**RESEARCH PAPER 98/115**
11 DECEMBER 1998

# The *Greater London Authority Bill*: A Mayor and Assembly for London

**Bill 7 of 1998-99**

The Greater London Authority Bill is due to have its Second Reading debate on 14-15 December. This paper provides a general briefing on the main policy and provisions of the Bill, including the administrative and financial arrangements for the Authority, the nature of the relationship between the Mayor and the Assembly, and the main functions which it will inherit. Research Paper 98/118 deals with the electoral and constitutional aspects of the new Authority, and Research Paper 98/116 covers the GLA's transport duties.

The new-style Explanatory Notes to the Bill [Bill 7-EN] provide a very detailed description by DETR of the Bill's provisions.

Edward Wood

HOME AFFAIRS SECTION

HOUSE OF COMMONS LIBRARY

**Recent Library Research Papers include:**

List of 15 most recent RPs

| | | |
|---|---|---|
| **98/104** | Lords Reform: background statistics **(forthcoming)** | |
| **98/105** | Lords Reform: Recent Developments | 07.12.98 |
| **98/106** | Local Government Finance in England | 01.12.98 |
| **98/107** | Chronic Fatigue Syndrome/ME | 01.12.98 |
| **98/108** | The *Road Traffic (NHS Charges) Bill* Bill 3 1998-9 | 03.12.98 |
| **98/109** | Protocol 11 and the New European Court of Human Rights | 03.12.98 |
| **98/110** | Water Industry Bill Bill 1 [1998/99] | 03.12.98 |
| **98/111** | Employment and Training Programmes for the Unemployed | 07.12.98 |
| **98/112** | Voting Systems: The Jenkins Report | 10.12.98 |
| **98/113** | Voting Systems: The Government's Proposals (3rd revised edition) **(forthcoming)** | |
| **98/114** | Cuba and the Helms-Burton Act | 14.12.98 |
| **98/115** | The *Greater London Authority Bill*: A Mayor and Assembly for London Bill 7 of 1998-99 | 11.12.98 |
| **98/116** | The *Greater London Authority Bill*: Transport Aspects Bill 7 of 1998-99 | 10.12.98 |
| **98/117** | Water Industry Bill (revised edition) Bill 1 [1998/99] | 10.12.98 |
| **98/118** | The *Greater London Authority Bill*: Electoral and Constitutional Aspects Bill 7 of 1998-99 | 11.12.98 |

*Research Papers are available as PDF files:*

- *to members of the general public on the Parliamentary web site, URL:* ***http://www.parliament.uk***
- *within Parliament to users of the Parliamentary Intranet, URL:* ***http://hcl1.hclibrary.parliament.uk***

Library Research Papers are compiled for the benefit of Members of Parliament and their personal staff. Authors are available to discuss the contents of these papers with Members and their staff but cannot advise members of the general public.

# Summary of main points

The first part of this paper traces the history of London Government, from the Metropolitan Board of Works to the Greater London Council. It examines the current arrangements for the capital, which have been criticised as unco-ordinated and unaccountable. It describes proposals for directly elected executive mayors, who it is hoped would provide strong leadership and rekindle public interest in local government. Finally, it examines the development of Labour's proposals for an elected mayor and assembly for the Greater London area.

Part II looks at the *Greater London Authority Bill*, which is due to have its Second Reading debate in the Commons on 14-15 December. This contains provision for the administration and finance of the GLA and for its major functions.

The policy areas considered here are:

- transport
- economic development and regeneration
- the Metropolitan Police
- fire and emergency planning
- planning
- environmental functions
- culture, media and sport

The GLA's transport responsibilities are covered in greater depth in a separate paper, 98/116. Some of the electoral and constitutional aspects of the Authority are covered in 98/118.

# CONTENTS



---

1 Fiona Poole, Business and Transport Section
2 Jane Hough, Economic Policy and Statistics Section
3 Mary Baber, Home Affairs Section
4 Grahame Danby, Science and Environment Section

5 Christopher Barclay, Science and Environment Section
6 Stephen McGinness and Emma Downing, Science and Environment Section
7 Jo Roll, Social Policy Section
8 Bryn Morgan, Social and General Statistics

# I Background

## A. A Brief History of London Government

*The New Government of London* by Tony Travers and George Jones [1997] contains a useful account of the history of London government, from which this summary is largely drawn.[9]

The 1851 census defined London as a full census division. The boundaries chosen for the 1851 census are similar to the present day Inner London area. Before this date there was no readily available definition of 'London' (other than the ancient boundaries of the City of London) and the capital had yet to emerge as an administrative entity, although the *London Police Act 1829* established the Metropolitan Police District, covering an area within a fifteen mile radius of Charing Cross, to coincide with the creation of the Metropolitan Police Force. Young and Garside suggest that "*The Times* in 1855 was scarcely pedantic in claiming that 'there is no such place as London at all'."[10] Prior to the establishment of the Metropolitan Board of Works in that year, *The Times* [ibid, p21] commented that London was

> rent into an infinity of divisions, districts and areas… Within the metropolitan limits the local administration is carried on by no fewer than 300 different bodies, deriving powers from about 250 different local Acts.

The first genuine metropolitan local authority in London was the Metropolitan Board of Works, which was established under the *Metropolis Local Management Act 1855* with the main purpose of improving the capital's sewerage system. During its 33-year life it also acquired various additional responsibilities. The comprehensive list of its eventual activities was as follows:[11]

- construction of main drains and sewers
- construction and improvement of main thoroughfares
- construction of flood protection works
- enforcement of building codes
- naming and numbering of streets
- fire protection
- creation and maintenance of parks and open spaces
- construction of tramways
- slum clearance

---

[9] See also the following House of Commons Library papers: **Background Paper 135** [9.2.84] and **Reference Sheet 84/8** [12.10.84]

[10] 20 March 1855, quoted in Metropolitan London: Politics and Urban Change 1837-1981, 1991, p14

[11] Metropolitan Government: I M Barlow, 1991, p56

- supervisory and inspection duties with regard to water and gas supply, disease control, and noxious trades

Barlow [ibid, p55] observes:

> Its functions increased in number, its establishment grew, and it approached the status of a municipal government in all but name and constitution. Some argued that the MBW was an empire-builder, but much closer to the truth was the fact that as specific metropolitan needs arose the board was viewed as the only practical repository of metropolitan authority.

The Board's boundaries were similar to what is now known as inner London. The 1855 Act also reformed the parish system in London, creating a system of 23 larger, directly-elected parishes and 15 district boards appointed by the smaller parishes. These lower-tier units were responsible for local sewers and drains, street cleaning, paving, and lighting. The members of the Metropolitan Board of Works were elected by these 38 units of local government, plus the Common Council of the City of London, which was left intact.[12] The Board originally had 45 members as some of the larger parishes had two representatives and the City of London appointed three.

The *Local Government Act 1888* established the London County Council, to cover a similar area to the Metropolitan Board of Works, which the Act abolished. The new county's responsibilities varied during the period of its existence, and included the sewerage and other powers of the Board of Works, the poor law, the fire service, housing, tramways, bridges and tunnels, building control, health services and education.[13] Young and Garside describe mounting pressure for devolution of some of the LCC's enormous powers to a lower tier of local government [op cit, chapter 4], culminating in the *London Government Act 1899*, which in 1900 established 27 metropolitan boroughs within the LCC area, together with Westminster City Council. In the event, however, the 1899 Act had been amended heavily during its passage through Parliament and was rather less radical than the reformers had wanted: the boroughs inherited the powers of the existing second tier of parishes and district boards, but the Act did not provide a workable mechanism for devolution of powers from the LCC.

The system introduced by the 1888 and 1899 Acts continued without major change until the creation of the GLC in 1965. Travers and Jones describe the development of the Greater London area:

> The vast growth of London, from a population of four million in 1900 to over eight million in the 1950s, led to sprawling expansion well beyond the limits of the Victorian city. At the time of its creation, the LCC covered virtually the whole of the capital's continuous urban area. By the 1950s, the majority of the population of what

---

[12] An interesting theme in the history of London government is the City of London's ability "to resist a number of attempts to reform it or to extend its boundaries:" Travers and Jones, p49

[13] From 1870 to 1904 education in London was controlled by a directly-elected London School Board

> had become known as 'Greater London' lived beyond the LCC boundaries. [op cit, p50]

They note that the built-up areas outside the LCC boundaries contained a "bewildering array" of lower-tier government. During the twentieth century the arrangements for local government in the Greater London area were examined by two Royal Commissions, chaired by Lord Ullswater in 1921-23[14] and Sir Edwin Herbert, in 1957-60.[15] The main Ullswater report called for some relatively minor reforms, including the establishment of a statutory committee to advise the Government about planning, transport, housing and main drainage within about 25 miles of Charing Cross. Two minority reports were also issued: one suggested a central authority for Greater London, to be responsible for services such as planning, education, water, health, fire and some housing. The second recommended the creation of a number of county boroughs within the Greater London area, with a weaker second-tier authority. No action was taken on any of the reports which emerged from the Ullswater Commission.

Between the two Royal Commissions, a Committee chaired by Lord Reading was established in 1945 to examine the structure and distribution of functions of local government in the LCC area. Travers and Jones note that the Committee was dissolved after 18 months "because of the impossibility of considering the local government of the County of London in isolation from that of the whole built-up area." [op cit, p52] Various other attempts were made to consider the London government question, including the establishment in 1946 of a Committee chaired by Clement Davies MP to advise on proposals[16] for a London regional authority. The Davies Committee recommended that a regional authority would need executive powers of finance and direction[17] but no such authority was created. Travers and Jones note continuing pressures to reform local government in Middlesex in the years before the Herbert Commission was established, but the county was in fact excluded from the reforms in the shires introduced by the *Local Government Act 1958*.

The Herbert Commission reviewed the structure and functions of local government in an area slightly larger than the current Greater London boundaries, excluding finance and also police and water services, with a view to securing "effective and convenient" local government. The Commission proposed the creation of a Greater London Council (GLC) together with 51 borough councils within the Greater London area. The City of London would remain in place. The GLC would be responsible for education, planning, main roads, refuse disposal, the fire service, the ambulance service, traffic management and research. In addition, the new authority would share responsibility for housing, recreation, arts, sewerage and land drainage with the new borough councils. The

---

14 Report of the Royal Commission on London Government, Cmd 1830

15 Report of the Royal Commission on Local Government in Greater London 1957-60

16 Greater London Plan 1944, Ministry of Town and Country Planning, HMSO, London, 1945

17 Report of the London Planning Administration Committee, Ministry of Town and Country Planning, HMSO, 1956

boroughs would have sole responsibility for social services, environmental health, local roads and libraries.

The Conservative Government accepted the Commission's recommendations in part and the GLC was established in 1965 under the *London Government Act 1963*. Responsibility for education in inner London was given to a special committee of the council, the Inner London Education Authority, which later became a separate, directly-elected body. Education in outer London was given to the boroughs. The 1963 Act created 32 boroughs instead of the 51 proposed by Herbert. The City of London was made, in effect, an additional London borough, although it retained its separate franchise and constitution. Travers and Jones note that the GLC provided services for the eight million people living within virtually the whole of the modern built-up area of London. These included strategic planning, housing, fire and major roads. London Transport became the responsibility of the GLC in 1970; this was taken back by central government in 1984 following the GLC's controversial transport policies. The boroughs were responsible for social services, housing, local roads, libraries, recreation and parks.

Barlow suggests that after a period of adjustment to the new structure there followed some questioning of the role of the GLC; by the early 1980s, abolition was being called for:

> Early on, the 'metropolitan' issues were mainly in the fields of housing and planning, later transport occupied centre stage, but eventually attention turned more to unemployment and the state of the metropolitan economy. Politics and party rivalry continued to be important, as control of the GLC see-sawed between Labour and Conservative and as the parties passed in and out of synchronization at the various levels of government. Eventually confrontation between a Labour GLC and a Conservative central government provided the opportunity for proposals to abolish the GLC.[18]

Barlow [pp 93-4] concludes that

> In some respects the new structure did not work well, and there were problems that went beyond simply the difficulties of transition and adjustment. These stemmed from the weaknesses of the reform, from the changing nature of metropolitan issues, and from the course of events in London's politics.
>
> Appraisals of the reform, made after five years of operation, though generally favourable, were critical of significant structural weaknesses. These related to the allocation of functions between the two tiers of government and the nature of the relationship between the tiers. First, because a prime object had been to create strong boroughs there was insufficient scope for providing a substantive and coherent role for the GLC. Whereas the boroughs were given responsibility for a broad array of important functions that were both familiar to the local government system and relatively easily co-ordinated, the GLC was given a bundle of functions that was both

[18] op cit, pp87-8

> novel and difficult to integrate. …A major failure in this regard was the GLC's inability to clarify its planning role or to effectively relate planning to its other functions.
>
> A second weakness involved functions shared between the two tiers of government: whereas for some the responsibilities were clearly spelled out, for others the London Government Act was vague. Thus was due to the nature of the functions involved: some services could be easily divided, examples being refuse (disposal and collection), drainage (main and local) and parks (metropolitan and local); while several functions, notably planning, housing, and transport, were more complex and did not lend themselves to division. The overall effect was that in some vital functions, where responsibility was blurred, performance suffered, since consultation and co-operation cannot be effective 'in the absence of a clear definition of where responsibility lies' [The new government of London: an appraisal, G Rhodes, in The New Government of London: The First Five Years, ed Rhodes, 1972, p486]. The main 'failures' in this respect were planning and housing.
>
> Finally, a third important weakness was that in the new structure there was no subordination of one level of government to the other, because the intention had been to create separate and distinct types of local government unit. This runs counter to the situation found in other two-tier metropolitan structures where generally the lower-level units are subordinate to the area-wide authority. This peculiarity of the London structure, coupled with the fact of strong boroughs, tended to undermine the authority of the GLC and to reduce its capacity to perform an effective strategic role. It posed major difficulties with regard to shared functions, particularly transport, housing, and planning.

Barlow suggests that these problems combined to make it very difficult for the GLC to find its feet. In addition, local government in the capital was the site of a series of political controversies, chronicled by Barlow [pp 95-7], which tended to undermine the stability of the post-1965 structure. Barlow describes the final years of the GLC as follows:

> In subsequent years there emerged a great divide between Labour and Conservative over the new issues related to the metropolitan economy. In 1981 Labour, having campaigned on a 'radical socialist manifesto', secured control of the GLC once more. However, it faced an increasingly hostile Conservative central government bent on reducing public expenditures in general and local authority spending in particular. There were bitter conflicts over subsidies to London Transport, over programmes to generate employment, over the funding of voluntary service groups, minority groups, and cultural services, and over a revived housing programme. These conflicts created a situation in which abolition of the GLC could once more be proposed. …Abolition of the GLC became an election promise and the focus of a personal crusade by [Margaret Thatcher].

The GLC was abolished in 1986 by the *Local Government Act 1985*. The system which was put in place after abolition is described in the next section.

## B. After Abolition: the Current System

A brief description of the government of London immediately before the General Election of 1997 is given by Travers and Jones in *The New Government of London* [1997, pp10-12]:

> The 32 London boroughs and the City of London form the basis of the capital's government. They have broadly the same functional responsibilities as local authorities in the rest of Britain, including schools, personal social services, local roads, environmental provision, town and country planning, social housing, and leisure and recreation. The 33 local authorities jointly constitute a number of London-wide committees, which have responsibilities for functions such as the fire brigade, research, planning advice, parking regulation and grants to voluntary organisations.
>
> There are a number of London-wide appointed boards and analogous institutions, including London Transport, the London Arts Board, two regional outposts of the Department of Health (one for London and the South East north of the Thames, the other for the southern part of the South East) the London Pensions Fund Authority and, directly responsible to the Home Secretary, the Metropolitan Police.
>
> Lastly, there is Whitehall. A number of government departments, notably the Department of the Environment (DoE) and the Department of Transport (DTp), have direct responsibilities for public provision in London. For example, the DoE is responsible for strategic land-use planning in London, while the DTp (through the Highways Agency) controls major roads in the capital. In 1994, a 'Government Office for London' was created to co-ordinate some of central government's responsibilities for London. A Cabinet Sub-Committee for London was created in 1992 to co-ordinate the full range of Whitehall activity in the capital.

