gordon Brown, published in December 2022, set out a similar rationale from the perspective of the UK Labour Party.<sup>7</sup> How to devolve powers and resources

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<sup>2</sup> For example, see Andre Carrascal-Incera, Philip McCann, Raquel Ortega-Argilés and Andrés Rodríguez-Pose, [UK interregional inequality in a historical and international comparative context](#), *National Institute Economic Review* 253, Aug 2020; Andy Westwood, Michael Kenny, Philip McCann, Diane Coyle, and Adrian Pabst, [How is regional inequality affecting the UK's economic performance?](#) - Economics Observatory, 23 Jan 2024

<sup>3</sup> Philip McCann, [How have place-based policies evolved to date and what are they for now?](#), *OECD workshop*, April 2023; Thomas Pope, Grant Dalton, and Maelyne Coggins, [How can devolution deliver regional growth in England?](#), Institute for Government, May 2023 Anthony Breach and Stuart Bridgett, [Centralisation Nation](#), *Centre for Cities*, 2022; Paul Brandily, Mimosa Distefano, Hélène Donnat, Immanuel Feld, Henry G. Overman & Krishan Shah, [Bridging the Gap](#), *Resolution Foundation*, May 2022; Dan Turner, Nyasha Weinberg, Esme Elsdon, Ed Balls, [Why hasn't UK regional policy worked? The views of leading practitioners](#), Kennedy Harvard School, 2023

<sup>4</sup> Thomas Pope, Grant Dalton, and Maelyne Coggins, [Subnational government in England](#), Institute for Government, Dec 2022; Steve Leach, Colin Copus and George Jones, *Centralisation, Devolution, and the Future of Local Government in England*, Routledge, 2018

<sup>5</sup> For example, Ross Mudie, Tanya Singh, Rosie Fogden, Ben Franklin and Patrick Geddis, [Funding fair growth](#), Centre for Progressive Policy, Nov 2023; Adam Hawksbee, [Give Back Control: Realising The Potential Of Mayors](#), UK Onward, 2022; Adrian Pabst and Andy Westwood, [The Politics of Productivity](#), Productivity Institute, Dec 2021

<sup>6</sup> Susanne Frick, Ian Taylor, Paula Prenzel, Kate Penney, Paul Collier, Vincent Goodstadt, Colin Mayer, and Philip McCann, [Lessons from successful 'turnaround' cities for the UK](#), Resolution Foundation, May 2023

<sup>7</sup> DLUHC, [Levelling Up the United Kingdom](#), Feb 2022; Commission on the UK's Future, [A New Britain: Renewing Our Democracy and Rebuilding Our Economy](#), Labour Party, Dec 2022;



successfully has proved challenging for both sides. For all their rhetorical commitment to the central importance of devolution in tackling England's underperformance, both parties are yet to convincingly set out a path to devolution that can deliver on the scale that is required.

In this paper, we focus on the reasons why England remains so centralised and the challenges this creates for devolving power. We analyse the progress of, and obstacles to, devolution policy in England to date. And we set out principles and proposals that would place English local government on a sound constitutional basis, making it a partner with central government for the effective governance of England. We show how our proposals would bring a comparable level of constitutional devolution to England outside of London to that currently enjoyed by the metropolis and its Mayor and Assembly.

We acknowledge the concerns that are expressed by ministers and officials in Whitehall about the risks of devolution and show how reform can not only address them but improve government performance and accountability. We also aim to show how a legally rooted but locally flexible approach to devolution can meet apparently conflicting pressures to empower local communities and address regional economic challenges. We start by identifying some of the key issues for English devolution.

## **England's centralised but fragmented state**

Many proposals for English devolution discuss what powers and resources might be exercised at local level, but it is equally important to understand why, despite the ambitions of successive governments, Whitehall has found it so hard to devolve. There are three core reasons for this: accountability built on autonomous departments within the UK government; uncertainties over devolved geographies and 'how big' an authority needs to be; and concerns over local capacity for financial management and strategic planning.

### Challenges of accountability

England's governance is highly centralised compared with other European states but it is also siloed and fragmented.<sup>8</sup> Each UK Government department is responsible to the UK Treasury for the effective use of its funds; this responsibility is exercised formally by Departmental Permanent Secretaries in their role as Accounting Officers.

This system of department-based spending and accountability has proved a major obstacle to radical devolution within England. Whitehall departments and the Treasury have been reluctant to cede powers and resources when they remain accountable to Parliament for how money is spent. A political and media culture in which Ministers may be held accountable for almost any policy outcome at any level fosters further reluctance to devolve. The consequence of siloed policy and decision-making means

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<sup>8</sup> Diane Coyle and Adam Muhtar, [Levelling up policies and the failure to learn](#), Contemporary Social Science 18:3-4, 2023, p406-427; Thomas Pope, Grant Dalton, and Maelyne Coggins, [Subnational government in England](#), Institute for Government, Dec 2022

that the implementation of public policy is often ineffective and wasteful because services are not joined up (featuring both duplication and gaps).<sup>9</sup> But attempts over several decades to achieve more coherent local government – including Government Offices of the Regions, Regional Development Agencies, Total Place and Community Budgets - have foundered on Whitehall's structures. The slow progress of the most recent efforts at English devolution can only be understood if we take account of Whitehall's reluctance to relax its current systems of accountability and departmental autonomy.

