
**From strategy to delivery: the future
development of the Greater
London Authority**

By Mark Sandford

November 2005



The **Constitution** Unit

ISBN: 1 903903 43 6

Published by The Constitution Unit
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First Published November 2005

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Executive Summary

- In the upcoming review of the Greater London Authority, the Mayor proposes the creation of two new functional bodies (waste and skills), and an extension of his planning and housing powers. It would be possible to create other functional bodies for other policy areas, if this was felt appropriate. It is important that the Mayor has control over appointments to new functional bodies, to enable his strategic priorities to be translated through to their policy decisions.
- The creation of new functional bodies would require primary legislation, and it will be an onerous task both to make the case for this in the first place and to obtain Parliamentary time to achieve it. However, without primary legislation very few substantial changes can be made to the GLA. Powers that could be passed to the GLA without legislation include arts, public health, various programmes handled by the Government Office for London (GOL) and possibly the functions of the new executive agency, Natural England. But these are minor in terms of power and money.
- If new primary legislation is introduced, the opportunity should be taken to correct some of the anomalies of the GLA's constitution. These include changing the system of appointments to the boards of the Metropolitan Police Authority (MPA) and the London Fire and Emergency Planning Authority (LFEPA).
- The Assembly should have a right to amend Mayoral strategies, either on a majority or on a two-thirds vote. It should also have a power of call-in over Mayoral decisions which are not in line with those strategies.
- The Mayor cannot be expected to be up to speed with policy developments and priorities across six functional bodies. This is important for public accountability: it is not realistic to hold the Mayor accountable for as wide a range of functions as are suggested by the Mayor's own reform proposals. We recommend that the Mayor be obliged to appoint Assembly members to be the chairs of the functional bodies, but that his other appointments to the functional bodies' boards should not be drawn from the Assembly. The chairs would then form a de facto Mayoral cabinet.
- With the creation of two new functional bodies, we recommend a degree of financial flexibility be available to the Mayor: the ability to top-slice ten per cent of each functional body budget and spend it on other functions as s/he sees fit. This is in line with developing thinking in the Treasury on regional funding allocations.
- In order to carry out its functions in an enhanced GLA of the type being proposed, the Assembly needs to expand its number of members, to around 35-45. This is necessary in order to scrutinise functional bodies effectively and to carry out the enhanced constituency duties implied by the expansion in Mayoral powers.

Introduction

'Attempts to create new institutional machinery for London face a conflict between the desire to achieve effectiveness by giving greater powers to one body or individual and a need to trade off the many, powerful borough and local interests throughout the metropolitan area. History and the current politics of London suggest that this conflict will never be easily resolved'. (Travers and Jones 1991:102)

Since the establishment of the Greater London Authority in 2000, the governance of London has demonstrated proof of the contention that "further change in the regional governance arrangements in England is inevitable" (LGA 2000:4).

At the present time, the situation is particularly fluid due to the conduct of two official reviews. The London Assembly and Association of London Governance jointly established the Commission on London Governance in 2004, and it is due to produce its final report towards the end of 2005. Its terms of reference are to examine:

- the accountability of service delivery agents;
- the participation of the citizens of London in the delivery of services;
- the customer perspective on service delivery arrangements, including levels of satisfaction and involvement;
- the provider perspective of service delivery arrangements;
- the extent and effectiveness of coordination between service delivery agents;
- the efficiency and ownership of the funding streams;
- the appropriate role of other public sector agencies, quasi-autonomous non-governmental organisations and regional authorities in the provision of services;
- any inequalities of service provision to consumers as a result of geographical location;
- the scope for increasing public participation in holding public service providers to account.

Unexpectedly, the Labour Party's 2005 manifesto included a commitment to review the powers of the Mayor and the Greater London Authority. This review has now begun inside Whitehall, though no details are yet available as to the scope of the review or current thinking about its possible outcomes. It is being led by David Miliband, the Minister for Communities, and Jim Fitzpatrick, the Minister for London. The ODPM's press release announcing the review stated three principles which would inform it:

- "The GLA should remain a focused and strategic authority, as originally conceived, rather than becoming a major service delivery agent;
- There should be an appropriate balance between national government, the regional tier and local authorities;
- The review is to focus on the role of the GLA rather than on governance structures as a whole or the role of the London boroughs. It should, however, consider the arguments for giving the GLA additional responsibilities for strategic issues which cross borough boundaries." (ODPM press release, 6/9/05)

In September 2005, the Mayor published a number of scoping papers on the powers and functions of the Greater London Authority. The papers covered the policy areas of housing, planning, skills, and waste; the future role of the Government Office for London, and the governance arrangements for the GLA. Unsurprisingly, the papers proposed extension of Mayoral powers in each of the policy areas covered. However, the papers build their case for extra powers on a clear analysis of the challenges facing London and an understanding of

how the proposed new powers would allow London’s government to address these challenges.

The Commission on London Governance produced an interim report, *Capital Life*, in July 2005. This report was more circumspect about devolving further powers to the GLA from central government, and called instead for representations on which powers, if any, should be passed across to the Mayor. The report suggested further powers might be appropriate in some areas not addressed by the Mayoral scoping papers, including arts, culture and health. It also questioned whether a strengthened accountability role was appropriate for the Assembly if the Mayor took on further powers.

This paper is the Constitution Unit’s response both to the Commission on London Governance’s call for representations and to the proposals of the Mayor for change.¹ As with all of the Constitution Unit’s publications, the focus is on governance and constitutional arrangements rather than the details of the changes being proposed to Mayoral powers and implications for policy-making. The Unit does not take a position for or against devolution of power from central government to regional or local institutions. Instead we aim to facilitate the functioning of devolution if and when it takes place. It is hoped that this briefing will help the thinking of both the Commission and the Mayor, in particular, on the governance implications of further devolution of central power: this is an area where both sides are currently sketchy in their proposals.

The current situation

The executive powers and strategic responsibilities of the Mayor are set out in Box 1. The Mayor is also under a duty to have regard to the health of Londoners and the achievement of sustainable development in the UK in everything he does. Each of the statutory strategies comes with a number of statutory consultation responsibilities, towards the London Assembly, the functional bodies, and towards various named stakeholders. The Mayor has also produced a number of non-statutory strategies.