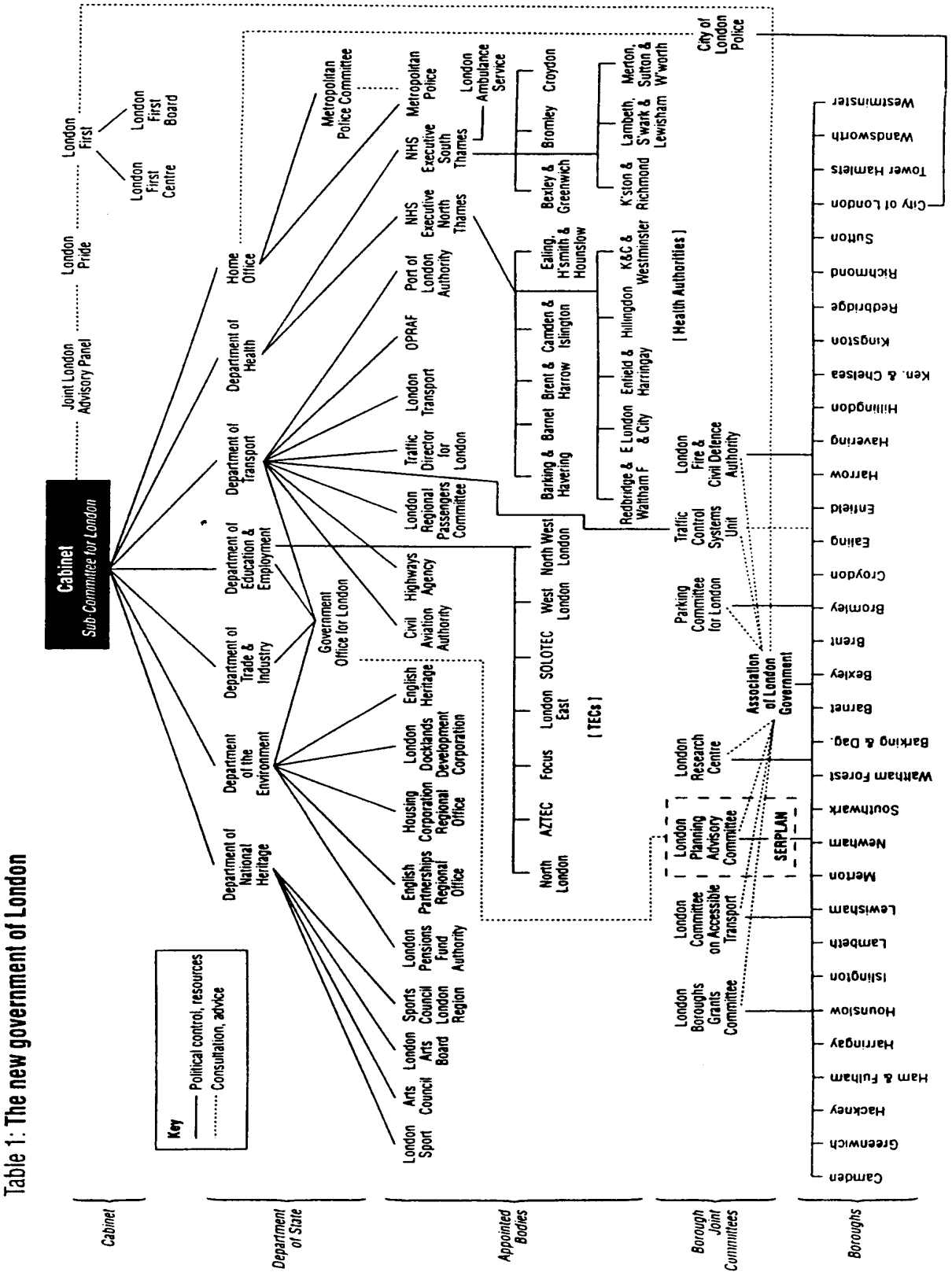
The authors note that the framework described above is a simplification: "In reality, London government is bound together by a large number of formal and informal partnerships, joint committees and networking arrangements." The full picture is shown in an "organogram" which has gained some notoriety because of the complexity of the arrangements it depicts [ibid, p11, reproduced below].

Travers and Jones analyse the current arrangements for London government, including some important recent developments introduced by the Major Government, in chapter 2 of **The New Government of London**. They reach the following conclusions:

**The Boroughs**

The boroughs have grown in stature since the abolition of the GLC. This has been enhanced recently by the creation of a single Association of London Government in 1996 (since 1983 there had been two rival associations); the ALG's representation on a range of London-wide bodies such as London First and London-Pride Partnership; and the boroughs' involvement in a number of large Lottery-financed projects. The most important factor in determining the effectiveness of borough-level services in the capital, Travers and Jones suggest, is the quality of borough members and officers rather than structural factors.

Table 1: The new government of London



Consequently there has been "little or no pressure for reform of borough government in London" [p12].

**Inter-borough co-operation and joint boards and committees**

A system of metropolitan government as fragmented as that which currently exists in London will inevitably lead to pressure for joint arrangements and co-operation. The most important joint boards and committees currently in place are the London Fire and Civil Defence Authority, the London Planning Advisory Committee, the London Research Centre, the London Boroughs Grants Committee, the Parking Committee for London and the London Committee on Accessible Transport. Travers and Jones suggest that the lack of a single-party majority on London-wide committees from 1986 to 1994 had the effect of forcing the previously highly adversarial boroughs to co-operate more than in the years before the GLC was abolished. Despite Labour's control of a majority of boroughs since 1994, the authors maintain, consensus working has continued.

**Quangos and Whitehall**

Public provision in London is "disproportionately" the responsibility either of quangos and other bodies appointed or controlled by central Government, or of central Government itself. Examples include London Transport, the London Pensions Fund Authority, the London Arts Board, health authorities, Training and Enterprise Councils, the London Docklands Development Corporation (due to be abolished in 1998) and the regional offices of the NHS Executive. The London Residuary Body, created for the purpose of disposing of the GLC's assets, was itself finally wound up in 1996. In addition the Government is the police authority and the strategic planning authority for the capital. Travers and Jones state: "The Government plays an important, though wholly uncoordinated, role in appointing those who directly run many of the services that London relies upon" [p22]. Research undertaken by the authors suggested "no understanding within Whitehall of the problems caused by the fragmented nature of service provision by Whitehall agencies and appointees. …The muddle of appointed boards and agencies remains difficult to understand and virtually impossible to hold to account." Travers and Jones suggest that the previous Government tacitly accepted the validity of this line of criticism by making a number of reforms to the Whitehall machinery in the years after 1992. These included:

1. The creation of a Government Office for London (GOL), in parallel with government offices in each region of England. GOL brought together the local responsibilities of the Departments of the Environment, Transport, Education and Employment, and Trade and Industry. Its key tasks are the distribution of housing capital allocation, the Single Regeneration Budget (SRB), and strategic land-use planning. It acts as a point of contact with the boroughs, voluntary organisations and the private sector about a range of central government issues as they affect London. Although Travers and Jones suggest that GOL's ability to represent London within Whitehall has been beneficial, they state: "GOL is not,

and could never be, an effective regional authority. It lacks the powers, the resource base and the democratic legitimacy to undertake such functions. Its name, and the lack of a London-wide authority, have led many people to assume GOL would come to be more powerful than it is actually capable of becoming" [p25]

2. The appointment of a Cabinet sub-committee for London, chaired by the Environment Secretary

3. The appointment of a Minister for London: Travers and Jones comment on the previous incumbent, John Gummer, that even his political opponents conceded he was "effective as a spokesman for London within Whitehall and active in pursuing London initiatives through the Government Office for London" [p23]

4. The appointment of a Minister for Transport in London, who chairs a Transport Working Group. Nevertheless, "control of the day-to-day operation of the Underground, buses, suburban railways, trunk roads, local roads, parking, traffic regulation, taxis, airports and waterways remains the responsibility of an array of public and private institutions. The minister's role is, at best, to bring individuals and institutions together to encourage them to operate in a more effective collective manner" [p24]

**Public-Private Sector Partnerships, etc**

Travers and Jones suggest that the emergence of partnerships such as London First, London Pride and the Joint London Advisory Panel is another distinctive feature of the post-GLC government of London. The most important of these is London First, which is comprised of various businesses with an interest in London, the London boroughs and the voluntary sector. London First does not contain central government representatives but was created on the initiative of the Conservative government. Its income is largely derived from the private sector and its key aims are promotion of the capital's economy and the encouragement of tourism.

Travers and Jones conclude that "London is a city with much government but little political power. While this contrast has been true in the past, the demands of a modern, advanced democracy make the failures of weak and fragmented government more important than before. Fragmentation of government - and the lack of effective political power that goes with such a system - is now worse than in the past. The recent creation of new London-wide committees and boards, the growth of new Whitehall involvement and the rapid development of partnerships together suggest there is a power vacuum" [p28]. The lack of an effective mechanism to deal with London's chronic traffic congestion problems, which lead to increased journey times and pollution, are cited as the best clear example of the alleged weakness of the current system.

There have been few challenges to the Travers/Jones analysis from outside the political arena. Simon Jenkins, in his book *Accountable to None*, declared that "the GLC… may not have been strategically effective, but that did not invalidate the idea of strategy" [1995, p166]. Nevertheless a leading article in *the Guardian* of 18.7.97 asked, somewhat tongue in cheek, "If London badly needs a mayor… how come it appears to have performed so well without one?" The article continued:

> The truth is we don't really know what makes our cities glow. …Curiously, the squeeze on the arts and art colleges during the 1980s seems to have produced vitality out of adversity; a kind of intellectual Dunkirk spirit. And it will presumably get better as all the lottery-funded projects including the new Bankside art gallery and a revamped South Bank, not to mention the Millennium Experience at Greenwich, come on stream. None of this undermines the need for planning and decent infrastructure. But it is amazing what can be done without them.

## C. Elected Mayors

A directly elected executive is a role which is currently unknown in British governance. The UK tradition has been for the executive at local or central level to be drawn from the ranks of constituency or ward-based elected representatives. The Prime Minister is by convention the leader of the party with a majority in the House of Commons. At the local level, councils' executive role is generally fulfilled by subject-based committees composed of ordinary councillors. The leader of a council, or the chair of a committee, does not technically have executive power in his or her own right. Quangos, a relatively recent development, are appointed bodies, most of which have executive functions.

Following John Major's appointment of Michael Heseltine as Secretary of State for the Environment late in 1990, a comprehensive review of local government in England was undertaken by the DoE. One aspect of the review, which concentrated on the decision making process in local government, received little attention at the time but appears to have had a lasting influence on ideas for reinvigorating local government. The July 1991 DoE consultation paper, *The Internal Management of Local Authorities in England*, made a number of suggestions designed to promote more effective, speedy and business-like decision making; enhance the scrutiny of decisions; increase the interest taken by the public in local government; and provide scope for councillors to devote more time to their constituency role. The current model for local authority decision making, involving votes taken by committees or, exceptionally, by the whole council, might be revised or replaced where there was local agreement. Borrowing from arrangements in other countries, the consultation paper suggested a variety of options for change:

- Adaptation of the committee system, allowing certain decisions to be delegated to committee chairmen or establishing "question time"-type arrangements;

- A cabinet system, introducing formal separation of executive and representational (backbench) roles for councillors.

- A council manager, involving the appointment of an officer to take over the day-to-day running of the authority;

- A directly-elected cabinet, requiring separate elections for backbenchers and the executive; and

- A directly-elected mayor, a variant of the previous model but with executive responsibility residing in a single individual, who might then have the power to make political appointments to support him or her.

At this stage it seemed as though elected mayors and other alternative forms of decision making in local government, which were strongly supported by Mr Heseltine, stood a good chance of being implemented. Michael Howard, who succeeded Mr Heseltine as Environment Secretary, established a Department of the Environment joint working party with the local authority associations, the Audit Commission, the Local Government Management Board[19] and others, to consider current practice and suggestions for improving internal management arrangements and to investigate possible experimental models. The working party, which reported in July 1993,[20] identified two main objectives [p4]:

- To strengthen the role of all elected members in formulating council strategies, leading and representing their communities, and, within their powers, acting as consumer champions to help citizens in the area get the quality of services which is their right and hold to account those responsible for providing those services; and

- To develop the framework for effective leadership within local authorities - including clear political direction, identifying the needs and priorities of local communities and overseeing the efficient provision of high quality services to them.

The working party recommended, amongst other things, that the Secretary of State for the Environment should take powers to allow, in consultation with local government, experimental changes to their internal management arrangements proposed by individual local authorities [p7]. Subject to suitable safeguards, these might include models of the kind described above, including directly-elected mayors. Additional experimental models included:

- deliberative committees whose membership consisted only of members of the majority group;

---

19 This body advises local authorities on personnel and other management issues

20 Community Leadership and Representation: Unlocking the Potential, HMSO

- decentralised decision-taking
- new rights for councillors to review and scrutinise council decisions; and
- enhanced roles for councillors not in executive positions

Many of the changes proposed in the consultation paper and the report of the working party would require primary legislation. The working party's proposals were not implemented. In response to a PQ from Tony Wright in October 1996 asking what assessment had been made of the advantages of having elected mayors, the then Local Government Minister David Curry said that of the responses received to the July 1991 consultation paper not a single county council, district council, London borough or metropolitan borough was in favour of elected mayors:[21]

> [Local government] was much more interested in the structure of committees. It was more interested, perhaps, in some form of cabinet system for local government. It was also more interested in the idea of a council manager. It was especially interested in councillors' allowances. It was not particularly interested in locally elected mayors

Nevertheless the idea of elected mayors was endorsed by the Commission for Local Democracy, an independent commission chaired by the former editor of *The Times*, Simon Jenkins. The Commission claimed that evidence from other countries suggests that the existence of a directly elected mayor or an equivalent office ameliorates many of the problems found in British local government:[22]

> Citizen participation in local politics is higher. Numbers standing for public office are higher. Recognition of local leadership is higher. Public satisfaction in local government and its services is higher. Since remedying precisely these flaws in the British system is our goal we cannot ignore the factor that appears to bear so directly upon them.

A report published by INLOGOV at the University of Birmingham lists the following arguments which have been advanced for introducing executive mayors:[23]

- to achieve national prominence for local political leaders and to strengthen the local government side of the central-local relationship
- to re-invigorate local democracy
- to strengthen community leadership
- to reinforce internal leadership

---

21 HC Deb Vol 282, 15.10.96, c575
22 Taking Charge: the rebirth of local democracy, 1995, p19
23 Executive Mayors for Britain?, Michael Clarke et al, 1996, p3

- to change the impact of party politics

In July 1996 the House of Lords Select Committee on Relations between Central and Local Government,[24] chaired by Lord Hunt of Tanworth, called upon the Conservative Government to find, as a matter of urgency, Parliamentary time to legislate in order to enable local authorities to experiment with internal management in line with the 1993 working party recommendations (see above).[25] The Conservative Government's response to the Select Committee report stated that legislative time in which to implement the working party's recommendations had not been available, but promised that legislation would be brought forward in the next Parliament to enable local authorities in England and Wales to propose such experiments for approval.[26] The General Election intervened, but the *Local Authorities (Experimental Arrangements) Bill* of 1997-98 would have fulfilled broadly the same purpose. This Private Member's Bill was drafted with the support of the Labour Government and was introduced in the Lords by Lord Hunt. The Bill was blocked in the Commons as the Opposition protested that inadequate time was available to debate the proposals. The White Paper, *Modern Local Government: In Touch with the People*, goes further than the Hunt Bill.[27] It sets out the Government's view that the committee system is "no basis for modern, effective and responsive local government". The Government therefore intends to require councils to replace committee-based decision-making with one of a number of options involving the formal separation of powers, including:

- A directly elected mayor with a cabinet;
- A cabinet with a leader; and
- A directly elected mayor and council manager.

A draft Bill covering these proposals (and ethics in local government) was promised in the Queen's Speech. The Government's separate proposals for a directly elected mayor and assembly for London are described in the next chapter.

Some commentators have warned that the idea of elected mayors, based as it is on experience in other countries (particularly the USA), may not transfer easily to the UK:

> The concept would be meaningless in Britain unless a high public profile could be translated into political power and leverage. Nor would mayors mean much unless they also enjoyed the patronage and ability to distribute largesse which makes many US mayors the pre-eminent figures within their cities.

---

24 Rebuilding Trust, HL 97 of 1995-96, Vol I, para 3.30
25 The report was debated on 18.11.96 at HL Deb, Vol 575, cc1101-1158
26 Cm 3464, November 1996, para 41
27 Cm 4014, July 1998, chapter 3

> There is much reason to doubt that elected mayors in the UK would have the same impact as American mayors because of the nature of our unitary system. British mayors would still be operating within a system which constrains majority groups on councils and under a centralising state which sets the limits of the localities' powers and spending.
>
> …American mayors may have many powers but are often politically isolated. Separating the executive from the legislative functions of councils can often lead to political deadlock over budgets, priorities, agendas and status. This deadlock was at the centre of New York's history of fiscal problems.
>
> Elected mayors would threaten existing political interests in British local government as the need to appeal to a city-wide mandate means greater reliance on personality politics to build a winning coalition. Do local political parties and backbenchers want to relinquish the influence they have over group leaders?
>
> …Directly-elected mayors will not work as simple additions to the system - there would have to be fundamental changes in British local government.[28]

As pointed out above, the creation of a directly-elected executive would be an arrangement currently unknown to local or central government: the UK tradition has been for the executive at local or central level to be drawn from the ranks of constituency or ward-based elected representatives. At the local level there may be a *de facto* separation of executive and backbench roles in many authorities but this is not reflected in councils' formal structures at present. Charter 88's response to the green paper on London government[29] emphasises the uniqueness of the proposal for an elected mayor for London:[30]

> Charter 88 welcomes the decision to separate the executive and deliberative arms of London Government. This will create the first British institution of Government to have a separation of powers.

Gerry Stoker, professor of politics at the University of Strathclyde, who supports Labour's proposal to create an elected mayor in London, has nevertheless acknowledged that the new system might bring with it a new set of problems, for example a situation in which the mayor is of a different party background to a party with a majority in the assembly:[31]

> Mayor/majority party disparity is probably worth trying to avoid. The likelihood of such a situation arising could be reduced by systems of proportional representation for authority elections which deliver no overall control, and a culture of coalition politics. Another option is a PR election which delivers a majority bonus to the party/coalition of the winning mayor.

