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2006/2007



# No More Tiers

**Reforming  
Shire  
Government**

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**Tim Palmer  
and Glyn Gaskarth**



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### **About Localis**

Localis is an independent research organisation which was set up to develop new ideas for local government. It organises seminars and commissions research relating to all aspects of local government.



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Reforming Shire Government

Tim Palmer  
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## **Summary of recommendations**

The current two-tier structure of local government in shire counties is under pressure. Even though the recent Local Government White Paper took a cautious line on a move to unitary councils, the pressures on councils to find more efficient ways of working will be intense. In addition, many of the criticisms made of the present system – that it is inefficient, confusing to the public and promotes conflict between different tiers of government – are valid. This report therefore makes the following recommendations for change:

- The status quo is not an option, but a move to conventional unitary counties is also unattractive. It would reduce democratic representation and create more remote authorities.
- We propose instead a ‘federal’ or bottom-up county unitary, with power flowing upwards from local committees. The strategic centre, led by a county committee, would carry out those tasks that the local committees delegated up. A blocking majority of local committees could overturn decisions taken at the strategic level.
- Members would be elected for smaller divisions (of around 2,000 voters), similar in size to current district wards. This would avoid the

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reduction in local democratic representation inherent in other models.

- There would be one council, replacing the current public confusion over functions, and a unified officer structure under a chief executive.
- A local committee would raise a local precept to pay for local services. A county committee would set a countywide budget and raise a countywide precept to pay for the strategic services. If a local committee wanted to have additional strategic services in their area they could raise an additional local precept to pay for them (for example, to maintain library provision beyond that paid for in the core budget).
- There would be two possible leadership models under this system: a county committee and a directly elected leader. In the latter model, the county committee would be the body whose support the leader would have to secure for his or her budget and other strategic measures. A directly elected leader would be more visible than the alternative, but would increase the risks of conflict and would divide the officer structure.
- The new council would adopt a model constitution with some scope for local variation. The choice of leadership model would be made by local referendum.
- The new model offers a suitable vehicle for powers to be devolved from central government, including strategic planning, fire, primary care and police. It should also be possible for many elements of these services to be delivered at the local level.

# **1 . The pathologies of centralism**

These days, it seems, everyone is a localist. At the level of rhetoric, almost every leading politician and commentator – not to mention the recent Local Government White Paper, *Strong and Prosperous Communities* – accepts that that the unique level of centralisation within England is a serious problem. Yet a genuine effort to roll back centralism appears still to be far off, not least because its more subtle effects are not well understood.

The starting point for the current debate on local government was the commissioning by the government in July 2004 of an Inquiry by Sir Michael Lyons, the former Chief Executive of Birmingham City Council. Sir Michael's original brief was to review the system of local government finance and to report in December 2005. However, in September 2005 the Inquiry's remit was widened to include local government functions, and final publication delayed, first until this month and now apparently until February 2007. In the meantime, in November 2005 a leaked memo by the then Local Government Minister David Miliband, criticising the two-tier system in shire counties and suggesting

that councils be encouraged to bring forward proposals for unitary authorities, sparked a parallel debate. So far, however, neither the issue of the central-local relationship nor that of the structure of shire government has been clearly resolved.

A peculiarity of the system of government in England is its inherent distrust of elected politicians, or to be more precise, elected local politicians. Even where action is not taken at the Whitehall centre, it is delegated not to elected *local* authorities but to quangos such as the Learning and Skills Council and in recent years to regional tiers of government. Critical policy areas such as spatial planning have been taken away from elected local authorities (in this case, under the Planning and Compulsory Purchase Act 2004). In addition, the financial base of local government is limited and central government has taken a battery of powers – notably under Public Service Agreements (PSA) - to monitor and control local authority performance. Devolution works on the principle of earned autonomy, with more freedom for those that perform well – this being defined as acting in line with central government priorities.

The main problem of centralisation is the sapping of local initiative. The interim report from the Lyons Inquiry has pointed out that “the gravitational pull of government grants, targets and performance management has created an unhealthy situation where local councils are too often focused on the wishes of Ministers and their departments rather than their own citizens.”<sup>1</sup> The financial regime of performance grants, coupled with a narrow tax base, further encourages compliance with central demands. It also works against long-term planning, since Public Service Agreements include one-off pump priming funds, leaving local authorities to consider how “costs such as staffing would be paid after the pump priming grant

had finished.”<sup>2</sup> Since business rates were nationalised, councils also have little incentive to foster business growth.

More subtly, centralisation undermines national leaders’ aspirations for ‘joined up government’. This aspiration was embodied in Local Strategic Partnerships (LSPs) and Local Area Agreements (LAAs), both of which aimed to bring the local public sector and other important groups together to set local priorities. LAAs were also intended to coordinate funding. While both initiatives have probably been improvements on what went before, they have disappointed in terms of delivering local decision-making. In part, this has been because of constant changes to the functions and boundaries of different bodies, meaning that many public sector bodies are not ‘co-terminous’; for example, the boundaries of Crime and Disorder Reduction Partnerships (CDRPs) do not match those of the probation service.

*“Ultimately an LAA should not have to exist because I think the health and police services should be more under democratic local rigour than now.”*

Henry Smith, Leader West Sussex County Council

However, it is national control and national target-setting that has most undermined local partnerships. An Office of the Deputy Prime Minister (ODPM)/Department of Transport report acknowledged “a number of tensions” including “the compatibility, or lack, of government and local agendas”<sup>3</sup>; Government Offices who negotiated with the centre on behalf of LAAs feared that “if they overstepped the mark then they would be seen as ‘going native’ by central government.”<sup>4</sup> At a detailed level, target-setting has under-

mined co-ordination; one striking example was the CDRP in Bristol that wanted to send drug users undergoing treatment to live in a probation hostel. “The hostel had space, local probation liked the idea, but it had a national performance target which required it to keep hostels at least 90% full and, since chaotic drug users were the least reliable residents, it had to block the plan.”<sup>5</sup>

More generally, local authorities have found – to their cost – that other public sector bodies do not share their priorities. Thus Wiltshire County Council, acting with all the energy of a well-run authority, followed the logic of joining-up across the divide between county social services and the local NHS, a divide that has caused unnecessary suffering and difficulties for people, especially the elderly, over the years. Bridges were built, systems were aligned and budgets were merged. This was local democracy in action, delivering better services more efficiently for those who needed them. Only they got it wrong. County councils answer to the ODPM and health authorities answer to the Department of Health. While the one promoted the idea of joining up public services the other unilaterally cut its budgets. The result: local NHS bodies withdrew, leaving the county literally holding the baby, landed with all the commitments and liabilities but without the money to discharge them. The smell of burnt fingers has been strong on the air and other councilors, murmuring words of sympathy to their Wiltshire colleagues, have made a mental note never to go down the same road themselves. The real victims are of course the taxpayers who have to pick up the bill and the elderly men and women who will continue to fall through the gap between two disconnected arms of the public service that they helped to fund in the first place. Only local control of decisions and finances can solve this and other similar problems.

