



**DE MONTFORT
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What can a Mayor do for your City?
Consultation Document.

1. Introduction

The request made in the consultation document for views about enhanced powers for directly elected mayors and for suggestions about the transfer of public service functions from other bodies to elected mayors, is an admirable one. A distinction is required between powers to govern and responsibilities for the delivery of public services. Thus, in addressing the questions set in the consultation document, the paper separates the need for enhanced governing capacity for mayoral councils from the transfer of service provision / commissioning responsibilities to mayoral councils. Governing capacity is defined for the purposes of the paper as a set of political abilities that are demonstrated by the mayor's authority and power to control public affairs and public business, to make decisions, set policy and effect action within the area of the council boundaries and which may extend beyond those boundaries. That governing capacity may be used in conjunction with the council.

The consultation document excludes existing mayoral councils from changes that may be made to mayoral powers (DCLG, 2011, p: 7). The logic of that approach may arise from the focus on the importance of the cities selected for mayoral referendum and a belief that elected mayors are more suited to city (or urban) government. Elected mayors are not exclusively a city or an urban form of government and elected mayors operate in urban, semi-rural and rural settings (see, Scarrow, 2001, Magre and Bertrana, 2007). There is no reason why the existing mayoral councils should not benefit from enhancements to mayoral powers. Indeed, it would appear perverse that the areas where this innovative approach to local political leadership already exists are excluded from the current exercise. Existing mayoral councils should also be asked to suggest new powers and public service transfers to their mayor. Restricting the enhancement of mayoral powers to the listed cities misses an excellent opportunity to develop and strengthen mayoral political leadership across England.

The suggestion, in the consultation document, that mayoral councils may differ in their public service responsibilities is to be encouraged as this reflects a pattern of development across Europe (Berg and Rao, 2005, Denters and Rose, 2005, Back, *et*

al, 2006, Copus, 2006). Moreover, differentiation of responsibilities between mayoral councils enables the distinct needs of different localities to be more fully addressed. Individual councils will make strong cases for particular service areas to be transferred which may include responsibility for airports, ports, major transport facilities, health services, etc, depending on local need. The trend towards direct election of the mayor, across Europe (and beyond), emerges from a superior claim to legitimacy based on direct election and the need for more effective, accountable and identifiable local political leadership (see, Kirchner, 1999; Savitch and Kantor, 2002; Larsen, 2002: 113; Soos, *et al*, 2002; Frederickson, 2004; and, Swainiewicz, 2005: 111.). Thus, what should not be differentiated between elected mayors is governing capacity and each mayor – including existing mayors – should hold the same governing capacity and political powers.

The Local Government Act 2000 gave elected mayors few powers and responsibilities that distinguished them from council leaders and those that did exist were focused inwards towards the council. The next section of the paper sets out ways in which the governing capacity of elected mayors could be enhanced. The third section, proposes a number of public service responsibilities that could be transferred to mayoral councils. The fourth section sets out ways in which the accountability of elected mayors could be ensured. It also provides a rationale for rejecting certain methods of accountability. The conclusion section draws out the main points of the paper.

2. Elected Mayors: Governing Capacity

The powerful direct mandate, the public visibility and name recognition that comes with the office of directly elected mayor means it is an ideal model of local political leadership to receive devolution of not just service responsibilities, but also political and governing capacity. A distinction has been made in some of the policy debates between ‘soft’ and ‘hard’ powers (BBC, 2011, New Statesman, November 2011) with soft powers being: advocacy, influence, persuasion, networking, exploiting social (or political) capital, coalition building or the skill in using the ‘bully pulpit’. These so called soft powers are not powers necessarily associated with the mayoral office. Rather, they are qualities associated with the individual holding mayoral office and with that individual’s own personal capacities and skills. Indeed, the notion of soft power is a distraction when exploring the powers of the mayor as council leaders can also wield such soft powers.

It is the hard powers of the mayoral office that should be extended and strengthened so as to enhance governing capacity (see, Dahl, 1957). The hard powers operate both internally towards the council and externally towards the locality. The model of elected mayor adopted in England creates a mayor that is strong in relation to the council, but weak in relation to the external locality (Copus, 2006, 2009). The position of the mayor should be strengthened in the following ways:

Elected Mayors and the Council

- Unlimited ability for mayors to form and appoint boards and commissions to advise on mayoral policy, or take action delegated by the mayor, with the membership to be drawn from councillors or non-councillors.

