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METRO MAYORS AND DEVOLUTION DEALS

John Stanton

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The City Law School

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Metro-mayors and devolution deals: Democracy, accountability and localism

John Stanton*

ABSTRACT: This paper examines the recent trend in English local government to introduce directly-elected mayors. This is a relatively recent emergence, with the creation of the position of London Mayor in 2000 seeing the first such position. In the years following, however, the UK Government has made numerous attempts to introduce the model more widely across the country with little success. Despite the Government's case for the model, there is little popular democratic support and referendums have generally seen the model rejected. New reforms, though, in 2016 see the introduction of directly elected mayors at the Combined Authority level, these being introduced without referendums. This article examines the development of the model in England and offers an analysis.

KEYWORDS: Directly-Elected mayors; localism; democracy; accountability

1. Introduction

On 4 May 2017, local elections were held across Britain. In total, 88 councils went to the polls, including all local authorities in Scotland and Wales, as well as County and Unitary Councils in England. In addition, though, mayoral elections also took place for the first time in six combined authority areas in England: Cambridgeshire and Peterborough; Greater Manchester; the Liverpool City Region; Tees Valley; West Midlands; and the West of England. The idea was that candidates appointed to those mayoral offices would serve as leaders for their respective combined authorities and be responsible for a range of broad and strategic policy fields relevant to their local areas. Though, as I will go on to explain, the powers and responsibilities of these mayors differs across these six regions, subject to the particular devolutionary deals that have been established, the objective has been that they 'will enjoy greater control over functions such as local transport, housing, skills and healthcare' than models established with council-level mayors.¹

These particular direct elections, and the creation of the mayoral positions that they represent, are the fruits of a Conservative Party localism agenda that stems from its time in Coalition Government with the Liberal-Democrats, and they are linked to wider policies and

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¹ C Copus, M Roberts and R Wall, *Local Government in England: Centralisation, Autonomy and Control* (London: Palgrave Macmillan, 2017), p.130. That is, the mayors elected at council level, in contrast to the combined authority level.

initiatives including the desire to see a greater devolution of power to the local level and plans to strengthen the UK economy through the Northern Powerhouse initiative. The underlying legal and political framework, which I will explain more fully later, provides that councils that have come together to form a combined authority will have the opportunity to negotiate and agree deals with Whitehall for an increase in devolved power and authority, on the condition that they accept the leadership of a directly-elected mayor for the combined authority area. Though George Osborne pointed out in his Northern Powerhouse speech in May 2015, that no areas would be forced to implement the model of a directly-elected mayor,² it was fairly clear from the policy that combined authorities wishing to take on further powers would have to adopt the model. He said: 'I will not impose a mayor on anyone, but nor will I settle for less'.³ Osborne's determination betrays a long-held government desire to see the widespread introduction of directly-elected mayors across local government in England, with the promise of further devolution in the event of their adoption perhaps being seen as an incentive. On this foundation, this paper seeks to examine the introduction of these metro-mayors and to analyse their potential contribution to local government in England, particularly from the point of view of enhancing devolution, improving democratic opportunity and strengthening accountability.

2. The development of elected mayors in England and their legal foundation

Now, the idea of introducing directly-elected mayors in English local government was first mooted in the early 1990s. Michael Heseltine, then Secretary of State for the Environment in John Major's cabinet, 'floated the idea of introducing directly elected mayors in a government consultation paper'.⁴ It was not until the late-1990s, however, and the election of Tony Blair's New Labour Government that concrete proposals were set out and the first mayoral positions created. The emergence of elected mayors at this time took place in two waves. The first as part of New Labour's reform of government in London; the second as part of broader plans to modernise local government across the country. I want to look briefly at both of these, before then exploring more recent policies for introduction of the model.

2.1. The Mayor of London and the Greater London Authority Act 1999

The Mayor of London was the first directly elected mayoral position in the country, and was created by the Greater London Authority Act 1999. Intended to fill the gap left by Thatcher's abolition of the Greater London Council in 1986, the plan was that there would be a new

² It is notable that referenda in recent years have historically rejected the model of a directly elected mayor.

³ HM Treasury and Rt Hon George Osborne, 'Chancellor on Building a Northern Powerhouse' (London: HM Government, 14 May 2015), available at: <https://www.gov.uk/government/speeches/chancellor-on-building-a-northern-powerhouse>.

⁴ R Hambleton and D Sweeting, 'U.S-Style Leadership for English Local Government?' (2004) 64(4) *Public Administration Review* 474 at 475, citing: Department of the Environment, *Local Government Review: The Internal Management of Local Authorities. A Consultation Paper* (London: HMSO, 1991). Also see: A Marsh, 'Is it time to put the dream of elected mayors to bed?' (2012) 40(4) *Policy & Politics* 607.

institution for London-wide government, consisting of a directly elected mayor with responsibility for a range of broad, strategic areas. Following refinement of the proposals through a consultation paper and, later a White Paper,⁵ a referendum was held across the capital in May 1998, on the question of the proposed creation of an elected mayoral position and elected assembly. 72% of voters supported the new arrangements. Consequently, the Greater London Authority Act 1999 was enacted to establish a Greater London Authority, consisting of a Mayor of London and a 25-strong Assembly for London.⁶ Under the Act, the Mayor exercises certain executive powers, which 'relate primarily to aspects of transport (including Transport for London), certain matters in relation to health, culture, media and sport ... housing, regeneration, economic development ... planning and the environment. The Mayor and Assembly also have a role in the governance and provision of policing and fire and rescue services in London'.⁷ Alongside these powers, the 25 strong Assembly fulfils a scrutiny function, keeping the Mayor in check, particularly with regards to the budget. As the upper-tier of local government in the capital, the London Mayor provides broad, city-wide leadership and governance to Londoners, and whilst '[m]any of the powers enjoyed by the Mayor are in some way shared with the London Borough Councils',⁸ issues specific and peculiar to the individual boroughs are dealt with at the lower level.

