

This consultation paper is presented as the first stage in the development of Party policy on local governance and devolution. It does not represent agreed Party policy. It is designed to stimulate debate and discussion within the Party and outside; based on the responses generated and on the deliberations of the working group a full devolution and local governance policy paper will be drawn up and presented to Conference for debate.

The paper has been drawn up by a working group appointed by the Federal Policy Committee and chaired by Judith Jolly. Members of the group are prepared to speak on the paper to outside bodies and to discussion meetings organised within the Party.

Comments on the paper, and requests for speakers, should be addressed to: Judith Jolly, Devolution and Local Governance Policy Working Group, Policy Unit, Liberal Democrats, 4 Cowley Street, London SW1P 3NB. Email: [j.wallace@libdems.org.uk](mailto:j.wallace@libdems.org.uk)

Comments should reach us as soon as possible, and in any event no later than 31 October 2005.

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# **Introduction**

1.0.1 The Liberal Democrats are carrying out a review of our policies on devolution across the UK and local and regional governance in England. We are aiming to bring to our conference in September 2006 a major policy paper that will look at the main issues of the way government works, the purpose and function of different tiers and the structures needed. The following principles will be applied to our policies:

- Decision-making should be as close to the people and as locally accountable as possible.
- Citizens must have every opportunity to be involved in the decision making process. Systems of governance must be sympathetic to this.
- Governmental structures must be representative, open and accountable but also efficient.
- Systems of governance should not be uniform across the country and should be adaptable to the localities they serve and the needs for which they are set up.

1.0.2 Local government in Scotland and Wales are devolved matters and are therefore not covered in this review. We do however encourage the party, organisations and people in both nations to contribute their views about how the current devolution settlement is working and what changes, if any are needed to improve it.

1.0.3 Within England, Liberal Democrats need to respond to the 'No' vote in the North East regional referendum held in November last year. We also need to consider the status of England within a devolved UK.

1.0.4 Local government in England continues to struggle within a tight straitjacket of Whitehall's making. Council budgets are capped or are threatened with capping. Local authorities themselves have too little scope to set their own agendas based on local needs. Instead they are forced to be little more than agents for central government. Successive Conservative and Labour governments which have gradually stripped councils of their functions have created all this. At the same time many and varied quangos have been created which are accountable entirely to ministers. All this runs completely counter to the Liberal Democrat approach of local accountability and responsibility within a devolved system of governance.

1.0.5 We are therefore interested in learning your views on how the trend to centralisation can be reversed and what should be put in its place. Throughout this document there is a series of questions for which we need answers before producing our policy paper. If you cannot attend the consultation session at conference and wish to take part please send your responses to Dr Jonathan Wallace, Policy Unit, Liberal Democrats, 4 Cowley Street, London, SW1P 3NB by 31 October, or email them to [j.wallace@libdems.org.uk](mailto:j.wallace@libdems.org.uk)

Judith Jolly  
Chair, Devolution and Local Governance Working Group  
August 2005

## ***Devolution in the UK***

2.0.1 Governance of the UK is, to put it bluntly, a mess. We are one of the few countries without a written constitution. UK government has therefore been able to accumulate considerable powers over the individual and over lower tiers of government. Devolution to Scotland and Wales was introduced in 1999. London gained an assembly and elected mayor in 2000. Northern Ireland has been in a state of flux since the Good Friday Agreement in 1998 and the assembly has swung between struggling to survive and suspension.

2.0.2 Meanwhile England's government is the UK's government. In effect, the UK Parliament and government have a multipurpose role. The two main ones are to be the government for the UK as a whole, dealing with UK wide issues, foreign affairs and defence and to be England's government. If that is not clear enough, the UK Parliament is also the law maker for devolved Welsh matters as the Labour government refused to give the National Assembly of Wales primary legislative powers. That is not the case for Scotland as the Scottish Parliament has full law making powers over all devolved matters.

2.0.3 To add to the confusion, the UK government decides the overall budgets of Scotland and Wales as well as of all levels of governance within England. As considerable power resides with those who control the finances, a true state of devolution cannot exist until such powers are devolved as well.