- The mayoral cabinet to comprise wholly, or in part, of members appointed by the mayor from either councillors or non-councillors.
 - Mayoral cabinets *not* to be limited to 10 members, but to an agreed percentage of the council members.
 - Birmingham City Council has 120 members, while Cannock Chase Council has 41 members – yet the maximum number of cabinet members in both cases is 10.
- Mayors to have appointment and dismissal powers over the council chief executive and other top-tier officers (subject to confirmation hearing by overview and scrutiny). The mayor’s appointment and dismissal powers to be exempt from corporate employment policies and general employment legislation and employment tribunals.
- Mayoral budgets to only be subject to detailed scrutiny by council (or a scrutiny committee) to suggest changes and amendment.

These few, simple, internal enhancements would, taken alongside the existing relationships between mayors and the council, provide mayors with greater ability to enact the policies on which they were elected. Given that the electoral system for mayors and councillors can and has resulted in mayors being elected that are not members of the council majority party, it is important to ensure the council can not prevent or obstruct the mayor from implementing his or her policies and budget. On the other hand, the council should have ample opportunities to question and challenge the mayor, to seek justification and explanation and to critically appraise mayoral policy and action. Mayoral accountability is explored in more detail in section four.

Elected Mayors and the Locality

The Redcliffe-Maud Report (1969) and the Widdicombe Report (1986) defended the role that local government has to play in the democratic framework of England; although the constitutional and political subservience of local government was recognised by Widdicombe (see, chapter 3). Enhancing mayoral governing capacity would: strengthen political pluralism; provide for devolved centres of government in the localities with a strong democratic mandate; develop robust centres of political legitimacy that could ensure policy diversity across England which addressed different local economic and social preferences and needs; and, would enable the mayor to take long-term strategic decisions and develop long-term policies for economic growth and social well-being. The governing capacity of elected mayors, working with their councils, should be enhanced in the following ways:

- General competence for mayoral councils to include a power for the mayor and council to pass local legislation over a range of activities, unfettered by central government or the courts.
 - Such local legislation would be an enhanced version of the by-law procedure and would have the weight of primary legislation within each mayoral council area, which would not be subject to any central oversight or approval.

- A scheme of legislative devolution would be required for mayoral councils similar to that for the devolved regional chambers in Scotland and Wales.
 - The legislative framework of England could therefore vary, at least across mayoral councils.
 - Mayoral councils to use judicial review where disputes arise between the council and government over general competence
 - Exemption for mayoral councils from reserve powers in the Localism Act 2011.
- Mayors and mayoral councils to be independent legal entities entitled, in any undertaking, to co-operate with other councils, public and private bodies, voluntary, charity or third-sector organisation, or with any financial, commercial or private enterprise.
- A restructuring of the boundaries of public bodies, quangos, etc, to be co-terminous with the boundaries of mayoral councils, e.g.: police, hospitals, health care, fire and rescue, etc.
 - Where such bodies continue to operate on a regional basis, a sub-unit of that body to be formed to be co-terminous with the mayoral council for all policy and operational aspects.
 - The elected mayor to be responsible for the direct appointment and dismissal of the chief executive / director / operational head of the units of public bodies and quangos that have been created to be co-terminous with the council's boundary.
- Elected mayors to be involved in all appointments / dismissals (even where these are ministerial responsibilities) of chief executive / director / operational head, of all public bodies and quangos that operate within the area of the mayoral council, but which have supra-council boundaries.
- All government departments taking any policy initiative or sponsoring any legislation that impinges on local government to have a legal duty to consult with all elected mayors and to demonstrate how they have responded to that consultation.
 - Mayors (and their councils) to be consulted, early within the policy and decision-making processes by government if it is proposing change which will affect any council and its communities.
- Mayors and mayoral councils to have a legal right to challenge, through a specially designed public process, any aspects of any legislation that relate to the powers, duties, responsibilities, tasks and functions of local government.
 - Such challenge may result in mayoral exemption, or opt-out, from policy change and legislation that lays down requirements on, or makes changes to, non-mayoral councils.
- (see also section 3) Where an elected mayor exists the mayor should automatically take the office of Police and Crime Commissioner – where more than one mayor exists within a Police and Crime Commissioner area the role should be rotated between the elected mayors.