The problems of partnerships are a symptom of a deeper tension within the Labour government's approach. While strengthening the grip of central government on both the conduct and direction of local affairs, it has sought to increase local involvement in the process through a variety of means including consultation exercises, opinion polls, and community partnerships. The motive has been twofold: to increase the legitimacy and cost-effectiveness of centrally-inspired local programmes. The results, however, have been mixed.

*“[With participatory structures], it’s as if the government is trying to reinvent the wheel and actually coming up with something square shaped.”*

Henry Smith, Leader West Sussex County Council

It is worth pointing out here that the drive for consultation and partnership in local decision-making, admirable in itself, has been accompanied by a less than total enthusiasm for the system of representative democracy. On the contrary, ‘Participatory Democracy’ is an idea that is deeply imbedded in New Labour philosophy. Peter Mandelson’s well-known remark, “The age of representative democracy is slowly coming to an end” sets the tone, and much of what the government has tried to achieve at the local level has been coloured by this thinking. It accounts in part for the lack of success that they have so far enjoyed, and enthusiasm for ‘participatory’ as a substitute for ‘representative’ democracy appears to be waning. Commentators on the Old Left such as Polly Toynbee have robustly defended the representative system, warning against the dangers of handing over power to unelected groups or cliques of local activists;

as she has said “There is a good reason why local government exists with its democratic rules and regulations.”<sup>6</sup>

David Miliband, when Local Government Minister, put forward a number of ideas for the ‘empowerment’ of local communities and an enhancement of the role of ward councillors involving minor budget holding, consultation and monitoring of the council’s performance. Viewed from a localist perspective, this looks like an attempt to ‘sweeten the pill’ of top-down, centralist government rather than a true attempt to reverse the flow of power and tackle the root cause of disaffection and discontent amongst the voters.

While much effort has been put into the ‘consultation process’ the public remains sceptical seeing that their wishes are largely irrelevant to the direction already set by Government policy. Consultation fatigue has set in.

The prospect of very local ‘participation’ has been touted as a substitute for real local power through democratically elected representatives. It is no such thing. A new, localist approach is needed. Efforts at reform will be largely wasted until the fundamental issues of local votes, local taxation and local decisions are addressed.

## **2. Making localism work in shire England**

The main focus of this report is on how localism might be made to work in the shires: the often historic counties, predominantly composed of smaller towns and rural areas. It is in this area that the debate about centralism spills over into the possibility of another bout of local government reorganisation. It has been a favoured argument of central government that it needs to be sure of the effectiveness and clear accountability of local leadership before any power is devolved, and in the shire counties this runs straight into the long debate over the workings of two-tier government. If this issue cannot be resolved, localism will be hard to achieve.

In its current form, the two-tier structure dates from the 1972-74 reorganisation, which saw the absorption of county boroughs (large towns with a unitary structure) into restructured counties, and the merging of a variety of lower-tier councils into a more uniform structure (district councils). These reforms have never been fully accepted: the divide between the two tiers remained a source of diffi-

culty and twenty years later the Banham Commission explored the options in a further round of reorganisation, this time promoting but not imposing the idea of unitary councils. With strong opposition to the unitary option in many areas, it was implemented only on a piecemeal basis.

The unitary option was revived by David Miliband's leaked memorandum of November 2005, triggering a period of significant uncertainty in shire government. Here, as elsewhere, the eventual White Paper of October 2006 proved to be more tentative than had seemed likely during earlier stages of the debate. *Strong and Prosperous Communities* made clear that unitary bids would have to meet exacting criteria in terms of financial viability and local support, and spoke of a "small number of proposals conforming with the criteria that it [DCLG] expects to receive." There is, however, a sting in the tail: the White Paper makes clear that it views the whole issue as unfinished business, and is inviting bids for 'pathfinder status' for those councils who wish to try novel approaches to making the two-tier system more efficient. Most significantly, all two-tier councils are expected "to achieve similar levels of improvement and efficiency gains to those we are expecting of the new unitaries." With public spending going through a period of austerity, the pressure to find new, more efficient models will be intense. In addition, the 'pathfinders' will be studied over two-yearly intervals for lessons that could have more general applicability. In other words, the debate over the structure of shire government has been deferred but has not gone away.<sup>7</sup>

In his memorandum, David Miliband questioned whether the existing system could deliver "the strong strategic leadership, local voice and choice and accountable cost effective services that we want to see."<sup>8</sup>

The existing system generates public confusion over who is responsible for what, and there is obvious duplication in areas such as waste (with one county authority, responsible for disposal, dealing with a number of district authorities who are responsible for collection). Miliband also argued that this confusion, by weakening the capacity of local government in shire areas to take effective decisions, reduced the supply of able people willing to take part in it. There is certainly evidence that it has undermined partnership working: “many organisations operating at below county level perceived the LAA as a threat, a centralising force rather than a move towards localism.” In other words, the districts saw enhancement of the county’s co-ordinating capacity as a threat: “in two-tier areas many saw the initiative as a ‘take-over’ of ‘their’ funds by the county council.”<sup>9</sup>

*“Residents don’t understand who does what - why should they? And when they do start to understand it they think it’s a crazy system and an expensive system”*

Jane Scott, Leader Wiltshire County Council

Efficiency arguments are also critical. Miliband pointed out that, while central service costs make up about 3% of the budget for county councils, the comparable figure for districts is 30%. Given that local government is set to bear a significant portion of the austerity projected for public sector budgets in the coming years, while pressures on its services are likely to increase (for example, the impact of demographic change on social care budgets), there will be a powerful need to squeeze out efficiency savings. More generally, Miliband argued that the districts were too small to give effective strategic leadership, but too big to be close to their citizens. The logic

of his argument was to create a unitary structure, either on the basis of existing counties or by amalgamating districts and breaking up existing counties. Miliband added a further dimension with ideas for devolution of significant power to the ‘neighbourhood’ level (for our purposes, towns and parishes) to scrutinise, consult, monitor and propose.

This focus on the deficiencies of the districts has been echoed in localist writing, such as Simon Jenkins’ *Big Bang Localism*.<sup>10</sup> This combines a welcome, one-step return of power and responsibility to counties - funded by a variety of local taxes and a block grant from the centre to allow for redistribution between rich and poor areas – with an enhanced role for parishes. The almost 9,000 parish or town councils in England already have the opportunity to add service provision in a number of areas – chiefly relating to local amenities – to their advisory role on issues such as planning, but this is discretionary and varies widely between parishes. In the localist model, the parish or town role would be much more central. Local identity, local responsibility, local pride, local taxation and local votes would thus be rejoined to the benefit of all. District councils would be abolished. The local and historic identities of counties and parishes are key features underpinning this revolution, giving stability, continuity and ‘buy-in’ from the local population.