2.0.4 Yet, if law-making powers are devolved to Wales and financial powers are devolved to both Wales and Scotland, where does that leave England? The English would have no say over the decisions made in Scotland and Wales. In keeping with the Liberal Democrat approach of creating genuine devolved settlements, we should have no problem with preventing England from interfering in Scottish and Welsh affairs. But what about the flip side of the same coin? In a genuinely devolved settlement, Scotland and Wales should have no right to interfere in English matters. Yet the mixed up nature of the current constitutional set up allows for precisely that form of interference.

2.0.5 The reason for this is the UK Parliament is also the Parliament of England, passing English-only legislation despite containing representatives from outside England. And the UK government, as well as being responsible for UK-wide and international matters, is also an English government. Alongside UK-wide ministries such as Defence are English-only ministries such as Health and Office of Deputy Prime Minister. And just to add to the confusion, departments such as the Home Office deal with English matters and some Welsh issues.

2.0.6 In the light of devolution developments that have taken place since 1997, Liberal Democrats will need to consider how to reform UK governance to take account of the changes. We will need to consider the odd constitutional position of England and decide whether changes are needed.

2.0.7 Options to consider, which are by no means exhaustive, are varied:

- Introduce the same level of devolution across the UK to all constituent parts including England;
- Status Quo: no change to the current settlement;
- Extend further powers to devolved bodies but retain English functions within the UK government.

2.0.8 If a constitutional settlement includes a specifically English element, what should the options for English governance be? Options (again not exhaustive) could include:

- Allowing only English constituency MPs to vote on English only matters but with the UK government continuing to act as the English government;
- Allowing English MPs to operate as an English Parliament, appointing an English government separate from the UK government;
- Setting up a separate English Parliament;
- Continuing down the path of evolving English regional government with the aim of investing in them powers currently held by UK government which in Scotland or Wales are devolved.

2.0.9 It is possible that elements of some of the above could be combined. Liberal Democrats however need to explore the options and decide which will produce the best decision making, involves voters by engaging with them, is relevant to people on the ground, commands popular support and is efficient and joined up.

2.0.10 Liberal Democrats have previously argued for elected regional government in England. In November 2004 however a referendum was held in the North East on a proposal to have an elected regional assembly. The proposal, on a relatively high turnout, was rejected four to one. We need to reflect on this and consider whether the people rejected the proposals because they were too weak or because people rejected the whole concept of elected regional assemblies.

2.0.11 We also have to consider that regional government in England is an established fact. It exists in a huge variety of forms and carries out a vast range of functions. Too often it is an opaque maze of competing quangos, boards and trusts, operating within differing geographical boundaries and with little co-ordination between service providers. They spend vast sums of public money but most are accountable to ministers in Whitehall rather than to locally elected representatives accountable to the residents who have to live with their decisions.

2.0.12 The creation of regional assemblies would have been the opportunity to draw together the vast array of boards, quangos and appointed authorities so that they could operate in a more joined up, efficient manner. It would be an opportunity to address the democratic deficit that characterises so many functions within our English regions. Faceless bureaucrats run too many services accountable to Whitehall and not to the people who use them.

2.0.13 We need to decide whether there is a need for a tier of governance between local and national level. And if we decide there is a need, we need to consider its scope, scale and structure. A number of options could be considered for the English regions (again they are not exhaustive).

- We could stick with the status quo. But that still leaves us with the problems outlined above.
- We could continue with our existing approach of evolving regional government, allowing regions to establish elected assemblies where there is a demand and providing them with strategic powers to co-ordinate functions and ensure governance is joined up. But can such an approach work following the outcome of the North East referendum? Some regions may not wish to go down this route so should devolution vary from one area to another? Some could take on no new structures and no additional powers whilst some

could take on a whole series of powers with an assembly elected by the people, assuming there is a public demand for it.