Box 1: executive powers and strategic responsibilities of the Mayor of London

Functional bodies	Statutory strategies
Transport for London (TfL)	Transport
Metropolitan Police Authority (MPA)	
London Fire and Emergency Planning Authority (LFEPA)	
London Development Agency (LDA)	Economic development
	Spatial Development Strategy (The London Plan)
	Waste
	Ambient Noise
	Air Quality
	Biodiversity
	Culture

The vast majority of spending power and policy-making detail resides in the four functional bodies. In effect, the Mayor holds the power to set strategic priorities, including preparing the Economic Development and Transport strategies jointly with the relevant functional bodies,

¹ This briefing does not deal with the issues of changes to local governance arrangements and concerns over public service delivery which make up a substantial part of the remit of the Commission on London Governance. Its concern is purely with the powers and functioning of the GLA.

but the functional bodies themselves control day-to-day decision-making. The Mayor also appoints the members of the functional bodies' boards (with the exception of the Metropolitan Police Authority, where the Mayor appoints a majority of members with others appointed by the Secretary of State). The Mayor's relationship to TfL and the LDA is somewhat closer than that to the MPA and LFEPA, which function in a more rigid national policy framework.

The Assembly has the power to scrutinise the work of the four functional bodies, but not to vote through changes in policy. It must achieve its scrutiny through reasoned argument, lobbying, and political persuasion. It has produced a number of good quality scrutiny reports since its inception, many of which have achieved national headlines. But its weakness has caused it frequently to be excluded from the policy-making process in the GLA, an issue which some of the proposals in this paper seek to address.

Many criticisms have been made of the powers of the GLA since its inception. Principally these relate to the small area of public policy covered by the powers of the GLA. This frequently means that gaps in its powers do not permit it to tackle policy challenges effectively, and this issue forms the core of many of the proposals for extra powers in the Mayor's scoping papers. An independent review carried out by London First proposes a substantial extension of the Mayor's powers, signalling that business is not opposed in principle to further devolution of power from central government. The Commission on London Governance, meanwhile, has been more circumspect, focusing on public service provision within London; but its interim report calls for representations on the matter of increasing the GLA's power.

It is a constant of local and regional government studies that sub-national authorities always wish to take on more power from central government. When the possibility of this arises, how should the decision about which powers to devolve be made? In the case of the GLA, there are two interlocking options. Firstly, the initial aims of the GLA, as expressed in the Green and White Papers of 1998, can be examined, and the GLA's executive powers read off against those aspirations. Secondly, the guidelines expressed in the Government's press release announcing the review, set out above, can be used.

The Green and White Papers, *New Leadership for London* and *A Mayor and Assembly for London*, intend the Mayor to have responsibilities around culture, health and the environment. These three areas are not covered in the six Mayoral scoping papers published by the Mayor's office in September 2005. We examine further below the possibility of devolving powers to the GLA in these areas. Currently, the GLA has strategic-level responsibility for each of them (see Box 1), including his duty to have regard to the health of Londoners in everything he does. But in each of them, nation-wide executive agencies retain far greater powers and funding than are available to the GLA. Essentially the GLA has no powers to put its strategic priorities into effect in any of these areas. It has been argued by many commentators (Harding et al 1996, Roberts 2000, 2002, Baker 2002, Lee 2002, Headicar 2002, Sandford 2004) that strategic powers without executive authority will be ineffective, and it is for this reason that we propose strengthening the powers of the GLA in these areas.

The Mayoral scoping papers take a third approach to GLA powers. They seek extra powers on the criterion of helping to deliver the GLA's existing strategic commitments: principally in the fields of economic development and spatial planning. The issue of delivering GLA strategies is one which has not yet bitten, because much of the Mayor's first term was spent actually finalising the strategies themselves and consulting with stakeholders. It is crucial to the future effectiveness, and to public perceptions, of the GLA that the Mayor demonstrates the ability to deliver the strategies in his second term and beyond

The Mayoral scoping papers use this basis to propose strengthening of GLA powers over housing and waste disposal (intimately related to effective spatial planning and closely linked

to transport provision) and over skills and learning (closely related to economic development). The evidence of the development of policy towards the other regions of England suggests that the Government accepts the links between these policy areas. The Treasury's Devolving Decision Making review, and the 2005 Labour manifesto, refer in positive terms to devolving greater decision-making powers to regional bodies responsible for economic development, planning, and transport; and the Treasury review also proposes the right for those bodies to pool budgets in other regions. It would be odd if the Government were not receptive to similar proposals coming from the GLA.

The Mayor's proposals

The Mayor's scoping papers propose a specific range of new powers to be devolved to his control:

- A **London Single Waste Authority**, set up as a new functional body. This would take over the functions of waste disposal and processing, currently carried out by the London boroughs (and in some cases, joint arrangements between boroughs).
- A **London Learning and Skills Council**, set up as a new functional body. This would take over the functions of the five Local Learning and Skills Councils in Greater London, together with a number of programmes currently handled by JobCentre Plus, and a small number of responsibilities currently handled by the Government Office for London
- Extra powers in the **planning regime**, including a right to propose developments; the right to call in borough planning decisions; the right to set building regulations for London; and a right to participate in Section 106 agreements;
- The power to direct **strategic housing funding**, currently exercised by the Housing Corporation and Government Office for London.

Box 2 lists some of the main executive agencies in operation in London outside of the GLA family. The third column specifies whether the Mayor seeks to take on the powers of the executive agency. For comparison, the fourth column specifies whether the same powers would have passed to the elected regional assemblies proposed by the Government's White Paper, *Your Region, Your Choice* (2002).

