

19 December 2022

## **DRAFT PARLIAMENTARY BRIEFING | LEVELLING UP AND REGENERATION BILL – HOUSE OF LORDS SECOND READING, 17 JANUARY 2023**

### Introduction

NALC is the national membership body that works with the 43 county associations of local councils to represent and support England's 10,000 local (parish and town) councils.

Local councils and their 100,000 councillors are the first tier of local government, closest to the people, and play an essential part in delivering hyper local services, building strong communities, and strengthening social fabric.

Local councils cover two thirds of England and a third of the population, and invest over £2 billion per year to improve and strengthen communities.

Empowering communities is the key to levelling up and improving local public services, and that includes unlocking the potential of local (parish and town) councils.

As an existing, sustainable model of community power, local leadership and public service delivery, local councils are already putting pride in place through the provision of parks and open spaces, markets, support for high streets and town centres, community events and so much more.

In recent years, the unique place-based role of local councils has been changing, they are doing more and they are increasingly innovating.

And they are providing local leadership to take action on local and national priorities such as climate change and cost of living, health and housing, loneliness and local services, transport and town centres.

By providing the right support, the government has an opportunity to help local councils to do more and provide the local leadership needed to level up communities, deliver good hyper local public services, and ensure a social, as well as economic, recovery from the coronavirus pandemic.

The Levelling Up and Regeneration Bill aims to drive local growth, empower local leaders to regenerate their areas, and ensure everyone can share in the United Kingdom's success.

When taken together, the levelling up white paper and now the Bill, are a welcome and positive first step down the long road ahead to levelling up, further devolution and empowering local communities.

But levelling up will not succeed if we do not empower communities and local councils.

The Bill must be more ambitious and go further to empower local councils and help them build strong communities and strengthen social fabric.

Because their potential is vast – including doing even more – such as helping deliver levelling up missions such as on crime and community safety, transport, broadband, local businesses, health inequality and pride in place.

This briefing sets out NALC's key issues and implications for local councils as well as several areas of concern.

### Levelling up

The Bill creates a legal duty for the Government to set and report on a number of missions for levelling up the country.

However, the detail of the twelve missions published in the white paper are not on the face of the Bill. Instead, a levelling-up missions' statement will be laid before Parliament and published, alongside the methodology and metrics to be used to evaluate its progress towards their delivery.

This means the missions can be changed at any time by the government of the day. We would expect the government to fully consult on the proposed metrics to be used to produce an annual report on the Levelling Up missions.

### Local democracy and devolution

Devolving powers to all areas in England that want them through the new devolution framework and devolution structures is welcome. But this must not be confined to county or regional level and must also empower local leaders at community level such as local councils.

The devolution framework does not currently require the three levels/models of devolution, including the new model of Combined Authority called Combined County Authorities (CCAs), to provide opportunities for further onward devolution to communities and local councils.

It is also the case that relationships and engagement between the three levels/models and local councils is often limited, including involvement in scrutiny arrangements.

The Bill should therefore go further to address both these issues including through the existing measure to enhance the overview and scrutiny and audit of new and existing combined authorities.

Also less positive is the Bill's lack of other measures to give communities and local councils more tools to improve their areas.

First, it does not include measures to take forward the white paper commitment to launch a review of neighbourhood governance which will also look at the role and functions of local councils and making local councils quicker and easier to establish, which NALC welcomes and called for.

Communities in two-thirds of England's population are being left behind in taking community-led action to level up their areas because they do not have a local council.

Onward's [Social Fabric Index](#) shows areas with full coverage of local councils score significantly higher than those without local councils for key measures of community strength (see notes at end).

Over the last decade, over 300 places have seen new local councils created in response to community demand or through local government reorganisation.

Yet barriers still exist from awareness by communities they can have a local council, support to help communities through the process, the process itself which is complicated and the attitude of principal councils who are often resistant.

The government is yet to publish further details or timescale for taking this white paper commitment forward, and the bill makes no provision for legislative change to enable such change.

The Bill should therefore be improved to level up local democracy by establishing local councils across all of England, abolishing unelected and unaccountable Charter Trustees, who can raise a precept without any election or vote, in the remaining 17 towns where they exist and replacing them with a town council, and by abolishing parish meetings in rural areas and creating new local councils covering one or more parish meeting areas.

The Bill also provides an opportunity to strengthen the first tier of local government and ensure their 100,000 councillors have the necessary funding, powers, relationships, and support to provide high-quality local facilities and services and improve people's sense of belonging and community.

On funding this should include access to dedicated government funding, a share of business rates and scrapping limitations and restrictions such as Section 137 of the Local Government Act 1972.