- Alternatively, the elected mayor(s) appoint and dismiss the Police Commissioner (where there is more than one mayor within an area they collectively act as an appointment / dismissal panel).
- Mayors to have appointment and dismissal power over senior officers and chairmen of boards in relation to a range of public bodies, for example: hospital trusts, fire and rescue authorities, LEAs, ports and docks, coast-guards, airports and other facilities (even where the boundaries of such bodies extend beyond the mayoral council).
 - Mayors to have appointment and dismissal power over senior officers (and chairmen of boards) for those bodies listed in the Local Government and Public Involvement in Health Act 2007 as having a ‘duty to co-operate’ (although this power should not be limited just to those bodies and they are used here as an example).
 - Elected mayors to automatically be members of any regional or supra-local bodies created by government
- Elected mayors and mayoral councils to be financially independent of central government
 - Central government should not cap, or in any way limit, mayoral councils' taxation powers.
 - All business rate powers to rest with the mayoral council with no central involvement or retention.
 - Mayoral councils to raise income in their localities through a radically reformed financing system, in which a far wider range of tax-raising (and spending) powers will exist compared to non-mayoral councils. That power could not be limited or altered by central government – but may be subject to approval by local referendums. Mayoral councils could secure financial freedom by generating tax income not only from property taxes but also, for example, from:
 - Local Income Tax
 - Corporate Income Tax
 - Sales Tax
 - Tourist Tax
 - Car tax
 - Inheritance tax

(Each of these taxation powers and others exist for local government across Europe and beyond). A fluid, buoyant and locally controllable tax regime would provide mayoral councils with the financial independence required to take and act upon strategic decisions concerning economic development and to enact financial policies that would attract inward investment.

The governing capacity of elected mayors, enhanced in ways suggested would devolve real ‘hard’ political power to mayors and their councils so securing maximum devolution of power from the centre. Such enhancements would also enable policy diversity to emerge that would be designed to secure economic growth and social well-being by reflecting the needs of distinct localities.

3. Transfer of Public Service Responsibilities to Mayoral Councils

Councils responding to the consultation will make strong cases for specific local facilities and services to be transferred to the mayoral council. Those cases will reflect the importance of that facility or service to each locality and will strengthen devolution and the accountability of those services. The section here does not make specific suggestions for public services to be devolved to specific mayoral councils; that task is for the councils themselves. Rather, the section builds on the suggestions in section 2 above to indicate ways in which governing capacity can be further linked to public services. It also develops ways in which mayoral council's could take on a greater role in those services that are deemed to require provision by regional bodies.

Where service areas are suggested for either transfer to mayoral councils or for mayors to be given responsibilities or links to service areas, the details of the exact configuration of the transfer will need to be worked out within the broader legislative framework. The principle to be established however, is that mayors and mayoral councils are the first point of consideration for any devolution of services.

The following would strengthen devolution and local accountability:

- The Police Force:
 - Where a mayoral council exists, outside London, an equivalent senior office to the London style borough commanders should be appointed, by the mayor, to have responsibility for policing within the boundaries of the mayoral council. Dismissal of the borough commander would rest with the elected mayor.
 - Elected mayors in London to have appointment and dismissal powers over borough commanders
- **OR:**
- **(See section 2).** Where an elected mayor exists the mayor should automatically take the office of Police and Crime Commissioner – where more than one mayor exists within a Police and Crime Commissioner area the role should be rotated between the elected mayors.
 - Alternatively, the elected mayor(s) appoint and dismiss the Police Commissioner (where there is more than one mayor within an area they collectively act as an appointment / dismissal panel).
- Responsibilities for the key areas of health, community safety, economic development and transport to rest with the elected mayor and mayoral council.
 - Mayors to co-ordinate strategic links between these policy and service areas to promote economic success.
 - Mayors to have membership of, or chairmanship of, any existing or new public bodies created by government that are responsible for policy or decisions that impact on the mayoral council area.
 - Alternatively, mayors to have appointment and dismissal powers over, staff, board chairmen and members (as appropriate) of any existing or new public bodies created by government that are responsible for policy or decisions that impact on the mayoral council area.

