

**Browne
Jacobson**

Practical Guide to.....
**English Devolution and
Local Government
Reorganisation**

Updated February 2025

Devolution Revolution.....



The biggest change to local government organisation and governance in 30 years.....a wholesale re-working of Government in England with a focus on regions and the local rather than the national.....a focus on elected leaders driving strategic change.....

All these phrases and many more have been rolled out in response to the Government's publication of the English Devolution White Paper – Power and Partnership: Foundations for Growth published in December 2024 (the 'White Paper').

Published just before Christmas, and with the Government welcoming expressions of interest by 10th January 2025, local government leaders had only 16 working days, over the Christmas period, to get to a place where they could submit initial proposals on either local government reorganisation needed to “unlock devolution”, or on proposals for new strategic authorities (the new umbrella term for combined authorities and combined county authorities).

Many areas moved quickly to signal a desire to be in

the Devolution Priority Programme, recognising that early adopters may fare better than those that choose to wait in terms of financial benefits and choices over factors like geography. On 5 February, the Secretary of State announced the six areas in the Priority Programme, and one area where local government reorganisation would be progressing ahead of devolution. The timetable for those areas is set, and it is demanding. For other areas, there is still a need to consider next steps around devolution and local government reorganisation.

We have updated this practical guide to take account of the announcement of the Priority Programme. It still provides practical tips for both groups about how to move forward at pace in this new world.



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Local Government Reorganisation

Policy Position

The White Paper proposed a programme of local government reorganisation for all two-tier areas as well as for smaller or failing unitary areas. It envisaged that for most areas, unitary councils would have a population of 500,000 or more, but that there may be exceptions to this general position.

The White Paper invited proposals from areas and set an expectation that existing councils would be expected to work together to develop these and bring forward the changes as quickly as possible.

On 5 February the Government announced six areas which are part of the Devolution Priority Programme, four of which are intended to both create a new Combined County Authority and, undertake local government reorganisation (the other two areas already entirely consist of unitary councils coming together to create a combined authority). In addition, it was announced that Surrey would also undertake local government reorganisation on an accelerated timetable.

Proposals for reorganisation in the priority areas are required to be made by 26 September (except Surrey where the relevant date is 9 May), and that shadow elections for the new unitary councils will take place in

May 2026, with the new unitaries vesting in April 2027. Elections have been postponed in all the areas which are in the priority group and include local government reorganisation.

In addition, local government reorganisation proposals have been invited from all remaining two-tier areas by 28 November, with an intention to elect to shadow unitaries in May 2027, with new unitaries vesting in April 2028.

All areas (both in and outside the priority areas) are required to submit interim plans by 21 March 2025 which are required to set out progress on developing proposals in an area.

The letter to all areas from the Minister sets out expectations for creation of unitary councils, indicating that where possible joint proposals should be made; that there will be an expectation of stakeholder engagement, and that there is the possibility for boundary changes (although ordinarily it is expected that new unitaries will be created from the 'building blocks' of existing councils). On funding, the expectation is that transition costs will be met over time from existing budgets with flexible use of capital receipts (although where Commissioners are appointed there may be some flex).

Legislative Framework

The Local Government and Public Involvement in Health Act 2007 (the '2007 Act') provides the legislative basis for unitisation.

Under section 2 of the 2007 Act, the Secretary of State ('SoS') may invite a 'Principal Authority' (either a county council or district council) in England to put forward a proposal for a single tier of local government. This proposal can comprise:

- A single tier of local government for the whole of the county (Type A proposal);
- A single tier of local government for a district (or more) within the county (Type B proposal);
- A single tier of local government for one of the above that also includes one or more relevant adjoining areas (e.g. all or part of an adjoining county area) (Type C Proposal);
- A combination of the above Types B or C proposals.