Those who advocate a more radical approach to devolution cannot simply accuse ministers of lacking political will or criticise civil servants as having a centralising mindset. Instead, it will be important to show that an alternative approach can strengthen accountability for the use of public money, improve the effectiveness with which public money is spent, and make it clear where responsibility for policy outcomes lies. We believe our proposals would do this.

### Balancing scale and geography

The term 'devolution' is used widely but loosely. It is often used to highlight the absence in England of the effective sub-regional or regional institutions which are held to be key to the better regional performance of other OECD countries.<sup>10</sup> Calls for effective devolution can also emphasise the extent to which elected English local government has little constitutional autonomy, fewer powers, and less access to resources than its counterparts in comparable countries. The term may also express a desire to empower very local communities by enabling them to take control of important local assets such as pubs or community centres, or by engaging local people much more effectively in the shaping of health prevention policy.<sup>11</sup>

These different aspirations for devolution aim to solve different problems, and advocates of regionalisation, local government, or community empowerment have often sought different forms of change to further their aims. That has created the impression of a disunited approach when English localities have engaged with Whitehall. The challenge for devolution policy is to show that it can deliver appropriate powers and resources to the appropriate level, from the very local to the regional. We set out below how this can be achieved.

### The challenge of finance and capacity

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<sup>9</sup> Simon Kaye, [Devolve by default: decentralisation and a redefined Whitehall](#), Reform, Jan 2024; Diane Coyle and Adam Muhtar, [Levelling up policies and the failure to learn](#), Contemporary Social Science 18:3-4, 2023, p406-427;

<sup>10</sup> Philip McCann, [Levelling Up: The Need for an Institutionally Coordinated Approach to National and Regional Productivity](#), Productivity Institute, 2023

<sup>11</sup> Laura Charlesworth, Jessica Studdert, Imran Hashmi, [Well-Placed: The impact of Big Local on the health of communities](#), New Local, Dec 2023; New Local, [A Labour Vision for Community Power: Participation, prevention and devolution](#), 2023; Will Tanner, Fjolla Krasniqi, James Blagden, [Turnaround: Learning From 60 Years Of Regeneration Policy](#), UK Onward, Sep 2021

English local government has experienced a long period of deep austerity. Government grants have been significantly reduced and, in the early 2020s, a rising number of local authorities have warned of impending severe financial difficulties and the need to restrict service provision to the legal minimum. The overall level of local government funding in England is something that can only (and will have to) be addressed by the UK government and is outside the scope of our paper. However, we believe devolution is in principle desirable whatever the level of funding available. Devolution will make better use of the public money spent in each area and it can be argued that devolution becomes more important the less money that is available.

While the sector has made huge efficiency savings since 2010, has now a far better understanding of its cost drivers, and has shown innovation in place shaping (the bringing together of civic, business, and voluntary sector leaders around a shared local vision), austerity has reduced the leadership capacity of many local authorities. This is often evident in the understaffing of planning offices but applies across many areas of strategic leadership and development. This could create a catch-22 in which Whitehall resists devolution because local and combined authorities lack the capacity to make effective use of it.<sup>12</sup>

### **Devolution: a recent history**

The current phase of English devolution was initiated in 2014 by the first 'devolution deal' with Greater Manchester. Using legislation enacted a few years earlier, the Greater Manchester local authorities pooled some of their powers to form a new Mayoral Combined Authority (MCA). After agreeing to the creation of a directly elected mayor, the new Combined Authority received additional powers and resources.<sup>13</sup> Ten years on, the approach of local areas agreeing a bespoke deal with central government has been developed to cover 22 areas, covering 55.5% of the population excluding London (64% including London).

There have been significant achievements. MCAs have played a strong leadership role, not just on local government issues but in working with business, higher education and civil society on economic development and place shaping. Innovative policies have been pioneered ranging from the re-regulation of bus services to skills development to reinvesting the proceeds of growth and job creation. Some mayors have become well-recognised advocates for the city regions using their soft powers as well as their formal powers. (Less positively, other mayors have been criticised for their conduct of business, had poor relations with their MCA or have been barred from standing again by their national party.) Engagement between individual MCAs and central government has improved mutual understanding of key issues and aspirations.