2.2. *Directly elected mayors under the Local Government Act 2000*

The second strand through which we have seen the development of directly-elected mayors in England is rooted in legislation passed just 9 months after the Greater London Authority Act. The Local Government Act 2000 set out, in section 11, that '[t]he executive of a local authority must' adopt one of a potential three models of organisational arrangement.⁹ The first model offered was a directly-elected mayor with a cabinet executive appointed by the mayor; the second, an executive leader, elected by the local council members and supported by a cabinet appointed either by the leader or the council; and the third, a directly-elected mayor alongside a manager, appointed by the council members.¹⁰ This last model has since been abolished.

⁵ *New Leadership for London* (1997) and *A Mayor and Assembly for London*, Cm 3897 (1998), Also see: I Leigh, *Law, Politics and Local Democracy* (Oxford: OUP, 2000), p.237

⁶ Section 2(1)(a), Greater London Authority Act 1999.

⁷ M Varney 'United Kingdom – Local government in England: Localism delivered?' in C Panara and M Varney (eds) *Local Government in Europe: The 'fourth level' in the EU multilayered system of governance* (Abingdon: Routledge, 2015) p 330, at p 343.

⁸ M Varney 'United Kingdom – Local government in England: Localism delivered?' in C Panara and M Varney (eds) *Local Government in Europe: The 'fourth level' in the EU multilayered system of governance* (Abingdon: Routledge, 2015) p 330, at p 343

⁹ Section 11(1), Local Government Act 2000.

¹⁰ Section 11(2) – (4), Local Government Act 2000. Section 11(5) offers a further alternative in providing that the executive arrangements 'may take any such form as may be prescribed in regulations made by the Secretary of State'. The last of these models – elected mayor and manager was abolished under the Local Government and

The Act also provided, in section 26(2), that where a council wishes to move to a model consisting of a directly-elected mayor, a local referendum must be held.¹¹ This is a discussion to which I shall return later.

These provisions of the 2000 Act, though, formed a part of New Labour's broader agenda, set out in the 1998 White Paper, which placed a particular emphasis on the modernisation of local government.¹² Critical of the 'inefficient and opaque decision making' processes that stem from '[t]raditional committee structures', the White Paper's proposed creation of elected mayoral positions for individual councils¹³ was based on a desire to establish clearer and more accountable local political leadership.¹⁴ On this, it stated that:

'People often do not know who is really taking the decisions. They do not know who to praise, who to blame or who to contact with their problems. People identify most readily with an individual, yet there is rarely any identifiable figure leading the local community'.¹⁵

Established through the provisions of the 2000 Act, therefore, The office of mayor was intended to provide a single point of leadership, clearly identifiable and more readily accountable for the actions and decisions of the local council.

In clarifying these new models of local leadership, the government also made provision for these new mayors to enjoy powers and responsibilities appropriate to their level of leadership and prominence, though these differed slightly depending on the particular arrangements in force. Where there is a Mayor and Cabinet model, for instance, 'the elected mayor ... [is] responsible for providing political leadership, proposing the policy framework and a budget of the council, and taking executive decisions within that framework'.¹⁶ The mayor, under these arrangements, works closely with both the council – who must approve the policy framework and the budget – and the Cabinet, the members of which are appointed by the mayor from the council membership.¹⁷ By contrast, under the now abolished arrangements in which a Mayor functioned alongside a Council Manager, there was 'a clear split between the Mayor, who ... [was] responsible for overall political leadership and proposing the broad policy framework of the councils, and the Council Manager, who ... [was] appointed by the council

Public Involvement in Health Act 2007. Stoke-on-Trent had been the only council to go for that model, but had held a second referendum rejecting the mayoral model and reverting the leader and executive cabinet model. See, for further discussion on this, [http://nrl.northumbria.ac.uk/11821/1/JF HE P and P Bristol 2012.pdf](http://nrl.northumbria.ac.uk/11821/1/JF_HE_P_and_P_Bristol_2012.pdf)

¹¹ Section 26 and 27, Local Government Act 2000

¹² See: DETR, *Modern Local Government - In Touch with the people* (White Paper, CM 4014, 1998).

¹³ As opposed to combined authorities, below

¹⁴ *Modern Local Government: In Touch with the people*, para. 3.1

¹⁵ *Modern Local Government: In Touch with the people*, para. 3.7

¹⁶ I Leigh, *Law, Politics and Local Democracy* (Oxford: OUP, 2000), p.240

¹⁷ See: I Leigh, *Law, Politics and Local Democracy* (Oxford: OUP, 2000), p.240

and [had] a central role in developing and implementing policy and the budget under the guidance of the Mayor'.¹⁸ Legislation, therefore, not only set out a firm basis on which directly elected mayors could be adopted as part of a councils' institutional arrangements, potentially providing clear and accountable political leadership, but it also afforded them powers and responsibilities relative to that position of leadership.