Box 2: executive agencies in London outside the GLA family

Name	Boundaries	Mayor	ERA?
Government Office for London (GOL)	Standard	Part	Part
5 local Learning and Skills Councils (LSCs)	Sub-regional (under review?)	Yes	No
Environment Agency	Thames (London plus surrounding areas)		No
Natural England (formerly Countryside Agency/English Nature/Rural Development Service)	Unknown (previous organisations included London in South-East)		No
Arts Council London	Standard		Yes
Sport England	Standard		Yes
ALM London	Standard		Yes
English Heritage	Standard		Part
Housing Corporation	Standard in London	Yes (part)	Yes
Higher Education Funding Council for England	None		No

Strategic Health Authorities	5 sub-regional (under review)		No
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The majority of the Mayor's proposals could only be implemented through primary legislation, i.e. a second GLA Act. The scoping papers tacitly acknowledge that finding Parliamentary time for a new GLA Act would be difficult, in that they each offer options for change which are achievable without primary legislation. In every case, however, those options are far inferior to the option of primary legislation, in terms of the impact they will have on the governance of London. They propose an extension of joint working and partnership in each policy area, but the impact of new joint working arrangements is minuscule compared to the impact of executive control. They also do nothing to address the constitutional anomalies of the GLA (discussed later). We do not recommend that non-statutory means are used to achieve the outcomes aimed towards by the Mayor's scoping papers.

Each of the Mayor's proposals serves to either plug a gap in the current range of GLA strategic powers, or to bring in to the GLA's remit policy areas which are closely related to them. A London-based learning and skills council would complement effectively the responsibilities of the London Development Agency. The split between economic development and learning and skills, expressed institutionally through the Regional Development Agencies and LSCs, has long been a source of criticism. Bringing both bodies into the same democratic family would considerably aid them working together on strategic policy. We do not believe that it is necessary to merge the two bodies to achieve this effect: the Mayor and his team will have the necessary control over strategy to do so.

The proposal for a waste authority also plugs gaps in the Mayor's ability to deliver his four environmental strategies. It is likely to be a controversial proposal. Waste disposal was handled by the Greater London Council until its abolition in 1986 (with Ken Livingstone as its final leader). It is one of the responsibilities of the GLC that was not 'returned' to the GLA in 2000, and the Mayor has agitated for its return since then. The Mayor's scoping paper claims that a majority of stakeholders support its return to London-wide level, though the boroughs (who are currently responsible for waste disposal) are divided.

The power to direct strategic housing funding relates closely to the delivery of the London Plan. Currently, the Mayor's only real purchase over strategic housing delivery is his ability to refuse planning permission for strategic developments. He has used this to its fullest effect, indicating that he will refuse permission where less than 50% of planned housing units are classed as affordable. The GLA Act debars the GLA from maintaining any housing stock of its own. However, power to allocate capital funds for housing was part of the package of powers proposed for elected regional assemblies, indicating that the Government is open to a strategic authority taking on this role.

In London, the Housing Corporation supplies funding to housing associations, and GOL supplies funding to local authorities. For some years now a London Housing Forum has produced a strategic document intended to govern the allocation of this funding. Following discussions with government, this has now been upgraded into a Regional Housing Board, which will make recommendations for the allocation of funding to GOL and the Housing Corporation via central government (this arrangement applies in all regions of England). Housing funding is now distributed to the Housing Corporation and Government Offices as a Single Housing Investment Pot (SHIP).

It would be possible to create a new functional body for housing funding, but this is not proposed by the Mayor's scoping papers. Given that all of the funding is passed through directly to housing suppliers, creating a full-scale functional body probably represents overkill.

Other potential transfers of power

If the Green and White Papers published in 1998 represent an accurate statement of the aims and objectives of the GLA, it follows that further devolution of powers ought to take place in line with those aims and objectives. They included responsibility for culture, health and the environment: as noted earlier, the GLA lacks executive powers in each of these areas, whilst national executive agencies do hold those powers within London. The Mayor has chosen not to call for powers over these policy areas in his scoping papers, despite the fact that many of them could be transferred to the GLA without primary legislation.

The possibility of a single waste authority for London raises the question of links with the other existing environmental agencies. Currently these are going through flux. The Natural Environment and Rural Communities Bill, currently progressing through Parliament, plans to merge English Nature, the Countryside Agency and the Rural Development Service into a new body called 'Natural England'. Each of the three predecessor bodies accommodated London uncomfortably into their regional structures: they all used the nine standard English regions, except for treating London as part of the South-East.

It would be possible to make provision, in the Bill, for the functions of Natural England, for London, to be devolved to the Greater London Authority or one of its functional bodies. Those functions are likely to have very different delivery implications within the mostly urban London region than they do in the other regions of England. Devolution of those functions within London would also aid the delivery of the Biodiversity and Waste strategies, and would relate to the health and sustainable development duties of the Mayor. It appears that this would be possible under the Bill as it currently stands. Clause 71 allows the Secretary of State to delegate an 'authorised DEFRA function' to anyone s/he sees fit, and Clause 94 makes general provision for amendment of provisions in the Act by the Secretary of State.

Functions relating to culture, heritage and the arts should also be considered for devolution into a functional body structure. The Mayor publishes a Cultural Strategy and convenes a Regional Cultural Consortium, and he has spent considerable sums on cultural events since the establishment of the GLA in 2000. Under these circumstances it makes little sense for all of the executive agencies operating in London to remain outside the Mayor's control. The Cultural Consortium could be transformed into a functional body, taking on the responsibilities of bodies such as the Arts Council and Film Council regional offices, English Heritage's London office, Sport England's regional tasks, and ALM London (the museums, libraries and archives council). Bodies such as the South Bank Centre could also come under Mayoral control (as was the case under the Greater London Council). This would require legislative amendment in some cases, although in others legislation would not be necessary to allow the Mayor to appoint the board and to deliver arts funding.

A number of minor programmes currently run by the Government Office for London (GOL) could efficiently be transferred to the GLA or its functional bodies. The Commission for London Governance suggests, in *Making London Work Better*, that a number of these should be transferred to the control of boroughs or to functional bodies (see Appendix 1 for a list of GOL programmes). The decision about these would need to be made on a case by case basis, but many relate closely to the work of the London Development Agency, or to skills, or to policing and public safety issues. The Commission on London Governance, the Mayor's scoping papers, and all of the independent reviews referred to earlier are critical of GOL's lack of democratic accountability and low profile.