We must look more closely at the practicalities of a pure county-parish (or town) split. What functions would the parish tax-base be able to carry? Which functions would have to be discharged at the county level? Would this result in a loss of local control if the districts were abolished? Planning is a case in point. The statutory process could not be administered at the parish level but a single county committee could not cope with the work-load and would not

be local enough to bring democratic legitimacy or local knowledge. Pre-1974 the solution was to have a series of sub-county committees made up of some elected members and some appointees because there were not enough county councillors to do the job alone. This is not satisfactory either.

*“The unitary system on its own does not drive down locally enough”*

Jeremy Pemroke, Leader Suffolk Conservative Group

We should also look at the structure of county government itself. Is the traditional model of a single county chamber consisting of 40-80 councillors elected for divisions of 8-12,000 voters the only one available? Is there another way of bridging the democratic gap left by the abolition of district councils if parish councils are unable to take up all the slack? Is there a problem and what is the solution?

What responsibilities are a rural parish or town council likely to want or be able to discharge? From the localist viewpoint, the principle must be that all services should be local unless people at the local level need, for reasons of economy and efficiency, to delegate them to a higher, more strategic level of government. Here scale is all-important. A county of a half to a million and a half people is large and has strategic capacity but is remote from very local communities. On the other hand, parishes can be very small and even the most ardent localist would have to concede that an English parish of 600 souls is not the same as a French commune of 6000. It is this wide gap in population that district councils were designed to bridge. The small scale of many rural parishes is bound to limit their capacity to take responsibility for local services.

How easily could parishes take on responsibilities such as primary schools, doctor's surgeries, home care and day care of the elderly, sports halls, public buildings, the parish church and some control over local policing? Although larger town councils might well be able to take on all these, raise the tax and run the administration, smaller rural parishes would struggle for a lack of resources. In addition, primary schools and medical practices have catchments that are much wider than a single parish. Would one parish accept the burden of maintaining the building while a neighbouring parish had no such responsibility? The catchments for care facilities are even wider. Of course the cost of employing teachers, doctors and care professionals is very high and may be prohibitive. With these caveats, the list is feasible if the tax base is wide enough in terms of the numbers of people and properties and the mix of taxes that can be levied without 'overstretch'. In practice the likely result is that the more 'parochial' aspects including buildings would be taken on but with the wider, more expensive services and salaries remaining with the principal authority. This cannot, however, be taken for granted.

The remainder of local services would, under these proposals, be administered by a new 'unitary' county council. These might include large sports centres, planning and building regulation, public health, waste collection, housing, licensing, street sweeping and pavements, and park and ride schemes. This represents a significant shift to a relatively remote county administration. A gap is likely to open up in local democratic accountability in the area now occupied by districts.

So there is a problem, not just the inherent problem of how to devolve power to the local level in a top-down system, but also of how to ensure the greatest, most local control of services on which we all

rely. How do you ensure that local people have democratic control of the things that they want and have a right to control, instead of just those things that they are allowed to control? In short, how do you make local government in shire England work from the bottom up?

*“The White Paper says that you will do everything together unless you have a valid reason not to do things together ... If you look at all the policies coming from central government they presuppose a unitary model”*

Jane Scott, Leader Wiltshire County Council

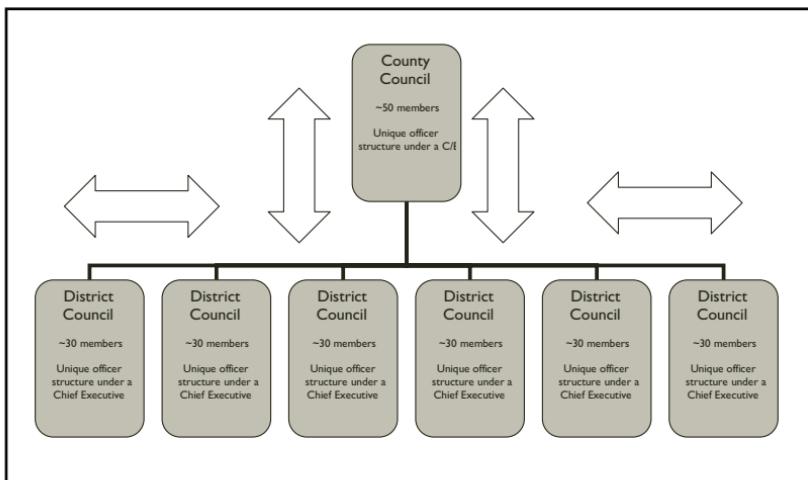
This report, however, proposes an alternative model of decision-making within a unitary county council which seeks to bridge the gap. The remaining chapters of the report compare it with the present two-tier model and with the traditional model for a unitary county, as well as examining the pros and cons of two different versions of county leadership, indirectly and directly elected. These models will be tested against the following key principles.

- Efficient decision making for a variety of functions, local and strategic
- Cost of bureaucratic process reduced in relation to outcomes
- Decisions made at the most local level practical
- Decisions made by vote of democratically elected representatives
- Local representative democracy revived, local communities re-empowered

# **3. Options for change**

The present two-tier system of counties and districts has, as discussed, fallen into disrepute. Nonetheless it also has advantages which are worth rehearsing.

## **The Present Structure**



County councils vary greatly in size according to the populations they represent but will commonly have 50-70 members (rather more in the case of the biggest counties such as Kent), each representing 7-12,000 voters occupying a medium size market town or a stretch of country of 50 square miles or more. District councillors have much smaller constituencies of 1,500-2000 voters giving several to a town or one councillor to every three or four parishes. Representation is therefore much more local at the district level. Each has a population of 50-100,000 so there will be a number of districts in every county. Dorset (population 400,000) has six district Councils while Kent (population 1,370,000) has twelve.

#### Advantages:

- Wide ranging democratic representation. Every voter has a democratic representative at three levels, parish, district and county, covering three levels of responsibility from very local to strategic.
- Both local and strategic decisions are possible. In essence the County is responsible for the big, strategic matters like education, social care, highways and waste disposal and has a budget to match (£500m to £1.5billion). Districts have much smaller budgets (£10m to £20m) to match their smaller local responsibilities like planning, recreation and waste collection. The strategic capacity of county employing 10-20,000 full-time equivalents (FTEs) complements the local focus of the districts employing around 50 FTEs each.

#### Disadvantages:

- Constant tensions leading to mutual suspicion between competing authorities make it difficult to get agreement on joint action. County councils are strategic authorities that act locally

and it is inevitable that there will be overlapping areas of activity with districts. Districts in their turn may take the same attitude to county that the latter takes to central government, that it is remote, overbearing and trying to impose its own view. Working relationships between authorities vary but are often strained and counterproductive and even members from the same political party soon come to believe that county is conspiring against district and vice versa. The resulting waste of time and energy is in nobody's interest, least of all the local taxpayer.

