

# Subject: Question and Answer Session with Clive Betts, MP, Chair of the Communities and Local Government (Select) Committee

Report to: London Assembly (Plenary)

Report of: Executive Director of Secretariat

Date: 15 January 2014

This report will be considered in public

## 1. Summary

- 1.1 At its meeting on 6 November 2013, the London Assembly had an interim debate on the Communities and Local Government (Select) Committee's report *Post-legislative scrutiny of the Greater London Authority Act 2007 and the London Assembly*. Following the discussion the Assembly agreed that a detailed view on the recommendations contained in the report would be debated and agreed at the Assembly (Plenary) meeting on 15 January 2014. The transcript of the interim debate can be accessed [here](#).
- 1.2 The Communities and Local Government Committee's report was published on 16 October 2013 and can be accessed [here](#).
- 1.3 The Government's response to the Select Committee's report can be accessed [here](#).
- 1.4 The recommendations of the Communities and Local Government Committee, together with the agreed position of the Assembly when it first gave evidence to the Committee and the Government's response to the report are set out at **Appendix 1**.
- 1.5 Clive Betts MP, the Chair of the Communities and Local Government Select Committee, has been invited to attend this meeting to answer Members' questions on the report.

## 2. Recommendation

- 2.1 **That the London Assembly notes Clive Betts MP's answers to the Assembly's questions on the Communities and Local Government (Select) Committee's report *Post-legislative scrutiny of the Greater London Authority Act 2007 and the London Assembly*.**

### **3. Background and Issues for Consideration**

- 3.1 The summary of the CLG (Select) Committee's report noted that the 2007 and 2011 legislative changes had transferred further powers to the Mayor but those legislative changes had not made a matching enhancement of the powers of the Assembly, and had created inconsistencies.
- 3.2 The CLG Select Committee has an ongoing interest in devolution and announced an inquiry into 'Fiscal devolution to cities and city regions'. The Assembly aims to submit its contribution to this by 9 January 2014.
- 3.3 The London Assembly has invited Clive Betts MP, Chair of the CLG (Select) Committee, to this meeting to discuss the CLG's report. Areas for questioning may include:
- Governance Structures;
  - Assembly Scrutiny Powers;
  - General devolution of further powers to the GLA; and
  - Financial devolution to London Government and associated scrutiny by the Assembly.
- 3.4 At its meeting on 5 June 2013 the London Assembly (Plenary) held a question and answer session with Professor Tony Travers, Chair of the London Finance Commission. The transcript of that session can be found [here](#). The London Finance Commission's report [Raising the Capital](#) recommended that London government should have full control over council tax, stamp duty and business rates, as well as the power to introduce new levies such as a tourism tax.
- 3.5 The GLA Oversight Committee, at its meeting on 11 December 2013, agreed to establish a Financial Devolution Working Group, comprising one Assembly member from each of the four party Groups on the Assembly. The Working Group's terms of reference include seeking evidence and views and making responses as appropriate. The Working Group will also develop draft position statements for the Assembly's consideration on issues related to the potential further devolution of powers to London government, as outlined in the London Finance Commission report, and any potential changes to governance arrangements within London government and it will take the lead in promoting the Assembly's agreed views on those matters.

### **4. Legal Implications**

- 4.1 The Assembly has the power to do what is recommended in the report.

### **5. Financial Implications**

- 5.1 There are no financial implications arising from this report.

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**List of appendices to this report:**

**Appendix 1** - Summary of the Communities and Local Government (Select) Committee's recommendations, Assembly's submission to the Committee and Government response to the Committee's recommendations

**Local Government (Access to Information) Act 1985**

List of Background Papers:

None

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### **Summary of the Communities and Local Government (Select) Committee's recommendations, Assembly's submission to the Committee and Government response to the Committee's recommendations**

#### **The Committee's conclusions**

##### **Our Inquiry (Paragraph 12)**

The Mayor of London holds the executive power in the Greater London Authority. We conclude that this model of government looks set to continue with the transfer of further powers to the Mayor through the Greater London Authority Act 2007, the Localism Act 2011 and the Police Reform and Social Responsibility Act 2011, and most recently in the current Mayor's call for greater tax and spending powers in London. Such a concentration of power in one person is uncharacteristic of the UK constitution, and this raises questions about the remit and functions of the London Assembly, which is charged with holding him to account.

##### **The job of holding the Mayor to account (Paragraph 17).**

We conclude that the Mayor has to be held to account for the substantial powers he exercises and that an Assembly composed of members able to focus on the same issues as the Mayor is the correct vehicle. Assembly Members, like the Mayor, have to be able to take a strategic view of the capital and its interests. We therefore support the current model in London for holding to account a mayor with extensive and growing executive powers, which is an Assembly directly elected by the London electorate. The corollary of a strong mayor must be a scrutiny body located at the same, in this case Londonwide, level.