---

28 Dr Declan Hall, *Municipal Journal* 19.1.96 "Elected mayors: a blind alley?" See also David McKinless, letter to the *Local Government Chronicle*, 17.1.97 "New Zealand's mayoral experience suggests they are not the big cure-all."

29 New Leadership for London, July 1997

30 Ensuring Accountability, undated, para 2.16

31 *Local Government Chronicle* 13.6.97 "Dual force to hit the capital."

> Other mechanisms which could be considered in the management of mayor/authority relations are statutory provisions for budget and certain policy plans to be agreed by a certain date each year.

A paper prepared by the Society of Local Authority Chief Executives [SOLACE] Think Tank acknowledges that

> Local government, not surprisingly, has seen elected mayors as a threat to be resisted, although no doubt many individuals see a possible future role for themselves and will have been making appropriate noises in smoke filled rooms[32]

The paper goes on to argue that it is difficult to see what real difference an elected mayor would make if their remit was confined simply to the things councils traditionally do:

> Fifteen years of financial stringency - not to mention CCT - have meant that the vast bulk of council services are now reasonably efficient, and it is difficult to see what difference an elected mayor, however charismatic, would actually make to core services like refuse collection, housing or education.

The SOLACE Think Tank suggests that elected mayors would only be effective if they could operate across all the agencies at local level: councils, quangos and national departments: "In short, they will need to be given the power to co-ordinate effective governance at local level." This would allow them to do "what charismatic leaders are best at - giving leadership, pulling people together into teams."

> Mayors operating along these lines… would give a local focus to the attack on local issues, drawing agencies together at local level and stimulating and co-ordinating their actions. Their job would be to orchestrate existing agencies, rather than supplant them, and in doing so they could provide the local democratic drive and legitimacy that so many of those agencies currently lack. And having democratic legitimacy, they could also have some control over funding - both national and locally determined - to draw recalcitrant bodies into participation.

The Think Tank's paper suggests that these arguments apply particularly strongly to London, "which of course does not even have a single voice to speak out for the whole of it, far less anyone to exercise effective local governance for the whole capital."

## D. London Government: The Government's Proposals

The creation of a "streamlined" strategic authority for London has been Labour Party policy for some time.[33] Travers and Jones suggest that one of the immutable considerations in this area is that "central government is suspicious of strong government in the capital"[34] and it may be this, as much as the desire to learn from the mistakes of the

---

32 *Mayor Culpa*, February 1997,

33 See, for example, An Elected Voice for London, Labour Party, 1992

34 *New Government for London*, 1997, p8

past, that lies behind Labour's professed aim to avoid the creation of a "GLC mark II". The tentative proposal for an elected mayor in the 1996 Labour policy document **A Voice for London** is generally thought to have been on the direct intervention of Tony Blair. By the time Labour issued its 1997 General Election manifesto this had become a firm commitment:

> London is the only Western capital without an elected city government. Following a referendum to confirm popular demand, there will be a new deal for London, with a strategic authority and a mayor, each directly elected. Both will speak up for the needs of the city and plan for its future. They will not duplicate the work of the boroughs, but take responsibility for London-wide issues - economic regeneration, planning, policing, transport and environmental protection. London-wide responsibility for its own government is urgently required. We will make it happen.

The Labour Government's green paper **New Leadership for London** was published in late July 1997 with a three month consultation period. It advanced the argument, in line with the Travers/Jones analysis described earlier, that since the GLC was abolished in 1986 London has suffered from a "democratic deficit." The current arrangements, it was claimed, have been unsuitable for tackling certain deep-seated problems, [pp1-2] including:

- Concentrations of unemployment and deep poverty, particularly among ethnic minorities

- The need for improved infrastructure damaging London's economic competitiveness

- Traffic congestion, air pollution and noise undermining "the sustainability of London as a city and the quality of life offered to its people"

The green paper suggested that the functions of the new Greater London Authority would all come under the general heading of sustainable development, which is defined as "giving all Londoners an improved and lasting quality of life, combining environmental, economic and social goals" [p17]. The Government stated that "this is not an exercise in bringing back the Greater London Council" [p2]. It suggested that "the positive developments in recent years" should be built upon, most notably:

- The willingness of the private and voluntary sectors to play a part in the formulation and delivery of policy at a strategic level

- The creation of sub-regional public/private partnerships to regenerate and promote the competitiveness of their areas; and

- The achievements of London boroughs

[p2]

The green paper made clear that the Corporation of the City of London, and therefore by implication the Lord Mayor of London, would not be abolished, although it noted that the Corporation has accepted "the need to improve its electoral arrangements" to represent more accurately the various interests in the Square Mile [p2].

The Government listed [p3] what it called the key criteria for the Greater London Authority.[35]

> **Greater London Authority: Key Criteria**
>
> The GLA should be
>
> **Strategic** Concerned with strategy, thinking and planning for London, particularly at a pan-London and sub-regional level.
>
> **Democratic** Directly elected by the people of London, and accountable, with clear and public objectives and targets, reporting regularly to the electorate on progress.
>
> **Inclusive** Involving relevant interests such as business, boroughs, the voluntary sector and ethnic minorities in planning and implementation.
>
> **Effective** Promoting, leading and empowered to take practical action to bring about change
>
> **Small** Streamlined in terms of staff, the numbers of assembly members and cost.
>
> **Audible** With a high profile role for the mayor, speaking up for London and promoting London's interests particularly in the international context.
>
> **Consensual** Building a consensus, taking a pragmatic approach, working with the grain, confident within its areas of responsibility.
>
> **Clear about its role** Avoiding duplication of responsibilities and simplifying existing structures and government.
>
> **Efficient** Using its resources to best effect, reflecting the Government's commitment to achieve best value.
>
> **Influential** Capable of influencing policy formulation and decision-making in a range of public and private sector organisations.

Responses to the Green Paper, most of which were favourable, are considered in Research Paper 97/114. Some commentators have suggested that under Labour's

---

[35] The term Greater London Authority (GLA) is used to refer to the mayor and assembly together

proposals the mayor would have insufficient powers to make a significant impact on the problems facing the capital.[36] There have also been suggestions that the GLA would undermine the role of the London Boroughs, although the Association for London Government, which represents the Boroughs, does not support this view.

Provisions to hold a referendum on the Government's proposals for a directly elected mayor and assembly for Greater London were contained in the *Greater London Authority (Referendum) Bill*, which received its First Reading on 28 October 1997. The Conservative and Liberal Democrat parties called for the referendum to allow separate opinions to be registered on the mayor and the assembly.[37] The Conservatives believed that the assembly would add an unneccessary and bureaucratic layer of government and favoured the creation of a mayor with an indirectly elected assembly of the 32 borough leaders.[38] The Liberal Democrats favoured a directly elected assembly but opposed a directly elected executive mayor on the grounds that such an individual might have too much power. The Government rejected the proposal for separate questions on the grounds that they intended to put "a clear and simple proposition to the people of London, based on proposals that we can recommend to them with confidence."[39] There were also calls from Ken Livingstone and others for a separate question on what tax raising powers should be available to the authority, as with the referendum on the Scottish Parliament.[40]

Amendments on alternative questions were unsuccessful and the *Greater London Authority (Referendum) Act 1998* therefore restricted the referendum to approval or disapproval of the Government's proposals. The other main parties supported the "Yes" campaign. The referendum took place on 7 May 1998 at the same time as the elections for the London borough councils. A strong majority was in favour, but the turnout, 34.6% of those eligible to vote, was not high.[41]

**Result of the Referendum on the Greater London Authority**

| | |
|---|---|
| Yes | 28% |
| No | 72% |
| | |
| Turnout | 34.6% |

The White Paper, *A Mayor and Assembly for London*, was published in March 1998.[42] It restated the Government's arguments for a directly elected mayor to provide "strong

---

36 Tim Hames: *A Little Local Difficulty: mayors and managers - American models for Britain*, Politeia, 1988

37 See the Second Reading debate at HC Deb Vol 300, 10.11.97, cc 595, 612

38 HC Deb Vol 300, 10.11.97, c668

39 Ibid, c592

40 See *The Guardian:* "Livingstone attacks 'barmy' plan for mayor" 24.10.97; and leader, "A triple vote for Londoners" 30.10.97

41 Full details of the result are given in the appendix

42 Cm 3897

leadership" and an elected assembly "to hold the Mayor to account on London's behalf" [pp 8-9]. As part of the proposed system of checks and balances, the Assembly would play a key role in setting the GLA's budget.

The GLA would have the following powers (although often in a strategic role rather than providing services directly):

- Transport
- Economic Development
- The Environment
- Planning
- Police
- Fire and Civil Defence
- Culture
- Health

The proposals contained in the White Paper are, for the most part, reproduced in the Bill, which is considered in the following chapter.

# II The Bill

The Bill received a formal First Reading in the Commons on 30 November 1998. It is due to be considered for Second Reading on 14 and 15 December.

## A. The Greater London Authority

**Clauses 1 and 2** of the Bill establish the Greater London Authority (GLA), to consist of a directly elected Mayor (the Mayor of London) and an elected assembly (the London Assembly) of 25 members. The Mayor will be chosen using the Supplementary Vote system and the Assembly will be chosen using the Additional Member System. There will be 14 constituencies with one Assembly member representing each. An additional 11 members will be elected on a London-wide basis. The electoral aspects of the Bill are considered in greater depth in Research Paper 98/118.

The administrative and financial framework for the GLA is recognisably of the local government model, but it has many novel or interesting aspects such as the formal separation of powers (executive and scrutiny);[43] wide powers to promote the general functions of the Authority; a requirement to hold a "People's Question Time and "State of London" debate; powers to require the attendance of witnesses as part of the assembly's scrutiny functions; and greater flexibility over the use of capital resources than has been the case in recent years.

---

[43] on the 'constitutional classification' of the GLA see RP 98/118, section II

## 1. General Powers and Duties of the Authority

**Clause 25** defines the GLA's general purpose as promoting economic and social development and improving the environment, subject to such consultation as the Authority considers appropriate. **Clause 27** amounts to a "power of general competence" for the GLA. It gives the Authority the power to do anything which the Mayor considers will further this very broad purpose, and is, to a large extent, the reverse of previous local government legislation which tends to define councils' subject responsibilities tightly. In other words, like the Scottish Parliament (in broad terms) the GLA's powers are defined by what it cannot do rather than what it can. The latter, which is the norm in local government, is often described as the '*ultra vires* princple'

To prevent the GLA from undermining the London boroughs, etc, the GLA may not spend money providing various services which could be provided by a borough council or any other public body. The Local Government Association welcomed these wide powers and called for similar powers to be given to other local authorities, as promised in the local government White Paper.[44] The Association of London Government, which represents the London Boroughs, called for the GLA to reflect London's cultural diversity and promote the principles of equal opportunities.[45] The ALG, which has campaigned for a strong role for the GLA in promoting the health of Londoners, suggested that the means by which this aspect of the Authority's duties would be fulfilled could be explored during the passage of the Bill.

**Clause 29** concerns the way in which the Authority's functions are to be carried out. Usually the Bill specifies that powers are to be exercised by the Mayor; some are to be exercised by the Assembly. Where neither is specified, powers must be exercised jointly. There is no indication of how joint power would be wielded.

## 2. The Mayor

The Mayor may delegate powers to the Deputy Mayor, GLA staff, Transport for London, the London Development Agency or local authorities (**Clause 31**). **Clause 32** will enable the Mayor to contract out certain functions under the **Deregulation and Contracting Out Act 1994**.

It is intended that the Mayor will have a Cabinet to support his or her work, "but this will be a matter for the Mayor".[46] A DETR factsheet suggests that such a Cabinet would include the Deputy Mayor, the chairs of the new transport and economic development bodies for London and senior officers and political advisers [ibid]. There will be a

---

[44] LGA Briefing: Greater London Authority Bill, Commons Second Reading (undated); *Modern Local Government: In Touch with the People*, Cm 4014, July 1998, chapter 8

[45] ALG Briefing: Greater London Authority Bill (undated)

[46] Greater London Authority Bill, DETR Factsheet 1, December 1998

Mayor's Office to support the Mayor, which might include a chief of staff and a number of advisers on key policy areas. The Mayor will inevitably be a high profile figure. The Government expects him or her to work in partnership with "key London organisations such as the London boroughs, the City Corporation, business, voluntary and community groups".[47]

**The Mayor's Strategies**

Under **Clause 33** the Mayor must publish strategies on a number of subjects, including transport, economic development and regeneration, biodiversity, municipal waste management, air quality, ambient noise, and culture. In preparing each strategy the Mayor must have regard to various points, including the need for consistency with national policy, international obligations and with his or her other strategies; the availability of resources; and the desirability of promoting the health of Londoners and the use of the river Thames.

Under **Clause 34** the Mayor has a duty to consult during the preparation of strategies. In the first instance he or she must consult the Assembly and the GLA's functional bodies (Transport for London, the London Development Agency, the Metropolitan Police Authority and the London Fire and Emergency Planning Authority). Subsequently the Mayor must consult the London Boroughs and the City of London Corporation and any other organisation or individual he or she considers appropriate. The Mayor must ensure that his or her strategies are publicised and are available to the public (**Clause 35**). The Secretary of State for the Environment, Transport and the Regions will have a reserve power under **Clause 36** to set a deadline for the publication of a strategy if it appears that necessary steps to prepare the strategy are not being taken.

**Public Accountability**

The Bill contains various accountability provisions. The Mayor must:

- make a monthly report to the Assembly (**Clause 37**)
- attend the monthly meetings of the Assembly to answer questions (**Clause 37**)
- publish an annual report containing an assessment of progress in implementing his or her strategies and a summary of any performance indicators the GLA is required to publish (**Clause 38**)
- attend an annual public "State of London" debate after his or her annual report has been published (**Clause 39**)
- attend twice yearly "People's Question Time" sessions to be held in conjunction with the Assembly and which are to be open to the public (**Clause 40**).

In answering questions at meetings of the Assembly, the Mayor will not be obliged to disclose advice from GLA staff. The Mayor's monthly reports to the Assembly will be

[47] Greater London Authority Bill, DETR Factsheet 2, December 1998

available to the public under the *Local Government (Access to Information) Act 1985* (**Clause 48**).

**The Deputy Mayor**
The Mayor must appoint a member of the Assembly as Deputy Mayor (**Clause 41**). The Deputy Mayor cannot be the Chair or Deputy Chair of the Assembly at the same time. The Mayor may dismiss the Deputy Mayor at any time.

When the Mayor is temporarily unable to act, or where a vacancy exists, some of his or her powers may be exercised by the Deputy Mayor on a temporary basis (**Clause 30 and Schedule 4**). The Deputy Mayor will not, however, be able to prepare the GLA budget, alter formal strategies prepared by the Mayor or assume the Mayor's powers of patronage.

## 3. The Assembly

The Assembly must elect a Chair and a Deputy Chair from among its members (**Clauses 42 and 43**). The Deputy Mayor will exercise the functions of the Mayor on a temporary basis if that post is vacant, but if there is no Deputy Mayor in post either, that responsibility falls to the Chair of the Assembly. He or she will not, however, be able to prepare the GLA budget, alter formal strategies prepared by the Mayor or assume the Mayor's powers of patronage (**Schedule 4**).

**Clause 45** allows the Assembly to determine its own procedure and that of all its committees, including the size and composition of a quorum, subject to various requirements, including separate rules on:

- the timing, etc, of Assembly meetings (**Clause 44**)
- the appointment of a Chair and Deputy Chair (**Clauses 42 and 43**)
- the approval of the Authority's budget (**Schedules 5 and 6**)

Under **Clause 46** the Assembly may delegate powers to committees or to individual members of the Assembly.

**Political Balance on Assembly Committees**
Committees appointed by the Assembly must adhere to the rules on political balance contained in sections 15 to 17 of the *Local Government and Housing Act 1989* (**Clause 47**). Under section 15 of the 1989 Act, committees set up by local authorities must, so far as is reasonably practicable, achieve political balance by conforming to the following principles:

a) The seats on a committee should not all be allocated to the same political group

b) The political group having an overall majority on the council should have a majority on each committee

c) The seats held by any party on the ordinary committees of the council, taken in total, should be in proportion to that party's seats on the whole council

d) The number of seats held by any party on a given committee should be in proportion to that party's seats on the whole council.

If these rules are in conflict, a) and b) are the first priority, then c) then d).

**Access to Information**

**Clause 48** makes the Assembly subject to the open government provisions introduced by the *Local Government (Access to Information) Act 1985*[48], subject to certain technical amendments. Under the 1985 Act, Local authority meetings, including committee and sub-committee meetings, must be open to the public and press, subject to certain exceptions. The public and press *must* be excluded during the consideration of agenda items where "confidential information" is likely to be discussed. "Confidential" means information provided by the Government on a confidential basis or information which may not be disclosed because of statutory restrictions or a court order. An authority *may* decide to exclude members of the public and press where "exempt information" is to be discussed. This includes information concerning particular employees or service users; certain details of pending contracts involving the authority; details of counsel's opinion obtained by the authority; and information which would reveal the authority's intention to serve a statutory notice.