- Cooperation between districts has been very patchy and often non-existent without the threat of abolition. There have been many opportunities for cooperation or sharing of back-office capacity between neighbouring districts that have been ignored in the interest of each maintaining its independence.
- The failure of county and district, and of district and district to work together as effectively as they could have done has led to inefficiency, time-wasting, duplication and high overall cost.
- The tensions may be fuelled by officers and competing officer structures that have an interest in maintaining divisions. Seven chief executives in Dorset with seven separate officer structures beneath them, or indeed thirteen of the same in Kent, is not a recipe for efficiency or cost-effectiveness across the county.
- All these problems are inherent in the two-tier system and are unlikely to be mitigated or improved without an external threat of reform or abolition from central government.
- The public do not recognise the difference between their district and county councils anyway. To most people there is just 'the council', the division of responsibilities appears to make no sense and is a source of irritation to those who want something done and cannot find their way through the system.

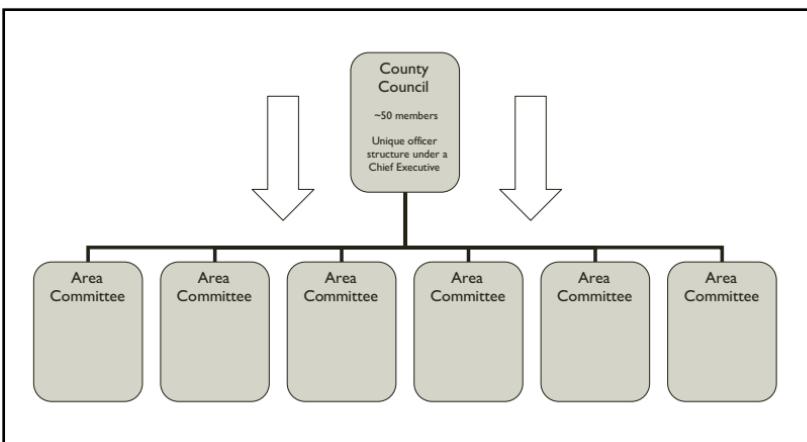
- As a result of central government control of funding and decision-making, the democratic responsiveness of councils to their electorates is limited and public engagement is low.

*“Ten years of national Learning and Skills and we have twice as many youth offenders as before. ... Doing things nationally has not worked”*

Lord Hanningfield, Leader Essex County Council

## **Conventional unitary county**

This would be achieved by the abolition of district councils and the replacement of the two tier structure with a single layer of county unitaries. Herefordshire, one of the smallest counties with a population of 178,000, became a unitary authority as a result of the 1996 reorganisation. Meanwhile, many larger counties have sought to improve their local focus by delegating some decisions and resources to area committees made up of the county councillors in that locality. Area committees are not a new idea and would certainly



form the basis for devolution within any new unitary county. The structure is straightforward, being not dissimilar from today's county councils without the district layer. As with the two-tier structure there are advantages and disadvantages.

Advantages:

- A well-understood structure requiring little adjustment from present county arrangements with district functions being easily absorbed.
- A clear county identity, chiming with most people's preference in rural England. The majority identify with their town or village and with their county. Outside the parish there would be one, well-recognised provider of services.
- A single officer structure with no competing interests which in turn is likely to yield lower costs countywide.
- Efficient strategic decision making capacity is retained.

*“The advantage of the current system is that we have a reasonable number of people which you can actually go to”*

David Parsons, Leader Leicestershire County Council

Disadvantages:

- A sharp reduction in democratic representation. As has often been pointed out, the UK already has fewer councillors per head of population than other advanced democracies, and a further reduction would exacerbate this difference.<sup>11</sup> Some unitary proposals seek to overcome this by a modest increase in the number of county councillors (with a matching reduction in the size of their divisions), but the reduction would still be significant.<sup>12</sup>

- Remoteness. Even now, county councils can be perceived to be remote from local people as compared to districts. Area committees are designed to counter this but, because each county division (ward) is comparatively large, even these committees cannot have a very local focus or a very local democratic mandate.
- Local decision-making is therefore a problem, particularly in matters like planning. At present, district planning committees have to meet frequently to cope with the workload and keep within the eight week time limit for decision-making. In addition, the county planning committee has its own business to conduct. There are not enough county members to carry out all this business on their own and local planning committees would have to co-opt outsiders to make up the numbers.
- Top-down. However much effort is put into giving the council a local focus, this must inevitably come from the top down. The small number of members representing 8-12,000 voters have nothing like the local focus of the combined total of district members representing 1.5-2,000, nor the local decision-making power to make a big difference at the local level. Area committees have limited powers devolved down to them and limited budgets with most decisions being made by the county cabinet.
- There is no re-empowerment of the local community. In fact the reverse may happen. Small area committees of county councillors cannot emulate the local focus of districts and without major powers may be seen as a sop to local opinion.

Could these disadvantages be removed or mitigated by increasing the number of councillors to approximately that of the combined total of district councillors?

If councillors were elected for wards of 1,500-2,000 electors:

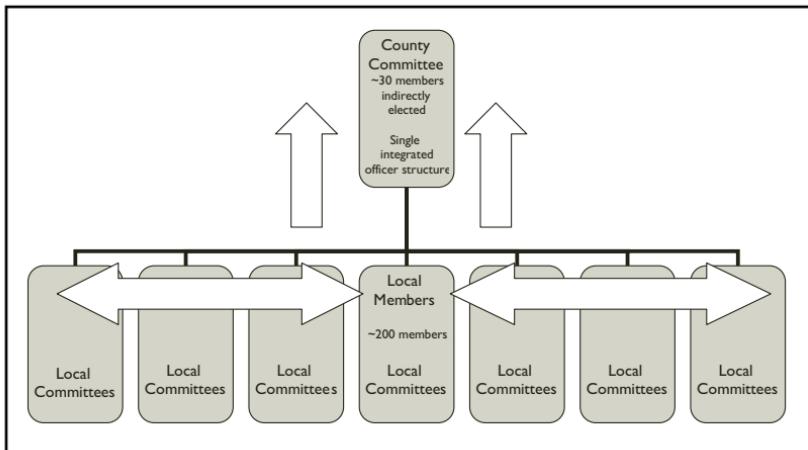
- A single chamber of 200-500 members would result which would clearly be impractical.
- Area committees would have the right numbers but would still have limited powers and be dependent on decisions made by main committees/cabinet of the council.
- If area committees were given full powers over local matters, it would still be necessary to resolve the size, role and constitutional position of full council. If the cabinet or full council could overrule decisions made by area committees with wide powers, what would those powers be worth to local people? If not, then we have a recipe for anarchy.