Despite the government's efforts and clear desire to see elected mayors across local government in England, however, there has generally been very limited take up since the 2000 Act came into force. As the discussion below will further consider.

To this end, and in view of ongoing central desire to see elected mayors across local government, central government has, since 2000, twice amended the process through which mayors can be appointed to individual local authorities as I now explain.

2.3. Increasing pressure: The Local Government and Public Involvement in Health Act 2007 and the Localism Act 2011

First, and 'due no doubt to a series of negative referendum votes',¹⁹ the Local Government and Public Involvement in Health Act 2007 made provision for the creation of directly-elected mayors without the need for a public vote, such a model being capable of adoption by council resolution instead. Section 64 of the Act amended the 2000 Act to the effect that whilst a council wishing to change its executive arrangements must 'take reasonable steps to consult the local government electors' and *may* hold a referendum, 'a resolution of a local authority is required in order for the authority to make a change in governance arrangements', this now being the only stipulated requirement.²⁰ Despite this move to permit adoption of the directly elected mayoral model without a referendum, only two positions have been created in this way – in Leicester in 2011 and Liverpool in 2012.

Secondly, and demonstrating the level of cross-party support for the model of directly-elected mayors, the Conservative – Liberal Democrat Coalition Government made further provision for the adoption of elected mayors in legislation that this time left it up to the Secretary of State to decide whether a referendum should be held on the issue, taking the matter outside councils' hands. As part of a broader government policy that included the Big Society initiatives and schemes for economic devolution, the Coalition pursued the objective of

¹⁸ I Leigh, *Law, Politics and Local Democracy* (Oxford: OUP, 2000), p.240

¹⁹ John Fenwick, 'The Government's failure to hold a referendum on the creation of a directly elected mayor for Greater Manchester may undermine the legitimacy of this important new office' (Democratic Audit UK), available at: <http://eprints.lse.ac.uk/63407/1/democraticaudit.com-The%20Governments%20failure%20to%20hold%20a%20referendum%20on%20the%20creation%20of%20a%20directly%20elected%20mayor%20for%20Greater%20.pdf>.

²⁰ Sections 33E (6) and (7) and 33F, Local Government Act 2000, as amended by Section 62, Local Government and Public Involvement in Health Act 2007.

establishing elected mayors in the 12 largest cities in England.²¹ To this end, the Localism Act 2011 provided that '[t]he Secretary of State may by order make provision requiring every local authority, or every local authority within a description of authority specified in the order, to hold a referendum on whether they should have a relevant type of governance arrangements'.²² Using this power, and giving effect to the aforementioned policy to introduce the model across England's largest cities, 10 referendums were planned across the country.²³ Despite the government's fresh approach, however, it was a similar story to before; an inherent lack of local public interest and support for the model giving rise to just one new mayor through this route, in Bristol.

2.4. Metro-mayors, the Northern Powerhouse and the Cities and Local Government Devolution Act 2016

It is with the overwhelming rejection of directly elected mayors in the 2012 referendums that our consideration of the third and final strand of their introduction in English local government begins. As part of the aforementioned referendums on the question of whether the 12 largest cities in England should adopt directly-elected mayors, the City of Manchester, like 9 other cities, voted no. The area that here voted against a mayor was Manchester City Council, a Metropolitan District Council, providing governance to the city centre itself.²⁴ Whitehall's desire for further devolution, however, particularly as a means of strengthening the North of England and bridging the economy gap between the north and the south, did not abate. Indeed, the Government's localism agenda sought to pursue this objective through an alternative method.

In November 2014, the then Chancellor of the Exchequer, George Osborne, announced that a deal had been struck with the leaders of Greater Manchester's 10 local councils – which together form the Greater Manchester Combined Authority – to the effect that the wider city would get its own directly-elected mayor and enjoy a range of newly devolved powers as a

²¹ DCLG, 'What can a mayor do for your city?' (HM Government, 2012), available:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11787/2066972.pdf. Also see: M Varney 'United Kingdom – Local government in England: Localism delivered?' in C Panara and M Varney (eds) *Local Government in Europe: The 'fourth level' in the EU multilayered system of governance* (Abingdon: Routledge, 2015) p 330, p 343.

²² Section 9ME, Local Government Act, inserted by Sch. 2, Localism Act 2011. Also see: M Varney 'United Kingdom – Local government in England: Localism delivered?' in C Panara and M Varney (eds) *Local Government in Europe: The 'fourth level' in the EU multilayered system of governance* (Abingdon: Routledge, 2015) p 330, p 343.

²³ In Birmingham, Bradford, Bristol, Coventry, Leeds, Manchester, Newcastle Upon Tyne, Nottingham, Sheffield and Wakefield. It was intended that Liverpool would also have a referendum under this power, however, before one was ordered by the Secretary of State, Liverpool Council had already voted in favour of a mayor under the aforementioned power in the 2007 Act.