- We could, however, decide that the functions and services of unelected bodies should be the responsibility of local government but then create joint regional bodies accountable to local councils that would carry out those activities that are too large to be run by individual authorities. This already has precedents: most fire authorities are joint bodies made up of constituent local authorities to run fire and rescue services; police authorities are also joint bodies (though they are made up of magistrates as well as councillors). Perhaps we could consider the establishment of a regional authority accountable to local government which is responsible for those services which local government believes should be handled jointly. Such functions should not include those already residing in local authorities but the running of hospitals, the regional development agency, learning and skills councils and so on could be subsumed into a regional assembly that is accountable to councils.
- Yet some issues with this approach need to be resolved. Firstly, what constitutes a region and do we follow existing boundaries? Secondly, what happens to existing indirectly elected but sub-regional bodies such as fire and police authorities? Thirdly, how do we address the problem of such a regional body being one step removed from the people rather than directly accountable to them?
- A further option is to scrap the regions as they are currently constituted and consider the creation of elected sub-regions based around cities and counties. They would need to be large enough to carry out strategic functions but small enough for residents to feel an affinity to them and to retain an identity. As sub regions will be closer in size to local government, the structure of councils will be much more relevant in this option. Indeed, it may be that in some areas, existing structures, such as police authorities, could be used as the basis for a sub regional assembly. Large counties could become sub regions but should their existing powers be devolved downwards to districts? The creation of sub regions would also mean the abolition of current region wide bodies. Would sub-regions therefore be large enough to provide the strategic approach currently in place for regional development agencies, strategic health authorities and so on?

#### **Issues to consider:**

1. *What is it Liberal Democrats should try to achieve in terms of devolved government?*
2. *Should we opt for a federal UK in which the same powers are devolved to the constituent parts or a devolutionary approach in which some areas take on more powers at a faster rate?*
3. *What changes are needed to UK-wide government to accommodate existing and future devolution?*
4. *What changes would you introduce to improve the current devolution settlement in Scotland and Wales?*
5. *What is the most appropriate level at which the key government functions should be carried out?*

6. *Should the UK-wide government continue to be responsible for English matters and if not, what structures are needed to conduct English affairs?*
7. *Is there a need for governmental bodies between local and national level in England and if so what form should they take?*
8. *Was the North East referendum result a reflection of public hostility to the weakness of the government's proposals for elected regional assemblies, a rejection of the concept of elected regional government or the electorate voting against the government (as in French referendum on the European Constitution)?*
9. *What should be done to existing regional and sub regional structures in England to make them more accountable and more joined up with other service providers?*
10. *Should Liberal Democrats support the establishment of elected regional government as a long-term goal?*
11. *What should be used to define administrative boundaries in England?*

## ***Local Governance in England***

3.0.1 Local government comes in a variety of forms in England. Shire counties, shire districts, metropolitan boroughs, London boroughs, unitary authorities are all directly elected. Metropolitan transport authorities, fire authorities and police authorities are appointed by local government (but with the latter containing some magistrates). Health trusts, learning and skills councils and a wide variety of other service providers are appointed by and accountable to ministers. Indeed, local government is increasingly accountable to national government even when it is directly elected.

3.0.2 Central government controls on local government have been in place since the first uniform legislation governing local authorities was introduced in the 1830s. But it has been particularly the case in the past three decades that the Whitehall straitjacket on local government has tightened immensely. Approximately three quarters of spending by councils is provided by the government. Council budgets face capping. Centrally driven agendas, targets and inspection regimes smother local government accountability. Local government is in effect turning into the agent of central government, delivering ministerial, not local priorities, and tied to Treasury purse strings. The ability of local government to set its own agenda, if not yet neutered, is heading that way. How soon will it be before the main function of local councillors will be to take the blame for decisions imposed by the centre?

3.0.3 Local government is therefore in a perilous state, squeezed by central government with little room for setting its own agenda. So what would Liberal Democrats do? We need to consider first the actual purpose of local government. If it is simply to provide services, does the quality of service rather than accountability matter more? But if local government is meant to provide leadership for residents and communities as well as deliver services, accountability is of crucial importance, and so is the structure of authorities. And this is directly linked to the freedoms local government needs to enjoy to make local leadership and decision-making a reality.

3.0.4 In 2000, a new form of structure was introduced into devolved and local governance when London voted for the country's first ever directly elected mayor. In 2001 the concept was extended to English local government generally by the Local Government Act of that year. By 2003, all English local councils other than shire districts with a population of less than 80,000 had had to abolish their old committee decision-making structures. In their place was an executive-scrutiny split system. The aim was to have a clear decision making system based on an executive separate from scrutiny by the rest of the council. Executives could be a leader and cabinet appointed from within the council, an elected mayor with a cabinet made up of councillors or an elected mayor with a council manager.

3.0.5 Liberal Democrats were very critical of the limited number of options available. Though it was our amendment that won the day to allow smaller councils to retain a committee system, we stated at the time that the choice of options was far too narrow.