##### **The Scrutiny role (Paragraph 27)**

In our view the future of the London Assembly can go in one of two directions — either towards becoming a legislature as in the United States of America or developing its role as a scrutinising body. While the London Mayors since 2000 have enjoyed high profiles, they do not exercise the range of powers and responsibilities of their US counterparts which would justify giving the Assembly US-style legislative authority. Indeed, the Assembly itself has not sought to become a legislature. The primary function of the Assembly is to scrutinise the Mayor. We have heard how effective the Assembly and its committees have been at doing so. In our view the route to follow is that the Assembly develop as a separate, independent body, clearly distinguishable from the mayoralty, and concentrating on scrutiny. Its focus should be on the Mayor and those issues affecting Londoners, such as transport, housing and economic development, where the Mayor has considerable spending powers. In turn this would maximise the impact of the Assembly's work.

##### **The two-thirds threshold (Paragraph 33).**

A balance has to be maintained between a strong Mayor who is able to implement his or her manifesto and an Assembly with the potential to make the Mayor rethink any ill-considered decisions. The current two-thirds threshold strikes that balance and we see no convincing reason to change it.

## **The Committee's recommendations**

### **Recommendation 1 - Call-in powers (paragraph 37)**

*The Government should make the appropriate legislative changes to require the Mayor to publish a forward plan and to provide the Assembly with the power to call in mayoral decisions.*

**(The Assembly stated:** The Mayor should be required to publish a forward plan of key decisions which would be subject to Assembly call-in).

#### **Government response:**

The Government does not agree with this recommendation. A requirement on the Mayor to publish a forward plan and to provide the Assembly with the power to call in mayoral decisions would introduce additional bureaucracy and undermine the approach taken in London of having a strong mayoral model with after-the-event scrutiny by the Assembly.

### **Recommendation 2 - Capital spending (paragraph 45)**

*We recommend that the Government make the appropriate legislative changes to give the Assembly the same power to amend the Mayor's capital budgets as it has to amend his revenue budgets.*

**(The Assembly stated:** The Assembly is consulted on capital expenditure and prudential borrowing limits but has no sanctions to apply in the event of a Mayor taking irresponsible or unsupportable decisions. This is a potential significant weakness in the checks and balances on the Mayor, and should be rectified.)

#### **Government response:**

The Government does not agree the Assembly should be given the same power to amend the Mayor's capital budgets as it has to amend his revenue budgets. It is right that the Assembly should be involved in setting the amount of council tax the GLA should raise from the people of London through the council tax precept.

The Mayor's capital budgets however, are principally granted to the Mayor to deliver specific projects and programmes in London, such as large scale infrastructure of national significance and affordable housing in London. Much of this capital funding is subject to detailed agreements, for instance for Crossrail and the London Underground upgrade. The current spending round has also brought in long-term capital funding for Transport for London to protect infrastructure investment. This brings certainty that the Government and the people of London would not want to see undermined. Long term certainty also helps to secure better value from contracts.

The Government does however welcome the role the Assembly plays in holding the Mayor to account on how these programmes are delivered in London.

### **Recommendation 3 - London Finance Commission (paragraph 49)**

*We recommend the Government's response to the report of the London Finance Commission on the Mayor's tax and spending powers include a review of the Assembly's ability to hold the Mayor to account. The review should include an assessment of additional and separate resources and expertise to enhance the Assembly's financial scrutiny role and the establishment of an independent budget office for London.*

**(The Assembly stated:** If the Assembly is to have real budgetary independence further measures are needed, either the allocation to the Assembly of a fixed proportion of the Mayor's component budget, or a provision for the Assembly to set a separate precept to provide any funding beyond grant levels).

#### **Government response:**

The London Finance Commission's report was to the Mayor of London, as such the Government will not respond to the report itself. However the Government supports the London Finance Commission's efforts to articulate a long term vision of a new relationship between London and the rest of the UK.

The report includes some interesting and innovative recommendations on how greater financial autonomy for both the Greater London Authority and London Boroughs would boost jobs and growth. These proposals would have wide ranging effects on London, Government Finances and the rest of the UK and given the legal, constitutional and fiscal questions raised, they are clearly a matter for longer-term consideration.

The powers given to the Greater London Authority in the Localism Act 2011 and the reforms introduced through the Local Government Finance Act 2012 are relatively new and it is right to take time to allow these to embed before further devolution is considered.

The Government does agree that if there is any further devolution of powers to the Mayor it would consider the role of the Assembly and what the appropriate level of resourcing should be. Devolution should also be to the lowest appropriate level: not just to the Greater London Authority, but down to London Boroughs, to neighbourhoods, to community groups and to individuals.