²⁴ It is notable that, elsewhere across Greater Manchester, Bury also voted against an elected mayor in a referendum held in July 2008, whilst Salford voted in favour of a mayor in January 2012.

result.²⁵ An interim mayor was appointed in 2015, pending the aforementioned mayoral elections that took place on 4 May 2017, and following which former Labour MP, Andy Burnham, took office as Manchester's elected mayor. This deal in Manchester, though, formed a key step in establishing, more broadly, what has come to be termed the Northern Powerhouse policy. Exemplified by the deal already struck in Manchester, this was predicated on the 'radical devolution' of power to combined authority areas (predominantly in the north of England), on the condition that that authority agreed to adopt the leadership of a directly-elected mayor.²⁶ Since November 2014, and following the example set by the Greater Manchester Combined Authority, further deals have been struck across other parts of the country, and indeed, despite the parameters within which Osborne's policy was initially framed, it has not been limited to the north of England. These deals, therefore, involve the establishment of a fresh approach to the adoption of elected mayors in English local government, one based on a model that involves mayors overseeing broader geographical areas – typically city-regions – and, in theory at least, enjoying a greater devolution of power as a result. The legal foundation, on the basis of which these mayors have since been elected and the devolution deals struck, is contained within the Cities and Local Government Devolution Act 2016, the significance of which is noted by Copus, Roberts and Wall, who state that:

'The Cities and Local Government Devolution Act 2016 provides for a new variant to the mayoral model that currently exists in England in that elected mayors of combined authorities will enjoy greater control over functions such as local transport, housing, skills and healthcare than could be hoped for by the existing council elected mayors. Indeed, elected mayors already existing have broadly the same powers and responsibilities as indirectly elected council leaders – the new combined authority mayors will have powers far in excess of a council leader'.²⁷

The powers of these new mayors, therefore, true to the underlying policy on which they are based, are significantly greater in comparison to mayors of individual local councils previously established under earlier legislation. Whilst punctuated by rather piecemeal and complex reforms, the persistent desire of central government to see the directly-elected mayoral model introduced across local government in England is evident from this mapping out of the historical development of the model and the different ways in which it has been adopted. Directly-elected mayors, though, continue to divide and their wider adoption across local

²⁵ HM Treasury and the Rt Hon George Osborne, 'Manchester to get directly elected Mayor' (HM Government, 3 November 2014), available: <https://www.gov.uk/government/news/manchester-to-get-directly-elected-mayor>

²⁶ HM Treasury and Rt Hon George Osborne, 'Chancellor on Building a Northern Powerhouse' (London: HM Government, 14 May 2015), available at: <https://www.gov.uk/government/speeches/chancellor-on-building-a-northern-powerhouse>.

²⁷ C Copus, M Roberts and R Wall, *Local Government in England: Centralisation, Autonomy and Control* (London: Palgrave Macmillan, 2017), p.130

government in England, whilst motivated by ostensibly valuable considerations, remains problematic, as I now go on to explain.

3. A critical analysis of England's directly-elected mayors: Accountability, transparency and strong-leadership

There are, however, a number of problems and issues with this model of directly-elected mayors as it currently operates in England.

3.1. Lack of democratic support and referendums

First, and foremost, is the weak democratic support that underpins arrangements predicated on a directly-elected mayor. It is a model that persists and that is continually promoted by central government even though citizens across the country have, on numerous occasions rejected its adoption through various referendums. Whitehall wants these mayors; the public, it seems, does not.

(a) Referendum results

As I've already explained, a recurring feature of the establishment of the directly-elected mayoral model – particularly during the early days – was the holding of a local referendum to seek support for the proposed arrangements. Indeed, going further than merely requiring a referendum to be held, the 2000 Act seemingly gave to local people a directing say in the process, requiring councils to respect the wishes of its citizens, as reflected in a referendum.²⁸

Despite the 2000 Act's provisions, however, very few referendums were held under the Act, with a minority of these actually resulting in councils adopting a model consisting of a directly-elected mayor.²⁹ This not only reflects a reluctance on the part of local councillors to embrace the elected mayoral position, but also a widespread lack of democratic support amongst local people to endorse its introduction. Indeed, even if we factor in aforementioned changes introduced under the Localism Act 2011, empowering the Secretary of State to require a given council 'to hold a referendum' on the mayoral question,³⁰ the figures still reflect this overwhelming lack of local governmental and public support. Between May 2001 and October 2016, 54 referendums were held across England on the question of whether elected mayors should be adopted as part of local governmental arrangements. Of these, only 16

²⁸ Sections 27(7) and (8), Local Government Act 2000

²⁹ M Varney 'United Kingdom – Local government in England: Localism delivered?' in C Panara and M Varney (eds) *Local Government in Europe: The 'fourth level' in the EU multilayered system of governance* (Abingdon: Routledge, 2015) p 330, at p 343

³⁰ Section 9ME, Local Government Act, inserted by Sch. 2, Localism Act 2011. Also see: M Varney 'United Kingdom – Local government in England: Localism delivered?' in C Panara and M Varney (eds) *Local Government in Europe: The 'fourth level' in the EU multilayered system of governance* (Abingdon: Routledge, 2015) p 330, p 343.

resulted in a vote in favour of the model.³¹ Indeed, and in the years that followed, there have been second referendums in 6 areas on the question of whether the model should be retained,³² with three of these subsequently deciding to abolish the elected mayoral position and revert to an executive leader model.³³ The public view on the matter, therefore, is abundantly clear. Citizens are not generally in favour of local governmental arrangements consisting of a directly-elected mayor. A consequence of this poor democratic support for the model is that, despite strong and persistent governmental encouragement, very few councils in England include a directly-elected mayor. Indeed, if we take into consideration the aforementioned position in London, and the mayors created in Liverpool and Leicester without a referendum, before the 4th May this year, of over 300 local authorities in England, only 19 have at some point adopted one of these mayors.