Strategic responsibility for health issues has also been a concern of the Mayor, and has found expression through the London Health Commission (Greer and Sandford 2005). The Commission on London Governance proposes a London Public Health Strategy, to be written by the Mayor. In order to allow such a strategy to be delivered, the regional Public Health team, currently located in GOL, could be moved to Mayoral control. As the Regional

Director of Public Health is also the Mayor's Health Advisor, this would be a sensible change. It would also link the Public Health team in to the Mayor's own nascent health strategy, focusing on drug abuse and mental health.

Finance

Like all sub-national governance in the UK, the finance of the GLA is overwhelmingly in the form of direct transfers from central government. The Mayor is able to precept on the Council Tax collection of the London boroughs, and also has access to the revenue stream from the Congestion Charge (though this is relatively small, amounting to less than 1% of the overall spending of the GLA). Transport for London also has the ability to vary its fare structure, giving it some control over revenue. And the Mayor has been able to negotiate a borrowing package with the Treasury, in order to allow transport improvements before the 2012 Olympic Games.

The existing functional bodies are funded almost entirely by direct grants from central government. The Mayor can then supplement these with sums raised by precepting on the London boroughs. It is likely that any new functional bodies proposed would be financed in the same way: all of the existing organisations receive direct grant from Government.

Some £700 million was raised through the precept in 2004-05. This pays both for the running costs of City Hall (£73 million in 2004-05), and serves as the means through which, for instance, the Mayor can appoint more police officers (this was a high-profile policy through 2001-02). The precept has risen considerably under the current Mayor, though its existence predates him. The majority of the precept goes to the Metropolitan Police Authority and Transport for London: both police and London Transport operated their own precepts before the establishment of the GLA.

The Mayor is not permitted to vire any of the money allocated to the functional bodies under the direct grants from central government. That is, he cannot transfer money that has been earmarked for transport spending across to police spending if he sees fit. This was provided for in the White Paper, where the Government stated that "Allowing the Mayor a degree of financial flexibility does not mean running risks with the quality of services...A large proportion of the funds for TfL and the LDA will be earmarked central government grant, which the Mayor will not be free to transfer to other functions" (DETR, A Mayor and Assembly for London, 1998:79). Thus the Mayor's financial room for manoeuvre is limited. This makes joining up policy more complex, particularly if further functional bodies are created.

Recent developments in regional policy within the Treasury indicate a softening of Government attitudes towards virement of public funds between policy 'silos'. The Treasury's Devolving Decision Making Review has led to the establishment of Regional Housing Boards in each of the nine English regions, which are now permitted to suggest virement of funds between budget heads within housing spending at the regional level. Regional Transport Boards, piloted in the South-East and Yorkshire & Humber in 2004-05, had a similar role. The July 2005 publication "Regional funding allocations: Guidance on preparing advice" invited comments on appropriate mechanisms (given the lack of democratic accountability at the regional level) to permit virement of public funding between (not merely within) economic development, transport and housing programmes at the regional level.

"Under the proposals in this document, as part of their Spending Review input, regions would be able to recommend switching expenditure on the basis of a demonstrable alignment of regional strategies for transport, housing and economic development. However, any decisions on switching funding between policy areas would be made as part of the Spending Review process within the national context, and would continue to be subject to clear democratic accountability exercised by the

relevant Secretaries of State.” (Devolving Decision Making: a consultation on regional funding allocations, 2004 p9)

“Advice will be more credible if it arises as a product of a wide consensus, and reflects the full range of evidence contributed throughout the regions... Regional Development Agencies (RDAs) and Regional Assemblies will have a particularly important role to play” (Guidance on preparing advice p7)

If the Government can consider such flexibility in regions lacking a directly-elected government, it seems fair and logical to permit the same kind of flexibility to the directly-elected GLA. We therefore propose that the Mayor should be able to top-slice ten per cent of each of the functional body budgets and spend it as he sees fit. S/he could move it to a different functional body, or use it for another purpose entirely. The purpose of this is not to give any mayor carte blanche to begin all sorts of initiatives which cut across the responsibilities of other tiers of government. Instead, it facilitates initiatives which do not fit clearly into the remit of any one functional body – or put another way, it is a marginal relaxation of the public accountability requirements of the functional bodies. The functional bodies, like all public bodies, are covered by public accountability requirements which require them to ensure that public money is spent for its stated purpose.

This proposal would safeguard the vast majority of functional body spending (which most politically astute mayors would seek to do in any case) and allow for some freedom of policy-making at the same time. If this is felt to free up too much money for the Mayor to vire, it would be possible to make it subject to a maximum for each functional body – say £100 million. It would also be possible to require the Mayor only to move money between functional bodies i.e. projects located in the ‘core GLA’, outside of the framework of London strategies and scrutiny, could be forbidden.

In general, however, we recommend the principle, in recognition of the Mayor’s success in trialling new public policies since 2000. The GLA has acted as an effective laboratory of democracy (Peterson 2005; see also Sandford 2006) but has been limited in its ability to innovate due to financial constraints. We recognise that the Government may be unwilling to take such a step at present, as the Lyons review of public finance is still underway (its reporting stage having been postponed until 2006). Ministers will not wish to cut across the outcomes of the Lyons review by installing a set of relatively radical measures for the GLA. However, the option of greater budgetary freedom should be aired for future debate, if nothing else.

Proposals for extended revenue-raising power for the GLA have generally been more circumspect. The Commission on London Governance proposes the return of the business rate to pan-London control. This has been a bone of contention for local government since 1990, when the setting of the business rate was moved from local to national control. This effectively halved the proportion of revenue collected locally by local authorities. Since the Scottish Parliament and National Assembly for Wales are both entitled to set the business rate in their territories, there is a case for London to do the same. However, this would need to be carefully thought through. As London provides the motive power for a large part of the UK’s economy, changes at a devolved level could have considerable outcomes elsewhere. It is unclear whether this proposal would give more or less financial flexibility to the GLA; and it is also unclear what effect it would have on democratic accountability.

Neither the Commission nor the Mayoral scoping papers mention issuing bonds, proposed by the Mayor as an alternative method of raising revenue to that of the Public-Private Partnership which currently governs London Underground. Bonds could be issued either for transport-related or other projects. Professor Stephen Glaister, of Imperial College London, has raised the long-term finance of Transport for London as a serious concern and has suggested that new forms of regionally accountable taxation would provide one means to

plug long-term funding gaps. Discussion of such ideas is only at a very initial stage, but possibilities could include a tax on development gain following public infrastructure (e.g. new underground lines); or variable rates of business rates or income tax (which could enable more of London's wealth to be hypothecated for provision of public goods).