However, for a project of political reform regarded as essential to tackle England's regional local inequality and underperformance, progress has simply been too slow and

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<sup>12</sup> Charlotte Hoole, Simon Collinson and Jack Newman, [England's catch 22 : institutional limitations to achieving balanced growth through devolution](#), Contemporary Social Science 18: 3-4, 2023, p424-449

<sup>13</sup> HM Treasury, [Devolution to the Greater Manchester Combined Authority and transition to a directly elected mayor](#), 2014

too limited. The government's own aspiration is only to ensure that each part of England has some level of devolution deal by 2030.

There are five key reasons why progress towards devolution has been too slow. First, the delivery of devolution policy has become increasingly complex. Including the leading 'trailblazer' areas of Greater Manchester and the West Midlands, there are now no less than four levels of devolution (two of which require directly elected mayors or leaders).<sup>14</sup> Within each level of devolution each deal is different, including (often subtly) different powers and resources, and they all include stringent requirements to account to central government for the use of public funds.<sup>15</sup> The slow pace of negotiating new powers, and the constraints on how they are exercised, is not only frustrating for local areas but creates a significant workload for central government that further constrains progress.

Second, powers are often devolved in response to local requests – but, in practice, the actual decision to do so is top-down. Central government determines which powers and resources might be the subject of devolution, the extent to which they will be devolved or delegated, how these powers may be exercised, the governance of MCAs (through, for example, the insistence on mayors or elected leaders), and how MCAs will be held accountable. Although individual MCAs and local government bodies may make representations on the scope of devolution, English local government has no formal role or powers in shaping devolution policy.

Third, while all the major city-regions now have some form of deal, it has proved far harder to make the current model work in shire county, smaller city and rural areas. One of the key reasons has been local reluctance to accept directly elected mayors in areas that may cover very diverse communities from small cities to deeply rural locations. For instance, Cornwall abandoned a mayoral deal in 2023 following local pressures, and similar dynamics have been visible following mayoral deals for Norfolk and Suffolk. Both Government and Opposition have acknowledged that the mayoral model may not be appropriate for all parts of England.<sup>16</sup>

Fourth, the powers, and especially the funding, of even the leading trailblazer deals have been inadequate to address regional problems. Important local services lie outside devolution deals. Schools have never been included and only Greater Manchester holds any powers relating to health services. Higher education, research and innovation remain outside devolution policy. Some deals enable MCAs to be consulted on national policy in their area, or provide co-decision-making powers as an alternative to 'full devolution'. Government agencies such as Homes England or Highways England can act within an MCA area without considering MCA strategies or ambitions. The peripheral quality of devolution deals is reflected in the sums of money

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<sup>14</sup> See the devolution framework at the time of writing at DLUHC, [Memorandum of Understanding for the "Trailblazer" Single Settlements for Greater Manchester and West Midlands Combined Authorities](#), Nov 2023

<sup>15</sup> House of Commons Library, [Devolution to local government in England, Nov 2023](#)

<sup>16</sup> DLUHC, [Levelling Up the United Kingdom, Feb 2022](#); Commission on the UK's Future, [A New Britain: Renewing Our Democracy and Rebuilding Our Economy, Labour Party, Dec 2022](#)

involved. As of 2023, the total central government resource committed to the mayoral authorities in all deal areas was only some £2.6bn per year, far too little to transform regional performance.<sup>17</sup>

Fifth, local government's constitutional status is weak. The UK's unwritten constitution means that local government lacks the constitutional protection that it has in other states. But even in that context, England's mayors occupy a potentially fragile space. The London Mayor and Assembly have a strong legal status rooted in primary legislation. In stark contrast, none of the MCAs have been established under primary legislation. Reliance on secondary legislation makes MCAs more vulnerable to arbitrary change by central government and underlines how devolved English local government does not have a clear constitutional status.

In summary, despite its real achievements, current devolution policy is in danger of policy failure - too little power or resource is devolved to make a real difference - and in danger of constitutional failure – English localities lack devolved powers as of right and are far too weak in relation to central government. In large part, this is because central government has struggled with the three issues set out above – and has sought to answer them on a contingent and temporary basis. To gain the benefits of devolution, a successful framework will need to be accompanied by a reworking of available resources and a strengthened constitutional position for English local government.

### **Our aims for English devolution**

The purpose of our Bill is to create an empowered layer of local government in every part of England. It would give empowered local authorities – the current 'Upper-Tier Authorities' (UTAs) the ability to draw down additional powers and resources. These would have powerful incentives to form Combined Local Authorities which would be able to draw down further powers and resources for functions, such as spatial planning and economic development that can best be exercised over a wider geography. All the additional powers and resources available to these UTAs and CLAs would be available to their existing MCAs and their member authorities.

English local government would gain a statutory voice in shaping devolution policy with central government, including the devolution of powers and resources and the fair funding of English local government. Empowered local government would operate within a framework of local scrutiny and accountability that would ensure better use of public money.

These reforms would enable more rapid and comprehensive progress to be made towards a devolved system of English local government that can become an effective partner of central government in tackling the economic under-performance and social inequalities experienced by too many of England's localities.