The 1985 Act does not require local authorities to give free access to all information in their possession. In particular, the Act only requires that documents be made available when they are relevant to meetings which are open to the public. This includes agendas; reports for meetings; background papers used in the preparation of such reports; and minutes. In practice, this means that documents relating to most major policy decisions taken by the authority should be available, although the Campaign for Freedom of Information has identified a number of instances in which documents do not have to be made available (for example, where powers are delegated to officers).[49] The Mayor's monthly reports to the Assembly will be covered by the 1985 Act.

**The Assembly's Powers of Scrutiny**

**Clause 49** requires the Assembly to keep under review the exercise by the Mayor of his or her statutory functions. In particular, it will be able to investigate, and prepare reports about, any actions and decisions of the Mayor, any actions and decisions by any member of the Authority's staff, matters in relation to which statutory functions are exercisable by the Mayor, or any other matters which the Assembly considers to be of importance to Greater London. This could include health services. It will thus have functions similar to those of departmental Select Committees in the Commons.

---

48 which inserted a new part, Part VA, into the *Local Government Act 1972*

49

Under **Clause 50** the Assembly may resolve to submit a proposal to the Mayor. Under **Clause 37(2)(c)** the Mayor's monthly report to the Assembly must contain his or her response to formal proposals made by the Assembly under Clause 50, although there is no indication of the deadline for a response. It is possible that the Bill will be amended to include a more explicit duty on the Mayor to respond.

The Assembly or an Assembly committee may require the Mayor and certain other people connected with the activities of the GLA to give evidence at its meetings and to produce documents (**Clauses 51 and 52**). These include former Mayors (within three years of leaving office), current and former Assembly members, senior staff of the GLA and its functional bodies (Transport for London, the Metropolitan Police Authority, the London Development Agency and the London Fire and Emergency Planning Authority) and contractors working for the Authority.

The Secretary of State for the Environment, Transport and the Regions would be able to make an Order under the negative procedure setting out the types of information and documents which a person ordered to appear under Clause 51 could refuse to provide (**Clause 53**). Refusal to appear or to produce information, etc, would be an offence under **Clause 54**).

## 4. Accommodation and Staff

The Government has selected two possible buildings for the GLA from a shortlist of seven. These are:

**London Bridge City, SE1**
A new building to be constructed on the site between Tower Bridge and London Bridge on the South Bank of the Thames
Architect: Sir Norman Foster

**Victoria House, Bloomsbury Square, WC1**
a major refurbishment of an existing building first constructed in the 1920s
Architect: Will Alsop

A final decision is expected to be made early in 1999.[50]

The Mayor may appoint two political advisers and up to ten policy advisers (**Clause 56**). The political adviser posts will not need to be advertised or subject to competition. Other GLA staff will be appointed by the Assembly and will be subject to the requirements of **Clauses 57 to 60**, which mirror the rules for local government in general. The vast majority of the Authority's staff will transfer from existing bodies such as London

[50] DETR Press Notice "Mayor will have Landmark Building - Nick Raynsford", 7.12.98

Transport. A factsheet produced by DETR estimates that the Authority will need to employ around 250 new staff members.[51]

## 5. Ethical Standards

The Government set out its proposals for a new ethical framework for local government in the White Paper, *Modern Local Government: In Touch with the People*:

> The Government will introduce legislation which will require every council to adopt a Code of Conduct, which all its members will be obliged to observe. There will be arrangements, supervised by a new Standards Board, for the investigation of all allegations that a council's Code of Conduct has been breached. In England the Standards Board will be a new independent body with a presence in each region. The Government is minded to apply the principles of these arrangements to Police Authorities, taking into account their special circumstances. There will be separate arrangements in Scotland and Wales. There will also be a new Code of Conduct for council employees, which will form part of their terms and conditions of employment.[52]

Further details of the Government's proposals are given in Chapter 6 of the White Paper, which constituted the Government's formal response to the third report of the Committee on Standards in Public Life, *Standards of Conduct in Local Government in England, Scotland and Wales*.[53] The Queen's Speech promised that a draft Bill on standards and the conduct of local authority business would be issued in the current session. See also the discussion below of audit and surcharge in local government, at part II(A)(6).

**Clause 55** enables the Secretary of State to issue guidance to the GLA on ethical standards for the Mayor and members of the Assembly. This provision could be seen as having two purposes. First, given that the draft Bill has not yet been published, it will enable the Government to have regard to its current policy on standards in local government generally when it eventually issues guidance to the GLA. Second, it enables the Government to take account of the unique structure of the GLA. The Explanatory Notes issued with the Bill state:

> Because of the allocation of responsibilities between the Mayor and the Assembly, the usual procedures which govern the conduct of business within local authorities cannot be applied to the Authority. The Bill therefore provides a power for the Secretary of State to issue guidance to the Authority about, amongst other things, the disclosure and registration of interests, voting in cases where an Assembly member has an interest in the matter in question, and the prescription of model codes of conduct. The Secretary of State may also provide guidance on the establishment, by the Authority, of one or more committees

---

51 Greater London Authority Bill, Factsheet 16, December 1998

52 Cm 4014, July 1998, Chapter 6

53 (The Nolan Committee, now the Neill Committee) Cm 3702, July 1997

> concerned with ethical standards and about the functions of such a committee [Bill 7-EN, para 128].

The Government appears to be concerned that the strict application of the current rules on members' financial interests (including preventing members who have declared an interest from voting) would be prejudicial to the functioning of the Authority given its small size.

The Authority will have to appoint a Monitoring Officer under section 5 of the *Local Government and Housing Act 1989* (**Clause 62**). This is an official who must inform the Authority if it has contravened the law or a legally sanctioned code of practice; been responsible for any maladministration or injustice of the kind which could be investigated by the local government ombudsman; or is likely to do any of these things. The GLA will also have to appoint a Chief Finance Officer **Clause 111** who will have a similar role in respect of expenditure by the authority (see section on finance below).

Under **Clause 63** the local government ombudsman may investigate services provided by the GLA and its functional bodies (Transport for London, etc). The Explanatory Notes give details of those responsibilities which are likely to be suitable for investigation by the ombudsman.

## 6. Finance

### Budgets, Capping, Etc.

The GLA will inherit a substantial budget from existing public spending on the functions which are transferred to the new authority. In 1996/97 this expenditure was around £3.3 billion, net of receipts.[54] The Government expects the Authority's administrative costs to be around £20 million per year [ibid].

**Clause 72 and Schedule 5** set out the respective roles of the Mayor and Assembly in drawing up the budget for the GLA and its four functional bodies (Transport for London, the Metropolitan Police Authority, the London Development Agency and the London Fire and Emergency Planning Authority). This process is intended to facilitate a strong role for the Mayor, with the Assembly scrutinising and acting as a check on the Mayor. The process can be summarised as follows:

[54] Greater London Authority Bill, DETR Factsheet 5, December 1998

**GLA Budgeting Process**

MAYOR draws up a draft budget. Consults with Assembly and functional bodies

MAYOR must present the draft budget to the Assembly at a public meeting by 1 FEBRUARY

ASSEMBLY must approve the draft budget, with or without amendments, by a simple majority

MAYOR must present the final draft budget to the Assembly at a public meeting before the LAST DAY of FEBRUARY. If final draft does not incorporate any amendments made by the Assembly, the Mayor must give reasons.

ASSEMBLY must approve the final budget by a simple majority or amend it with a two thirds majority. If the Assembly fails to do either, the final draft budget is deemed to have been passed.

ASSEMBLY may decide the budget by a simple majority if the Mayor fails to meet either of the above deadlines.

The Mayor will be able to consult a committee or other representatives of the Assembly on the draft budget if the Assembly approves this. Other aspects of the budgeting process may not be delegated, and must be carried out by the Mayor and the Assembly as a whole under (**Clause 92**).

**Clauses 80 and 81** give the Home Secretary a reserve power to set a minimum level for the Metropolitan Police Authority's budget. He can only use this power if he considers that the budget set by the GLA is too small to provide an efficient and effective police force. The GLA may respond by increasing its budget by a corresponding amount, cutting other aspects of the budget (eg Transport for London or the other functional bodies), or a combination of the two.

The GLA's principal funding will come from central government grants, including a general grant (**Clause 85**), redistributed non-domestic rates income and ringfenced grants for specific functions, including police grant and a new grant created by **Clause 86** which draws together existing central funding for transport in London. The Association of London Government welcomed the flexibility of the funding arrangements for the Authority.[55]

The Authority will also have access to council tax revenues raised by the London Boroughs. **Clauses 67 and 68** define the GLA as a major precepting authority. This means that it will not issue its own council tax bills but will issue a "precept" requiring

[55] ALG Briefing: Greater London Authority Bill (undated)

each London Borough to add a proportion of the GLA's budgetary needs to its own council tax bills. This system is currently in widespread use in local government: county councils, for example, may not issue their own council tax bills but issue a precept to district councils within the county area. This can lead to confusion in council taxpayers' minds as to who is responsible for the bill they have received, but bills and the accompanying literature sent to taxpayers are broken down to show any precepts received. Part of the funding for some services in London is currently raised by separate precepts, eg. fire and police services.

Clause 23 and Schedule 1 of the *Local Government Bill* will replace the current council tax capping system with a new system of financial controls which are intended to be more discriminating in their application. The GLA, as a major precepting authority, would be subject to this new form of capping, which is described in the Explanatory Notes to the *Local Government Bill*.[56] This issue will be considered further in a forthcoming paper on the *Local Government Bill*, which is due to have its Second Reading debate on 12 January 1999. **Clauses 69, 79, 83 and Schedule 6** of the *Greater London Authority Bill* will enable the GLA to set a lower budget and issue new precepts if it is capped. The procedure for the drafting and approval of the new budget is similar to the initial procedure described above.

The GLA will be able to apply for discretionary emergency assistance from central government under the Bellwin rules (**Clause 89**). The current scheme is, in essence, designed to pay 85% of any emergency expenditure by an authority (above a certain threshold) designed to safeguard life or property or prevent suffering or severe inconvenience.

**Contracts: Non-Commercial Considerations**

**Clause 66** would apply section 17 of the *Local Government Act 1988* to the GLA. This requires councils to exclude "non-commercial matters" from the awarding of contracts. Section 17 of the 1988 would itself be amended by Clause 17 of the *Local Government Bill*, which is due to have its Second Reading debate on 12 January 1999. The amendment to the 1988 Act would enable the Secretary of State to specify matters which would cease to be regarded as "non-commercial". It therefore has a similar effect to the unsuccessful Private Member's Bill presented by Oona King, the *Local Authority Tenders Bill* of 1997-98. This issue will be considered further in a forthcoming paper on the *Local Government Bill.*

**Capital Finance**

The current capital finance regime for local government, introduced by the *Local Government and Housing Act 1989*, regulates borrowing, etc, for capital expenditure (which includes the acquisition, construction and improvement of buildings, etc). In most circumstances, authorities need to obtain *credit approvals* from the government in order to finance capital projects. Authorities may choose to bypass this system by using

---

[56] Bill 5 - EN, 30.11.98, para 11

revenue (Revenue Support Grant, council tax income, etc) to fund capital spending, but this may leave them short of money to pay wages, etc, for services like education. Alternatively authorities may, in some circumstances, use capital receipts to fund capital spending.

The White Paper, *Modern Local Government: In Touch with the People*,[57] proposes a more flexible approach to the regulation of capital finance. In particular, the Government proposes to move gradually towards a "single capital pot" for each council instead of the various service-specific mechanisms which are currently used to allocate capital resources. Part III, Chapter IV of the current Bill, which deals with capital finance for the GLA, is consistent with this approach, a fact welcomed by the Association of London Government.[58] The basic capital finance regime of the 1989 Act will apply to the GLA but with significant modifications.

**Credit Approvals**

Two new types of credit approval are created: *aggregate credit approvals* and *additional credit approvals*. The first is issued at the beginning of the financial year and the second may be issued at any time.[59] Amounts specified under these new mechanisms will fall into one of four categories, allowing Ministers to allocate the GLA's credit approvals in a more flexible way:

**GLA Credit Approval Categories**

A. For the Authority or a specified functional body[60] for any capital purpose (consistent with the powers of the body in question)

B. For the Authority or a specified functional body for a specified capital purpose

C. For the Mayor to allocate to the Authority or the functional bodies as he or she sees fit. The Mayor may specify that it is for any purpose or for a particular purpose

D. For the Mayor to allocate as he or she sees fit for a general purpose specified by the Government. The Mayor may allocate it for the general purpose or a specific project consistent with that purpose

---

57 Cm 4014, July 1998, Chapter 9

58 ALG Briefing: Greater London Authority Bill (undated)

59 They are thus broadly equivalent to basic credit approvals and supplementary credit approvals under the 1989 Act

60 Transport for London, the Metropolitan Police Authority, the London Development Agency or the London Fire and Emergency Planning Authority

**Capital Receipts, etc**

**Clause 103** is a regulation making power which could be used to give the Mayor flexibility over the use of capital receipts. He or she would be able to redistribute capital receipts from one of the GLA's functional bodies to the Authority or another of the functional bodies, for use on capital purposes. **Clause 104** gives further flexibility over capital finance. It enables the redistribution of capital resources within the GLA and its functional bodies by means of internal grants. **Clause 105** enables the redistribution of *revenue* finance within the GLA and its functional bodies by means of internal grants.

The Explanatory Notes to the Bill explain that these Clauses, taken together, are intended to enable the GLA to overcome the normal restriction that a local authority may not use its capital resources for non-capital expenditure. A body within the GLA which had a surplus of capital resources and a shortage of revenue funds, for example, would be able to trade with another GLA body which faced the opposite situation using these mechanisms.

The Mayor will have to prepare a capital spending plan for the functional bodies each financial year (**Clauses 106 to 108**).

**Audit, etc**

The GLA and each of the functional bodies will have to appoint a Chief Finance Officer (**Clause 111**) who, amongst other things, must prepare a report on any decision made by the body which involves unlawful expenditure, etc (**Clause 114**). **Clause 115** specifies the action which must be taken by the relevant body on receipt of such a report.

The *Audit Commission Act 1998* will apply to the GLA and the functional bodies, with some modifications to take account of the unique structure of the Authority. They will be able to request the Audit Commission to conduct economy, efficiency and effectiveness studies. The GLA and the functional bodies will be audited by "district auditors" appointed by the Audit Commission. District auditors will be able to issue reports on financial irregularities ("public interest reports") which, in the case of the GLA, must be considered by the Mayor and Assembly. At present, sections 17 and 18 of the 1998 Act allow the High Court or the district auditor to surcharge councillors found responsible for illegal expenditure or other specified financial irregularities. These provisions will also apply to the Mayor and members of the Assembly. The local government White Paper states:

> The Government agrees with the Nolan Committee and the majority of respondents to consultation that provision for surcharge of councillors and officers whose wilful misconduct has led to financial loss to the council is archaic and should be repealed. Restitution of financial loss should remain a possibility, but only where the councillor or council employee has gained personally at the

> expense of the taxpayer, when a compensation order should be available as a means of restoring ill-gotten gains to the Council.[61]

In the Summer of 1998 the Government established an inter-departmental working group to consider Nolan's proposal of a new statutory offence of misuse of public office, which would apply to central government and quangos as well as local government.

## B. Transport

Part IV of the *Greater London Authority Bill* covers transport and road traffic in and around Greater London. The Mayor will have a duty to produce an integrated transport strategy for London and will be able to fund new services, make investments and introduce new ticket systems. Transport for London (TfL) will be his executive arm and directly accountable to him. It will implement the Mayor's transport strategy and oversee transport services on a day-to-day basis. The London Assembly will approve the integrated transport strategy and the transport budget, scrutinise the performance of TfL and the Mayor, and be able to conduct wider investigations of transport issues. The London Transport Users Committee will be established to pursue complaints about transport in London. The boroughs will continue to deal with local transport issues and will retain most of their powers. They will have a duty to draw up local implementation plans to give effect to the Mayor's transport strategy in their area.

The Bill gives the Secretary of State the power to make provisions in connection with the public private partnership for the London Underground, announced in March 1998. Powers are included in the legislation to introduce road user charging and a levy on parking places, which will give the Mayor tools for tackling congestion and air pollution. It will be for the Mayor to decide whether the powers are used in London and the form the schemes will take. The extra revenue will be used for improvements to public transport or the management of traffic.

The transport functions of the GLA are considered in greater detail in Research Paper 98/116.

## C. Economic Development and Regeneration

### 1. Background to Regional Development Agencies

The *Regional Development Agencies Act 1998* provides for the establishment of nine Regional Development Agencies (RDAs) in England.[62] Each RDA will be a Non-Departmental Public Body; accountable to Ministers, but responsive to regional views.

---

[61] *Modern Local Government: In Touch with the People,* Cm 4014, July 1998, para 6.35. See also the third report of the Committee on Standards in Public Life, *Standards of Conduct in Local Government in England, Scotland and Wales,* Cm 3702, July 1997

[62] Cap 45 1998

Eight of the nine RDAs will be formally established on 1 April 1999, but the London Development Agency (LDA) will not be established until April 2000. For the eight non-London RDAs, chairmen and chief executives have now been appointed,[63] and preparatory work is already under way. The RDAs are defined in terms of local government areas, and will follow the boundaries of the Government Offices for the Regions.