The constitution of London

This section of the briefing analyses the implications of the current Mayoral proposals for the functioning of the GLA. It proposes a number of changes which flow from the Mayor's proposals. The changes also relate to various identified difficulties with the GLA as it stands. A number of these relate to the position of the London Assembly within the GLA, something which has been recognised as an issue by the Mayor – who provocatively suggested the abolition of the Assembly, and its replacement with a joint borough committee, in an Association of London Government seminar in October 2005.

We do not regard this as a realistic proposal, as it overlooks the potential for conflict and parochialism in a borough committee. The Mayor suggested in the October seminar that Assembly members had “made a pact not to do any work” (Guardian, 11 October 2005), and were not conducting effective scrutiny of his decisions. However, this is in a sense to ‘blame the victim’, as there are many structural deficiencies of the London Assembly which serve as disincentives for it to involve itself substantially with the Mayor's work. The answer that we present here is for the Assembly's formal powers and role to be strengthened, not abolished. This would be a useful move if no changes at all were made to the Mayor's powers, because the Assembly's current structure is faulty in a number of ways; but if any of the proposed expansions of Mayoral power take place it will be absolutely essential, for a number of reasons.

An expansion of functional bodies from four to six (or more), plus a number of enhanced internal functions (most notably the right to allocate housing funding). This represents a considerable enhancement of Mayoral powers – both a greater range of policy areas covered by his competences and greater spending powers. This has consequences for the nature of the Mayoral system in the Greater London Authority. The number of functions for which the Mayor is directly answerable grows. This means that his personal mandate would extend to a very wide range of policies – transport, policing, skills, housing, planning and more. The Mayor cannot be personally expected to hold up-to-date knowledge on at any one time. Even through the scrutiny of the London Assembly, and such events as Mayor's Question Time, accountability risks becoming a charade where the Mayor relies on briefings and general answers. At the same time, a greater range of scrutiny investigations by the Assembly will be required.

The London mayoralty is an intensely personal institution. The purpose of the directly-elected mayoralty was to concentrate accountability in a very visible figurehead:

“We expect the Mayor to become a high profile figure who will speak out on London's behalf and be listened to. Londoners will all know who their Mayor is and have an opinion on how she or he is doing.... With such a powerful elected Mayor, it is essential that there is another democratically elected forum where other political views or interests can be aired.” (DETR 1998:9)

However, a growing GLA has consequences for the meaning of ‘accountability’. It is unreasonable to expect a meaningful degree of accountability from the Mayor on such a wide range of policy issues: he will inevitably defer to his advisers in public, and they in turn will inevitably play a major part in the development of policy.

The London Assembly is in a particularly weak position vis-à-vis the Mayor compared to that of the council and elected mayor model in local authorities. The Assembly has no power to

call in Mayoral decisions. It needs two-thirds of votes to overturn the Mayor's budget. The political links between the Mayor's cabinet and the council, which are a feature of local authority elected mayoralties, are less clear in the GLA because the Mayor appoints close advisers of his choice and has no formal cabinet. These are all small constitutional details in themselves, but taken together they seriously weaken the ability of the Assembly to hold the Mayor to account. The effect is to disconnect the Assembly from the decision-making process. Its members exercise decision-making power as *individuals* through their positions on functional body boards, London boroughs, and as leading members of various policy networks, but the effectiveness of the Assembly's scrutiny is compromised as a result. Moreover, the Assembly has very few members, again meaning that the amount of Mayoral action it can keep tabs on is limited.

The Assembly's position is also compromised by the fact that the Mayor must appoint many of its members to the boards of MPA and LFEPA, and that he must do so by political proportionality. The Mayoral scoping papers suggest ending this requirement and permitting the Mayor to appoint on the basis of expertise. The Constitution Unit has long argued that appointing members of a scrutiny body to sit on the boards which that body is expected to scrutinise is a confusion of the executive and scrutiny roles that will inevitably cause one of them to be performed badly. We support this aim of the Mayor. However, we propose a slightly different alteration to the constitution of the functional bodies.

- Instead of appointing Assembly members to sit on functional body boards, the Mayor should appoint the chair of each functional body board from the Assembly.²
- Appointments to the boards themselves would not come from the Assembly, and would be made by the Mayor on the basis of experience and merit.

We disagree with the proposals of the Commission on London Governance for more Assembly members to be appointed to the functional body boards. A political perspective on functional body policy can be helpful, but this does not imply a controlling interest for the Assembly. As the Mayor sets functional bodies' strategic plans, they are primarily Mayoral organisations. In our view it blurs the accountability of functional bodies to include representatives from across the political parties of the Assembly, and from another tier of government (the boroughs), as it is not clear who is responsible for decision-making.

Furthermore, appointing more Assembly members to functional bodies³ would neuter the Assembly's scrutiny function, both because Assembly members' time would be at a premium and because many of them would be conflicted out from participating in scrutiny. Assembly members might welcome the chance to serve on boards rather than scrutinise functional bodies, but when functional bodies make mistakes that deserve investigation this approach is not robust. The Assembly's scrutiny function has been under-rated since its inception due to various structural weaknesses which are addressed below.

This proposal would bring the GLA more into line with practice across local government elected mayoralties. The Mayor would normally appoint from his or her own political group or two groups in coalition, and the six (or more) appointees would come to be regarded as the Mayor's cabinet. They would in turn take on a higher profile in London politics, leading to increased visibility and accountability. Logically, they could not then sit on Assembly scrutiny committees.

² This proposal could be varied in some cases. For instance, the chair of the London Development Agency must have 'business experience', so this proposal might apply, for instance, to its vice-chair. The Mayor's power to appoint himself as chair of Transport for London could also be left in place.

³ Currently some 20 Assembly members sit on one or other functional body boards. The GLA Act 1999 requires that a majority of the boards of MPA and LFEPA be appointed from the Assembly.