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<sup>17</sup> DLUHC, Secretary of State's [Annual report on devolution 2022 to 2023](#), 2024. The £2.6 billion figure excludes funding in Greater London and police grants made by the Home Office.

## Our proposals

### 1. Create an empowered layer of upper tier local government across England outside London

The key to successful empowerment is to create a series of incentives that encourage local authorities to take on new powers, and to collaborate over the wider geography that is essential for key elements of economic development and spatial planning.

Every area of England outside London has an ‘upper-tier authority’ (or UTA): this may be a county council, a metropolitan borough or a unitary council. These UTAs will typically have responsibilities for major strategic services including education, social services, highways and waste disposal.<sup>18</sup>

Most combined authorities formed since 2014, including Greater Manchester, have been based on upper-tier authorities. We believe it makes sense for future devolution to be based on upper-tier authorities. These have the size – and therefore the capacity – to exercise additional powers. They are also the most appropriate bodies to be empowered to form new Combined Local Authorities (CLAs).

The recent focus on the creation of Combined Local Authorities has taken attention away from the desirability of also devolving new powers and resources to the existing upper-tier authorities. (‘City Deals’ were an early feature of the Coalition government but have since faded in importance). There are many other powers that could and should be exercised at UTA or lower levels. These might include those needed to develop community wealth-building strategies, greater responsibility for the management of job centres, the ability to develop additional children’s services and the regulation of private sector housing. We propose extending the opportunity to access appropriate additional powers to upper-tier authorities across England.

Some recent devolution deals do cover two-tier areas, but such areas have found it much harder than England’s major city regions to adapt to the current devolution model. Not only is the process cumbersome, but local authorities are sometimes sceptical that they have anything to gain.<sup>19</sup> There is also some resentment at recent changes that allow devolution deals to be implemented regardless of the views of district councils.<sup>20</sup>

There has been a trend for two-tier areas such as Somerset and Northamptonshire to restructure into unitary authorities, and this may continue as a response to financial pressures.<sup>21</sup>

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<sup>18</sup> Metropolitan boroughs and unitary councils are responsible for housing, local planning, leisure services and refuse collection. In two-tier areas with county and district councils, those duties are exercised by district councils.

<sup>19</sup> Plymouth City Council, [Plymouth withdraws from proposed devolution deal](#), 17 Nov 2023

<sup>20</sup> This change was introduced in the Levelling Up and Regeneration Act 2023.

<sup>21</sup> As of January 2024, 34% of the population of England lived in an area with a county and a district council, down from 40% 10 years earlier.

Rather than require unitary local government, threatening smaller areas with a loss of identity, special provision should be made for the future of district councils in two-tier areas. We set out how this will be achieved under ‘The Duty of Subsidiarity’ below.

We suggest that the provisions of a National Devolution Framework (set out in more detail in our second proposal) should enhance devolution to both UTAs and CLAs.

We discuss the empowerment of CLAs in Section 3 below.

The empowerment of UTAs would take three forms:

- Existing UTAs, including those that are already members of a Combined Local Authority, would be granted a number of additional powers as of right. The scope of those powers should be agreed between representatives of English local government and central government in the National Devolution Framework. Other than noting above some of the suggestions made by think tanks and others, we do not discuss them in detail here. (As an illustration only, a House of Commons briefing listed the proposals for devolved local authority powers in UK Labour’s report on the Future of the UK.)<sup>22</sup>
- UTAs would also have a statutory right to request additional powers. While this would include the ability to make innovative proposals, they would be permitted to draw down from a statutory list of available additional powers, also agreed between English local government and central government in the National Devolution Framework. The presumption would be that these powers would be granted, subject to the capacity to exercise them effectively. As discussed in more detail below, central government would be placed under a responsibility to address any shortcoming in local authority capacity. We believe this can be done within existing Whitehall resources.
- UTAs would have both a right to pool their powers in a Combined Local Authority and a duty to consider doing so in pursuit of the best exercise of their powers, with the aim of ensuring that all of England outside of London has a CLA in place by the end of the next full Parliament.

Taken together, these measures provide a clear route to enhancing the powers and responsibilities exercised locally in all areas of England and create a requirement for central government to work with local government to address local capacity challenges. That would strengthen the incentive for UTAs to access the legal authority they need to focus on the additional needs of their areas, bypassing the current rigid and centrally determined framework of devolution policy.

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<sup>22</sup> House of Commons Library, [Devolution to local government in England](#), November 2023

## 2. A National Devolution Framework – a new collaboration between central government and a statutory representative body for English local government

At the centre of our proposals is the desire to strike a new balance between central and local in the governance of England. Both share a common interest in the success of devolution, and devolution policy is most likely to be successful when it is supported locally as well as nationally. As we have seen, the current process is slow, limited and creates considerable frustration at local level where local authorities often feel they are forced to fit into a structure determined solely at the centre.