(b) Turnouts

Putting aside the evident lack of support from local people and local councils, however, concerns for the democratic legitimacy of these positions is yet more deep rooted. The turnout at both referendums and elections in respect of elected mayors is notably poor and perennially low.

In London, for instance, turnout for the first mayoral referendum in 1998 was only 34.1% (the same as the turnout for the first election held in May 2000). Moreover, of all the referendums held on the question since 2001, the highest turnout was recorded in West Devon in 2002 when just 42% of the electorate participated.³⁴ The lowest has been recorded in both Sunderland in 2001 and Ealing in 2002 when just 10% of the electorate took part. And it's a similar story with elections. In London, in 2008, when the established and well-known mayor, Ken Livingstone, stood against popular candidate Boris Johnson, less than half (45.3%) of eligible Londoners voted in the election. Elsewhere, and outside London, over the years, turnout has got as high as 42.3%, recorded in North Tyneside in 2002, and as low as 18.5% in Mansfield in the same year.³⁵ Even on May 4th this year, at the prominent metro-mayor elections, the highest turnout – in Cambridgeshire and Peterborough – was 32.9%, with the lowest – in Tees Valley – just 21%. Turnout at both mayoral referendums and elections, therefore, does not corroborate suggestions that moves to this particular model of local leadership is one that inspires local public interest in democracy. It is clearly not a widely supported model. Indeed, as Rallings, Thrasher and Cowling commented in the aftermath of

³¹ Watford, Doncaster, Hartlepool, Lewisham, Middlesbrough, North Tyneside, Newham, Bedford, Hackney, Mansfield, Stoke-on-Trent, Torbay, Tower Hamlets, Copeland, Bristol/Salford.

³² Middlesbrough, Hartlepool, Doncaster, North Tyneside, Torbay and Stoke-on-Trent.

³³ Stoke-on-Trent and Hartlepool, with Torbay voting in 2016. The abolition here will take place in 2019.

³⁴ Higher turnouts have been recorded on a few occasions, though these were when the referendum coincided with a general election.

³⁵ See: C Rallings, M Thrasher and D Cowling, 'Mayoral referendums and elections revisited' 9(1) *British Politics* 2

the first wave of referendums in 2001 / 2002, the fact that, on occasion, 'a mere one in four electors is sufficiently engaged in the process to turn out to vote ... is hardly an auspicious start to an institution that is intended to strengthen accountability and enhance local democracy'.³⁶

(c) No referendums at all?

In view of the various statistics showing weak democratic support for the elected mayoral model, it is hardly surprising that the government has sought to explore ways in which positions can be created without widespread endorsement from local people. Whereas the establishment of mayors in London and under the Local Government Act 2000 was – save for the aforementioned examples of Liverpool and Leicester – dependent on the support of local people expressed through a referendum; at the heart of the Northern Powerhouse policy expounded by Osborne are devolution deals, struck between representatives of Whitehall and local councillors, behind closed doors and without the democratic support of local people. In the six regions that elected mayors on May 4th, none of these came as a result of any referendum.

This shows that, despite a clear public view on the matter, Central Government has remained determined to push for the introduction of mayors, now simply resorting to measures that bypass popular endorsement and permit the model to be established on the centre's terms rather than on the initiative of local democratic mechanisms. There is an argument to be made, therefore, that these new mayors are merely indicative of continuing centralism and less about empowering local government and imbuing it with a sense of strong, local leadership, and more about strengthening the top-down approach to local government and Whitehall's stronghold on local council operation. Indeed, this is a view seemingly echoed by Copus, Roberts and Wall, who state that:

'The deals agreed to date and the top-down negotiation process have demonstrated that the bespoke element of devolution is certainly lacking and that what has emerged, rather than bespoke deals, are a set of agreements which reflect the broad policy objectives of central government. The process for negotiating devolved powers with Whitehall departments has shown the existence of continued reluctance of the civil service to trust local government and to relinquish their power and role over policy areas which they see as central to a national programme. Moreover, the reluctance to devolve genuinely means that central departments are having significant influence in shaping the devolution deals, thus ensuring they maintain a shape that suits a central objective ... the evidence so far suggests that the current devolution agenda has a long

³⁶ C Rallings, M Thrasher and D Cowling, 'Mayoral referendums and elections' (2002) 28(4) *Local Government Studies* 67, 88, cited in C Rallings, M Thrasher and D Cowling, 'Mayoral referendums and elections revisited' (2014) 9(1) *British Politics* 2, 3.

way to go before it develops as a radical and fundamentally new relationship between local and central government'.³⁷

As Copus, Roberts and Wall note, the fact that the centre plays such a directing role in setting up and establishing the devolution deals, which are so central to the elected mayor / combined authority model, begs the question as to whether this new initiative is less about 'real' devolution, and more about Whitehall seeking to establish mayors as puppets for the implementation of central government policy. Copus, writing earlier and elsewhere, states that 'the powers granted to mayors and their councils reflect the highly centralised nature of government and the centre's unwillingness to devolve real political powers to the localities'.³⁸