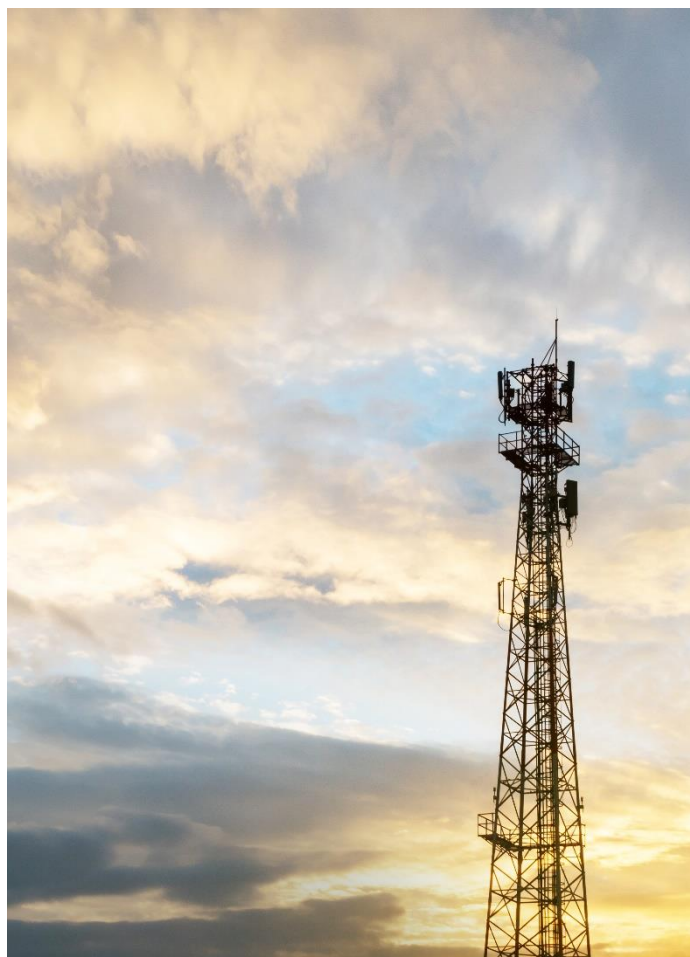
Up until 25 January 2008, the SoS was also able to direct principal councils to bring forward a proposal, which meant that the SoS could effectively force unitisation where proposals were not made voluntarily. However, the provision in the 2007 Act expired on 25 January 2008 and so this kind of direction is not currently available to the SoS. The indications in the White Paper are that the Government will reintroduce this power of direction in due course – although the 2007 Act will need to be amended to enable this. This is likely to be done in the English Devolution Bill, which we suspect will be introduced later in 2025, and not come into force until at least early 2026.

Proposals under section 2 of the 2007 Act do not require a consensus from every authority affected by it. However, where a proposal is made jointly by every authority, the requirements on the SoS to consult are reduced to exclude consultation with every authority affected (see below).

Subject to consultation requirements, following the receipt

of a proposal under section 2 of the 2007 Act, the SoS may implement the proposal, with or without modification under section 7 of the 2007 Act. They may also seek advice from the Local Government Boundary Commission ('Commission') who may make an alternative proposal which the SoS may implement with or without modification. However, there is no obligation on the SoS to act on a proposal.

If the SoS seeks advice from the Commission, they may not make an order or decision before six weeks from the advice being requested. There are no other specific timescales to which the SoS must adhere when taking a decision, but the SoS must consult with authorities affected by the proposal (other than those which made it) and such other persons as they think appropriate before reaching a decision.



Devolution

Policy Position

Devolution is the main focus of the White Paper as it envisages universal coverage in England of 'Strategic Authorities' which may be either Combined Authorities or Combined County Authorities (and includes the Greater London Authority). In time, it is envisaged that all strategic authorities will be Mayoral Strategic Authorities ("MSA's"). However, 'Foundation Strategic Authorities' (non-mayoral) can form part of the coverage as a steppingstone.

Established Mayoral Strategic Authorities will get the most powers and integrated settlements first – the integrated settlements are intended to remove ring fencing of funding and include additional funding and will consist of a single, mutually agreed outcomes framework, monitored over a Spending Review period. The provision of integrated settlements will start with Greater Manchester, Liverpool City Region, North-East, South Yorkshire, West Midlands and West Yorkshire. Other MSAs can become eligible (and apply) to be Established MSAs subject to meeting a series of criteria, including:

- need to have been in existence for 18 months,
- have a published Local Assurance Framework,

- not subject to a Best Value Notice etc,
- no material accounting concerns, and,
- track record of managing major programmes.

Combined with the reorganisation of local government described above, the White Paper envisages a consistent structure across England comprising Strategic Authorities and Principal Authorities akin to the structure in existence in London and Greater Manchester.