We propose creating a new statutory structure for developing devolution policy in England. Local and central government should work together to create a National Devolution Framework that would set out the basic policies and practices which guide the implementation of devolution policy. This process will give local government a formal role in determining devolution policy, but the Framework will also provide stability and cross-party support for that policy. Because local government often shares common interests that cut across geography or party, a strong local government voice would provide the stable basis for long-term devolution policy that is essential.

The National Devolution Framework would be a statutory document that would guide the development and implementation of devolution policy by local and national government. It would be co-produced between the central UK government and a new statutory body representing devolved English local government. There would be a strong obligation on central government to consult fully and strive to reach agreement with the local government body. In addition to covering the criteria for devolving power, the Framework could also include principles for the funding of devolved matters and criteria for intervention in the event of serious governance failures.

We do recognise the sterling work that the Local Government Association, the County Councils Network, the District Councils Network and the new M10 group of mayors all do in representing the diverse interests of local government, but none have the power or authority to negotiate a formal agreement of this kind with central government. Requiring central government to consult with all of these bodies to develop the Framework would simply diffuse the local government voice.

To lead the negotiation and maintenance of this framework, a new statutory body should be created to represent England's system of devolved local government. The membership of this new body should be open to discussion, but we suggest that, as Combined Local Authorities become established across England, each should be represented on the new statutory body. It would be for each CLA to choose its representative, so while this might be a mayor (where there is one) this would be a matter of local decision.

The National Devolution Framework would set the ground rules for the relationship between central government and local and combined authorities. The Framework should include:



- the powers that will be available as of right to UTAs and CLAs;
- the additional powers that might be drawn down by UTAs and CLAs;
- guidance on the appropriate geography and economic weight of proposed CLAs;
- the ability of central government to delay additional devolution powers on the grounds of local capacity and its duty and role to support the development of local capacity;
- the mechanisms for ensuring that devolved powers are properly resourced; and
- the development of a fair funding formula for English local government.

Those issues are discussed in more detail below.

### 3. Facilitate the development of CLAs across England

In addition to the additional powers that should be available to UTAs as of right, they should also have the right and duty to consider forming new CLAs where these do not exist at present. CLAs should have further powers and resources that are not available to UTAs for functions that can best be exercised over a wider geographical area.

In an ideal world, local government geography, functional economic market areas and strongly felt local identities would coincide. In England, few places offer such a perfect fit. In practice, the geography of any CLA is always a compromise between the three. Central government will want to ensure that CLAs are sufficiently large and appropriately structured to exercise some key powers, particularly for economic development, and the National Devolution Framework might sensibly place minimum requirements on proposed CLAs (such as population size and economic activity). Beyond those minimum requirements, and in contrast to the current system, new CLAs would not need to be negotiated or agreed in detail with central government.

The right to take on additional powers without having to negotiate with Whitehall is intended to create a powerful incentive to create new CLAs in areas that currently lack them. Our proposals also create a mechanism by which existing MCAs can access the full range of powers and the commensurate resources made available to new CLAs. As with UTAs we think these powers should be identified by the National Devolution Framework, but our assumption is that they would primarily relate to economic development and strategic planning.

While we don't seek to disrupt established MCAs, it should be possible to make changes by local voluntary agreement - for example, to bring in an additional UTA or to alter the powers of the MCAs. The UTAs that may form non-mayoral Combined Authorities in the near future would be able to form new CLAs and access the full range of powers.

This flexibility would also enable UTAs that do not wish to work together on a wide range of issues to create a CLA with a specific purpose such as developing regional transport policies or energy networks, or for a group of CLAs to pool and coordinate the use of powers over a wider geographical area as might be necessary to develop regional transport policies and energy networks.

Like UTAs, CLAs would also have the right to request additional powers. As with UTAs, this would include the right to make innovative proposals, but the emphasis would be on drawing down from a list of available additional powers. The presumption would be that these powers would be granted, subject only to the capacity to exercise them effectively. The criteria on which ‘capacity’ would be assessed would also be set out in the National Devolution Framework.

Current government policy sets out the powers that might be available to Combined Local Authorities and County Councils to different tiers of devolution,<sup>23</sup> but it does not create any legal right for UTAs and CLAs to access those powers nor any legal duty on central government to ensure that they are properly financed. We propose a new legal framework to establish both rights of UTAs and CLAs and place duties on central government. The powers available to UTAs and CLAs by right, and those that they can request, should be set out in the National Devolution Framework agreed between central government and English local government. This builds on the tentative progress made by the Government surrounding the ‘trailblazer devolution deals’ in 2023.<sup>24</sup>

Instead of the current onus placed on MCAs to make the case for additional powers, it would be the responsibility of central government to give reasonable grounds for refusal. Requests could normally only be refused when a UTA or CLA lacked the capacity to exercise new powers efficiently and effectively.