3.2. Accountability

The most commonly stated rationale underpinning the Government's long-held desire to implement directly-elected mayors in England relates to an apparent need to improve and increase local accountability. This was evident in the late 1990s, amidst Labour's initial proposals for the model. The 1998 Local Government White Paper has already been cited in identifying the concern that:

'People often do not know who is really taking the decisions. They do not know who to praise, who to blame or who to contact with their problems. People identify most readily with an individual, yet there is rarely any identifiable figure leading the local community'.³⁹

Building on this, and proposing steps to reform local government on this basis, a further White Paper a year later noted that:

'Councils needs new structures which create a clear and well known focus for local leadership. Local people should know who takes decisions, who to hold to account, and who to complain to when things go wrong'.⁴⁰

And, more recently, George Osborne, in first expounding the Northern Powerhouse policy, lauded the benefits of the directly-elected mayoral model, explaining its ability to provide 'a

³⁷ C Copus, M Roberts and R Wall, *Local Government in England: Centralisation, Autonomy and Control* (London: Palgrave Macmillan, 2017), p.130 – 131.

³⁸ C Copus, 'Elected mayors: an idea whose time has not yet come does not make it a bad idea' (2013) 41(1) *Policy & Politics* 128 at 129

³⁹ *Modern Local Government: In Touch with the people*, para. 3.7

⁴⁰ Office of the Deputy Prime Minister, 'Strong Local Leadership Quality Public Services' (1999) Cmnd 5237, as cited in K Orr, 'If Mayors are the Answer then What was the Question?' (2004) 30(3) *Local Government Studies* 331

strong, recognisable ... leader ... democratically accountable to the whole city'.⁴¹ This aim to improve and increase local accountability, therefore, rests on the desire to establish positions that are clearer, more prominent and identifiable, so that local people can 'know who to praise, who to blame or who to contact with their problems'.⁴²

In its basic form, accountability means being 'required to give an account or explanation of actions and, where appropriate, to suffer the consequences, take the blame or undertake to put matters right if it should appear that errors have been made'.⁴³ In this sense, it is a value intrinsically linked with democracy, insofar as it expects that '[d]ecision-makers ... [will be] obliged to justify their acts' to the public, or at the very least, to elected politicians.⁴⁴

It is for this reason that the *direct* election of these mayors is ostensibly so important. Voters aren't merely selected candidates on the basis of party political preferences, leaving the choice of individual to those within a given party, but they are instead having a direct say in who they select as their local leader. Indeed, the emphasis this places more on the individual chosen, and less on their party, is perhaps evident from Ken Livingstone's election as an independent candidate in 2000, in preference to the more established parties, and from Boris Johnson's re-election in 2012, despite a Labour majority on the London Assembly itself. Indeed, in 2012, Boris Johnson attracted 44% of the first round votes, in contrast to the mere 32% of the vote that the Conservative received across the whole of Greater London. The importance of citizens' direct involvement in the process and the potential for accountability that this can bring is noted by Manin *et al*, who explain that leaders 'are "accountable" if citizens can discern representative from unrepresentative [leaders] and can sanction them appropriately, retaining in office those incumbents who perform well and ousting from office those who do not'.⁴⁵

Above and beyond the electoral process, however, the accountability of elected mayors stems from their operation as single, identifiable and prominent leaders for their particular localities. The constitutional justification for a single, identifiable leader is well established. As Anthony King notes, 'the British constitutional system [is] characterized by the existence within

⁴¹ HM Treasury and Rt Hon George Osborne, 'Chancellor on Building a Northern Powerhouse' (London: HM Government, 14 May 2015), available at: <https://www.gov.uk/government/speeches/chancellor-on-building-a-northern-powerhouse>.

⁴² *Modern Local Government: In Touch with the people*, para. 3.7

⁴³ D Oliver, *Constitutional Reform in the UK* (Oxford: OUP, 2003), p.48, citing Marshall 1989, Oliver and Drewry, 1996, Woodhouse 1997a).

⁴⁴ D Oliver, *Constitutional Reform in the UK* (Oxford: OUP, 2003), pp.48 – 52. Explaining these different circumstances in which accountability manifests itself, Oliver considers political, public and legal accountability in detail.

⁴⁵ B Manin, A Przeworski and S C Stokes, 'Introduction' in A Przeworski, S C Stokes and B Manin (eds.), *Democracy, Accountability and Representation* (Cambridge: Cambridge University Press, 1999), 1 at 10

it of a single, solitary locus of power and authority',⁴⁶ something which is typically embodied by the Prime Minister and, around her, individual leaders of the various government departments. Single leaders as the justification for directly-elected mayors is also widely noted, particularly by those proposing the policy. George Osborne, for instance, in explaining the Northern Powerhouse policy, stated that:

'it's right people have a single point of accountability: someone they elect, who takes the decisions and carries the can. So with these new powers for cities must come new city-wide elected mayors who work with local councils ... It's a proven model that works around the globe. It's a powerful point of accountability. A person vested with the authority of direct election'.⁴⁷

This justification, though, is predicated on the notion of these elected mayors being prominent characters. More than just political leaders, but local figureheads, representative of their city or locality. And above and beyond the value that this can bring in terms of accountability, it is also considered that the prominence of these individuals can improve democratic interest in local leadership. Discussing the elected mayoral model back in 2000, for instance, Leigh observes that '[p]ublic interest in local democracy might ... be fostered ... by a form of presidential politics. Advocates also argue that a high-profile position of this kind might attract into local government a different calibre of local representative'.⁴⁸