The White Paper is clear that legislation will be brought forward to enable Central Government to direct the bringing forward of devolution proposals where local leaders have 'not been able' to make progress. This will also remove the ability for single local authority devolution to have a Mayor or for Mayors to be called anything except Mayors.

Legislation will also be brought forward which sets out a framework which details which powers go with each type of authority. This will comprise a consistent floor of powers which can still be added to through the establishment regulations for any Strategic Authority.

Governance arrangements are also intended to be standardised in relation to budget setting and transport levies. For Mayoral Strategic Authorities, voting arrangements will be moved to a simple majority voting approach, with existing arrangements (which include vetoes) being overridden by the new provisions.

In relation to process, the Strategic Authorities will continue to be established using secondary legislation but taking account of the new legislative framework. New requests for devolution will be assessed against geography and governance criteria in the White Paper.

In terms of the geography of Strategic Authority areas, anticipated areas should have 1.5 million plus in terms of population, be functional economic areas, have contiguous boundaries with constituent councils, should not create devolution islands, should have the ability to deliver, be aligned with other public sector boundaries as far as possible, and have an identity.

Outside of local government, devolution will be advanced by national agencies like Homes England, Great British Railways, National Highways, Great British Energy,

National Energy System Operator, and the Arts Council being asked to reconfigure for regional working.

Central Government is keen to progress the devolution agenda as quickly as possible, and on 5 February 2025, announced details of the Devolution Priority Areas which are: Cheshire and Warrington, Cumbria, Hampshire and the Solent, Greater Essex, Norfolk and Suffolk and, Sussex and Brighton. All except Cheshire and Warrington and Cumbria, which will be Combined Authorities and will be Combined County Authorities. Following local government reorganisation in the areas which will become Combined County Authorities, these will transition to become Combined Authorities. The priority areas will have Mayoral elections in May 2026, meaning that the new authorities will be created early in 2026. The Government has already put out consultations on the new authorities which run until 13 April 2025, and it is expected that establishment Regulations will be laid later in the spring.

We anticipate a further call for new strategic authorities to be proposed for election in May 2027 in the autumn.



Legislative Framework

Whilst it is clear from the White Paper that significant legislative change is anticipated, strategic authorities can be established under the existing legislative framework. The precise provisions in relation to such establishment are dependant on whether it is a Combined Authority or Combined County Authority that is under consideration.

Combined Authorities may be established under the Local Democracy, Economy and Construction Act 2009 ('2009 Act'), whilst for the establishment of Combined County Authorities, the relevant legislation is the Levelling up and Regeneration Act 2023 ('2023 Act'). The establishment is by order (for CAs) or regulations (for CCAs) of the SoS.

A key difference between a CA and CCA is the nature of the areas that are combined. CAs can be established for an area consisting of the whole of two or more local government areas (being district or county council areas), whilst CCAs can be established for areas consisting of the whole of one two-tier county council area and at least one of another county council area or unitary area. The White Paper makes clear that CCAs will be the preferred model in two-tier areas and that CAs will not be used in these areas, but that CCAs will cease to exist once all two-tier areas have become unitarised. Both a CA or CCA can be mayoral or non-mayoral.

The process for the establishment of either a CA or CCA is similar. In either case, a proposal may be produced, consulted upon and submitted to the SoS (s109A 2009 Act, s45 2023 Act). Whilst all constituent councils do not need to be involved in the production of the proposal, they must all consent to its submission to the SoS (s109A(6) 2009 Act, s45(6) 2023 Act) and any establishment Order or Regulations must be consented to by all constituent councils (s110(1)(d) 2009 Act, s46(1)(d) 2023 Act). For CCAs constituent councils do not include the district councils in the area in question and, instead will only comprise the upper tier councils in the area.

When a proposal is submitted, the SoS may make an order (CA) or regulations (CCA) establishing the new CA

or CCA provided that:

- a) the Secretary of State considers that to do so is likely to improve the economic, social and environmental well-being of some or all the people who live or work in the area;
- (aa) the Secretary of State considers that to do so is appropriate having regard to the need:
 - (i) to secure effective and convenient local government; and
 - (ii) to reflect the identities and interests of local communities,
- (ab) the Secretary of State considers that its establishment will achieve the purposes [specified to be achieved under the proposal];
- (b) the constituent councils' consent; and
- (c) the SoS considers no further consultation is necessary (s110(1) 2009 Act), s46(1) 2023 Act.

