

Local government right to bid

Key issues

The Localism Bill aims to devolve power from councils to citizens, including the creation of a new community right to challenge. This will allow local people to potentially trigger a procurement exercise for a local service. In this note, we argue that the same logic should be applied to the relationship between local and central government: councils should be empowered to bid for services currently run by Whitehall departments.

The rationale for a right to bid

The right to bid would be built around clear principles that reflect the government's priorities for public service reform.

The key aim would be to deliver better services and a cashable saving, which would be shared between the council and the relevant Whitehall department. Councils would bid for a new devolved way of running a particular service that should be as accountable as possible to local people – mechanisms such as payment by results would be preferred to local government simply taking on more power or funding.

The right to bid is a natural extension of the government's inclination to devolve power to the lowest level possible. In addition, it would provide a number of important benefits:

1. Providing a mechanism for joining up services under local government's banner, delivering significant efficiency savings through service redesign.
2. Creating a mechanism for local and central government to enter ongoing dialogue about further decentralization
3. Driving commitment to localism across Whitehall departments.

Potential process for bidding

1. A council identifies an area where the devolution of the budget for part or all of a national service could allow significant service redesign, delivering the same or greater quality while realising a cashable saving. The council secures the buy-in of partners or demonstrates why this was not reasonably achievable. Communities could bid in their own right, but would be required to do so through their local authority. It then constructs a business case for secretary of state of the relevant department.
2. The business case must show why the devolution of a budget will deliver a cashable cost saving without harming the quality of the service. It should propose a division of that saving between the council and the relevant department, so the centre will generally share in the benefits.

3. The business case must also set out what form the financial devolution should take, with a bias in favour of direct accountability to local taxpayers. Mechanisms involving payment by results, personalised budgets or the creation of mutual and social enterprises should take priority. Councils should only be able to take on a pooled budget or commissioning role of the budget if these other options are unrealistic ways to join up the service.
4. Ministers would be placed under a *duty to devolve*, overseen by either the minister for decentralisation or the CLG select committee. A central budget must be devolved unless the secretary of state can come up with a strong rationale for centralisation – ie that he can disprove the efficiency gain, that devolution would be unacceptably disruptive to the delivery of other services or that there is strong reason to believe the council in question is not able to manage the budget responsibly. Ministers must publish an initial response within three months of receiving request.
5. There would be no automatic assumption that just because one council has won decentralisation, that this should be extended to every other council. Ministers would have the right to phase or stagger roll-out to allow for testing or piloting, but with a clear presumption in favour of rolling out if the pilot performs as expected.

Key risks to manage

The local government right to bid would not necessarily require a procurement exercise: it is likely that in the majority of cases the major change will be about who commissions the service, rather than who provides.

Ministers would require some way to handle high volumes of requests from local government. The secretary of state should be able to bundle together similar requests and issue a single response to all of them. Similarly, the secretary of state should have the discretion when faced with a high number of similar requests to select a small number of councils to pilot a new approach. The government may also wish to limit the number of potential bids by ensuring that only upper tier authorities can bid, with districts and parishes bidding via the relevant country.

It seems likely that many aspects of the right to bid could be delivered without primary legislation. Departments could delegate responsibilities to local authorities or establish some form of joint venture. There may be scope to use the general power of competence to facilitate this.

Local government's democratic mandate and its key role in championing the interests of place mean that it is uniquely placed to make use of a new right to bid. We do not propose that this right should be extended to other local services. However, in areas where local services have their own strong legitimacy, such as free schools or areas with directly elected police commissioners, ministers might reasonably require councils to submit a formal joint bid or to show strong community support for a solo bid.

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