As it stands this variation would not be a practical proposition. Further changes are needed to resolve the competing issues of local democratic self-determination and strong strategic leadership. We propose a new model which, we believe, offers a solution.

## **4. The new model**

### A ‘federal’ county unitary

The new model turns the conventional model on its head. It is a ‘federal’ model for a county-wide authority based on the amalgamation of existing districts and boroughs. Like the present county council, it is large enough to act strategically but its work is focussed locally and democratic power flows from the bottom upwards. A key feature is that it works through a single, integrated officer structure under one chief executive and all members are elected quadrennially on the basis of local wards of about 2000 voters. There is a presumption in favour of decision by local committees with a limited range of strategic matters being delegated to either a strategic committee reflecting the countywide political balance or a directly elected leader. A blocking majority of local committees can overturn decisions taken at the strategic level.



## Constitutional arrangements

This is a single, unitary authority with a single constitution and a single officer structure. Power is held at the local committee level from where it is delegated up, as necessary, to the strategic, county level. The key features are as follows.

- The local committees are sovereign insofar as their local matters are concerned. They are responsible for ratifying the decisions of their own sub-committees, adopting their own minutes etc. In this sense they may appear to operate as independent democratic entities. They can represent sub-county sections of the population by mirroring the present district structure or they could operate on a different set of boundaries, perhaps based on market towns and their rural hinterlands.
- The single constitution for the whole county-wide structure allows no variation in powers or structure between local commit-

tees except for the matter of the traditional mayoralty. Those communities that wish to retain their traditional mayoralty can do so.

- The county committee is separate but is ultimately controlled by the local committees. A decision of the county committee can be overturned by a substantial majority of local committees (say 66% or 75%) voting against. The terms of reference and competence of the county committee will be laid out in the constitution, the definition of 'strategic' having been considered from the local viewpoint as those matters that are beyond the capacity of a local committee to manage efficiently. It is likely that the local committees will be responsible for a number of areas that are currently the exclusive preserve of the county council.
- Proposals for constitutional change would require a similar vote in favour.
- Local members not sitting on the county committee would have the right to ask questions, raise issues etc. as now at meetings of the county committee or its sub-committees.
- The make-up of the county committee might be determined by proportionality from the overall county-wide numbers of seats held and the numbers present on each local committee. In the example given below, therefore, each local committee will send an equal number of delegates to the county committee. The county leader is the chairman of the county committee. There is room for the county committee to be split into two to form a county executive committee and a county audit committee if this is thought appropriate although the constitutional role of monitoring the decisions of the county committee properly belongs to the local committees.

- While the core, countywide budget is set through the county committee and paid for by a countywide precept, local budgets are set in addition and paid for by a local precept. The local budget may be used to pay for specifically local services or to augment a core service provided through the county budget in that specific area. If, for example, social care was a core strategic service, a local committee could raise a local precept to, say, pay for an additional home-care worker in their area, over and above those already provided through the county budget.
- The county chairman, if retained, may have a ceremonial/ambassadorial role only (for example, as at present, chairing meetings of the full council).

## **How would typical decisions be taken under the new ‘federal’ system?**

Here are some examples of the way that competence might be divided between the county and local levels and the decision-making paths that might be followed.

- *Planning (quasi-judicial) – this function is simplified at the local level.*
  - *Present:* Parish comments >> District council committee decides >> District council adopts, and for matters where the CC is the responsible body, district council comments >> County council committee decides >> County council adopts.
  - *Proposed:* Town/parish comments >> Local sub-committee decides >> Local committee adopts.

- *Roads and Rights-of-Way (quasi-judicial) – also simplified at the local level.*
  - *Present:* Parish requests/comments >> County council committee decides >> County council adopts.
  - *Proposed:* Town/parish requests >> Local sub-committee decides >> Local committee adopts.
- *Highways – remains at the county level.*
  - *Present:* County council committee recommends >> County cabinet decides >> County council adopts.
  - *Proposed:* County committee decides >> Local committees receive/throw out.
- *Waste Management – simplified at the county level.*
  - *Present:* District committee decides >> District council adopts for waste collection. County cabinet decides >> County council adopts for waste disposal.
  - *Proposed:* County executive decides >> Local committees receive/throw out.
- *Budget.*
  - *Present:* District committee decides >> District council adopts. County cabinet decides >> County council adopts.
  - *Proposed:* County committee decides base budget >> Local committees receive/throw out. Then local committees decide local precepts in addition.

## Advantages

- Power is kept at the local level while maintaining a full county identity.
- It allows decision making at the lowest appropriate level with only limited strategic functions/decisions being delegated upwards to the county committee.

- It may provide significant cost savings over the current county/district costs combined.
- The single officer structure for a federated set of local committees is the key to abolishing inter-authority wrangling, the need for endless partnerships and the proverbial ‘cat-herding’ that bedevils the current system. It can be deployed in the most efficient way possible to service the needs of both local and county decision-making. For example, six local committees would not mean six of everything at the officer level but, say, one centre for finance, two for highways, three for planning etc.
- While the local committees can be based on current districts or market town catchments, the position of town and parish councils is left unchanged. There is room here for a significant expansion of their power as per the localist agenda.
- Locally set precepts covering any part of the full range of council activity, augmenting the base budget set by the county committee, could allow local manifesto commitments to be honoured and paid for by local taxation, reviving local democracy.

#### Disadvantages:

- This is a single authority but it is a confederation of local committees with a large overall membership. Political leadership and management of the council and large, county-wide party groups (~200-500) will be a key problem. Like other large groupings – indeed, like the Local Government Association (LGA) itself - it may be managed through an annual ‘conference’ or full council meeting open to all members with group meetings and plenary sessions. The main business would concern the budget strategy for the county but there will be other matters of common interest.

Outside this conference, all council business is conducted in committee and the council would not otherwise meet in full session.

Why not just keep the districts as they are, abolish the county council and substitute a county committee as above?

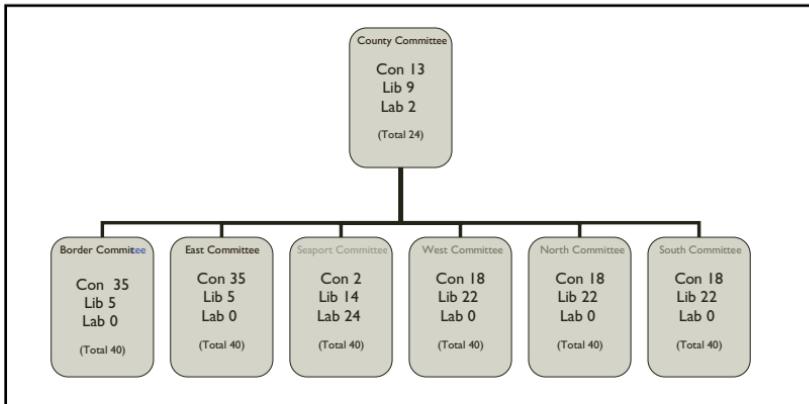
- If each district retained its own staffing structure under its own chief executive, another, larger officer structure would be required to support the county committee with a return to the confusion, competition and inefficiency of the present system.
- Less initial disruption might be caused but with longer-term tensions between local committees and no single officer structure to hold the council together, the authority would become dysfunctional.
- In summary this hybrid is unlikely to succeed.