This is the way that CCA's have been created to date, with all having been created pursuant to a proposal from Councils.

However, it is clear from the legislation that the SoS can create CA's/CCA's without needing to receive a proposal. In such a case the SoS may make an order or regulations establishing the new CA or CCA if:

- (a) the Secretary of State considers that to do so is likely to improve the economic, social and environmental well-being of some or all of the people who live or work in the area;
- (aa) the Secretary of State considers that to do so is appropriate having regard to the need:
 - (i) to secure effective and convenient local government; and

(ii) to reflect the identities and interests of local communities;

(b) the constituent councils' consent; and

(c) the SoS has carried out and considered the outcomes of a public consultation (s110(1) 2009 Act), s46(1) 2023 Act).

It is now clear that the latter approach is being used in the priority programme areas to enable new CAs and CCAs to be created in time for Mayoral elections in May 2026. As set out above, the SoS has launched a consultation for each of those areas in the devolution priority programme.

Following the conclusion of the consultation, steps will be taken to proceed to draft the regulations creating the CA/CCA and negotiating finance packages with the areas in question.

An Order or Regulations prescribes the powers and functions to be exercisable by the CA or CCA alongside other governance matters including voting and the constitution. This will be a key area for legislative change, with a move to a more fixed framework of powers proposed in the White Paper. It seems that the Government is anticipating that the English Devolution Bill may have been passed by the time those areas in the priority programme are up and running but, has indicated that if that is not the case, regulations setting out powers will be created (and we envisage that those powers would in any event reflect what will be in the new framework of powers on a policy basis).



Key Considerations

Sequencing

The White Paper made it clear that the Government's main priority remained devolution. This was also re-emphasised in the letter to Councils from John MacMahon on 16 December 2024. However, more recent events suggest this is true only to an extent.

The Government has now announced the areas included in the Devolution Priority Programme which are being fast tracked to create new CAs and CCAs. Four of six of these include areas where two-tier government is part of the picture and so they are also being supported to deliver local government reorganisation on an accelerated timetable. These areas will have CCAs in place by early 2026, with Mayoral elections in May 2026; and shadow unitary authority membership being elected also in May 2026, and vesting day for the new unitaries likely in April 2027.

The Government has also now written to other areas where two-tier government remains. Some of these areas are already within CAs or CCAs, but many are not. These areas are being asked to put forward formal proposals for the creation of unitary councils by 28 November. We understand the intention is then for those areas to undertake shadow elections in May 2027, and vesting day for those new unitaries to be in April 2028.

Where those areas also need to join CAs or CCAs we are predicting that they will be invited to work with the Government to work towards Mayoral elections in May 2027, with new CCAs coming into existence in early 2027.

So, except for areas in the priority programme, whilst the creation of a new CA or CCA may happen before unitisation takes place, agreement on unitisation and possibly Government decisions on it will happen before devolution proposals are brought forward.

There are some areas where unitaries already exist but there is not a combined authority in place currently. Again,

we would anticipate proposals being invited from these areas later in 2025, for first Mayoral elections in May 2027. It would be possible in theory for elections to be sooner in these areas, but we anticipate there to be capacity issues for the Government in progressing too many sets of creation of devolved arrangements and local government reorganisation at once.

So, leaving aside the priority areas where timetabling is now set, we anticipate timing being along these lines:

Two-tier areas already in CAs or CCAs: proposals by 28 November 2025, shadow elections May 2027; vesting day for new unitaries in early 2028.

Two-tier areas also needing to become part of a CCA: proposals for unitisation by November 2025, proposals for CCA by early to mid 2026, creation of new CCA by early 2027, shadow elections for new unitaries and for Mayor for CCA in May 2027 and vesting day for new unitaries in early 2028

Unitary areas needing to become part of a CA: proposals for a CA by early to mid 2026, creation of new CA by early 2027 and elections for Mayor in May 2027.

However, there may be more than one further wave of activity as if all areas requiring local government reorganisation, and new strategic authorities were to proceed on the timetable above, this would see six new CAs/CCAs in early 2026, roughly seven new CAs/CCAs in early 2027, unitaries covering seven current county areas coming into existence in 2027 and, unitaries covering a further 13 current county areas coming into existence in 2028. This feels like a very ambitious workload for Government to absorb.

However, what is clear is that the Government means business on both devolution and LGR, seeking as it is interim proposals from all two-tier areas by 21 March 2025; and continually restating its commitment to devolution.