There would be knock-on effects of appointing a London ‘cabinet’ from assembly members. Firstly, leading Assembly members would have access to definable executive positions and significant decision-making powers. Secondly, their presence on the Assembly would mean that their party group(s), through party structures and pressure, would have an increased leverage over their decision-making. At present many Assembly members find themselves unable to influence the Mayor in practice through the scrutiny process, because the political party links between the executive and ‘back-benches’, which exist in every other assembly and local authority in the UK, have been broken in London. In effect, the Mayor would become the directly-elected head of a recognisable administration, rather than a remote decision-maker who is required to explain his/her decisions but never obliged to change them. The Mayor would likely find it expedient to put together what amounted to a coalition government, giving himself enough votes to get the budget through the Assembly in return for seats at the ‘Cabinet’ table.⁴

Although in principle we believe Assembly members should not sit on the boards of functional bodies which the Assembly scrutinises, this principle would not be destroyed by the appointment of, for instance, one or two Assembly members to functional body boards. There are always likely to be Assembly members with considerable experience of particular policy areas, who would be appointable on merit. And elected politicians may be able to bring a useful political radar to the board’s decision-making. (RDA boards elsewhere in England typically include 2-4 local government representatives.) Also, these proposals do not entirely preclude borough councillors being appointed to functional body boards. This would be a useful source of local democratic accountability, and we recognise that removing elected members from boards may be perceived as downgrading accountability. But we believe this possibility is quite different in its nature from the suggestions made by the Commission on London Governance. The Commission’s proposals assume that Assembly members and borough councillors should have considerable policy control over Mayoral functional bodies. Our proposals award this control to a Mayoral cabinet, and route accountability through the executive of the GLA.

It would be appropriate for the Assembly to be able to hold confirmation hearings to interrogate proposed appointees to functional bodies where it felt this was appropriate or necessary. The Assembly could be given a power to reject an appointee on a two-thirds majority. This requirement for a supermajority would act as a safeguard against party political use of the power to reject.

Amendments to Assembly powers

We also suggest a number of amendments to the powers of the London Assembly, to enhance the effectiveness of its scrutiny and its position within the GLA. These derive from the weaknesses identified above. It should be noted that the suggested changes are all interlinked. They should not be adopted piecemeal, as they hang together to produce a specific balance of powers. If some but not others prove acceptable to Government, careful consideration needs to be given to how changes interrelate.

- The Assembly should have a power of call-in equivalent to that available to local authority scrutiny committees under the Local Government Act 2000.

⁴ To make this proposal work it would be necessary to clarify the relationship between the Mayor’s special advisers and the ‘cabinet members’, an issue that plays into current concerns about the role and powers of special advisers in central government. Would the special advisers work for the Mayor and have a roughly equal role to the cabinet or a distinct role, or would they work in practice for the cabinet members? This issue is mentioned because it may be expedient to take notice of it in any new legislation.

This proposal would enable the Assembly not merely to scrutinise, but to halt, any decision of the Mayor that it did not agree with or wished to amend. The current Mayor has developed a system of Mayoral 'authorisation forms'. These are used to certify that a Mayoral decision has actually been made, as no provision was made in the GLA Act to enable staff to know when this had happened. Under this proposal, the Assembly would have access to these forms and would be able to call in any decision recorded on one of them.

The purpose of this change would be to sharpen the degree of scrutiny by the Assembly. Currently, the Assembly's only real exercise of power is to reject the Mayor's budget. This is an extremely blunt instrument, which does not allow for objections to specific policies and decisions throughout the financial year. Access to a call-in power would immediately bring the Assembly's opinions into sharper focus for the Mayor. S/he would have to gauge Assembly opinion, formally or informally, before setting budgetary priorities. This is appropriate, because the Assembly members are democratic representatives and should have a say over Mayoral decision-making.

The Mayor's office may fear that this proposal would bring policy-making to a standstill, as opposition parties on the Assembly began to halt as many decisions as possible for party political purposes. In practice, it is unlikely that long lists of call-ins will emerge as soon as this power is granted. Experience from local government suggests that call-in's effect is in its threat rather than its use: fears that opposition parties would abuse the system by calling everything in have proved the exception rather than the rule.

Local authorities are allowed to specify the conditions for a call-in to take place. Most commonly, between 3 and 5 members must sign up to it; additionally, in some cases the chairs of scrutiny committees can call in a decision on their own. It would be for the London Assembly to decide, through standing orders, exactly how to implement this power. In order to prevent abuse, the Assembly might decide that any call-in must be signed by members of more than one Assembly party. Alternatively, a call-in could be accepted by majority vote on the Assembly but an amendment to the decision might require two-thirds of those voting to be in favour.

In local government, decisions can only be called in if they are at odds with the existing policy framework. This is one of the means through which call-in is prevented from becoming a party political free-for-all, and the same conditions would need to be created in the GLA. The logical approach to this would be to treat Mayoral strategies as the GLA's policy framework, allowing call-ins only on decisions at odds with the strategies – though the question would still arise as to what to do about decisions on policy subjects that were not covered by strategies (e.g. the Olympic bid). The White Paper on the GLA actually suggested that the Mayor should "propose an overall vision for London" (DETR 1998:9); this suggestion could be followed up by requiring some form of integrated strategy or foundation document underlying the existing statutory strategies.

Some means for the Assembly to control the content of the strategies should be considered, either by a majority or supermajority vote in Assembly plenary. The Assembly could be permitted to block strategies if they were unhappy with their content. In practice this would then lead to political negotiations on the content of the strategies. It would not be necessary to give the Assembly a formal power to amend the strategies and pass them without the Mayor's consent - this would damage the ability of the Mayor to get his programme passed. If the proposals on call-in above were adopted, the Mayor would no doubt be tempted to draw up strategies that were as wide-ranging and vague as possible, to prevent his/her hands being tied.

If the above suggestions were followed, compromises and discussions on the specifics of the strategies would be 'front-loaded', i.e. they would take place when strategies were written or reviewed, rather than being handled piecemeal whenever decisions were called in. This

would be another measure which would imply the creation of a de facto governing coalition by the Mayor, in order to ensure that the strategies were passed through the Assembly.