- Public bodies that are normally organised on a supra-local basis, or are the responsibility of supra-local bodies, etc, to become the responsibility of mayoral councils, such as: hospital trusts (NHS), fire and rescue authorities, ports, docks, coast-guards, airports and other facilities.

OR

- Responsibility for public facilities such as ports, docks, coast-guards, airports, etc, to be transferred to mayoral councils, or to be shared between them where more than one elected mayor exists in an area covered by a body providing the service or facility.
- Elected mayors and mayoral councils to have the power to decide how any or all of the services for which they are responsible are to be provided and the mode of delivery and provider.

The principle to establish is that elected mayors and mayoral councils are automatically an integral part of any new governing apparatus created by central government, either as chairmen, or as holding appointment and dismissal powers over chairmen, members and senior executives.

4. Mayoral Accountability

The paper has argued for maximum governing capacity and maximum devolution of public service responsibilities to elected mayors and their councils. Given that these powers would lead to the creation of powerful elected mayors and powerful mayoral councils, then a series of mechanisms of accountability are required. Mayors can be held directly to account by both the council and local citizens.

Mayoral Accountability and the Council

A common theme from overseas is the careful balance drawn between the powers of elected mayors and the ability of councillors to question, challenge, seek justification from and critically appraise mayoral policy and decisions (Copus, 2006). Coalition politics across local government in Europe results in a different political dynamic to that of the majoritarian and adversarial politics of English council chambers. Thus, direct controls over the mayor and mayoral policy or budget resting with councillors, such as council vetoes and removal of the mayor from office by the council, should not exist. First, because the mayor's mandate was not granted by the council and therefore the council should not be able to override the wishes of the electorate. Second, because experience has shown that where a mayor has been elected in England, who does not share the political affiliation of the council majority group then that reason alone is sufficient for some councillors to attempt to thwart the mayor's every move. An unwillingness to work sensibly alongside an elected mayor that does not share the majority group's affiliation can result in political game playing, obstructionism and an undermining of the wishes of the voters. If Government decides that recall power is to rest with the council, then on recalling the mayor, the entire council should be dissolved and all councillors, as well as the mayor, should face re-election (Copus, 2006). Such a safeguard would prevent councillors from using recall to remove a mayor with whom they did not share a political affiliation.

Councillors have a vital role in securing mayoral accountability by acting in full council and in overview and scrutiny. In doing so, there is a need for councillors to accept the political division of labour that occurs within mayoral systems and to act as a vehicle through which mayoral accountability is secured. There is a conflict here with current practices of party politics in local government where councillors are often reluctant to challenge a mayor from their own party, in public (Copus, 2008).

The following would enhance mayoral accountability:

- Strengthened call-in procedure. Any three councillors, working together, to be able to formally call-in a mayoral decision for review (a stream-lined call-in procedures would be required to prevent this being used simply as a delaying tactic).
- Any one councillor to be able to call for a debate, in overview and scrutiny or council, on any aspect of mayoral policy. The mayor to attend that debate and respond.
- Early and staged involvement of councillors in all co-decision policies.
- Each council to have a mayoral scrutiny committee with powers to review mayoral policy and decisions and to make reports and recommendations.
- Mayoral councils to have a legal obligation to provide research, administrative and policy support services to councillors.
- Mayoral councils to hold an annual state of the borough debate at which councillors can question and challenge the mayor on any and all aspects of mayoral policy.
 - The debate to lead to a report from full council to the mayor.
- Mayoral councils to have a ‘speaker’ with the duty to defend the interests of all councillors – collectively and individually - in relation to the executive.
 - The Speaker’s office to rotate annually between the groups on the council.