Our intention is to create a ratchet mechanism in which the devolution of powers and resources moves consistently towards the maximum point set out in the National Devolution Framework. The Framework would provide that, once devolved, a power could not be removed except in prescribed circumstances, such as a serious failure of government or fiduciary duty. It would not be possible to remove a power – or to suspend access to financial resources – simply because a UTA or CLA chose to exercise it contrary to the policy of central government.

#### 4. Permit CLAs to decide whether to establish directly-elected mayors

The Government’s current policy is only to offer the highest level of devolution to combined authorities with directly elected mayors. Whitehall has shown a strong preference for dealing with a single individual with their own electoral mandate and there is significant support within mayoral areas for the continuation of the model. Advocates of mayors stress their leadership and decision-making powers, whilst critics argue that mayors are taking powers away from local people.

The requirement to have a directly elected mayor has been an obstacle to devolution in a number of localities, due to opposition from elected politicians. Voters have often shown a marked lack of enthusiasm for directly elected mayors to head up councils, when this has been tested at a referendum. For both these reasons, we suggest that

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<sup>23</sup> DLUHC, [Technical paper on Level 4 devolution framework, Jul 2023](#)

<sup>24</sup> DLUHC, [Technical paper on Level 4 devolution framework](#), Jul 2023

decisions on the governance of CLAs - including the creation or maintenance of mayors - should be taken by CLAs themselves and not imposed by central government. This decision should not impact on a CLA's ability to draw down powers under the National Devolution Framework. There is no reason why the same robust accountability regime cannot be applied to non-mayoral and mayoral combined authorities. MCAs that wanted to adopt alternative arrangements of governance would be able to do so.

## 5. Embedding the principle of subsidiarity

As we noted above, the aims of devolution can often be in tension with each other, in particular the balance between scale and geography. Devolved Combined Local Authorities need to cover sufficiently large populations to exercise strategic economic development powers. However new, large authorities will not necessarily empower local people to address the issues they care about in their local communities. It is not possible to prescribe a single model of local devolution for the diversity of rural, small town and larger urban areas of England, or to design a single format to accommodate the different structures of parish, town, and district councils, and local community organisations.

We propose to embed a legal duty of subsidiarity across the whole of devolved English local government. CLAs and UTAs would both have a duty to set out how they would devolve their own responsibilities to the lowest possible level including, where they exist, district, town and parish councils. For example, while a CLA might hold strategic transport powers, this should not prevent the devolution of decisions on low traffic neighbourhoods to district or town level.

Legislation would give local and combined authorities the legal powers needed to further devolve their own responsibilities. They would also have a statutory duty to collaborate on and publish community empowerment plans, setting out how they planned to fulfil this duty. Local communities and other local councils would have the right to challenge both the content and implementation of these plans.<sup>25</sup>

## 6. Provide sufficient finance for devolved local government to succeed

Devolution will not succeed unless local and combined authorities can rely on sufficient, predictable and consistent funding to underpin their autonomy. It should be clear that there are two separate, though related, issues to address.

The first is to ensure that devolved powers are fully funded. Devolving new powers to UTAs and CLAs will have little impact unless they are accompanied by the appropriate funding needed to exercise those powers effectively. It will be important to ensure that central government cannot devolve responsibility without adequate finance.

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<sup>25</sup> See two current examples of this type of approach: Cornwall Council's 2020 [Localism in Cornwall](#), and Wiltshire Council's [Area Boards](#) (2022)

At the same time, UTAs and CLAs, particularly in the economically weakest and most deprived areas, need to receive sufficient resources to enable them to grow their economies and tackle local social inequalities. The overall level of funding to local areas needs to be based on a transparent and predictable fair funding formula.

To address the first issue, when a function is devolved to a UTA or CLA, the function should be accompanied by the funds currently spent by the centre on operating that same function. In practice, identifying the exact amount of funding required is likely to be a more complex process that should be set out within the National Devolution Framework. This should ensure that any power granted to the devolved levels of local government comes with the necessary funding.

Legislation should also require the National Devolution Framework to include principles to underlie a funding formula for English local government. The new funding formula would need to be comprehensive, covering capital and revenue funding from central government. It would need to include any funds transferred to accompany newly devolved services, as suggested above. It would also need to take some account of the capacity of localities to raise revenues. That would reflect the huge variations in the capacity of different areas to raise revenues from council tax and business rates – and from any future taxes that were devolved to CLAs and UTAs.

This is a complex issue, but we would stress the importance of avoiding an over-concentration on individual revenue streams such as council tax or the ability to retain business rates as the capacity of different areas to maximise individual sources of income varies considerably. A comprehensive formula would take some account of:

- the variation in revenues available from current local taxes (council tax / business rates);
- the introduction of any new local taxes (such as a tourism or hotel tax);
- the ability to retain locally generated tax revenues (retention of business rates);
- the retention (or assignment as it is called in several other European countries) of a proportion of locally generated national taxation (such as income tax); and
- the redistribution of national taxation to support the areas of greatest economic and social need.