The purposes of the RDAs are set out in section 4 of the Act:

- to further economic development and regeneration;
- to promote business efficiency, investment and competitiveness;
- to promote employment;
- to enhance the development and application of skills relevant to employment;
- to contribute to the achievement of sustainable development in the UK.

RDAs will take on a number of roles: they will be responsible for developing a regional economic strategy; the delivery of certain functions currently undertaken by central government and its agencies, and a wider consultative and advisory role in policy areas other than those within their direct remit. The direct functions undertaken by RDAs will include urban regeneration, attracting physical investment to the regions and promoting investment in skills and training. Much of the work currently undertaken by English Partnerships' regional offices will be transferred to the RDAs,[64] as will a number of functions of the Rural Development Commission.

A more detailed discussion of the role and establishment of RDAs can be found in the Library Research Paper 98/7.

## 2. London Development Agency

In most respects the London Development Agency (LDA) will be identical to the other eight RDAs in England. Part V of the Greater London Authority Bill amends the Regional Development Agency Act in a number of ways. It does not, however, make substantial alterations to the powers, duties and purposes of the LDA.

Under section 2 of the RDA Act, the Secretary of State is responsible for the appointment of the chairman, the first chief executive and the board of each RDA, following

---

63 HL Deb 30 July 1998 c231-232WA and DETR Press Release 1010/98 dated 27 November 1998

64 English Partnerships will retain its national capability and will continue its involvement in major projects such as the Greenwich Peninsula and the Coalfields Initiative. This capability will merge with the Commission for the New Towns by April 2000.

consultations. He has to approve the appointment of subsequent chief executives and board members. The Secretary of State also has the power to determine the remuneration of board members and can, in certain circumstances, remove members from office.

**Clause 202** of the Bill deals with appointments to the Agency. In London it will be the Mayor, rather than the Secretary of State, who has the powers and duties of appointment, and removal from office, of members of the LDA board. The Mayor will also determine the remuneration of the board and staff of the LDA. The Mayor must carry out consultations as laid down in section 2 of the RDA Act (but excluding the obligation to consult rural interests) before making appointments. He must also consult with the Assembly.

Section 6 of the RDA Act makes provision for the delegation of certain functions (referred to in the Act as 'eligible' functions) by Ministers to RDAs, and sets out conditions under which such delegations can be made, varied and revoked. Clause 203 of the Bill inserts into the Act a new section 6A. This provides for a Minister to delegate eligible functions to the Mayor, or, with the Mayor's consent, to the LDA. Such delegations are to be made under the same terms and conditions as delegations to the other eight RDAs in England.

**Clause 204** of the Bill inserts a new section 7A into the RDA Act. This applies an amended version of section 7 to the LDA. Section 7 obliges each RDA to formulate and keep under review a strategy in relation to the purposes given to the RDA under section 4. New section 7A would provide for both the Mayor and the LDA to be involved in preparing the strategy, keeping it under review and making revisions as necessary. Before publishing the strategy the Mayor must carry out the consultations required by clause 34 (the Assembly, the other functional bodies, each London borough council, and the Common Council of the City of London), and must also consult with representatives of employers and employees in London.

**Clause 205** of the Bill makes provision for the audit of the LDA. Under section 15 of the RDA Act, provision is made for the audit of each RDA by the Comptroller and Auditor General, as is usual for Non Departmental Public Bodies. Clause 205 amends section 15 to provide for the LDA to be audited instead by the Audit Commission, like the Greater London Authority and the other functional bodies.

**Clause 206** of the Bill makes further amendments to the RDA Act in respect of the LDA, and introduces Schedule 15 of the Bill. Paragraphs 4 to 9 of the Schedule provide that the financial provisions contained in sections 9 to 15 of the Act are not to apply to the LDA. (Sections 9 to 15 of the Act deal with general financial duties of the RDAs, the treatment of government grants, borrowing by RDAs and government loans). Instead, the finances of the LDA will be governed by the provisions contained in Part III of the Bill.

Paragraphs 3 and 10 to 12 of **Schedule 15** relate to the accountability of the RDA. Under section 8 of the RDA Act, there are provisions for the establishment of regional chambers, which must be consulted by the RDAs. Clearly there will be no regional

chamber in London, so section 8 will be amended so as not to apply to the LDA. Sub-sections (2) to (4) of section 18 of the Act will have effect in relation to the LDA as if references to the Secretary of State were references to the Mayor of London.

Section 17 of the RDA Act makes provision for each RDA to produce an annual report, which will be submitted to the Secretary of State and laid before Parliament. Paragraph 11 of Schedule 15 amends section 17 to the effect that the annual report of the LDA will be submitted to the Mayor and to the Assembly. Other more minor provisions contained in Schedule 15 are as follows:

- The Mayor may give directions to the LDA on the exercise of its functions as he or she sees fit.

- Section 5 of the RDA Act requires an RDA to seek the Secretary of State's consent before forming or acquiring an interest in a company. The LDA must seek the permission of the Mayor.

- Section 25 of the RDA Act contains a provision to alter the boundaries of RDAs. Paragraph 14 of Schedule 15 introduces a new sub-section 7A to section 25 to the effect that the power to alter the boundaries of the RDAs will not apply to the LDA. Its boundary will remain coterminous with that of Greater London.

### 3. Status of the LDA

The eight RDAs in regions outside London will be constituted as Non Departmental Public Bodies (NDPBs – more commonly referred to as 'quangos'). They will be accountable to the Secretary of State; their accounts will be audited by the Comptroller and Auditor General, and laid before Parliament.

While the Bill does not make clear the precise status of the LDA, it would appear that it will not be an NDPB; rather, it will be a secondary order local government body responsible to the Mayor in the same way that NDPBs are secondary order bodies of central government responsible to the relevant Secretary of State. (The LDA will be accountable to the Mayor, its accounts audited by the Audit Commission and presented to the London Assembly.)

## D. The Metropolitan Police

There are at present 43 police forces in England and Wales, of which 2 are in London (the Metropolitan Police and the City of London Police) and 41 are elsewhere.

### 1. Police forces outside London.

Responsibility for policing each of the 41 policing areas outside London is shared between the chief officer of police of the force which operates within that area, the Home Secretary and the police authority for the area. This shared responsibility is often referred

to as "the tripartite relationship". The legislation governing the roles, duties and powers of these three parties responsible for policing outside London was most recently changed by the *Police and Magistrates Courts Act 1994*, which was consolidated along with other police legislation in the *Police Act 1996*. The background to the 1994 legislation and its provisions are discussed in Library Research Paper 94/59 on the *Police and Magistrates Courts Bill*.

The 1994 Act constituted police authorities for policing areas outside London as free-standing, precepting authorities with their own standard spending assessments (SSAs) and capping levels. Under the *Police Act 1964* two thirds of the members of police authorities were required to be members of the local council or councils within the police area concerned, with one third being local magistrates. The 1994 reduced the size of police authorities and provided for the appointment of additional independent members, selected by the councillor and magistrate members of the authority from a short-list prepared by the Home Secretary. Under arrangements now set out in Section 4 and Schedule 2 to the *Police Act 1996* police authorities outside London now have 17 members, consisting of 9 councillors from the relevant councils within the police area concerned, 3 magistrates and 5 independent members. The Home Secretary has order-making powers under section 4(2) of the 1996 Act to increase the number of members to an odd number greater than 17 if he thinks it necessary to do so.

Amongst other things, the *Police and Magistrates Courts Act 1994*, and hence the *Police Act 1996*, also made the following arrangements in respect of police forces outside London:

- Placed a duty on the police authority to secure the maintenance of an efficient and effective police force;

- Required the chief constable to draft, for the authority's consideration, a Local Policing Plan for the area;

- Required each authority to issue its Local Policing Plan, containing national and local objectives and targets, and to report each year on the implementation of the previous year's plan;

- Gave the Home Secretary powers to issue directions to police authorities on remedial measures to improve efficiency or effectiveness, and to specify a minimum budget for an authority, following an adverse report on the force from Her Majesty's Inspectors of Constabulary.

## 2. The Metropolitan Police

The governance of policing in London is different from that for policing areas outside London. In particular, the Home Secretary acts as police authority for the Metropolitan Police and there is therefore no "tripartite relationship" in London. Responsibility for

financial matters, the management of property and the employment of civilian staff within the Metropolitan Police District rests with the Metropolitan Police Receiver, a civilian adviser who has no equivalent in the police forces outside London. Some of the provisions of the *Police Act 1996* apply to the policing of London but many, including the provisions of the 1996 Act derived from the *Police and Magistrates Courts Act 1994* and summarised in the previous section of this paper, do not. The Metropolitan Police District is governed by a number of separate statutes dating back to the *Metropolitan Police Act 1829*, which established the force. The 1993 White Paper *Policing Reform*, which set out the previous Government's proposals for the Police Service in England and Wales, announced the establishment of a new non-statutory body to assist the Home Secretary in overseeing the performance of the Metropolitan Police. The 1993 White Paper set out the Conservative Government's reasons for not establishing a police authority for London as follows[65]:

> It is not proposed that there should be a police authority in the same way as those for other forces. Because of the special national interest in the work of the Metropolitan Police, both in policing the capital and because of its wider role, for example in combating terrorism, all the members of the new body will be appointed by and directly accountable to the Home Secretary. He will , as now, answer to Parliament for his responsibilities.

The 1993 White Paper added that the new body would have no more than 16 members and probably fewer and that the Home Secretary would ensure, when appointing the members, that they brought with them an ability to hold the Metropolitan Police to account on his behalf an on behalf of Londoners. It added that the Home Secretary would require the new body to assist him in:[66]

- Setting the budget;
- Approving and publishing a costed plan for policing which reflects both key and local objectives
- Monitoring the performance of the force;
- Holding the Commissioner to account for the delivery of the agreed objectives; and
- Publishing annual performance results in a form which will allow them to be compared with forces elsewhere.

The appointment of members of the new advisory body which was to perform these functions - the Metropolitan Police Committee (MPC) - was announced on 9 February 1995. The Metropolitan Police Committee subsequently began work on 1 April 1995, the

---

[65] *Policing Reform: The Government's Proposals for the Police Service in England and Wales* Cm 2281 p44

[66] ibid p44-45

day on which most of the new statutory policing arrangements set out in the *Police and Magistrates Courts Act 1994* came into operation.

A Home Office Press Notice issued on 9 February 1995 described the status and functions of the new Committee as follows[67]:

> The new committee is non-statutory and its role is advisory. Technically it will be a non-departmental public body. It will replace Home Office officials as the primary source of advice to the Home Secretary in relation to the police authority responsibilities falling within the terms of reference he has given to the Metropolitan Police Committee.
>
> The MPC's terms of reference cover tasks (though in an advisory capacity) of the police authorities which are being established outside London under the Police and Magistrates Courts Act 1994

London local authority associations criticised the way in which appointments were made to the committee, saying that none of the councillors nominated by them had been appointed by Michael Howard, who was then Home Secretary[68].They referred to the Committee as a "toothless quango" which was neither democratically representative of nor democratically accountable to Londoners[69]

An additional 10 members were appointed to the Metropolitan Police Committee by the Home Secretary, Jack Straw, on 29 July 1998[70].

Research carried out by Trevor Jones and Tim Newburn for the Policy Studies Institute on the impact of the policing reforms introduced by the *Police and Magistrates' Courts Act 1994* suggested that the remodelled police authorities were now more likely to be operating in what their clerks described as a "businesslike manner"[71]. In an article reporting their findings in the September 1997 issue of *Policing Today* they noted that[72]:

> Clerks reported that the smaller size of police authorities, along with the depoliticisation of their activities, has led to members being more tightly focused on the "business" of local policing and less on "peripheral" matters concerning party politics. This was a view far more common among the former shire authorities than in the metropolitan areas.

Trevor Jones and Tim Newburn also reported that as a result of the introduction of policing plans, increased performance monitoring and national and local objectives,

---

[67] "Michael Howard names members of new Metropolitan Police Committee" - Home Office Press Notice 9.2.1995
[68] "Met Police Committee appointments 'a sham'" - *LBA News* March 1995
[69] "Handpicked Met police quango 'toothless'" - *ALA*, 13.2.1995
[70] HC Deb Vol 317 c254W, 29.7.1998
[71] Trevor Jones and Tim Newburn, *Policing after the Act* - Policy Studies Institute 1997
[72] "Local authority" - *Policing Today* September 1997

police authorities were focusing more on organisational and management issues rather than the strategic policy issues governing the direction of local policing. They noted that the background of those independents appointed to the new police authorities lent some weight to the suggestion that finance and industry dominates, as almost half of the independents had backgrounds in business, commerce and management, while only six per cent had backgrounds in central or local government. They found that on most authorities, independents were contributing effectively after an initial period of settling in[73].

## 3. The 1998 White Paper: A Metropolitan Police Authority

Proposals for a Metropolitan Police Authority with a majority of elected members drawn from the proposed Greater London Authority (GLA) were set out by the Government in the July 1997 consultation paper *New Leadership for London*[74], and the March 1998 White Paper *A Mayor and Assembly for London*[75]. In the White Paper the Government noted that[76]:

> 5.140 Unlike other police services, the MPS carries out a range of national functions and other tasks which arise from London's role as a capital city, as well as serving the resident community. At present, policing in London, unlike policing elsewhere in England and Wales, is not democratically accountable to the local community. There is no reason why the arrangements for democratic accountability in London should not reflect closely the model of police authorities outside London, whilst ensuring that those special features of the MPS which justify a difference in approach are identified and addressed. The MPS will be brought into line with other police forces in England and Wales, and will in future be overseen by a police authority with a majority of elected representatives. This will bring the police service in London closer to the people of London, give local communities a say in how the police service tackles crime, and make the police service more responsive and accountable to the needs of local people.

The 1998 White Paper set out the Government's proposals for the new Metropolitan Police Authority (MPA) as follows[77]:

> 5.142 The new MPA will be made up of 23 members, a majority of whom will be elected members. Of these 11 members will be drawn from the Assembly and one from the District Councils outside greater London but within the Metropolitan Police area. Their appointment will be subject to the normal rules about reflecting political balance. The MPA is larger than other police authorities, but this reflects the large size of the MPS compared with other police services.

---

[73] ibid
[74] Cm 3724 p33-35
[75] Cm 3897 p.62-67
[76] ibid
[77] ibid

5.143 The MPA will be an independently constituted authority comprising elected and non-elected members, able to decide in consultation with the Commissioner its own strategy and policing priorities. This will ensure that the Mayor and Assembly have a close connection with the MPA and help facilitate a London-wide approach to policing in harmony with the Mayor's other policies, such as those on transport and economic development. The remaining members will include a representative of the surrounding District Councils covered by the MPD and non-elected members comprising independents and magistrates.

5.144 The relationship between the MPA and the Mayor will be further strengthened by requiring the Mayor to include the deputy Mayor amongst the Assembly members appointed to the MPA. This will give the Mayor strong influence - since the deputy Mayor will be a key player in the Assembly and the Mayor's cabinet - and a direct role in this important authority. There would be no reason why the deputy Mayor could not chair the MPA.

5.145 The Mayor will therefore, through appointments to the MPA, be taking a high level and strategic interest in the MPA's efforts to tackle crime. The Mayor will be able to oversee activity and draw together the efforts of all those London organisations which have a part to play, through his or her influence on the MPA.

5.146 A key objective will be to ensure proper communication between the Mayor and the MPA. The relationship between the democratically elected Mayor and the MPA must work in favour of efficient and effective policing in London.

5.147 Within the special framework described elsewhere in this document, the Mayor will have special power, in consultation with the MPA, to set a budget for the MPS.

The White Paper added that the Greater London Assembly would be given equivalent powers to those of councils outside London to summon members of the police authority to answer questions at council meetings on the discharge of the authority's functions. It added that Assembly members of the Metropolitan Police Authority would not be involved in the scrutiny of the Authority[78].

The proposed role and powers of the new Metropolitan Police Authority were set out in the 1998 White Paper as follows[79]:

5.150 The tripartite relationship between the police authority, the police service and the Home Secretary was introduced for areas outside the MPD in the 1964 Police Act (now the 1996 Police Act). The government intends to bring that relationship to London policing.

5.151 The new MPA will have a statutory obligation to secure the maintenance of an efficient and effective police service for London. It will also have the responsibilities undertaken elsewhere by police authorities, for example in relation to finance, and these will include:

[78] ibid paras 5.148-9
[79] ibid.

- publishing an annual policing plan setting out objectives and how resources are to be used to meet them;
- consulting the local community about their concerns and priorities for policing to identify local objectives;
- setting targets for both local objectives and key national objectives set by the Home Secretary; and
- reporting back to the community on the extent to which plans have been met.

5.152 In keeping with our intention of creating an MPA that is capable of a truly strategic view of London policing, we do not intend to introduce representation on a geographical basis. All but one of the elected members of the MPA will be appointed by the Mayor and the remaining elected member will be nominated by those districts which are outside greater London but which are within the MPD. Local interests are important here and we will ensure that mechanisms allow local views to be heard and taken into account, whilst maintaining a strategic approach to problem solving.

5.153 The other members of the MPA will be magistrates and independent people. They will be appointed in similar proportions to those on other police authorities in England and Wales. The government will be consulting further on the best way to select magistrate members for the MPA. We expect the method of selecting independent members to follow existing procedures set out in the 1996 Police Act. As part of the arrangements for the Metropolitan Police, the Home Secretary will also appoint directly an independent member of the police authority.