# **5. The New Model in practice**

## A hypothetical example

Let us suppose that we have a new unitary county authority serving a population of about 500,000. There are 240 members divided equally (in this example) between 6 district-size areas with local committees of 40 members each (i.e. the districts are all the same size). They elect from their own number a county committee of 24 according to the rules of proportionality. What sort of result might we expect and would this be workable?

In the example shown, the Conservatives have a total of 126 seats across the county with large majorities in two of the more affluent districts. Labour have 24 seats, all concentrated in the Seaport district with its deep Old Labour roots, and the Liberal Democrats have 90 seats spread across the county with small majorities in three rural districts. Under the new model, this is equivalent to a position of 'No Overall Control'.



- **Budget setting.** The Conservatives have a majority on the county committee and will lead the budget process. However the base budget agreed will be thrown out if the four local committees (66%) they do not control vote against. The Conservatives will therefore need to 'buy off' either the Labour group or the Liberal Democrats to ensure the budget is passed. If the Conservatives also controlled one of the rural districts they could impose a county-wide budget of their choosing. The local committees will then set their own budgets which might include an extra contribution to county-wide items in their own area such as home-care for the elderly where most voters are pensioners, or a biomass/energy scheme for a local school etc. This is a unitary authority so no holds are barred in ensuring that local votes, local taxation and local delivery are all linked.
- **Contentious Issues:** How would these fare? Could decisions be made or would the system lead to deadlock?
  - *Waste Incinerator.* Suppose government policy requires all county authorities to halve the waste going to landfill. County

officers recommend that our county will need two incinerators and that a decision on siting and finance is needed. The normal planning process may be followed with the production of a county-wide waste local plan (overseen by the county committee) and a public enquiry. Again, any decision of the county committee on what technology to adopt, siting and finance can be challenged by local committees. If four out of the six are opposed to the plans, they will be thrown out and the county committee must reconsider. As there are only two incinerators needed (a reasonable number for a county of this size), a blocking majority is not guaranteed. If one of the sites is in a rural district, the local Conservative members (18) will feel threatened and will exert as much pressure as possible both at the local level and through the county committee where two of their number probably serve and where the group's majority is also only two. Given that government has determined that a decision must be taken, the position is no worse than at present in terms of the difficulty of delivering an unpopular project and probably better in terms of the real control that local electorates can exert.

- *Library closures.* At present, a county council, capped and deprived of adequate government funding, has to choose between vital services to the elderly and the vulnerable young and popular but less vital services like public transport and libraries. It is effectively trapped into taking an unpopular decision with no other avenue available and with no power or mandate to raise the extra funding needed. In the proposed system, a problem at the county level can be picked up at the local level. A small, part-time community library can be

financed by local precept on the basis of popular support and still be part of the wider library service rather than being the first part of a much larger system of public service to be disposed of when times get tough. This is a much healthier state of affairs.

## In conclusion

This federal model for a unitary county council can operate efficiently for a variety of functions, concentrating power at the lowest possible level and only delegating up to the whole-county level those powers that have to be exercised there. The flow of power from the bottom upwards reverses the present status quo and results in a degree of local flexibility in decision-making that significantly increases democratic accountability. If this model was combined with broad tax-raising powers at both levels the link between local tax and local action would be strong and direct.

The main disadvantage is that, because of the number of members involved, the ‘federation’ is unlikely to meet as a body except at an annual conference at a suitable central venue. This is certainly different – but it is manageable. The glue that prevents any tendency for the ‘federation’ to fragment is the single officer structure. Officers will form a county-wide hierarchy under a chief executive, efficiently dispersed according to team and accommodation requirements. The only group of officers reserved to each local committee would be a dedicated team responsible for running the committees themselves.

Finally, the application of the model is not limited to shire authorities. In at least two current cases, a version of the model might offer a solution.

Bournemouth and Poole Borough Councils are both unitaries responsible for the two halves of a single conurbation in Southeast Dorset. Neither is quite large enough to cope with the strategic agenda efficiently and both struggle to keep their noses above the financial flood. The politics of local identity prevent an amalgamation but the federal solution offered by the model would allow a combined effort on strategic matters while leaving the rest under local borough control.

The reverse situation applies in Birmingham where the monolithic city council is trying to devolve power to area committees, effectively recreating a district layer within the metropolis. The federal model might provide a more efficient solution, giving back real local identity and decision-making while preserving the strategic power of the city.

## **6. The leadership issue**

The question of leadership in local authorities has been a frequent preoccupation of central government. This was reflected in the encouragement of a mayoral system – albeit with modest results - and of generally stronger executives in the 2000 Local Government Act. The recent White Paper has reiterated this theme, worrying that “the framework within which local authorities operate can be a barrier to the kind of leadership that prosperous communities require”<sup>13</sup>, and policy has given a further push towards the mayoral model without the need for a referendum.

Given this focus on leadership, how does the model perform? While difficult issues might be dealt with adequately, would the model encourage brave, radical leadership with a reforming mandate or would it tend to encourage a lower-key, consensus-seeking approach?

*“You can fiddle around with how you organise local government so that it is extremely complicated and you have to place shape, but why not set up government so you can govern direct?”*

David Parsons, Leader Leicestershire County Council

In the model proposed in this paper, strategic decision-making and local flexibility stand together. The strategic (county) committee is indirectly elected on a proportional basis and in political terms its members are beholden to all the other members of the county-wide party group. Policy direction will be determined by the group as a whole. The leader's scope for taking radical decisions will therefore be similar to that found now. A strong leader who can convince his group of a particular policy will win through but there are more members to convince and they are geographically more dispersed. Given in addition the local committees' power of veto, the leader and his strategic committee are unlikely to want to go out on too long a limb and a consensus approach is more likely. However, if the scope for radical leadership at the county level is limited, it is much enhanced at the local. Under the new model there is wide scope for a local leadership with a strong mandate to make a real difference to the lives of their residents.