- The Assembly should have the power to reject or amend the Mayoral budget on a bare majority.

The current requirement for a two-thirds majority to change the Mayor's budget appears to have been imported from various single-person executive systems in other countries. However, the effect of this, perversely, is that the Mayor only needs one-third of the Assembly's votes to pass his budget. This has proved advantageous to the current Mayor, but, as with the previous point, it gives democratically-elected representatives on the Assembly very little leverage over his spending decisions. This change would further strengthen the relationship between the Assembly and the Mayor. We cannot see any real justification for the Mayor being able to pass such a major provision as the budget on one-third of Assembly votes. This change would also bring the GLA into line with local government mayoralities.

- The Assembly should have its own specified line in the annual GLA budget.

Currently, the GLA budget which is passed in February each year is required only to specify five figures. These are the total budgets of each of the four functional bodies and the total budget of the 'core GLA'. Once these figures have been passed, the functional bodies are at liberty to vire between heads *within* their own budgets, and the Mayor is also at liberty to vire between heads within the core GLA. One consequence of this is that the Mayor can at any time modify the total budget available to the London Assembly, to carry out scrutiny and to pay for research and administrative assistance for its twenty-five members. The Assembly does not have a distinct formal existence within the GLA; it functions as a directorate of the GLA, with discretion within its own budget. This provides the opportunity for a mayor to strangle the London Assembly, should s/he fall out with it, by removing part or all of its budget and spending it elsewhere within City Hall.

There is no suggestion that this would happen, nor has it been threatened, but the opportunity should not exist. That is particularly important if the changes to the budget vote proposed above were implemented. The Mayor should not be allowed the option of choking the Assembly's funding if it refuses to pass his budget. The London Assembly maintains a distinct corporate existence within the GLA, and the challenge of maintaining a discrete budget should be minimal. We therefore propose that, as part of the annual budget round, a figure should be agreed for the total administrative costs of the London Assembly for that year. The Assembly would then itself decide how to allocate within that figure, and would not be threatened with mid-year reallocations of it to other parts of the GLA. It would have the opportunity to haggle, and to threaten not to pass the total budget, if it was unhappy with the figure proposed.

It might also be possible to consider creating a list of specified public bodies which would be required to respond to a summons from the Assembly to attend a scrutiny hearing into their work. The experience of the Assembly so far has been that most public bodies have been co-operative where it has requested a hearing. Central government civil servants are the only group which has refused to appear before the Assembly, on the grounds that they are accountable to Parliament.

Membership of the Assembly

A further consequence of the extra executive powers that are proposed, and the proposed Mayoral 'cabinet', is pressure for an increase in the number of Assembly members. The Assembly currently contains only 25 members. If six were to hold 'Cabinet' positions, only 19 remain to scrutinise six functional bodies plus additional functions such as housing and

planning. We do not believe that this is enough members to carry out effective scrutiny of the wide range of powers proposed by the Mayor (see Appendix 2). We recognise that, in the current climate, there is no appetite for the expansion of the London Assembly, but the suggestion is in our view a logical corollary of the expansions in executive power on which the debate over the GLA is currently centred. Part of the purpose of the GLA is to bring elected representatives' views to bear on policy-making in London, and it is vital that, to achieve this end, they are not expected to take on far too much work.

The London Assembly needs enough members to be able to appoint at least one scrutiny committee for each functional body, plus standards, budget, and business management committees.⁵ It has also, up till now, appointed other committees such as health, culture, and 'Safer London', monitoring the various strategic responsibilities of the Mayor. With an enhanced portfolio of Mayoral powers, Assembly members will also enjoy enhanced constituency duties. In order to effectively staff some 10 committees, plus providing cabinet members to the Mayor, we suggest that the Assembly would need to be expanded to some 40-45 members. This in turn raises questions about how those members would be elected. A version of the current Additional Member System could be used; or larger constituencies could elect several members each through the Single Transferable Vote.

The Mayoral scoping papers also propose two minor amendments. Firstly, they suggest ending the odd situation whereby all of the GLA's staff are formally appointed by the London Assembly rather than the Mayor. The Mayor has the power to appoint ten political advisors, but no other members of staff. In practice, the Mayor's office appoints most of the staff of the GLA apart from those working directly for the London Assembly secretariat. We cannot see any useful purpose that is served by the existing formal arrangements, and agree with the Mayor that this should be changed.

Secondly, the Mayor suggests that the two rounds of consultation for each of the statutory strategies should be rolled into one. The current system obliges the Mayor to consult the Assembly and functional bodies first, then external stakeholders. This builds a time delay into each strategy. Stakeholders are frequently consulted by the Assembly as it prepares its response, and then again by the Mayor himself, leading to much extra work.

Whilst under the current GLA structure we would agree that the process should be streamlined as the Mayor suggests, through the proposals made by this paper the strategy-writing process would occupy a far more central position in GLA policy-making. The Mayor would, in effect, have to pilot his strategies through the Assembly. To make this happen as smoothly as possible, s/he would inevitably consult with the Assembly before publication. The Assembly would then be entitled to move amendments on the basis of Assembly members' own views or views expressed by stakeholders or members of the public. In practice there would be a running dialogue behind the scenes between Mayor and Assembly, aiming towards an agreed strategy document.

The requirement of two rounds of consultation would therefore no longer be repetitive, but a formative part of policy-making. To achieve the proposals in this paper, the parts of the GLA Act which deal with strategy-making would have to be carefully rewritten in any case.

Conclusion

In order to achieve the aims of the Greater London Authority, as expressed by Government documents in the past, we agree with the Mayor's scoping papers that greater executive responsibilities are needed. We do not recommend trying to achieve this, however, through

⁵ Although the Assembly is not obliged to operate any committees at all under the GLA Act, this is a reasonable way to gauge the number of members it needs to allow it to carry out an effective degree of scrutiny.

non-statutory means (the fall-back position proposed in the scoping papers). Although this would be far easier, in practice, than piloting a second GLA Bill through Parliament, new partnerships and joint working are a recipe for public misunderstanding and confusion. They will also raise unrealistic expectations, and in the long term, increase the degree to which the Mayor is seen as a figurehead with no power over public policy.