Mayoral Accountability and the Citizen

It is easy to suggest that mayoral accountability would be enhanced by introducing the right of citizens to petition to recall the mayor and force another election. But, even in the hands of citizens this is a blunt weapon. In principle recall would strengthen mayoral accountability. In practice it is likely to be manipulated by political parties unhappy at the result of the mayoral election and seeking a way to remove, or intimidate the mayor. The risk that local political *elites* will attempt to misuse recall facilities to remove a mayor for political ends only, outweighs any effectiveness recall has as a method of accountability for the public.

Term limits, to a maximum of three terms and shorter terms of three years, would be preferable alternatives to the use of recall as they are institutional requirements that can not be misused or manipulated. Indeed, there is no reason why terms limits and shorter terms could not be introduced for councillors.

In addition, the following would strengthen mayoral accountability:

- Confirmatory referendum: to be used if the mayor and council put forward local legislation (see section two).
- Citizen right to petition to hold a local referendum on any subject of interest or influence on the locality and for the result of that referendum to be binding on the mayor and council (a re-instatement of provisions removed from the Localism Act by amendment, before it was passed by Parliament).

- An authority-wide annual public forum at which the mayor must report on his or her actions and answer questions from the public (social media and other technology to be a part of the forum to enhance its reach and effectiveness).
- Elected mayors to be required to hold a monthly press conference with local and regional media.
 - Members of the public to be able to attend the press conference and put questions.
- Full council meetings to include a public question and press question time to the mayor.

Accountability rests on challenge, question, justification, deliberation and explanation, not necessarily on the ability to stop a mayor acting. Thus, the suggestions above are designed to provide settings and processes to ensure mayoral policy can be debated, subjected to question and challenge and the mayor faced with policy alternatives. Some of the proposals above will already be in use in some mayoral councils but should be extended, as a requirement, for all mayoral councils.

5. Conclusion

The government is right to consult with councils that will hold referendum on elected mayors as to the powers and responsibilities of the mayor. The government is also right in laying down the possibility that elected mayors could be responsible for different service areas designed to reflect local circumstances and needs. There is no reason however, why the consultation should not be extended to existing mayoral councils and those councils given the opportunity to propose public service transfers and new powers for their mayor. Those areas that have already adopted an elected mayor could feel rightly aggrieved, that, having shown the willingness, imagination and courage of adopting this model of governance they are now excluded from potential enhancements for their mayor and council which could improve the economic prospects and prosperity of their areas.

The views and suggestions set out in the paper have deliberately taken an extreme 'localist' perspective but are designed to ensure the greatest possible decentralisation of power. The suggestions on local legislation will be among the most controversial made in the paper. But, by allowing mayors working with their councils to legislate for their areas, policy diversity is assured and so too is the ability of councils to structure the economic development and policy-landscape of their localities.

Enhancing elected mayors' governing capacity, as set out in the paper, would provide the 'hard' powers required to take strategic decisions, co-ordinate and direct partnerships and act as a powerful advocate for their areas. Indeed, enhancing governing capacity would mean all government departments and other public and private agencies would need to take mayoral government seriously, thus further enhancing the strategic position of the mayor and mayoral council. There is a clear link between governing capacity and the transfer of service responsibilities to mayoral councils. After transfers have taken place mayors and mayoral councils require the freedom to decide how and by whom those services should be provided.

Mayoral accountability is secured through the direct link with the voters which should not be usurped by the council. The council does have a vital role to play in securing

mayoral accountability through debate, question, challenge and the development and promotion of alternative policy options. Moreover, through overview and scrutiny the council should be engaged in the development of mayoral policy so that the overall policy framework of the area is forged in co-operation between the mayor and councillors. Such co-operation is easier to achieve where the mayor and council majority are of the same affiliation (or non-affiliation), which is why the final decision on policy must rest with the mayor, to avoid party political game playing.

Mayoral accountability rests on strengthening the relationship between the mayor and local people and by ensuring the mayor sets out and debates his or her policies and decisions outside of an election campaign. Such a process of debate and explanation encourages an active and engaged local citizenry to emerge.

Finally, in exploring the extension of mayoral powers the Government should commission a comparative research project to examine the powers of elected mayors overseas and to suggest further enhancements to the powers and responsibilities of elected mayors in England.

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