On powers this should consider the legislative and regulatory framework governing local councils. Many of the powers, duties and rules are archaic and urgently need reforming and updating. Examples would include extending the general power of competence, a much stronger right to take over assets/services from principal councils and purchase community assets, parity with the rest of local government to provide dependent carer's allowances, clarity over funding and maintenance of church buildings, and giving councils the flexibility to hold remote meetings.

On relationships this should consider building on previous work by NALC and the Local Government Association on working together and devolution, and also help build more effective links with other organisations and agencies.

On support this should cover not only investment in sector support and improvement but also helping communities to set up new local councils.

Second, the Bill provides for the new model of CCAs to have a general power of competence, aligning them with constituent principal councils which already have this power through the Localism Act 2011.

However, the first tier of local government is currently out of alignment with the rest of local government as the general power of competence is restricted to principal councils and only some local councils who meet certain tests imposed nationally by the government.

NALC data from our network of 43 county associations suggests this is just 18% of local councils.

To further empower communities and ensure they are not held back in being able to innovate and respond to local needs and priorities, to improve public services, and to restore a sense of community, local pride and belonging, the Bill should go further and extend the general power of competence to all local councils.

Third, the Bill doesn't go far enough to empower communities in devolution.

Devolving powers to all areas in England that want them through the new devolution framework and devolution structures is welcome. But this must not be confined to county or regional level and must also empower local leaders at community level such as local councils.

Our experience from previous and current rounds of negotiations and discussions about local government reform and devolution have generally highlighted the necessity for local councils (or the relevant county association of local councils on their behalf) to be much more involved.

Similarly, the devolution framework does not currently require the three levels/models of devolution, including the new model of Combined Authority called Combined County Authorities (CCAs), to provide opportunities for further onward devolution to communities and local councils.

It is also the case that relationships and engagement between the three levels/models and local councils is limited, including involvement in scrutiny arrangements.

The Bill should therefore address both these issues including through the existing measure to enhance the overview and scrutiny and audit of new and existing combined authorities.

#### Housing and planning

NALC is a strong supporter and advocate of neighbourhood planning which gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. Around 90% of neighbourhood plans developed to date have been led by local councils.

Which is why it is good the government has acted on calls from NALC to strengthen neighbourhood planning and give neighbourhood plans more weight and protection as part of its planning reforms being taken forward in the Bill.

It is also worth recognising that the current state of play – 3000 communities, 1300 referendums, average yes vote of 88%, average turnout of 33% – has been 10 years in the making but needs to be revisited and refreshed.

Despite this good progress, thousands of communities, in both parished and unparished areas, remain untouched – we want to see all local councils leading neighbourhood planning, with an increase in support to help achieve this.

Equally important will be shifting the culture and attitude of principal councils to be more positive and supportive of neighbourhood planning. There are parallels here with their attitude towards the creation of local councils too.

However, we are concerned the Bill gives National Development Management Policies primacy over local plans and neighbourhood plans and means they could easily and quickly be rendered out of date by changes to national policies.

This may stifle local innovation on issues such as affordable housing, energy efficiency and nature conservation. It would also undermine local democratic engagement in, and scrutiny of, the planning process and lead to significant legal delays where conflict between plans and national policies is contested. The Bill should be amended to remove any suggestion that national policies have automatic primacy over locally agreed ones.

Neighbourhood plans can only be in conformity with any national development policy in place at the time the plan is made. Any subsequent change to national policy should not override neighbourhood plans.

The Bill introduces a new neighbourhood planning tool called a neighbourhood priorities statement. This provides communities with a simpler and more accessible way to set out their key priorities and preferences for their local areas. In the same way that local councils are automatically designated bodies for developing a neighbourhood plan, this must also be the case for developing a neighbourhood priorities statement.

We are concerned that the introduction of street votes risks undermining both a plan-led (both local plans and neighbourhood plans) approach to development and also permitted development. We are keen to work with the government to increase engagement with, and involvement in, plan making.

We welcome the new Infrastructure Levy and importantly this will be mandatory and set at a local level, and we would expect local councils to be involved in the setting of the level.

The current definition of qualifying body is the right one and is consistent with the government's approach to devolution to local leaders with local accountability.

It is right that local councils will receive the 25% neighbourhood share of the Infrastructure Levy. This will ensure communities benefit from development and local councils can invest in local infrastructure and other priorities. It will be important for local councils to have full flexibility in how the levy is used.

However, the reported flat share of 25% does not provide an uplift or added incentive for communities that have a made neighbourhood plan in place, which is the presently the case where the Community Infrastructure Levy is charged.

The Bill introduces a discretionary council tax premium on second homes and changes the qualifying period for use of the long term-empty homes premium. A share of this premium should be provided to local councils who are often at the front line of dealing with the consequences of second homes on residents, businesses, services and facilities.