We have also previously argued that the GLA's 'constitution' contains deficiencies which impair its effectiveness as a political assembly. If a new Bill is to be proposed, the opportunity should be taken to remedy these. Primary legislation is the only way to achieve this.

The main effect of the changes proposed in this briefing, and by the Mayor, will be to make the GLA look more like a conventional political authority. The Mayor will be more closely constrained by the views of the various political parties represented on the Assembly, and will have to take their proposals more closely into account than he does now.

The Mayor will also need to manage the cabinet. The electoral system implies the creation of a cabinet containing two or more parties, as no one party is ever likely to gain a majority on the Assembly. There will also be clearer lines of accountability between the activities of the functional bodies and the Mayor and the members of his cabinet. The cabinet members are likely to become identifiable figures in their own right, and can be held to account effectively for their functional body's activity.

The outcome of the review of the GLA will inevitably constitute a negotiation between the Mayor and the Government. We suggest that the Mayor should not be afraid of asking for a reasonable degree of extra power, and the Government should not be afraid of granting it. The challenges facing London are substantial, and bringing together the powers to tackle them under one roof is an effective organisational response. Our recommendations in this briefing aim to ensure that democratic accountability and effectiveness are maintained if further powers are devolved to the GLA; these are as important as creating a strong and powerful Mayor.

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Appendix 1: Government Office for London (GOL) funding streams

Source: Commission on London Governance (2005): originally PQ [149601] Session 2004-05

1. Funding streams over £10m per annum

		£
1.	Greater London Authority Transport Grant	1,681,932,000
2.	London Development Agency Grants	317,704,000
3.	Housing Investment Programme (HIP)	269,709,000
4.	<i>Neighbourhood Renewal Fund</i>	97,410,141
5.	<i>Connexions Grant Funding</i>	69,995,638
6.	<i>European Structural Fund (ESF) Objective 3</i>	59,724,332
7.	<i>New Deal for Communities</i>	54,552,250
8.	<i>Greater London Authority General Grant</i>	35,958,000
9.	<i>European Regional Development Fund (Objective 2)</i>	24,206,183
10.	<i>Housing Action Trusts</i>	24,145,000
11.	<i>Disabled Facilities Grant</i>	15,399,000
12.	<i>Building Safer Communities Fund</i>	11,590,616

2. Funding streams over £1m per annum

		£
	<i>Basic Command Unit Fund</i>	9,430,277
	<i>Positive Action for Young People</i>	8,080,744
	<i>Community Chest</i>	5,545,083
	<i>Estate Action</i>	5,000,000
	<i>European Structural Fund (ESF) Objective 2</i>	4,137,134
	<i>Street Crime Wardens</i>	3,782,498
	<i>Community Empowerment Fund</i>	3,549,119
	<i>Street Wardens</i>	2,129,882
	<i>Home Office Directors' Allocation Fund</i>	1,459,795
	<i>Transforming Youth Work (Development Funding)</i>	1,438,396
	<i>Community Learning Chest</i>	1,321,477
	<i>Neighbourhood Wardens</i>	1,227,217
	<i>Neighbourhood Management Pathfinders</i>	1,204,177
	<i>Neighbourhood Renewal Capacity Building Fund</i>	1,200,000
	<i>Special Educational Needs/Disability Act</i>	1,039,814

3. There are another 20 plus funding streams each of under £1m per annum

Appendix 2: Number of members for a regional assembly

There are no hard and fast rules about the appropriate size of a regional, provincial or national assembly. In Europe, sub-national assemblies vary in size between Val d'Aosta in Italy (population 115,000, 35 members) to Bavaria in Germany (population 11 million, 206 members). Some of the smaller Australian and Canadian provinces and territories have fewer than 20 members. There does not appear to be any rule linking population size to number of representatives. The figures indicate that number of members tends to cluster around a particular average within a given country, but that the 'average' varies between countries.

There appears to be a rough link between number of members and comprehensiveness of task in regional assemblies. Thus, French and Italian regions generally have smaller numbers of members, reflecting their small responsibilities compared with Germany, Spain and Belgium. In the UK this rule also holds: Scotland and Northern Ireland, which have legislative powers, have large assemblies per head of population; Wales has a smaller one.

I have designed a formula to calculate the minimum number of members an assembly should have. This is *only* a mathematical toy, but it does help to focus on the issues that determine how many members should sit in any given assembly. The formula is:

$$A=5C-2+4E$$

A = total number of assembly members

C = number of cabinet members

E = number of extra committees (i.e. committees with roles such as audit and standards, which, unlike scrutiny/subject committees, do not examine policy work)

The basis for this formula is as follows:

1. The assembly must be made up of a cabinet, plus a presiding officer and deputy presiding officer (or appropriate title). These members cannot sit on scrutiny committees.
2. There must be at least as many committees as there are members of cabinet – in order to form subject committees to scrutinise each cabinet member's work – minus one. The leader or Mayor will not require a scrutiny committee as s/he has no department of his/her own.
3. Each committee would require at least seven members in order to achieve political balance and a range of representation.
4. In terms of time, each member could be expected to sit on two 'scrutiny' committees: hence each committee would require there to be 3½ committee members to exist. I have rounded this up to four.
5. This gives us the formula C [cabinet members] +2 [Presiding Officer plus deputy] + 4(C-1) [four members per committee, multiplied by the number of cabinet members minus the leader].
6. $C+2+4(C-1) = C+2+4C-4 = 5C-2$
7. I have then added 4E (the number of members required to exist for each committee, in point four above, multiplied by the number of extra non-subject committees, such as audit, equal opportunities, standards.)

This formula therefore relates to administrative organisation of assemblies. It does not take into account the important point of the degree of power of any assembly. The existence of legislative or tax-raising powers would increase pressure for greater numbers of members, because of the sheer amount of policy and scrutiny work involved in undertaking these roles

In London, assuming a cabinet of the Mayor plus six functional body chairs, plus three extra committees (audit, budget and BMAC), this formula suggests 45 Assembly members – at the upper end of the figures quoted in this report. This number could be reduced if committees of six members instead of seven (see point 3 above) were used.

ISBN: 1 903903 43 6