Introducing a new, comprehensive funding formula would achieve two aims. It would transfer some control of spending power from the centre to localities. In turn, the change would give UTAs and CLAs greater flexibility to spend their income on local priorities and help to break down the inefficiencies currently created by the siloes of central departmental spending. It would clearly take time to develop such a new approach to local funding, but, as the overall devolved funds available to local government increase, it would gradually become less essential for each devolved power to receive dedicated funding.

## 7. Avoid duplication between local government and national agencies

Under current devolution policy, it is possible for a MCA to receive some additional powers over, for example, housing or transport while national government agencies such as Homes England, Highways England or the Arts Council for England continue to exercise similar or related powers in the same geographical area. Devolution deals have recognised this issue by giving MCAs some consultative rights with those national agencies, but these arrangements are nascent at best and do little to enable national policy goals to be varied within local strategies. In practical terms, this can hamper the phasing of housing, transport, and other infrastructure investment to maximise local economic growth.

Under our proposals, it would become possible for CLAs to assume the responsibilities of such agencies within their area (subject to their capacity to deliver). Devolution legislation should enable the legal transfer of these powers from their existing recipients to CLAs and provide appropriate accountability arrangements. This would differ from current practice, in which ‘concurrent’ powers are often available both to combined authorities and to other public bodies or to Ministers.

## 8. Developing leadership and delivery capacity at local level

We acknowledge that some areas and some local areas face a challenge to develop and demonstrate the leadership and capacity to take on additional devolved powers. A new and strategic approach is required.

First, the (re-)development of local capacity for leadership, research, and strategic analysis must be of critical interest to both central and local government. This implies acceptance, by central government in particular, that capacity development is a ‘cost of being in business’ for effective local government. The Government did acknowledge this issue in the early 2020s, attaching small pots of capacity funding to certain newly devolved responsibilities. However, capacity must be acknowledged as a permanent and core ingredient of effective devolution of power. There may even be a case for ring-fencing a slice of funding for the development of devolved authorities’ strategic and planning capacity.<sup>26</sup>

Second, when powers are devolved, staff resources as well as funding will be required in order to exercise them. In turn, this will reduce the need for staffing and resources at the centre.

Third, where UTAs and CLAs are seen to lack the capacity to draw down additional powers, the centre would have the ability to delay devolution until sufficient capacity has been developed. But the centre would also be under a legal duty to work with UTAs and CLAs to develop that capacity. The National Devolution Framework would set out the criteria through which these types of decisions are made.

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<sup>26</sup> This is suggested in Ross Mudie, Tanya Singh, Rosie Fogden, Ben Franklin and Patrick Geddis, [Funding fair growth, Centre for Progressive Policy, Nov 2023, p77](#)

Thirdly, there is a well-established practice of peer review and peer support in local government. Mutual support and shared learning is often much more effective than top down leadership support. The Government provides the Local Government Association with some £20 million per year towards the [LGA's Sector Led Improvement programme](#). This programme could be extended to address specifically the challenges of assuming increased devolved powers and their strategic use.

## 9. Ensuring transparency, accountability and value for money

At the outset we acknowledged the reluctance of Ministers, Whitehall officials and the UK Treasury to relax the current system of Departmental Accounting Officers and departmental autonomy, even though these create a major obstacle to devolution. In practice, the assurance of value for money provided by this system is strictly limited, as numerous National Audit Office reports have described. Departmental accounting may keep track of public spending, but it certainly does not ensure that fragmented local services make the best use of public money.<sup>27</sup>

It is within the public interest to ensure that public money is well spent. Any alternative approach to accountability should aim to be better and more robust than the current system. We do not believe that devolution creates any reason to relax scrutiny, audit or accountability.

We propose a three-pronged approach to strengthening the accountability of a devolved system of local government.

- The creation of Local Accounting Officers who, in relation to devolved powers and resources, would assume the responsibilities currently exercised by Departmental Accounting Officers.
- A new statutory audit service, whose responsibilities include identifying serious failures of governance or fiduciary duty.
- Local Public Accounts Committees who would be able to take a broader overview of the spending of public money (not just council spending) in a local area.

First, formal accountability is important but the fundamental building block is to ensure that each level in the system is fit for purpose and able to exercise its new powers effectively. This can be achieved by requiring central government to work with UTAs and CLAs to address issues of capacity and leadership, and by ensuring that CLAs have sufficient geographical and economic scale to deliver their functions (as noted earlier). In a similar way, local community empowerment plans would ensure that powers devolved to more local level are also used effectively and efficiently.

Second, as powers are devolved from Whitehall departments, the related responsibilities of department Accounting Officers should also be devolved to a senior

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<sup>27</sup> The House of Commons's Levelling Up, Housing and Communities Committee recommended stronger oversight in this area: [Financial Reporting and Audit in Local Authorities](#), HC-59 2023/24, 20 Nov 2023

local official, in most cases the Chief Executive of the CLA or UTA. This should be a formal legal process defined in statute. The performance of the Local Accounting Officer would be subject to scrutiny by the National Audit Office in the same way that Departmental Accounting Officers are scrutinised today.