3.0.6 So what other options could be considered? One possibility would be to scrap the requirement to stick with one of the options outlined above and allow each authority, within an overall framework, to draw up their own decision-making systems. Another possibility could be simply adding to the three existing options. For example, all councils could be permitted to have a committee system or allow the people to elect the whole executive from which an individual will be appointed leader or mayor by the council. Would our approach of shifting the maximum amount of power, judgement and responsibility work in letting councils decide their own structure?

3.0.7 Local government elections now experience low turnouts, despite attempts to introduce different ways of casting votes - such as all postal voting. Too many councils are dominated by single parties facing oppositions that are weakened by a voting system that works against them. The system is one that has been characterised by out of touch one party states, low engagement with residents and resulting apathy at election time. Healthy local government requires strong political debate, active citizens and active political parties and the power within local government to make a difference to people's lives. We need to consider how best to achieve this.

**Issues to consider:**

12. *What is your vision for local government, both elected and appointed?*
13. *What do we require of local government to enable communities to make a difference?*
14. *In what ways should our localist approach differ from the Government's?*
15. *What structures should local councils be entitled to adopt?*
16. *How do we restore the health and vitality of local government?*
17. *What can be done to make local quangos accountable to residents?*
18. *What should the relationship of the citizen be to local government?*

## ***Communities and neighbourhoods***

4.0.1 Whilst most people would not necessarily contemplate being a councillor to take part in the running of a local authority, many would like to have a say on what happens within their own community and neighbourhood. Yet too often, people feel powerless to have their voice heard or to influence what happens on their doorstep.

4.0.2 Whilst some areas, mainly shires, have parish and town councils, they are limited in their powers and responsibilities. Some councils have pioneered decentralisation of decision making to area panels and committees based on recognised communities and towns. Liberal Democrat run Eastleigh Council, for example, is seen as a leader on this.

4.0.3 Creating systems that involve people in neighbourhood decision-making could be a way of reviving local government generally as well as leading to improved decision-making. But what systems should they be and how would they work in practice. Should all communities and neighbourhoods be required to carry out their own decision-making?

### **Issues to consider:**

19. *What is the purpose of decision-making at community and neighbourhood level?*
20. *What is your vision of how neighbourhoods and communities can manage their own affairs?*
21. *How do we involve residents in neighbourhood decision-making?*

## ***Funding devolution***

5.0.1 Whilst a degree of political power has been devolved by the government, financial powers remain centralised. In Scotland, the Parliament has the power to vary the income tax rate by up to 3p above or below the standard rate but otherwise the Scottish budget comes entirely from the Treasury. In Wales the National Assembly has no direct tax varying powers and is dependent on the Treasury for its entire funding. The Greater London Authority and Mayor are able to set a council tax precept but otherwise receive a substantial part of their funding from central government.

5.0.2 The finances of local government in England are tightly controlled by Whitehall. Approximately three quarters of the money spent by councils is from government sources. For quangos such as Regional Development Agencies, Learning and Skills Councils and health trusts, their entire budgets come from central government.

5.0.3 The current basis for assessing spending between the nations of the UK is the Barnett Formula. It was designed in the 1970s to address the circumstances of the time and is now hopelessly out of date. Within England it fails to take sufficient account of the differences between regions and localities.

5.0.4 Liberal Democrats have previously argued that to make devolution and local decision-making meaningful, financial powers must be devolved as well. Control over revenue raising would be handed back from Whitehall to the regions and local government. Some central support would continue as areas with higher needs would need help. Heavy-handed controls over council decision-making should be rolled back.

5.0.5 Large-scale devolution of revenue-raising powers does however present us with a significant problem. The tax base can vary widely from one area to another. Areas with a low tax base (often those with the highest needs) could be especially vulnerable if the local authorities had to raise all or most of their income locally. If we go down the route of considerable financial devolution, we need to address how extensive that devolution should be and how we address the problems caused by widespread differentiation in tax bases.

### **Issue to consider:**

22. *What reforms should be carried out to the way devolution is financed?*
23. *Should central government support local government expenditure in England and if not, what should be done to help areas with a low tax base? If central support is provided, what level should it be and how should such support be distributed to local authorities?*
24. *Which revenue raising powers should be devolved from the UK government?*
25. *Should central government in England have powers to intervene in local government budgets?*