

# Local Government Association Briefing

## Democratic accountability and devolution in England

### House of Lords

13 December 2018



#### KEY MESSAGES

- As the UK exits the European Union (EU), national and local government should consider how communities in England can take greater control over the public service and investment decisions that affect their lives.
- Bringing power and resources closer to people is the key to giving local leaders the ability to deliver better outcomes for their communities and drive inclusive growth across the country.
- Repatriating EU legislation should be an opportunity to identify legislation and regulations that might be amended to provide local leaders with greater flexibility to tailor national requirements to benefit local communities and businesses. An example of this would be the EU procurement rules which we estimate currently cost local government £2.6 billion a year to adhere to.<sup>i</sup>
- The Government should build on the positive progress that has been made with regard to devolution to councils to date, and bring forward plans to enhance the devolved powers of all areas in England outside the mayoral model where appropriate.
- National and local government need to work together to develop an answer to the 'English' question and give local communities across the UK an equal right to take control of the key decisions that affect their lives.
- We want the Government to publish an English Devolution Bill in the first Queen's Speech post Brexit, offering local governments the opportunity to enhance the devolved powers of all areas of England.
- It is vital that local government retains a formal advisory role in the EU law and policy-making process through its membership of the EU Committee of the Regions (CoR).
- The LGA, together with the local government associations in Wales, Scotland and Northern Ireland, have been in discussion with the UK Government about how this advisory role might be replicated in UK law. Our shared ambition is to replicate the advisory role of local government in the UK post-exit, without creating new bureaucracies.
- We welcomed the assurances we received from Government regarding the replication of a body like the CoR and will work with Government to deliver this, once the written ministerial statement setting out the Government's plans has been published.

# Briefing

## **BACKGROUND INFORMATION**

### **Repatriating EU legislation**

As set out in our publication, [Brexit: Moving the conversation on](#), there are those areas of European legislation that might be amended following their UK repatriation to provide local leaders with greater ability to tailor national regulations for the benefit of their communities and businesses.

A good example of this issue is the opportunity to simplify the EU procurement rules which regulate how councils buy goods and services. As set out in our Brexit publication, according to research by the Centre for Economic and Business Research (CEBR) the average cost of a competitive procurement exercise in the public sector is £45,800. Data from Tussell indicates that the average monthly award volume is 4,773. Together this suggests an annual procurement cost of £2.6 billion. Furthermore, almost no public contracts end up being awarded to companies in other EU member states. Only 20 per cent of English councils receive EU expressions of interest from companies based in other EU countries.

Not only could a 'lighter-touch system' lead to significant savings, it would also simplify these processes, and provide more flexibilities to promote local growth. In particular, councils could procure to shorter timescales and reduce administration costs for businesses, especially small and medium-sized enterprises (SMEs). This would help to boost local growth and create jobs.

We have also developed proposals relating to the strengthening of existing EU laws, such as in the area of food hygiene. This provides a chance to build upon the current system of local food regulation and introduce some long-standing LGA policies; notably the mandatory display of Food Hygiene Rating Scheme certificates, and a strengthened, paid for registration and licensing scheme for all food businesses. Details of our desired changes and the positive impact of communities having greater control are also set out in 'Brexit: Moving the conversation on'.

### **Devolution to councils across England**

Brexit means that policy and decision-making in Britain will have to undergo a fundamental change. The scale of the Brexit project and, once we leave the EU, the speed at which these changes will have to be made, means that Whitehall is likely to continue to work through departmental silos, and hold power centrally. Previously Government embarked on a process of inviting propositions for devolution and negotiating these with local leaders. As a result there are now ten signed devolution deals and seven Mayoral Combined Authorities established, all with a wide range of powers over skills; housing; and, health and social care.

These deals have already begun to demonstrate the value of devolving powers to leaders close to the concerns of local people. Brexit brings into focus the significant opportunity to restart the process of agreeing devolution deals with councils across the country. Government should build on this strong foundation and bring forward plans to enhance the devolved powers of all areas in England, outside the mayoral model where appropriate.

Reflecting the urban focus of many of these deals and the strong desire of local leaders across the country to secure devolution to drive the best outcomes for their communities, the LGA's People and Places Board established the Post-Brexit England Commission. The Commission is developing a refreshed case for devolution to non-metropolitan areas and re-positioning councils as a key partner with Government in shaping and supporting a successful post-Brexit England.

The Commission published an [interim report](#) in July 2018 detailing the significant social

and demographic challenges facing rural and coastal communities and identifying seven policy areas in which power and resources might be devolved to councils in order to provide better outcomes for residents and businesses. These are: skills, housing, digital connectivity, health and wellbeing, transport, trade and investment and productivity.

In the year ahead the Commission will continue to run roadshows across the country, gather evidence and commission research that starts to add detail to the type of local solutions likely to make a real difference to communities and business across the country. The Commission expects to publish its final report in July 2019 and to make a number of recommendations in favour of devolution to leaders in England.

### **Devolution to English communities**

There is a bigger debate to be started in the longer term about the governance of England. The UK Government has taken steps towards devolution in cities and city regions, these deals have altered the balance of powers and responsibilities across the England since 2000. While the LGA continues to make the case for devolution to all areas within England, urgent consideration must now be given to the position of local communities in England compared with those in Scotland, Northern Ireland and Wales.

Brexit offers the opportunity to start to answer the 'English' question and give local communities across the UK an equal right to take control of the key decisions that affect their lives. To this end the LGA has proposed that an English Devolution Bill be presented in the first Queen's Speech post Brexit offering the opportunity to enhance the devolved powers of all areas of England. This should present options for devolved powers to at least the level of the Scottish Government and be underpinned by statute to ensure that these powers and the powers already devolved through existing deals cannot simply be rolled back by a change in government policy.

### **Local government's formal advisory role**

The EU (Withdrawal) Act converts EU law into UK law, with the intention of allowing businesses to continue operating and providing fairness to individuals, knowing the rules have not changed on the day the UK leaves the EU.

This legal certainty must be given to councils too. Currently local government has a formal advisory role in the EU law and policy-making process through its membership of the Committee of the Regions (CoR). EU treaties include other provisions under which local government representative associations must be consulted. Local government has used its advisory role diligently, making sure that law-makers had good advice so that regulations and laws governing local services could be implemented well at the frontline of delivery.

In a House of Lords debate in March, the Government confirmed that local government would continue to hold a formal advisory role, similar to the one we currently have through CoR which we welcomed. Any alternative mechanism must ensure that there is no loss of powers for local government on the day the UK leaves membership of the EU. It is the rights and responsibilities local government currently have that need to be replicated, not the institution of the CoR itself.

The LGA, together with the local government associations in Wales, Scotland and Northern Ireland, have been in discussion with the UK Government about how this advisory role might be replicated in UK law. Our shared ambition is to replicate the advisory role of local government in the UK post-exit, without creating new bureaucracies. We would encourage the Government to update Parliament on the progress of these discussions as soon as possible.

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<sup>1</sup> [https://www.local.gov.uk/sites/default/files/documents/5.39%20Brexit\\_v06WEB.pdf](https://www.local.gov.uk/sites/default/files/documents/5.39%20Brexit_v06WEB.pdf)