There are two things to pick up on here. First, is the suggestion that the position of elected mayors attracts high profile candidates. As Leigh also observes, experience 'would seem to bear this out'.⁴⁹ Ahead of the first mayoral elections in London, for instance, a number of high profile politicians proposed themselves for selection as potential candidates.⁵⁰ These included Glenda Jackson and Steven Norris, both of whom had served as government ministers, Jeffrey Archer and – the eventual mayor – Ken Livingstone.⁵¹ Boris Johnson's election in 2008 would seem further to substantiate this suggestion. Elsewhere, and more recently, Andy Burnham's election as Greater Manchester Mayor in May 2017 continues this trend; Burnham having come a close second in 2015 in the Labour Leadership contest. Whilst the notion that these positions attract high profile politicians is by no means universal, a number of notable candidates have made the move from Whitehall and Westminster to the mayoral office. The second point to focus on in respect of Leigh's suggestion is the idea that

⁴⁶ A King, *The British Constitution* (Oxford: OUP, 2007), p.30.

⁴⁷ HM Treasury and Rt Hon George Osborne, 'Chancellor on Building a Northern Powerhouse' (London: HM Government, 14 May 2015), available at: <https://www.gov.uk/government/speeches/chancellor-on-building-a-northern-powerhouse>.

⁴⁸ I Leigh, *Law, Politics and Local Democracy* (Oxford: OUP, 2000), p.238

⁴⁹ I Leigh, *Law, Politics and Local Democracy* (Oxford: OUP, 2000), p.238

⁵⁰ See: I Leigh, *Law, Politics and Local Democracy* (Oxford: OUP, 2000), p.238

⁵¹ See: I Leigh, *Law, Politics and Local Democracy* (Oxford: OUP, 2000), p.238

the prominent position – which he likens to a style of ‘presidential candidates’ attracts a greater degree of public interest in local democracy. This idea is echoed by Quinlivan who, writing in respect of proposals to introduce directly elected mayors in Ireland, notes that ‘[t]he public would possibly take a renewed interest in the affairs of local government’ in response to the creation of directly elected mayoral positions.⁵² This argument, though, does not follow, as we have already seen. Aforementioned turnout at referendums and elections demonstrate widespread voter apathy and a general lack of interest with regards to these elected mayors, which does not corroborate suggestions that the a move to this particular model of local leadership is one that inspires local public interest in democracy to any great degree.

There are further, more deep-rooted problems, however, in maintaining the argument that directly-elected mayors ensure clearer accountability, over and above existing local government leadership models.

First, one of the strongest concerns that the public have expressed with regards to the mayoral model questions whether such significant local power should be vested in one individual, the argument being that it is undemocratic for such a concentration of power to rest with one individual, at the expense of a the wider local authority, which – due to its make-up of councillors, each representative of wards within the local authority area – arguably rests on a stronger democratic foundation.⁵³ This consideration is partly linked to the point I made in respect of political parties. In short, the argument is that by making one person ultimately accountable for the governance and leadership of a local area – such as one does with a directly-elected mayor – means that mechanisms for accountability or constraint that might typically operate within a political party structure are either absent or meaningless. Equally, and on the plus side, Eckersley and Timm-Arnold note that ‘allowing a single individual to draw on a popular mandate for executive authority enables them to sit “above” party factions and adopt a more strategic perspective’.⁵⁴

Secondly, there can be concerns about the lack of proximity to local people that these new metro-mayors represent. Local accountability is predicated on the ease with which local people can contribute to politics in their area and question and scrutinise their locally specific decision-makers. This is not only about transparency but also about accessibility. Typically, at the individual council level, the proximity of councillors to the electorate, in their own towns and wards, ensures and facilitates dialogue between voters and their representatives, enhancing and ensuring healthy opportunities for accountability. By contrast, these directly-elected mayors are not associated with any specific locality and, instead, deal with whole city regions.

⁵² A Quinlivan, ‘The development of the Irish management system and he move towards directly elected mayors’ (2015) 63(2) *Administration* 101 at 114

⁵³ See: P. Swann, ‘Local government: the modernizing agenda’ (2000) *Journal of Planning and Environment Law Supplement* 9.

⁵⁴ P. Eckersley and P. Timm-Arnold, ‘Directly-elected mayors and the austerity agenda: Lessons from the German experience’ (2014) 34(5) *Public Money & Management* 347, at 347.

They therefore function at quite a distance from the localities they purport to represent, making opportunity for dialogue with voters more difficult, and potentially hindering effective local accountability.

Bringing both of these arguments together, Rallings and Thrasher notes explain that those rallying against the model of directly-elected mayors are typically ‘concerned that too much power [is] ... concentrated in a single office, [and] that power [is] ... further removed from the general public unable to gain easy access’.⁵⁵

3.3. Broader system of local government

The last points that I want to raise relate to the broader system of local government and wider concerns that impact upon localism in England and, in particular, councils’ relationship with Whitehall.