5.154 In line with arrangements elsewhere, the MPA will elect its own Chair from its members.

The White Paper went on to make the following comments about the MPA's role in appointing the Metropolitan Police Commissioner[80]:

5.155 The process for the appointment of Chief Constables outside London is the responsibility of the police authority. It is usual for posts to be advertised and a short list of qualified candidates drawn up by the MPA for approval by the Home Secretary. Following interviews the police authority makes a provisional selection of the successful candidate, which is subject to the final approval of the Home Secretary.

5.156 A similar procedure for the appointment of the Commissioner of the Metropolitan Police will be introduced for London. This will, however, be modified to take account of the need to protect the national interest, the international obligations of the MPS [Metropolitan Police Service] and the presence of a democratically elected Mayor. The Mayor and the Commissioner will need to be able to work together in the best interests of London and the Mayor will be given a statutory right to comment on the short list of candidates submitted to the Home Secretary by the MPA. We intend that the appointment of the Commissioner should continue to be a Royal one made following the final recommendation of the Home Secretary.

The role of the Home Secretary in the proposed new arrangements was described as follows[81]:

---

[80] ibid
[81] ibid

5.160 The Home Secretary, as the present police authority for the Metropolitan Police, is advised by the Metropolitan Police Committee (MPC), a non-statutory body. We intend that the formation of a new MPA will supersede the MPC. In the transitional period before the new authority takes over, we propose to amend the structure of the MPC better to facilitate the move to a new authority by the addition of a number of local councillors from the MPD.

5.161 The 1994 Police and Magistrates Court Act (now incorporated in the 1996 Police Act) sets out the statutory responsibilities and powers of the Home Secretary in relation to policing and the relationship of these to the police service and police authorities (the tripartite relationship). These will apply to the MPS and the MPA, as they do elsewhere. In addition, the national and international functions of the MPS will continue to be guided by central government, to whom the MPS will remain responsible.

5.162 Central government will continue to provide the greater part of funding for policing London. Ministers wish to ensure that funding arrangements provide adequate funding for the MPS so that it can meet its statutory obligations and deliver appropriate standards of service. To achieve this within the budgetary system, the Home Secretary will have a power to ensure that a minimum level of funding is provided for the MPS.

The 1998 White Paper added that the introduction of the new MPA would lead to the abolition of the post of Receiver for the metropolitan Police District. It added that[82]

Many of the responsibilities and duties that are currently held by the Receiver will be absorbed naturally into the new MPA, in particular those relating to finance which will move to the Treasurer of the MPA. The Receiver currently has some other responsibilities, including the power to precept, in respect of the Inner London Probation Service (ILPS) and the Inner London Magistrates Court Service (ILMCS). We propose to separate these responsibilities from the new MPA by making arrangements for both services to be managed in line with courts and probation arrangements elsewhere in the capital.

The Government has said that it intends to preserve the police community consultative groups in London[83]. These groups, like those for other police forces in England and Wales, have been set up under what is now section 96 of the *Police Act 1996* to enable the police to obtain the views of the community on policing. There are 41 consultative groups in London with at least one group within each borough[84]. The White Paper said[85]:

5.157 An important element in efficient policing for London will be effective partnership and communication with London boroughs and community groups operating at borough level. Some mechanisms for consultation already exist at a local

---

[82] ibid

[83] "Kate Hoey promises bright future for grass roots police-community relations" - Home Office Press Notice 27.11.1998ibid para 5.157

[84] ibid

[85] Cm 3897 para 5.157

level, for example through police community and consultative groups, and, where good practice exists, it is important that this is built upon. Future mechanisms will need to be capable of sustaining good communications at all levels - including with the Mayor, the MPA and the MPS. Further work on consultation processes to ensure that local policing needs and objectives support and augment the strategic approach to policing the capital as a whole is currently underway.

In the March 1998 White Paper *A Mayor and Assembly for London* the Government summarised the responses to the proposals for the Metropolitan Police Authority as follows[86]:

5.137 There was widespread support for the establishment of a police authority for London and the accountability for policing the capital which it would bring. Most supported the proposal that elected members on the authority should come from the Assembly, enabling the police authority to take a strategic approach to policing in the capital, consistent with activity elsewhere.

5.138 Organisations closely involved with policing strongly supported the principle that the London police authority should replicate non-London police authorities as closely as possible. They thought that the members of the authority should elect its Chair. Given the size and diversity of the Metropolitan Police District (MPD), there was some concern about the capacity of a 21 strong police authority to cope with the work flowing from the Metropolitan Police Service (MPS). Similarly some respondents wondered whether one member would be able to represent all those areas outside Greater London.

5.139 Local groups stressed the importance of the roles of the Mayor and the new police authority being meshed with the arrangements already in place for consultation on policing at a local level. They identified good communication as the key to the success of future relationships.

The present Commissioner of Police of the Metropolis, Sir Paul Condon, has argued strongly for a police authority for London with a representative element as a means of providing a wider range of solutions to social problems and enabling the police to work in partnership with the community in London[87].

## 4. The *Greater London Authority Bill*

Part VI and Schedules 16 and 17 of the *Greater London Authority Bill* are intended to implement those of the Government's proposals concerning the governance of the Metropolitan Police which require primary legislation. The policing of the City of London, including the Inner and the middle Temple, is not intended to be affected by this part of the Bill.

The Bill's *Explanatory Notes* describe the purpose of Part VI of the Bill as follows:

---

[86] Cm 3897

[87] "London's top police officer wants an elected authority to watch over him" - *New Statesman* 27.6.1997

364.The purpose of Part VI of the Bill and the related Schedules 16 and 17 is, so far as possible, to bring the arrangements for the policing of the MPD into line with arrangements elsewhere in England and Wales. The Bill achieves these changes in two main ways. First, by inserting new sections into the 1996 Act concerned specifically with the new elected police authority for London, the Metropolitan Police Authority (MPA), and the metropolitan police force. Second, through amendments to the 1996 Act which have the effect of applying provisions of that Act to the policing of the MPD. There are also a number of consequential amendments to other legislation.

## The Metropolitan Police Authority

**Clause 209** of the Bill is designed to amend the *Police Act 1996* so as to provide that the police authority for the Metropolitan Police District should be the Metropolitan Police Authority rather than the Home Secretary. **Clause 207** of the Bill seeks to insert a new section 5A into the *Police Act 1996* providing for a Metropolitan Police Authority consisting of 23 members. The Home Secretary will have an order-making power to provide that the Authority should have a different number of members, but the number concerned must be an odd number and not less than 17 (which, under section 4 of the *Police Act 1996,* is the minimum membership of a police authority outside London). Provisions concerning the appointment of members of the Authority are set out in Schedule 16 of the Bill, which is designed to insert a new Schedule 2A into the 1996 Act.

The Bill's *Explanatory Notes* summarise the differences between the composition, powers and functions of police authorities outside London and the arrangements which the bill seeks to make for the new Metropolitan Police Authority as follows:

As with other police authorities, the MPA will have a majority of elected members, with the balance made up of magistrates and independent members. However, there will be a number of important differences between the MPA and the other authorities:

- to reflect the size of the metropolitan police force, the MPA's membership is to be 23 compared with the normal figure of 17 elsewhere;

- to reflect the existence of a pan-London chamber, the 12 elected members of the MPA will be drawn from the Assembly (appointed by the Mayor); not, as happens elsewhere, from the local councils which are within the police area (i.e. the 32 London boroughs in the case of the MPD);

- to reflect the Home Secretary's continuing responsibilities for the national functions of the metropolitan police force (see comments below), one of the seven independent members of the MPA is to be appointed by him;

- for the first round of appointments of independent members to the MPA, the selection panel which puts forward the list of potential members is to be constituted differently from a standard panel. In particular, the three-member selection panel will not include (as it will in future rounds) a nominee of the MPA's Assembly and magistrate members. This will enable the selection panel to

> be formed before the first elections of the Mayor and Assembly members take place, thereby allowing the full membership of the MPA to be chosen as soon as possible after those elections. The selection panel will be constituted of two persons appointed by the Secretary of State, one of whom will be appointed after consultation with organisations who represent the interests of local government in London, and a third person appointed by those two persons.

**Schedule 17** and **Clauses 208 and 209** of the Bill are designed to apply certain provisions of the *Police Act 1996* concerning the powers and functions of police authorities to the new Metropolitan Police Authority. **Schedule 17** also seeks to amend existing legislation concerning the Metropolitan Police. **Clause 210** seeks to extend certain provisions of the *Local Government Act 1972* concerning access to information, which already apply to police authorities outside London, to the new Metropolitan Police Authority.

**Clause 208** of the Bill seeks to apply the provisions of section 6 of the 1996 Act, which sets out the general functions of police authorities to the Metropolitan Police Authority. This will impose a duty on the MPA to maintain an efficient and effective police for the Metropolitan Police District. In discharging its functions the MPA will have to take account of:

- objectives determined by the Secretary of State under section 37 of the 1996 Act;
- objectives determined by the Authority under section 7 of the 1996 Act;
- performance targets established by the MPA;
- local policing plans issued by the Authority under section 8 of the Act;
- codes of practice issued by the Secretary of State;
- directions given by the Secretary of State under section 38 of the Act concerning the setting of performance targets
- directions given by the Secretary of State under section 40 of the 1996 Act following an adverse report by Her Majesty's Inspectors of Constabulary.

**Schedule 17** seeks to amend the 1996 Act so as to require the MPA to determine objectives for the policing of the Metropolitan Police District, issue a policing plan, and produce an annual report at the end of each financial year.

**Clause 218** is designed to abolish the office of Metropolitan Police Receiver. The Bill's *Explanatory Notes* comment that:

> The MPA will take on the majority of the police-related functions of the Receiver, although the existence of a single financial structure for the Greater London Authority

means the financial roles of the MPA will be a modified version of those of other police authorities.

### The Functions, Appointment and Removal of the Commissioner, Deputy Commissioner and Assistant Commissioners of the Metropolitan Police

**Clause 211** of the Bill is deigned to insert a new section after section 9 of the Police Act 1996 providing for the metropolitan police force to be under the control of the Commissioner of the Police of the Metropolis. In discharging his functions the Commissioner is to be required to have regard to the local policing plan issued by the Metropolitan Police Authority under section 8 of the *Police Act 1996*. Paragraph 86 of **Schedule 17** to the Bill seeks to amend section 44 of the Police Act 1996 so as to enable the Home Secretary to require the Commissioner, like chief constables of forces outside London and the Commissioner of Police for the City of London, to submit reports to him on matters concerning policing.

**Clause 213** is intended to provide a statutory rank of Deputy Commissioner and to enable the Deputy Commissioner to exercise the powers and duties of the Metropolitan Police Commissioner:

(a) during any absence, incapacity or suspension from duty of the Commissioner,

(b) during any vacancy in the office of the Commissioner, or

(c) at any other time, with the consent of the Commissioner.

In the first and second of these three cases, it is intended that the Deputy Commissioner should not have power to act on behalf of the Commissioner for a continuous period of more than three months unless the Home Secretary consents. The *Explanatory Notes* make the following comment about this provision:

377.The Bill provides that the Deputy Commissioner of Police of the Metropolis ("the Deputy Commissioner") will exercise the powers and duties of the Commissioner in the latter's absence or with the latter's consent, and will have all the powers and duties of an Assistant Commissioner. At present there is no statutory rank of Deputy Commissioner, so when the Commissioner has been unable to perform his duties one of the Assistant Commissioners designated for that purpose has exercised them. The Bill will repeal sections of the Metropolitan Police Act 1856 which cover the powers of Assistant Commissioners, and make equivalent provision by amending the 1996 Act. An Assistant Commissioner will be able to exercise the powers and duties of the Commissioner with the consent of the latter.

Arrangements intended to govern the appointment and removal of the Commissioner, the Deputy Commissioner and Assistant Commissioners of the Metropolitan Police are set out in **Clauses 212**, **214**, **215** and **216** of the Bill. They are summarised in the *Explanatory Notes* as follows

378. Clauses 212, 214, 215 and 216 make provisions for the appointment and removal of the most senior ranks of the metropolitan police force. These provisions will be

similar to the appointment and dismissal procedures that are already applied to chief constables and assistant chief constables outside London. In particular, regulations made under section 50 of the 1996 Act, which are concerned with the appointment and dismissal of police officers, will be applied to the three Commissioner ranks. One effect of this will be that the Commissioner ranks will in future be police officer appointments - at present they are civilian posts, albeit that all recent incumbents have been police officers.

379. However, there will be a few differences in the appointment procedure to reflect the special status of the metropolitan police, and those who hold senior office in it. Her Majesty, on a recommendation from the Home Secretary, will as now make the appointment of a Commissioner. The Mayor will have the right to make representations to the Home Secretary about the list of candidates for it. There will be a similar provision on the appointment of a Deputy Commissioner, although here it is the Commissioner (rather than the Mayor) who has the right to make representations.

380. The appointment of an Assistant Commissioner is to be made by the MPA, subject to the approval of the Secretary of State.

381. The Bill also sets out the procedure for the removal of the Commissioner or Deputy Commissioner. The MPA may, having given the (Deputy) Commissioner an opportunity to make representations and having obtained the Secretary of State's approval, call upon the (Deputy) Commissioner to retire in the interests of efficiency or effectiveness.

382. Section 42 of the 1996 Act, which covers the procedure to be followed by the Secretary of State when requiring a police authority to exercise its powers to remove a chief constable (or assistant chief constable), will also be amended so as to apply that section to the removal of the (Deputy) Commissioner. These provisions will also be applied to Assistant Commissioners. The MPA, rather than (as now) the Commissioner, will also decide disciplinary cases involving senior officers of the metropolitan police force. (A "senior officer" is a member of a police force holding a rank above that of superintendent. The three Commissioner ranks (as there will be) will come within this definition.)

## The Boundaries of the Metropolitan Police District

The boundaries of the Metropolitan Police District are currently defined by section 76 of the *London Government Act 1963* to include parts of Essex, Hertfordshire and Surrey **Clause 217** is designed to alter the District so that it consists of Greater London, excluding the City of London, the Inner Temple and the Middle Temple. This follows an announcement made on 16 June 1998 by the Home Secretary, Jack Straw, who said[88]

The Government are committed to improve the efficiency and effectiveness of the criminal justice system. Aligning the operational boundaries of the different agencies is an important element in this. The Crime and Disorder Bill's proposed changes to the youth justice system and creation of local crime reduction partnerships give added emphasis to the importance of boundary alignment. The recently announced changes

[88] HC Deb Vol 314 c191W, 16.6.1998

to the Crown Prosecution Service (CPS) will make police and CPS operational boundaries coterminous.

I have in recent months received strong representations that the boundaries of the Metropolitan Police District, which stretch into Essex, Hertfordshire and Surrey, make more difficult effective joint working between the different criminal justice agencies.

The present boundaries are an historical anachronism dating back to early in the 19th century, before the advent of modern local government.

The Government have therefore decided that the Greater London Authority Bill which will come before this House later this year will provide for a change to the boundaries of the Metropolitan Police District to make them coterminous with those of the 32 London boroughs. As a result, those parts of Essex, Hertfordshire and Surrey which are currently policed by the Metropolitan Police Service will be policed by the respective county police forces.

This change will mean that local councils and criminal justice agencies in the county districts of the Metropolitan Police District will not have to work with two different police forces which leads to inefficiency and duplication. The change will help to promote effective joint working between agencies as they implement the provisions in the Crime and Disorder Bill.

These boundary changes will also support democratic accountability and enable the Metropolitan Police to focus on policing London, a major task in itself. A majority of elected members on the new Metropolitan Police Authority will provide the vital democratic link between Londoners and the Metropolitan Police. Residents in those parts of Essex, Hertfordshire and Surrey currently policed by the Metropolitan Police will not have a vote in the elections for the Mayor and Assembly members. It is therefore right that those areas be policed by county forces whose Police Authorities already provide local democratic accountability in their areas.

I expect this change to take place in April 2000. Implementing it will require close co-operation between the relevant police forces, police authorities and local councils, and other interested parties. I have written to them today to inform them of my decision and to seek their views on how it should be implemented.

## E. Fire and Emergency Planning

In 1189 the Mayor of London was responsible for the first recorded attempt to legislate for fire safety, stipulating that houses in the city should be built of stone, that party walls should have a minimum height and thickness, and outlawing thatched roofs[89]. Under the Greater London Authority Bill, the Mayor's responsibilities would be restricted to appointing members of the London Fire and Emergency Planning Authority, and setting the LFEPA's budget.

[89] http://www.fire.org.uk/leg.htm (British Fire Service electronic pages)

The relevant DETR Factsheet[90] notes that the LFEPA will replace the existing London Fire and Civil Defence Authority (**clause 220**). The latter is comprised of one member of each of the constituent councils, namely the 32 London borough councils plus the Common Council of the City of London[91]. Under the new system, the LFEPA will comprise 17 members, nine from the new London Assembly and eight nominated by the London Boroughs. **Schedule 18** details the LFEPA's constitution. This includes provision for political balance and for the Secretary of State to vary the numbers of members of the Fire etc Authority (i.e. the LFEPA), subject to the number of Assembly representatives exceeding by one the borough nominees.