It is arguable that the difference between the 'strength' of the leader's position under the new model and that in existing county councils is less than it seems. Under the present system the county leadership is often weakened by guerrilla warfare with the district leaderships, even under the same party control, as each fancies itself as legitimate as the other. Under the new model, this problem is largely removed, with all councillors having an equal position under a single council leader. Tensions between local and strategic imperatives will be expressed within a single political group (and resolved

there) or between opposing political parties on the one council. The strength of the leadership would be based on the reality of democratic accountability from top to bottom and vice versa, rather than the misleading appearance of strength that can be found in the present system. (It must also be remembered that in our example we put the biggest party in a relatively weak position, akin to 'no overall control' under the current system. If however one party controlled not only the strategic/county committee but also a majority of the local committees, then its power, and that of its leadership, would be greatly increased.).

Nonetheless, the question remains as to whether the county-wide strategic leadership would be visible enough to be a plausible candidate for greater devolution of powers from central government. An alternative to the indirectly elected county committee is direct election of an executive leader or mayor on the model of London's Ken Livingstone (given its urban and ceremonial associations, 'mayor' is not a suitable term for a county leader, but that is a matter of terminology). As Ken Livingstone has demonstrated with the congestion charge, a directly elected leader can make radical decisions that are initially unpopular, be held to account and reap the benefit if he gets it right.

The same argument can be made for county councils. Would a new unitary county council with expanded powers and revenue base be best served by the traditional leader who succeeds to the office of leader of the council by virtue of his role as leader of the largest political party, or should he or she win the position by direct county-wide election? There are difficulties with applying a leader and cabinet model, as practiced in counties at present, to our new model. The leader does not present a problem because he or she is elected

by all members in the normal way. However cabinet would be appointed by the leader from (usually) one party and would be unlikely to contain representatives from all the localities. This would remove some of the key checks and balances and create a gulf between the strategic executive and local decision-making. Thus, if we were to move away from a committee model, it would make more sense to adopt its polar opposite, that of a directly elected leader, who would have the key underpinning of a personal democratic mandate.

A directly elected leader could be grafted on to the main features of the new model, with much the same division of functions between the strategic centre and the local committees. The main difference is that the county committee, elected pro rata from the local committees, would act as the legislative counterbalance to the leader's executive powers. There is some similarity to the proposal that the Conservative Party made during the debates over the creation of the Greater London Authority: this accepted a directly elected mayor, but argued that the assembly that scrutinised him should be indirectly elected, comprising representatives of the boroughs. The parallel is not, however, exact; there is more separation of powers between the London mayor and the boroughs than would be the case under our county model (though the former is arguably eroding in areas such as planning), and the mayor's powers relative to those of the Greater London Assembly are greater than would those of a county leader. In many respects, the relationship between elected mayors and councils in authorities outside London (such as Middlesbrough or North Tyneside) provides a closer parallel.

The most positive feature of the system would be clear and visible

leadership. Its most obvious negative feature is its scope for conflict, both executive versus council and centre versus area (although the nature of the county body scrutinising the leader would bind these two points of conflict into one). A directly elected leader with a strong mandate of his or her own might tend to cut across or clash with local decisions. While the model deliberately settles power at the local level to be delegated upwards, a directly elected county leader is unlikely to be satisfied with this status quo. There will be tension and a struggle, which might have some benefits but could equally result in a grudging stalemate. The more power the local level enjoys the less likely it is to want to give it up. There is a trade-off here between the power to deliver on a local mandate and the power to make radical decisions countywide.

Another problem is that this approach would dilute one of the great advantages of the new model in its original form: an entirely unified officer structure. There would clearly be the potential for tensions between the claims of the centre and those of the local committees – one accentuated by their different democratic mandates – and this would tend to bifurcate the officer structure.

# **7. Conclusion**

## **From here to a unitary**

The changes proposed in this report require primary legislation; inevitably, a bottom-up structure will have to start with top-down devolution. The starting-point should be for councils in shire areas (and any others where the new model may be applicable) to bring forward two models – one using directly elected leadership, the other not – but both fitting within the framework of a model constitution laid down by statute. This would set parameters for the initial powers of each layer, initially relatively similar to the current county/district split, but with a bias towards more local governance. This would be open to review at (probably) four-yearly intervals; however, there would be some fixed points that could not be altered. These would include the principle that local decisions are paid for locally, strategic decisions are paid for county-wide, and the principle of the federal power of local committees to form a blocking majority against strategic decisions.

The initial choice of leadership structure would be made in a local referendum. This would not please the advocates of ‘mayoral’

solutions. Their thinking – reflected in the White Paper – is that the voters should not be given a choice, since in the past not enough of them have chosen a mayor. If they do not make that choice, so be it: the people cannot be forced to be free in ways that central government thinks best.

After the referendum, there would be countywide elections on existing district wards. This would be followed by a county conference to formally adopt the model constitution and (if adopting the non-‘mayoral’ model) elect the leader. After this there would be the first formal meeting of local committees to elect delegates to the strategic committee. The main structures would then be in place.

## **A vehicle for local power**

This report is not primarily about the powers that local government can reclaim from central government and its quangos. Nonetheless, the proposed creation of bodies that could be both local and strategic, and the emphasis on power coming from the bottom up, mean that the issue should be addressed.

The run-up to the publication of the White Paper saw a debate over possible devolution of powers from the centre, and some hope that there would at last be progress in this direction. Speaking in February 2006, David Miliband called for “a double devolution of power from Whitehall to the town hall and from the town hall to citizens and local communities.” Lyons argued that central government should restrict itself to setting broad objectives, reducing the burden of targets and inspections. He urged a boost to local government powers, especially in the economic area (infrastructure, transport, skills) and a reinforcement of its ‘convening’ role with

other public sector bodies (such as police and the health service): the latter should have a ‘duty to co-operate’ with the local authority.

The White Paper did deliver a little progress, including the duty to co-operate and a reduction in the number of targets. However, when it came to the possible devolution of powers, it resembles the prospectus launched in the days of the South Sea Bubble: ‘an enterprise, the nature of which shall be disclosed’. There are some general indications of the desirability of devolving power, but the specifics are left to the future and in particular to the operation of the Comprehensive Spending Review. How far government departments will ultimately be willing to give up power remains to be seen: experience gives little room for optimism.

Much of the focus of reform thinking – including that of bodies such as the LGA – has been on creating structures by which local authorities can increase their scrutiny of and co-operation with other parts of the public sector: effectively, an extension of the LSP and (especially) LAA processes. However, with those other bodies still marching to Whitehall drums, this offers local authorities a share in responsibility but no commensurate increase in power.

With the establishment of local shire authorities that are both strategic and locally accountable, there is no reason why they should not take on significant powers directly. This would include the powers suggested by Lyons, but also those put forward in ‘localist’ literature such as *Big Bang Localism*.<sup>14</sup> Thus strategic planning and housing powers should be returned. Fire could come under the authority’s direct control. The new county authorities should have direct control of primary and social care at the strategic level, with a high degree of independence for medical practices and local control of home care; health and social care budgets would be unified. The

county authorities would also have direct input into strategic NHS management boards.