Now, the introduction of these metro-mayors has been heralded as effecting fundamental change to the working of local government in England, for some of the reasons I have already identified. Perhaps the greatest failing, however, is that these positions have been established within a local governmental system that is, more widely, problematic and and fraught with issues and difficulties. As Copus notes, ‘elected mayors ... have to work within the confines of the current system of local government ... no new or radical reassessment of the powers of the central state and the locality ... follow from any “yes” result’ in a mayoral referendum.⁵⁶ Indeed, the introduction of these mayors and the increased prominence of the combined authorities that they represent, exist within a local governmental system that also includes unitary authorities in some areas; the two-tiers of district and county councils in other areas; and – yet further still – single tier district councils in certain cities. And this is before we even factor in the unique structure that operates in London and the wealth of parish councils that function across certain parts of the country at the community level. The multiplicity of structures that exist within local government has often been described as confusing and complex, something that is accentuated when we compare it with the uniform unitary councils across Scotland, Wales and Northern Ireland. These new mayors, therefore, do nothing to change an already crowded system. It adds to, rather than replaces, increasingly complicated layers of local governance.

Moreover, and more fundamentally, a culture of centralism and a top-down approach has long been argued to persist in respect of the central-local relationship, which is tilted very much in favour of Whitehall. And whilst the introduction of these new mayors ostensibly brings

⁵⁵ C Rallings, M Thrasher and D Cowling, ‘Mayoral referendums and elections’ (2002) 28(4) *Local Government Studies* 67, 72

⁵⁶ C Copus, ‘Elected mayors: an idea whose time has not yet come does not make it a bad idea’ (2013) 41(1) *Policy & Politics* 128 at 129

new powers to a more localised level, the manner in which the policy has been introduced is still reflective of overly centralist influences.

The proposed powers of these metro-mayors came about as a result of aforementioned desires to strengthen devolution and to shift power away from central government, empowering city regions across the country to have more control and autonomy. Indeed, the package of powers with which the model comes has been heralded as its most defining feature. Here in Manchester, for instance, the devolution deal saw the combined authority having at its disposal a multi-year transport budget; responsibility for bus services and railway stations; a £300m Housing Investment Fund; the power to restructure further education; control – for the time being – of EU structural funds; and a £28m grant to develop the Work and Health programme. What is more, Andy Burnham, as mayor, has become the new Police and Crime Commissioner for Greater Manchester. With regards to the wealth of power that is ostensibly devolved as part of these arrangements, Copus et al note that '[w]here previous attempts to establish elected mayors in England have had very limited success, the new, more empowered directly elected mayor of a combined authority has considerable potential to wield enhanced powers and responsibilities',⁵⁷ with Copus writing elsewhere also noting that directly-elected mayors involve a 'transfer of power from [local politicians] to the public'.⁵⁸

Aforementioned concerns for accessibility, transparency and the ease with which citizens might hold directly-elected mayors to account call into question this last claim, but, more fundamentally, the increase in power that these new metro-mayors bring is in reality framed within devolution deals that are influenced massively by the centre. Far from simply giving localities the initiative to lead and direct the agreement of deals that could see power devolved from Whitehall, the Secretary of State for Communities and Local Government – under the 2016 Cities and Local Government Devolution Act – appears to retain an overriding say in how those deals will be formed and, ultimately, the powers that will be devolved. What is more, the creation of elected mayoral positions as part of these deals seems to be nothing less than an ultimatum from the centre – powers are only granted to those authorities that agree to the adoption of a directly-elected mayor. Indeed, as Osborne said in announcing the Northern Powerhouse policy, 'with these new powers for cities must come new city-wide elected mayors ... I will not impose this model on anyone. But nor will I settle for less'.⁵⁹ In view of the historic

⁵⁷ C Copus, M Roberts and R Wall, *Local Government in England: Centralisation, Autonomy and Control* (London: Palgrave Macmillan, 2017), p.130, citing C Copus, *Leading the Localities: Executive Mayors in English Local Governance* (Manchester: Manchester University Press, 2006), and S Kukovic, C Copus, M Hacek and A Blair, 'Direct Mayoral Elections in Slovenia and England: Traditions and Trends Compared' (2015) 13(3) *Lex Localis* 697.

⁵⁸ C Copus, 'Elected mayors: an idea whose time has not yet come does not make it a bad idea' (2013) 41(1) *Policy & Politics* 128 at 128

⁵⁹ HM Treasury and Rt Hon George Osborne, 'Chancellor on Building a Northern Powerhouse' (London: HM Government, 14 May 2015), available at: <https://www.gov.uk/government/speeches/chancellor-on-building-a-northern-powerhouse>.

and relentless desire at the centre to establish directly-elected mayors across the country, often and typically contrary to the general public and local governmental mood, it could be argued that the raft of powers devolved to combined authorities as part of these arrangements merely serve to sweeten a deal that sees Whitehall finally getting the local governmental arrangements it has long wanted.

And in a sense, this is part of the problem. Despite what Osborne said back in May 2015, these mayors have seemingly been imposed on people right across the country. There were no referendums; deals were struck behind closed doors. If elected mayors are to be genuinely accountable positions of local leadership, then first and foremost, they must have the backing and support of the local people themselves. 'UK local authorities should be allowed to introduce directly elected mayors',⁶⁰ but they shouldn't be pushed on local people by Whitehall. It is this imposition of a centrally-supported model that imbues the latest features of the localism agenda with a centralist air. The needs and mores of local people are seemingly relegated in preference of centrally guided objectives and centrally directed devolution.

TITLE

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Abstract

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Introduction

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⁶⁰ R Hambleton, 'Elected mayors: an international rising tide?' (2013) 41(1) *Policy & Politics* 125 at 125

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