Key Considerations

Size and Geography

There is a clear policy view in the paper that larger local authorities have more chance of surviving and thriving. There is therefore a requirement that new unitary councils will be more than 500,000 people, and new strategic authorities more than 1.5 million (so essentially formed of at least three unitaries). We are aware of areas where proposals are being advanced which do not meet these size targets. Where this is the case, we would suggest that it will be very important to have other reasons related to functional economic geography, alignment with other public sector boundaries, or identity to persuade the Government that the smaller size is sustainable and sensible.

The question of geography is an interesting one. With parts of the country already covered by strategic authorities, there is a necessity to close the existing gaps, meaning that new proposals coming forwards have to “fit” with one another with ‘no gaps and no overlaps’. It seems unlikely that this will be entirely achieved with a bottom-up approach, and hence the powers of compulsion anticipated may be used to forcibly close the remaining gaps. Arguably therefore it makes sense, even if areas are not in the priority programme, to seek agreement with surrounding areas and actively make proposals as doing so may mean greater scope for the Government to give what is asked for on geography (and essentially leave any gaps to be closed, down the line).

There is also the option for existing strategic authorities to take in additional geographies and for some areas which are close to existing strategic authorities this may be attractive. We suspect that the Government will generally respect the wishes of existing strategic authorities on this issue however, so if an area does have aspirations to join existing strategic authorities, we would suggest that those authorities are approached early.

Equally, in relation to local government reorganisation, most of the discussions we are aware of seem to

contemplate creating one or more unitary authorities on the same boundaries as, or within the boundaries of, existing county councils. Whilst the Government has indicated that that will ordinarily be the case, it has also signalled that it is open to proposals with other councils which currently fall outside of their county. Such proposals may however be regarded as more challenging by Government, particularly if they will pull against other public authority boundaries (although clearly the opposite can also be true with new boundaries improving contiguousness with other public authorities).



Key Considerations

Consent and Consensus

As stated above, the creation of a new CCA will require the consent of all the upper tier councils in the area that it covers. In contrast, local government reorganisation does not require the consent of all the councils in the area (of whatever level), only that a proposal is made which the Secretary of State decides to implement.

The White Paper made it clear that areas where consensus had been achieved would be prioritised and that has proven to be the case. Whilst there is an indication in the paper that powers of compulsion will be introduced through the English Devolution Bill for devolution, and to require proposals to be made for local government reorganisation, these will not be available imminently.

Accordingly, for now, if areas decide not to make proposals for CAs or CCAs, or for local government reorganisation on the timetable proposed by Government this cannot be compelled. However, with the Government apparently anticipating the English Devolution Bill being in force during 2026, it will only be a matter of time before that can be achieved.

Even now, as long as a Council in an area makes a proposal for local government reorganisation the Government can progress such a proposal without needing the consent of all Councils. (Though that is not the case the creation of CAs/CCAs where all Councils currently need to consent).

Government approach & priorities

As we predicted, the areas in the Devolution Priority Programme are those areas where a high degree of consensus (at least on devolution) exists. This is clearly so that Government can achieve some easy 'wins'. However, as elections have been postponed in the areas covered by the Devolution Priority Programme there will now be an imperative on those areas to progress devolution arrangements, and, where relevant, local government reorganisation proposals, at a very accelerated pace to achieve the May 2026 deadline. We anticipate that hitting relevant deadlines will be a significant undertaking.

Areas not in the Devolution Priority Programme but which are two-tier areas have been asked to submit proposals for local government reorganisation by 28 November 2025, so again, progress on seeking consensus does need to be made fairly quickly.

We would also suggest that areas not covered by a CA or CCA, and not in the priority programme, should continue discussions about devolution arrangements in their areas as we anticipate that Government will be looking for another wave of areas to become CAs or CCAs in early 2027.

Next Steps

The areas in the Devolution Priority Programme are working to an ambitious and challenging timetable. Those areas should rapidly establish joint working protocols across councils, and secure sufficient resource (whether internal or external) to deliver the programme at pace.

Other areas requiring local government reorganisation need to submit proposals by 28 November so again, need to work with other councils in their area, to work out the best approach for their areas. A well thought through proposal which has a high degree of consensus is much more likely to be attractive to MHCLG than multiple competing proposals which they will need to sit in judgement on.

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