## Funding

Neither the white paper or the Bill include funding to local councils as local leaders to help them level up their areas or to help them to improve and build capacity and capability.

Local councils are primarily funded through their small share of council tax. The average Band D is just £75 per year. Unlike principal councils they do not receive revenue support grant or a share of business rates.

And despite the growing role of local councils in responding to the social, economic, and environmental needs of communities, local councils were not eligible to apply in their own right for government growth funds such as the Community Renewal Fund, Levelling Up Fund, Towns Fund, or UK Shared Prosperity Fund (UKSPF). They are also excluded from the Community Ownership Fund.

Using the UKSPF as an example, at best we're disappointed local councils especially larger councils can't apply directly to government, but at worst that the guidance doesn't explicitly require local authorities to ensure local councils have access to funds or are involved in local partnerships.

Many local councils faced significant financial pressures during the Coronavirus pandemic due to additional costs, but in particular, lost income.

However, government funding to support local government during the coronavirus pandemic was not passed on from principal councils to local councils. The Government stated they could not fund local councils directly as they had no powers to do so. The Bill should address this by amending Section 33 of the Local Government Act 2003 to provide ministers of the crown the power to grant fund local councils.

NALC welcomes the white paper commitment to build local government capacity and capability through ongoing sector support and funding a programme of improvement covering a range of priorities which is reviewed periodically.

Local councils are extremely diverse in terms of the areas they cover, from small villages to large towns, as well as in their skills, resources, and capacity.

The local council sector has many self-improvement initiatives already in existence, as a baseline from which to build, yet which lack investment including from the Government.

Since the National Improvement Strategy for Town and Parish Councils was published in 2016, there has been no direct investment from the Government to support the delivery of its vision and initiatives.

This contrasts with the £18 million a year of funding for sector support provided by the Department for Levelling Up, Housing and Communities (DLUHC) to the Local Government Association (LGA).

In the last few years, the LGA has provided some welcome small-scale support through its DLUHC funding for two peer challenges, a joint guide on loneliness and for the National Association of Local Council's (NALC) Make A Change campaign to encourage more people to become councillors.

This underinvestment by the government leads to constraints in increasing the sector's efficiency, securing improvement, and unlocking performance that only the Government has the policy and financial levers to help with.

The government should provide NALC directly with a share of funding to support local councils, this can be provided from a proportion of the funding retained by the government when funding to LGA was reduced.

The Bill amends also the Local Government Finance Act 2003 to enable the Secretary of State to give one or more risk-mitigation directions to a local authority in England. This includes setting limits in relation to the borrowing of money or requiring the local authority to take action specified in the direction which could include to divest itself of a specified asset.

The Government should confirm whether local councils are in scope of this measure.

#### Remote council meetings

It is disappointing the Queen's Speech did not include a bill to allow councils at all levels to hold online and hybrid council meetings.

The Government's call for evidence on remote council meetings closed in June 2021 and they are yet to publish the results or take any steps to address this issue.

The flexibility for councils to meet virtually was paramount during the pandemic to allowing councillors and the public to attend council meetings.

Councils saw an increase in meetings attendance, including the public and MPs, decreased carbon emissions and meetings related costs, and better work-life balance for councillors who work or have caring responsibilities.

Councils need the flexibility to meet in this way to be reinstated so that they can continue to work in the most accessible and resilient way possible, especially in times of emergency such as when there is adverse weather or flooding.



NALC welcomed amendments put forward during the Commons stages to address this issue but these were not supported by the government or voted upon.

The Bill should be amended to allow councils to hold online and hybrid council meetings.

### Civility and respect in public life

Following the Conservative leadership campaign which had our national politician's behaviour, conduct and standards in public life among the key issues, the new prime minister has pledged to lead a government with integrity, professionalism, and accountability at every level.

NALC firmly supports and is committed to promoting and supporting the critically important principles of good governance and the highest standards of conduct and behaviour in local councils.

Most local councils are well run, with clerks and council staff working as a team with councillors to deliver their ambitions for the community.

But all too often the negative impact of poor and disruptive behaviour – by councillors, clerks, and residents – can overshadow the many whose tireless efforts play such a vital role in our civic life and local communities.

NALC has called for a reset on standards in public life and for the government to revisit the Committee on Standards in Public Life's (COSIPL) review of local government ethical standards and its series of recommendations, which are fully supported by NALC, to strengthen the current system and improve the conduct of local councillors.

The Bill should be amended to implement COSIPL's report and recommendations in full, including introducing tougher sanctions, such as suspension, on poorly behaving councillors.

### **For more information and to arrange a meeting to discuss the bill:**

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