While the NAO would provide a high level of scrutiny of devolved powers, there is an urgent need to strengthen local government audit in general. Local government audit has virtually collapsed since the abolition of the Audit Commission in 2015 and we propose the establishment of a new statutory local audit service. This body would evaluate the data collectively available from audits of local authorities (UTAs, CLAs and Districts), enabling positive and negative trends to be identified quickly. The new body should have powers of early intervention in cases of gross financial mismanagement, such as those in Slough and Woking (with criteria for intervention set out in the National Devolution Framework).

Third, accountability can also be enhanced through greater transparency and more robust scrutiny from local councillors, local citizens and, for CLAs, their member authorities. Local government overview and scrutiny today is too often under-resourced and lacking in information and capacity, not to mention power. Comparative financial (and potentially performance) data provided by the new statutory audit service would fill a part of this gap.

The National Devolution Framework should set out robust minimum standards expected from local overview and scrutiny systems. These would build on the Government's [Scrutiny Protocol](#), but the Framework would include guarantees of autonomy and resources for the accountability function. As the Government acknowledged in the Levelling Up White Paper and in devolution deals during 2023, local accountability systems are an essential element of good governance.

The overview and scrutiny function could be included in the suggestion above that ring-fenced funding should be provided for developing local capacity. However, a more robust option would be the creation of independent Local Public Accounts Committees to scrutinise councils and other bodies.<sup>28</sup> LPACs could also complement the work of Local Accounting Officers, and they could also exercise oversight of a range of public spending that fell outside of the remit of UTAs and CLAs.<sup>29</sup>

Our proposals favour the creation of free standing Local Public Accounts Committees over the strengthening of the current overview and scrutiny powers of UTAs, CLAs and Districts. LPACs would have independent members alongside local councillors and a greater independence of resources and action than overview and scrutiny committees.

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<sup>28</sup> LPACs were initially proposed by the Centre for Governance and Scrutiny (CfGS) in 2018, and they have subsequently been proposed by a number of other reports. See Ed Hammond, [Local Public Accounts Committees: what are they?](#) CfGS, Jan 2023.

<sup>29</sup> For further background about how LPACs might operate, see [Local public accounts committees: Dealing with the governance complexity at a local level](#). February 2023, Centre for Governance and Scrutiny.

## 10. London's governance

Our primary intention is to create a framework for devolution in England outside of London. London already has bespoke devolved governance set out in primary legislation, the current arrangements were endorsed by a referendum, and there is currently little serious discussion of a fundamental change to these arrangements.

Should there be any future moves to amend London's governance there would be an opportunity to bring London more closely into line with the framework we are proposing for the rest of England. In such an approach, London boroughs would be the empowered local authorities equivalent to UTAs in the rest of England, and the structure and governance (including whether to continue with a directly elected Mayor) of London-wide government would be determined by the London boroughs collectively. Any new proposals would have to be agreed by referendum as it would be changing a structure established by referendum.

In the more immediate future, it is possible that the National Devolution Framework might offer England outside of London more powers at either UTA or CLA level that are not currently devolved to London at either borough or Mayoral level. We suggest that such powers would also be available either to London boroughs (in the case of UTA powers) or the mayor (in the case of CLA powers). In addition, and importantly, London should be represented in the statutory body representing English local government.

## 11. Tackling problems as devolution evolves

Although we believe that powerful Combined Local Authorities could be established across England over the next five years, the strategy is inevitably evolutionary. The strategy we have outlined is designed to be flexible, and will enable deeper levels of devolution to extend more rapidly to all parts of England and be tailored to the needs and challenges of different places. It will take some time for CLAs to reach a settled structure, geography and powers and for new systems for finance and accountability to come into play. The National Devolution Framework itself is likely to require amendment over time in light of experience.

We acknowledge that, five years from now, the map of English devolution would still appear 'messy' (although less incoherent than the current picture). Because we place an emphasis on allowing local areas to make their own choices, it is inevitable that some will make better choices than others. Local areas will soon learn from the experience of their counterparts. Rather than anticipate and avoid every potential problem, we believe it would better to let devolved English local government evolve and then to address and major issues as and when they arise.

## 12. Conclusion

We believe that these proposals, taken together, would enable more rapid and comprehensive progress to be made towards a devolved system of English local government that can become an effective partner of central government in tackling the



economic under-performance and social inequalities experienced by too many of England's localities. They do so in a way that builds constructively on reforms that have already taken place but also offer a more radical and ambitious vision for devolved local government in England.

### **Participants in the Hatfield and Ditchley Conferences**

|                     |                     |
|---------------------|---------------------|
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| John Austin         | Andrew Large        |
| David Bell          | Tara Lemmey         |
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