Furthermore, when a future Conservative government wants to deliver on its pledge to return control of the police to local communities, this model will be found to fit the bill very nicely. A traditional county constabulary would come under the control of the county committee just as it is presently answerable to the police authority, with two added advantages. The local committees have a direct say in the decisions taken by the county committee and, if they wish, they can raise a local precept to 'buy in' an extra police presence for their area on top of what is provided through the county budget. Nothing would be more popular with the local people and no precept would be more easily raised.

### **Power from the bottom up**

Politicians of all parties have recognised that a society that is now better informed and better equipped than at any time in our history is no longer prepared to be governed from the top down by an elite that personifies the idea that 'nanny knows best'. What elite? There is now no one section of society that can routinely be described as more knowledgeable, more experienced and therefore more wise than any other. The internet has seen to that. Neither can any one group be described as inherently more powerful than any other. Wealth is increasingly widely distributed across all the old social strata which have themselves largely broken down. Power has drifted from the corridors of Westminster and Whitehall to Brussels and globalised markets and as it has done so the people have turned their attention to their immediate surroundings and have asked a

question that the politicians have so far been unable to answer: “We live here. We know what we need. Why do you keep preventing us from having it?”

It is not for lack of trying. Local councillors do their best against the odds and sometimes succeed but it is usually despite the system, not because of it. The system is not designed to be locally responsive. It tries its best but in the end it is designed to deliver from the top downwards those things that it considers most important or that best suit its own purposes.

True power in a democracy flows from the bottom up. Power really does belong to the people and the people lend it to their elected representatives to make good use of. If they do not, the people withdraw it again. Over the past decades this equation has been turned on its head. Instead of people with power directing politicians we have a government machine with power directing people. Is it any surprise that the people do not think much of this usurpation and are voting with their feet instead of with their pencils? The electorate is frustrated, voting does not seem to make a difference any more and their local representatives find themselves trapped in a system that tries to listen but never really hears, mere administrators of a system that is largely outside their control.

This situation needs to be reversed.

The basis for the ideas in this report is not new. Federal systems have been used at other time and in other places, most notably in the constitution of the United States. This is underpinned by some key common principles, particularly the idea that power flows from people to government, not the other way around, and that therefore all the functions of government must be presumed to be best discharged at the lower level unless overwhelming argument shows

that a particular function must be delegated upwards to a ‘federal’ level.

There are a number of countries around the world that operate through a more or less federal constitution. They are generally larger countries like Canada, Russia and Germany but include much smaller ones like Belgium and Switzerland. However, even in these, including the US, the States tend to devolve power down to local authorities. In Sweden, Italy, Germany or France the basic structure is the same with a variety of regional, county and municipal layers of their equivalent. The main difference lies in the level of central government control that is exercised, traditionally at its most extreme in France (though even there central power has diminished) while Italy appears to be in the process of federalising at the regional level. Only in the UK is the trend in the opposite direction, where, having devolved limited powers to national parliaments in Scotland and Wales, the government has used unelected regional assemblies and the finance system to draw day-to-day control of local authority functions ever closer to Whitehall.

In seeking to reverse this trend, this ‘federal’ model for a unitary county therefore pre-supposes that all decisions are best taken at the local committee level and that even if delegation to the county committee is called for in the council’s constitution, the local committees retain a controlling interest in any decisions made at the higher level.

The practical effect of this change from the present two-tier system or from the traditional idea of a unitary county council is to concentrate power at the local level, with local representatives maintaining control of the higher, strategic level of decision-making. This means that strategic decisions can reflect the wishes of the county

electorate as a whole and that members of the same council as the one that took the strategic decision, acting locally, can give that strategic decision a particular local emphasis so that it answers even better to the needs of the local electorate. This at last gives local councillors the means to reconnect with their electorates, to deliver what is expected by them rather than simply joining them in voicing their frustration.

There are a number of other benefits besides. A key difference from other federal models of government is the proposal for a single, integrated officer structure for the whole council under a single chief executive. While the federal model returns democratic power to local people, the single officer structure will see an end to the destructive and wasteful rivalries between neighbouring groups of public servants, paid from the public purse, whose jealousy for their own positions can act as a potent barrier to the delivery of public good.

The federal model outlined here offers a solution to many of our present difficulties. Most importantly, and in contrast to many of the models put forward for reform, it sustains the most local level of representation in the form of what are now district councillors. By joining together to form a single county-wide authority, they would lose their small-time independence but gain more power to deliver what local people really want than was previously enjoyed by either county or district alone. It is the sort of deal that they should jump at.

## Notes

- 1 Sir Michael Lyons, Lyons Inquiry Press Notice, 8 May 2006.
- 2 Frequently Asked Questions – Local Public Services Agreements, LGA.
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- 4 ‘A Process Evaluation of the Negotiation of Pilot Local Area Agreements’, ODPM, June 2005.
- 5 ‘Using new tools to attack the roots of crime (continued)’; Nick Davies, *The Guardian*, 12 July 2003.
- 6 *Municipal Journal*, 7 July 2006.
- 7 *Strong and Prosperous Communities: The Local Government White Paper*, Department of Communities and Local Government, pp. 62-5.
- 8 Rt Hon David Miliband MP, memorandum to Rt Hon John Prescott MP, November 2005.
- 9 ‘A Process Evaluation’, pp. 7, 37.
- 10 Simon Jenkins, *Big Bang Localism: A Rescue Plan for British Democracy*, Localis/ Policy Exchange, November 2004.
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- 12 See, for example, Cheshire County Council, *Local Governance in Cheshire for the 21st Century: The Council Submission to the Boundary Commission for England* (September 2003), and *Local Governance in Cheshire for the 21st Century: Cheshire County Council's Response to The Boundary Commission for England's Draft Recommendations* (February 2004)
- 13 *Strong and Prosperous Communities*, p. 8.
- 14 Jenkins, *Big Bang Localism*; see also Barry Loveday and Anna Reid, *Going Local*

We are grateful to those local government leaders with whom we discussed the ideas contained in this report. Their insights were very useful in revealing the problems of the existing system and the different policies people are currently exploring to alleviate them. There is no implication that those who have been quoted in the text necessarily agree with our proposals.

The local government system in shire counties is under pressure. Although the recent Local Government White Paper struck a cautious note, it is clear that councils are expected to change, while tight budgets increase the need to find more efficient solutions.

The current system is confusing to voters and promotes conflict between different tiers of government. Yet conventional ‘unitary’ solutions are unattractive, reducing democratic representation and making local government more remote. Tim Palmer and Glyn Gaskarth argue that there is a better way: an innovative model of ‘federal’ county government, which streamlines bureaucracy and presents a unified public face, while power originates at a very local level and is delegated up where necessary.

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