### **Recommendation 4 - The Assembly and mayoral strategies (paragraph 52)**

*We recommend that the Government make the appropriate legislative changes to give the Assembly the power to reject the Mayor's Police and Crime Plan on the same basis that it can all other mayoral statutory strategies.*

(The Assembly stated: The [Police Reform and Social responsibility] Act provides that none of the functions of the Police and Crime Committee may be carried out by the Assembly or any of its other committees. The Assembly proposes that if a power to reject the draft Police and Crime Plan is introduced, this specific power should be exercisable by the full Assembly. This would provide consistency with the provisions of the Localism Act 2011 in relation to other mayoral strategies.)

#### **Government response:**

The Government does not agree with this recommendation. The Mayor's Police and Crime Plan is a requirement placed on the Mayor under the Police Reform and Social Responsibility Act 2011 which

sets out the Commissioner's strategic police and crime objectives for London. In 2011 it was decided that the arrangements in London would be aligned with the arrangements for Police and Crime Commissioners elsewhere.

### **Recommendation 5 - The appointment of Assembly Members to executive positions (paragraph 60)**

*We recommend that the Government make the appropriate legislative changes to remove the right of sitting Assembly Members to join the Mayor's cabinet or to sit on the boards of GLA bodies.*

**(The Assembly stated:** The majority of the Assembly\* believes that any boards within the GLA group should include democratically elected representatives who can both fulfil governance functions and represent the views of electorate in the decision-making process. This strengthens the line of accountability between the boards and the electorate.

There is no overriding conflict of interest which prevents Assembly Members fulfilling their decision making responsibilities on LFEPA and their scrutiny function in the Assembly. Decisions made by LFEPA, and by TfL, are restricted by the Mayor's power to direct decisions and set its budget. LFEPA members are required to act within those boundaries, as Assembly members they are free to challenge the confines placed upon LFEPA by the Mayor. On 30 January 2013 the Mayor issued just such a direction to LFEPA directing it to adopt a draft London Safety Plan provisions of which it had previously rejected.

\*The Conservative Group of nine Assembly members believes LFEPA should be reformed to more closely resemble the Mayor's Office for Policing and Crime and TfL governance models. This would achieve consistency across the GLA group.)

#### **Government response:**

The Government understands the concerns of the Committee but believes it is an issue for the Mayor and Assembly to consider in the first instance. If a suitable legislative opportunity were to arise in the future the Government would take into consideration the Greater London Assembly's views on this matter.

However, as the Committee is aware, the current approach whereby the Mayor can draw Deputy Mayors and Cabinet Members from the Assembly is similar to the approach used in other Mayor-al systems in England. The Local Government Act 2000 provides for a directly elected Mayor to appoint a Deputy Mayor and two or more Councillors of the authority (up to a maximum of 10) to sit on the Cabinet and form the executive.

### **Recommendation 6 - The London Fire and Emergency Planning Authority (paragraph 64)**

*The Government should reconstitute the London Fire and Emergency Planning Authority along the lines of the Mayor's Office for Policing and Crime, with a deputy Mayor for Fire and Emergency Planning and a dedicated Assembly committee along the lines of the Assembly's Police and Crime Committee to scrutinise it.*

(**The Assembly's statement** in relation to LFEPA is set out under the appointment of Assembly members to executive positions).

**Government response:**

Abolishing the London Fire and Emergency Planning Authority and creating a new Mayoral agency would require primary legislation. The Government accepts that there is scope for reform in this area and is willing to listen to alternative governance models for fire in London. The Government is currently considering its response to the Knight Review but any option to replace the London Fire and Emergency Planning Authority should fit in with the overall drive to promote efficiencies through greater collaboration between the emergency services.

**Recommendation 7 - The Assembly and mayoral appointments (paragraph 69)**

*We recommend that the Government make the appropriate legislative changes and allow the relevant Assembly Committee to review and, if necessary, reject the Mayor's appointment of any Deputy Mayor. An appointee who at the time of his or her nomination was an AM would be subject to this process. On confirmation the candidate should, as we have previously recommended, give up membership of the Assembly. This power of rejection should also apply to those whom the Mayor appoints as chair or deputy chair of those GLA boards specified in the 2007 Act.*

**(The Assembly stated:** The Police Reform and Social Responsibility Act 2011 gave the Assembly Police and Crime Committee the power to confirm the appointment of the Deputy Mayor for Policing and Crime. Where the appointee is not an Assembly Member, and therefore does not have a mandate from a GLA election, the Committee may reject the appointment subject to a two-thirds majority. The Assembly believes this power of rejection should apply to all confirmation hearings.)

**Government response:**

The Government recognises that the arrangements regarding the position of Assembly Members' scrutiny of Mayoral appointments is inconsistent. However, the Government does not agree that the Assembly should have the right to prevent the Mayor appointing his team of advisers. The Assembly's role is to hold the Mayor and Deputy Mayors to account through its scrutiny role.