Bearing in mind the recent decision to close fire stations at the Barbican and Shooters Hill, it is worth noting that the Home Secretary would retain powers under the *Fire Services Act 1947* to guarantee national recommended standards of fire cover[92]. In practical terms, the level of services funded is likely to depend less on the geographical (borough) and political affiliations of delegates to the Fire etc Authority, than on funding constraints. In their white paper[93], the Government stated:

> 5.175 There should be streamlined and accountable decision taking and management process within the LFEPA. It will need sufficient funding to discharge its new responsibilities and there will be new arrangements for the LFEPA at appropriate times to set out its strategy, to report to the Mayor and Assembly and annually account for its performance. The Assembly will be able to scrutinise the activities of the LFEPA. This should not prevent the LFEPA from effectively conducting its business or call into question its statutory role.
>
> 5.176 The funding of the new FEPA will come through the GLA, via the Mayor. This is different from the existing arrangements under which the LFCDA has its own budget, but is effectively the same arrangement as currently exists for the majority of fire authorities in England and Wales. It will ensure that decisions on priorities between local services can be taken at the appropriate level by those democratically accountable to the people of London. Existing powers contained in section 19 of the Fire Services Act 1947 will enable the Home Secretary to ensure that nationally agreed standards of fire cover will continue to be maintained in the capital.

The first meeting of the LFEPA will be convened by the chief fire officer of the London Fire Brigade, and held as soon as reasonably practicable after reconstitution day.

As a result of **clause 221**, the LFEPA will continue to be the fire authority for Greater London, a fact emphasised by its designation as the Fire etc. Authority. Accordingly, its functions will be to[94]:

- Set the strategy for the provision of fire services;
- Ensure the fire brigade can meet all normal requirements efficiently;

---

[90] Greater London Authority Bill, Factsheet 11 *Fire and Emergency Planning* (DETR, December 1998)
[91] Greater London Authority Bill, Explanatory Notes (Stationary Office, 2 December 1998)
[92] "Home Office agrees Fire Authority plans for London" News Release (Home Office, 18 March 1998)
[93] Cm 3897, March 1998
[94] Greater London Authority Bill, Factsheet 11 *Fire and Emergency Planning* (DETR, December 1998)

- Ensure members of the fire brigade are properly trained and equipped;
- Ensure effective arrangements are in place to receive fire calls and deal with them promptly;
- Ensure information likely to be useful for fire fighting is gathered; and
- Ensure arrangements for advice and guidance on fire prevention are made.

In addition, the LFEPA will have, with the boroughs, a civil defence role (**clause 222**). The effect of the remaining clauses in Part VII is summarised in the Explanatory Notes thus:

> **Clauses 223 to 225: Openness, Discharge of functions and Miscellaneous powers and duties**
>
> 400. *Clause 223 to 225* provide that the provisions of the Local Government Act 1972 - on access to meetings and documents; the discharge of functions by a local authority; and miscellaneous powers and duties - which apply to local government generally will apply to the LFEPA in the same way that they apply to the LFCDA.

## F. Planning

Part VIII of the Bill proposes new arrangements for town and country planning. It inserts the Mayor into the planning system without dislodging either the boroughs from their position as local planning authorities or the role of the Secretary of State for the Environment, Transport and the Regions. The Mayor is not to be a planning authority, nor a superior body hearing appeals against refusal of planning permission. He is granted powers, but these are to be exercised in line with policy laid down by the Secretary of State.[95]

### 1. The Spatial Development Strategy

The Spatial Development Strategy (SDS) is a new concept, setting out the Mayor's strategy of spatial development in Greater London and providing in relation to spatial development a general setting for the Mayor's policies (**Clause 226**).

The Government Briefing lists the following areas likely to be covered by the Spatial Development Strategy (SDS), although the final choice is to be the responsibility of the Mayor:

- Transport;
- Economic development and regeneration;
- Housing;
- Retail development and town centres;
- Leisure, community, cultural and tourist facilities;
- The natural environment;

[95] This section uses male and female pronouns interchangeably

- The built heritage and urban quality;
- Waste management;
- The use of energy and other resources; and
- London's capital and World City roles.[96]

The SDS goes well beyond the normal regional guidance provided by the Secretary of State, but the policy intention is apparently that its planning role does replace the regional guidance currently provided by the Secretary of State. The idea is that the Secretary of State would continue to issue regional guidance for the south east as a whole, including Greater London, but that the Mayor would then have the responsibility of implementing that guidance for London. For example, the Secretary of State could lay down the number of homes to be built over the decade for each part of the South East, including London. The Mayor could then allocate the London total to the boroughs.[97]

However, the Bill does not exclude the possibility that the Secretary of State could issue regional guidance specifically for London. **Clause 235** explicitly states that the Mayor must have regard to current national policies and "any regional planning guidance issued by the Secretary of State so far as relating to an area which consists of, includes or adjoins Greater London".

The SDS will provide the framework with which the unitary development plans of the boroughs will have to conform. It is not, however, to be a development plan in terms of the *Town and Country Planning Act 1990.* Boroughs are to continue to be unitary authorities and to issue unitary development plans. Although these are to fit in with the SDS, the relationship is not meant to be quite the same as that in counties where the local development plans merge into the structure plan.

Since the law changed in 1991, local planning authorities have been told to determine planning applications in accordance with the plan unless material considerations indicate otherwise.[98] That requirement places far greater importance upon the formation of the development plan. For example, if an area is earmarked for industrial development, then the local authority cannot refuse planning applications for industrial development on it, unless there is some other reason for doing so. In the case of London, this requirement would involve conformity to the unitary development plans of the London boroughs, not directly to the SDS.

## 2. Preparation of the SDS

The procedures for preparation of the SDS (in **Clauses 226-231**) model closely the procedures for the formation of structure plans under the *Town and Country Planning Act*

---

96 DETR, *Greater London Authority Bill Factsheet 7*

97 DETR, *Greater London Authority Bill, Factsheet 7*

98 *Town and Country Planning Act 1990* s 54A, introduced by the *Planning and Compensation Act 1991* s 26

*1990 (sections 31-35C)*. There is provision for public participation, through consultation on a draft (**Clause 227**). There is then provision for an examination in public, unless the Secretary of State directs otherwise (**Clause 230**). The proposed SDS may be withdrawn at any time (**Clause 228**). There is also provision for review and replacement of the SDS, as appropriate (**Clauses 232 to 234**).

### 3. Conformity of the SDS with national policy

The Secretary of State is explicitly given the power to prevent publication of an unsuitable SDS in **Clause 229(5) and (6).**

> (5) If it appears to the Secretary of State –
>
> > (a) that the proposed spatial development strategy prepared under section 227(2)(a) above (or any part of it) is inconsistent with current national or regional policies, or
> >
> > (b) that it is expedient to do so for the purpose of avoiding any detriment to the interests of an area outside Greater London,
>
> he may, at any time before the Mayor has published the spatial development strategy, give the Mayor a direction under subsection (6) below.
>
> (6) A direction under this subsection is a direction to the Mayor not to publish the spatial development strategy except in a form which includes modifications to the proposed spatial development strategy in such respects as are indicated in the direction, in order to-
>
> > (a) remove the inconsistency mentioned in subsection (5)(a) above; or
> >
> > (b) avoid the detriment mentioned in subsection (5)(b) above.

There are more powers covering the period after publication. Clause 233 requires the Mayor to review the SDS from time to time, and the Secretary of State may direct him to do so. Clause 234(2) goes further:

> If the Secretary of State so directs, the Mayor shall, within such time as the Secretary of State may specify in the direction, prepare and publish –
>
> (a) such alterations of the spatial development strategy as the Secretary of State directs, or
>
> (b) a new spatial development strategy to replace it.

**Clause 235** requires the Mayor, in exercising his functions, to have regard to-

> (a) current national policies;
>
> (b) any regional planning guidance issued by the Secretary of State so far as relating to an area which consists of, includes or adjoins Greater London;
>
> (c ) the resources likely to be available; and
>
> (d) such other matters as the Secretary of State may prescribe.

## 4. The handling of individual planning applications

### The proposed system

At first sight, the Bill does not appear to cover individual planning applications, but **Clause 237**(9) provides for a development order to enable the Mayor in prescribed circumstances to direct the local planning authorities, the boroughs, to refuse certain planning applications. The order could also modify the 1990 Act relating to an appeal against the refusal of planning permission, especially relating to costs.

The policy intentions are explained in Government guidance, although it is important to remember that the power, once granted by the Act, might be used in a quite different way.

The determination of planning applications will remain almost entirely the responsibility of the responsibility of the boroughs as local planning authorities. However, there is to be provision for referring a small minority of planning applications to the Mayor. The Government guidance explains who decides which planning applications the Mayor will see.

> The Secretary of State will define the types of planning applications that must be referred to the mayor by the boroughs as planning authorities. They will be limited to a small number of applications that are likely to raise issues of genuine strategic importance. Categories will be subject to periodic review and will be set down in secondary legislation (an Order to be made by the Secretary of State).[99]

An earlier consultation document went into greater detail about the Government's intentions, stressing the desire to set clear and objective criteria to avoid ambiguity about which cases the boroughs are required to notify to the Mayor.[100] The White Paper envisaged that these should amount to between 100 and 300 applications per year at most. This would represent less than 0.5% of the 65,000-75,000 applications currently submitted in Greater London each year.

> Four broad groups of development proposals which may raise issues of strategic importance have been identified (whilst recognising that the larger proposals may meet the criteria in more than one group):
>
> (a) Large scale development
> (b) Major infrastructure
> (c ) Development which may affect key strategic policies
> (d) Development which may affect key strategic sites

The Mayor is not to be a planning authority. If a planning application is referred to her, she cannot determine it, but she can direct the local planning authority to refuse it [**Clause**

---

[99] DETR, *Greater London Authority Bill, Factsheet 7,*

[100] DETR, *Planning Applications of strategic importance – categories of development on which the proposed Mayor of London is to be consulted, A consultation document,* August 1998

**237**(9)]. She cannot apparently direct the local planning authority to accept the application. If she does direct the borough to refuse the application, the applicant could always appeal to the Secretary of State. That would normally result in a public inquiry, headed by an inspector who would report his conclusions to the Secretary of State, who could then choose whether or not to accept them.

The Bill does not lay down the method by which the Mayor would make her decision. There is no requirement that she hold a public inquiry. Indeed, in view of the possibility of a public inquiry being held at a later stage by the Secretary of State, a statutory requirement for the Mayor to hold a public inquiry might create duplication. On the other hand, if no public inquiry is to be held, then the decision would seem to be purely personal one on the part of the Mayor.

**Proposed categories of application to be referred to the Mayor**

The August 1998 Consultative Paper lists in detail the applications at that time being considered for referral to the Mayor:

> 12. These would comprise:
>
> **1A - Applications consisting of, or including, residential development where-**
> **(i) that development would consist of more than 200 units; or**
> **(ii) the number of units is not specified in the application and that development would occupy a site of more than 4 hectares;**
>
> **IB - Applications consisting of, or including, the erection of a building or structure which -**
> **(i) is to be located on a site in Central London and would occupy a floorspace of more than 20,000 square metres. or**
> **(ii) is to be located on a site outside Central London and would occupy a floorspace of more than 10,000 square metres.**
>
> **IC - Applications consisting of, or including, the erection of a building or structure which -**
> **(i) is to be located on a site fronting the River Thames, and would exceed 20 metres in height; or**
> **(ii) is to be located in the City of London (but not fronting the River Thames), and would exceed 50 metres in height; or**
> **(iii) is to be located neither fronting the River Thames nor in the City of London, and would exceed 30 metres in height-**
>
> 13. The size thresholds proposed in 1A and 1B mirror those already used by the London Planning Advisory Committee (LPAC) in their "Voluntary guidelines for reference of strategically important land use and transportation proposals" issued in 1986 and revised in 1991.
>
> 14. Work is currently in hand on a detailed definition of the Central Area which accords with Strategic Guidance for London Planning Authorities (RPG3 -

Paragraph 2.24). Pending completion of this work the Government is minded to use the Central Statistical Area defined by the Office of National Statistics (previously the Office of Population, Census and Statistics) as the Central London boundary. A plan which shows the extent of the Central Statistical Area is attached at Annex 1.

15. The height thresholds proposed in IC have been informed by the draft advice recently issued by LPAC on high buildings and strategic views. A lower threshold for consultation is proposed on sites adjacent to the River Thames because of the impact that high buildings can have on this strategic and particularly sensitive part of the capital's urban environment.

**2. <u>Major infrastructure</u>**

16. The second group of applications are those involving the construction of new infrastructure or transport facilities which are likely to serve a wider than local role and again may have an impact over a wide area.

17. These would comprise:

**2A - Applications for development consisting of, or including mining operations where the application site exceeds 10 hectares.**

**2B - Applications for development consisting of, or including, a waste management facility which is to be used for waste generated from outside the application site, and would have an annual capacity of 50,000 tonnes per annum or more.**

**2C - Applications for development consisting of, or including, one or more of the following -**
**(i) the construction of a new aircraft runway;**
**(ii) the erection of a new air passenger terminal or an extension to an existing terminal creating an additional capacity of at least 0.5 million passengers per annum,-**
**(iii) the construction of a new heliport;**
**(iv) the construction of a new railway station;**
**(v) the construction, exclusively or mainly for passenger transport, of a tramway, an elevated, ground level or underground railway or a cable car;**
**(vi) the construction of a new station for public service vehicles;**
**(vil) a freight trans-shipment facility, where the application site has an area of more than 4 hectares;**
**(viii) a new crossing (of whatever type) of the River Thames.**

18. Again, the types of application to be referred are similar to those in LPAC's current voluntary referral system, but more detailed thresholds and definitions have been proposed for each category.

**Development which may effect key strategic policies**

19. The third group of applications are those which could have a significant impact in relation to key strategic planning policies. Such policies would include the provision of land for housing, employment or recreation, the protection of Green Belt/Metropolitan Open Land, town centres and strategic views, and reducing the need to travel, especially by private car.

20. These would comprise:

**3A - Applications where the proposed development would result, or would be likely to result in -**
**(i) the loss of at least 200 residential units; or**
**(ii) the loss of at least 4 hectares of land which is used (or was last used) for residential purposes, or which is allocated for residential use in the development plan (or in proposals for such a plan or for its alteration and replacement).**

**3B - Applications where-**
**(a) the application site consists of, or includes, at least 4 hectares of land which is used (or was last used) for employment purposes or is allocated for such purposes in the development plan (or in proposals for such a plan or for its alteration or replacement); and**
**(b) the proposed development will or is likely to prejudice that use (whether by causing cessation of such use or otherwise).**
(Note, on 3B: "Employment purposes" would be uses of land within use classes: BI - business; B2 - general industrial; B8 - storage & distribution).

**3C - Applications where**
**(a) the application site consists of or includes at least 2 hectares of land which is used (or was last used) as a playing field or is allocated for such use in the development plan (or in proposals for such a plan or for its alteration or replacement); and**
**(b) the proposed development will or is likely to prejudice that use (whether by causing cessation of such use or otherwise)**

**3D - Applications where the proposed development**
**(a) is on land designated as Green Belt or Metropolitan Open Land in a development plan (or in proposals for such a plan or its alteration or replacement); and**
**(b) would occupy a floorspace of 1000 square metres or more.**

**3E - Applications where the proposed development is to he located wholly or partly in an area which is the subject of a direction made by the Secretary of State for protecting a strategic view.**
(Note on 3E: Directions were made by the Secretary of State in 1991 protecting a series of strategic views in London. It is proposed that the Mayor should also be consulted on development proposals within these existing protected views).

> **3F - Applications where the proposed development -**
> **(a) does not accord with the provisions of the development plan in force in the area in which the application is situated; and**
> **(b) would consist of, or include, the provision of more than 2500 square metres of floorspace for one or more of the following uses: use class AI - retail; use class A2 - financial & professional services; use class A3 - food & drink; use class Bl - business; use class B2 - general industrial; use class B8 - storage & distribution; use class Cl - hotels; use class C2 - residential institutions; use class D1 - non-residential institutions; use class D2 - assembly & leisure**.
> (Note on 3F - the primary aim of this category is to ensure consultation on large scale non-residential development outside town centres).
>
> **3G - Applications where the proposed development consists of, or includes, the provision of 200 or more car parking spaces.**
>
> **4. Development which affect strategic sites**
>
> **Applications where the application site (or any part of it) is in an area which is the subject of a specific consultation direction made by the Secretary of State (under powers to be included In the GLA Bill).**

### The Secretary of State's existing power to call in applications

The Secretary of State already has broad powers from earlier legislation to call in an application in order to determine it himself, rather than leave it to a local planning authority. The power to call in planning applications is granted to the Secretary of State under section 77 of the *Town & Country Planning Act 1990.* The power is very general, as stated in the opening sub-section.

> 77 (1) The Secretary of State may give directions requiring applications for planning permission, or for the approval of any local planning authority required under a development order, to be referred to him instead of being dealt with by local planning authorities.

As a matter of administrative practice, the Conservative Government's policy was to limit the application of this power, as shown in a formal statement in 1987.[101]

> As noted in the Government's response to the fifth report from the Environment Committee, Session 1985/86 (Cm43) the Government's general approach is not to interfere with the jurisdiction of the local planning authority unless it is necessary to do so. Each case must be considered on its individual merits. But after careful consideration my right hon. Friend the Secretary of State for Wales and I have concluded that there is no need to depart from the general approach to calling-in applications in Circular 2/81. We will therefore continue to be very selective about calling-in cases for our decision, and applications will in general be called-in only

[101] HC Deb 5 May 1987 c.346

> if planning issues of more than local importance are involved. Such cases may include, for example, those which in our opinion could have wide effects beyond their immediate locality, which give rise to substantial regional or national controversy, which may conflict with national policy on important matters, and those where the interests of national security or of foreign Governments may be involved.

After the 1997 Election, the Secretary of State for the Environment confirmed that the criteria for calling in an application remain precisely the same as under the Conservatives.[102]

**The powers of the Secretary of State and the Mayor**

The Secretary of State's power to call in an application is to take account of national considerations, and prevent the local planning authority from granting a planning application that he would have liked to refuse. The Mayor's powers allow him to play a similar role with respect to matters of importance to London as a whole. It is clear that there is scope for conflict. Almost anything considered by the Secretary of State to be of national importance might be considered by the mayor to be of importance to London as a whole. The converse is only slightly less true, in view of the importance of London to the country. Both individuals might want to determine the important applications. The Secretary of State might intervene at an early stage and pre-empt the Mayor from considering the issue. More public controversy is possible if the Mayor directed the local planning authority to refuse a planning application, but the Secretary of State were then to call it in, before the borough had the chance to carry out the direction of the Mayor to refuse the inquiry. It is not difficult to imagine developments that the Mayor might consider against the interests of London, but that the Secretary of State might consider to be in the national interest.

## G. Environmental Functions

The Mayor of London will be involved with a range of environmental duties that are already the province of local authorities and national government.

The Mayor will have to prepare several documents relating to environmental policy. The document likely to have the greatest profile will be the "state of the environment report". Further reports on the state of the environment will have to be produced with a maximum interval of four years. This document will bring together all of the disparate parts of environmental reporting within the city and provide a central environmental data resource.

In addition to this there exist more specific tasks within the remit of the environment. These tasks will involve the production of strategies which require certain statutory actions to be taken whilst producing the strategy. These actions are detailed in clauses 33

[102] HC Deb 28 November 1997 c.690W

to 36 of the Bill and relate to the requirements to consult, publish, promote these strategies and to revise strategies as required by the Secretary of State.

## 1. Biodiversity

Biological diversity, or biodiversity, is the sum total of all life forms on Earth. It is the variety and variability of all species of plants, animals and microorganisms, as well as the ecosystems they compose. The concept of biodiversity can be difficult as a seemingly barren landscape may host a vast array of microbial and insect life whilst a lush lawn may be a virtual monoculture. As such, it is necessary that careful thought is given to the protection and promotion of biodiversity.

The UK Government has, through their commitment to the Convention on Biodiversity, published a national strategy for biodiversity (the UK Action Plan on Biodiversity). Through this they encourage local authorities to establish action plans to promote biodiversity within their area of control. A Biodiversity Steering Group was established which reported back in 1995 with recommendations for local biodiversity action plans.

Under the provisions of this Bill (**Clause 243**) the Mayor will have to formulate a strategy for London. This strategy will have to take account of direction from national and international policy. It will also have to give regard to biodiversity plans already extant within local authorities and any guidance from the Secretary of State. London boroughs will then implement the strategy through their own action plans.

This strategy will have to contain information on the ecology and wildlife of London; agreements made between the Mayor and relevant persons consulted on the conservation and promotion of biodiversity in Greater London; and any commitments made by such persons to pursue such conservation and promotion.

## 2. Waste Management

**Clauses 244 to 248** deal with waste management issues. Eight million tonnes of domestic and commercial waste are produced by London each year. Currently, up to 80% of this is transported by road to landfill sites in Kent, Essex and Bedfordshire. London's two major incinerators deal with a large proportion of the remainder and only about 3% is recycled[103]. However, by 2011 Essex is intending to ban the import of waste from anywhere outside its borders, whilst Bedfordshire is reviewing its position. Thus, London's future waste management arrangements are of great importance.[104]

The Environment Protection Act 1990 (EPA '90), as amended by the Environment Act 1995, provides the main legislative framework for waste management in England and Wales. It provides that responsibility for waste management should lie with waste

[103] HC Deb 19 October 1998 c903-4W
[104] Time to recycle our ideas about rubbish, *Evening Standard,* 24 September 1998

collection authorities and waste disposal authorities. Waste management licensing and associated pollution control functions are within the remit of the Environment Agency. In London, the borough councils act as both waste collection and disposal authorities. However, in a number of cases, London borough councils work together to carry out their functions as waste disposal authorities through statutory Waste Authorities.

At present, decisions on the projected future use of landfill, incineration and recycling in Greater London are made by the local authorities who are responsible for waste management and planning, including the day-to-day collection and disposal of household and other municipal waste.

**Municipal Waste Strategy**

When the Government consulted on its proposals for a GLA last July (Cm 3724) a strong view emerged that the existing, fragmented structure, for waste management in Greater London, was undermining the efforts of statutory and other bodies to move to new ways of dealing with municipal waste.[105] The government was not convinced that to achieve this the GLA needed to be designated as the waste disposal authority for London, which it felt would create a large bureaucracy.[106] However, in recognition that there is a need for a more strategic lead on municipal waste in London, **Clause 244** gives the Mayor a statutory duty to publish a municipal waste management strategy.

This strategy is to contain his proposals and policies for the recovery, treatment and disposal of municipal waste which originates in Greater London. **Clause 246** requires that greater London waste disposal and collection authorities have regard to this strategy. The Government hopes that the strategy will encourage use of these options in line with the Government's waste strategy which will be published at the end of 1999.[107] This will replace the previous Government's strategy set out in the 1995 White Paper, " Making Waste Work."[108]

The Municipal Waste Strategy is a strategy covered by clauses 33-36 of the Bill. However, clauses 244-247 impose additional requirements specific to it.

In preparing the municipal waste management strategy the Mayor is to have regard to the plans prepared by waste collection authorities in Greater London in accordance with section 49 of the Environmental Protection Act 1990 (waste recycling plans).

The Mayor must also have regard to the National Waste Strategy prepared by the Secretary of State and to plans prepared by waste collection authorities in greater London.

---

[105] Cm 3897, A Mayor and Assembly for London: The Government's proposals for modernising the governance of London, para 5.112, DETR, 25 March 1998

[106] ibid, para 5.124

[107] HC Deb 19 October 1998 c903-4W

[108] Cm 3040, DoE, 1995

The Secretary of State may give directions to the mayor on the content of the waste strategy for the purposes of implementation of the National Waste Strategy, or where the Mayor's strategy would have a detrimental effect on waste management outside of London. The Mayor may direct waste collection authorities and waste disposal authorites to implement the Strategy (**Clause 247**).[109]

In preparing or revising the municipal waste management strategy, the Mayor has to consult bodies such as the Environment Agency and waste disposal authorities in Greater London (and those adjoining the area). He also has to consult other relevant local authorities in areas which take waste originating in Greater London. The mayor can also choose to consult any other body which is concerned with the recovery, treatment or disposal of waste which originates in Greater London.

**Waste Recycling Plans**

**Clause 249** gives the Mayor responsibility for ensuring that the Waste Recycling Plans, produced by London borough councils, conform with the information requirements set out in the EPA'90 (s49)**.** These require plans to contain information such as the kinds and quantities of waste which the authority expects to collect and the arrangements they expect to make with waste disposal contractors.

## 3. Air Quality

The European Union has, largely, driven the development of UK air quality legislation. The National Air Quality Strategy was introduced in the *Environment Act 1995.* This strategy makes local authorities responsible for regulation of smoke, grit, dust and fumes from furnaces and for enforcing the *1993 Clean Air Act.*

Subsequently there has been a lot of consideration given to the various processes which contribute to the pollution of the air environment and an attempt to limit the continuing emission of unnecessary pollutants into the atmosphere. The legislation provided a reasonable set of laws from which industrial processes might be assessed and regulated to ensure the minimal possible pollution was emitted. These measures were brought into being within the provisions of BATNEEC (Best Available Technology Not Entailing Excessive Cost).

The Department of the Environment, Transport and the Regions has provided guidance[110] to local authorities on air quality management. This guidance refers to a series of notes which deals with various aspects of air quality management:

(i) **Framework for review and assessment of air quality. LAQM.G1(97)** – setting out the general principles of reviewing and assessing air quality, the information authorities

[109] Greater London Authority Bill [Bill 7], Explanatory Notes, p 83, The Stationery Office , 2 December 1998

[110] Environment Circular 15/97, DETR 1997.

should collect and collate to complete a review and assessment, and the role of reviewing and assessing in local air quality management.

(ii) **Developing local air quality strategies and action plans: the principal considerations. LAQM.G2(97)** – providing general advice on the principal considerations which should underpin the development of a local air quality strategy and, where necessary, an action plan.

(iii) **Air quality and traffic management. LAQM.G3(97)** – assisting local authorities to extend and refine their traffic management plans so that they contribute to action plans to deal with local poor air quality, and to improve air quality more generally.

(iv) **Air quality and land use planning. LAQM.G4(97)** – advising on the links between the land use planning system and policies to improve air quality; advising on the processes local authorities and others should adopt to ensure the land use planning system makes an appropriate contribution to achieving air quality objectives; and advising on processes to ensure that air quality considerations are properly considered along with other material land use considerations in the planning process.

The Government also published its Air Pollution bandings in November 1997 which have been drawn up to reflect the latest evidence on the effects of air pollutants on health.

### Clean Air Directive

The draft framework Directive[111] was adopted by the Commission as a formal proposal in July 1994 and without amendment by the Council of Ministers on 27 September 1996. Since the European Parliament had made only three amendments, the final version of the Directive closely resembles the original common position.[112] It is a framework Directive which seeks to set standards for the amount of pollutants in the air, rather than setting emission standards for point sources of pollutants.

There are already four EC air pollution Directives (smoke and sulphur dioxide, lead, nitrogen dioxide and ozone). The first three of these specify EC air quality standards (AQS) for those pollutants (the behaviour of ozone as a pollutant is complex). On reviewing the air directives, the Commission felt the need for fuller harmonisation in monitoring and implementation across Member States.[113]

Under the framework Directive, a series of daughter Directives will be produced, each setting AQS or limit values and alert thresholds for individual pollutants.

Much of the information regarding the levels of air quality and the monitoring of air quality by the Government is provided on-line.[114]

---

[111] 8599/94 Proposal for a Council Directive on ambient air quality assessment and management

[112] *Europe Environment*, 'Air pollution: Ministers adopt Directive on ambient air quality', 8 October 1996.

[113] *ENDS Report*, July 1994, p41.

[114] http://www.aeat.co.uk/netcen/airqual/welcome.html

In the 1998 DETR Annual Report the following statement was made regarding local authorities.

> *Support to local authorities*
> 10.35 Under the provisions of the Environment Act 1995, a new statutory system of integrated local air quality management commenced in 1997-98. The Department has developed guidance for local authorities to assist them with their new duties to assess air quality and, where necessary, prepare remedial action plans. A new programme of supplementary credit approvals was introduced, providing £4.3 million in 1997-98 to support local authorities' expenditure on their new air quality management duties.

This means that it may be possible for local authorities to undertake particular programmes designed to remedy perceived problems with regard to air quality. An example of such programmes are the roadside testing of car emissions currently underway in cities such as Glasgow and Bristol at the present time where it is possible to receive spot fines for cars exceeding emission standards. It may also be possible to carry out schemes such as the high occupancy lane currently being tested in Leeds.

This Bill (*Clauses 250-254*) requires the Mayor to produce an air quality strategy for London (LAQS). This strategy will provide information on Mayoral policies to implement the National Air Quality Strategy and the objectives released in the *Air Quality Regulations 1997*. The strategy will not however be limited to this. It will be possible to include further air quality proposals and policies within the strategy.

Whilst the LAQS is a strategy as outlined above clause 250 adds the Environment Agency and local authorities which border Greater London to the list of those required to be consulted.

Local authorities will not lose any of the authority they have been given under previous legislation but they will have to take regard of the LAQS when undertaking Local Air Quality Management (LAQM). If there is conflict between the LAQS and LAQM then the Mayor will be able to give direction to local authorities. There will also be a requirement for local authorities to consult with the Mayor when undertaking reviews, assessments or preparing action plans under LAQM.

## 4. Noise in Greater London

There has been a series of legislative moves to tackle the problem of noise. The 1990 Environmental Protection Act brought in the legislative concept of statutory nuisance and some guidelines for what might be so considered. This has been refined and added to through the *Noise and Statutory Nuisance Act 1993* and the *Noise Act 1996*.

This Bill (*Clauses 258 and 259*) provides the Mayor with the duty to prepare a strategy to deal with ambient noise. Thus he will not be responsible for dealing with anti-social neighbourhood noise nuisance which have been a major part of the problems dealt with by later legislation. The Mayor will have responsibilities more toward noise emanating from traffic and fixed industrial sources which add to ambient noise levels.

The strategy will require the Mayor to provide information on ambient noise within London and how other Mayoral strategies will impact on these noise levels. The strategy will also have to outline the measures taken, or proposed, which will lessen the problem of ambient noise.

## H. Culture, Media and Sport

**Introduction**

Part X of the Bill covers culture media and sport. The two clauses contained within it provide for a *Cultural Strategy Group for London* to advise the Mayor. The establishment of this group was only one, but one of the more wide-ranging, of the proposals about culture in the White Paper published in March 1998.[115] The other proposals relating to culture in the White Paper are not contained in the Bill but, according to the Department of Culture, Media and Sport, are likely be added during the Bill's progress through Parliament.

**The White Paper**

The White Paper described the proposed *Cultural Strategy Group for London* as a reconstituted *London Heritage Forum*,[116] a body consisting of representatives of the major London cultural bodies that provided an opportunity for members to discuss shared concerns and issues but had no executive functions. The White Paper proposed that the new body should not only be instrumental in shaping the Mayor's strategy but play a major part in delivering that strategy. With the Mayor, it would co-ordinate and promote London-wide initiatives; link the interests of the cultural sectors with wider London policies; and play a role in the consultation required of Lottery distributors when developing their strategic plans.

In order that it should be able to take on this advisory role and be truly representative of the cultural sector, the White Paper proposed that the Group's membership or consultation mechanisms should be widened. The Mayor would therefore appoint a Chair of the Group and would be consulted about proposals to extend its membership - making nominations where he or she thought relevant interests were either not represented or were under-represented.

The White Paper's other proposals, not currently in the Bill, included:

---

[115] A Mayor and Assembly for London: the Government's proposals for modernising the governance of London, Cm 3897, March 1998

[116] Members included the London Arts Board, the London Tourist Board, the South Eastern Museums Service, the English Sports Council, English Heritage, the Royal Parks Agency, the Historic Palaces Agency, London and South Eastern Library Region and the London Film Commission.

- In general, the Mayor would be expected to play an active part in making appointments to publicly funded London organisations and, in some cases, to control either all or a part of their funding.
- There would be exceptions for bodies such as the London Arts Board that are funded by national organisations responsible for setting national standards; in these cases the Mayor would be given powers to nominate members to their boards.

Some of the specific examples mentioned are listed below:

- The Department of Culture, Media and Sport would pass over some of the powers and responsibilities which once rested with the old GLC, for example: responsibility for some London museums currently directly funded by the Department (the Museum of London, the Horniman and the Geffrye) and some of the historic properties now managed by English Heritage. Resources would be transferred for these responsibilities.
- The Government would discuss with the Victoria and Albert Museum arrangements that could be put in place to transfer responsibility for the Theatre Museum and the Museum of Childhood to the Greater London authority.

- The Government was also considering, subject to the outcome of discussions with English Heritage, whether responsibility for important parts of historic estates in London, such as Trafalgar Square, Parliament Square, Marble Arch, Wellington Arch and certain statues should be transferred to the Greater London Authority.

- The Government intended that the Centre for Young Musicians, currently funded in part by the Department for Education and Employment, should also become the responsibility of the Greater London Authority, with the appropriate transfer of resources.

- The Government had decided that there was a strong case for the diversion to the Greater London Authority of funds currently given to the London Tourist Board and the English Tourist Board for the Focus London campaign and the delivery of national programmes respectively, thus making the Greater London authority responsible for funding a significant proportion of the London Tourist Board's work.(The Government is currently reviewing the future of the Tourist.[117])

**The Bill**

**Clause 261** of the Bill will establish the *Cultural Strategy Group* for London, whose function will be to provide advice to the Mayor on the contents and implementation of the culture strategy. The Clause also provides that other functions may be added by other enactments.

---

[117] See, for example, HC Deb 20.10.98 c1079W

**Schedule 20**, introduced by Clause 261, provides for the Mayor to determine the size and composition of the Group. It provides that the members that he or she will appoint must be either representatives of bodies concerned with relevant matters (as considered appropriate by the Mayor) or individuals who have the relevant knowledge, experience or expertise. It provides that before making any appointment the Mayor will consult appropriately and that where the appointee is a representative of a relevant body, that the Mayor will consult the body concerned. The Schedule also provides that the Mayor may pay travel and other such expenses to members and either provide the Group with staff, accommodation, equipment etc or sums of money for carrying out their functions.

**Clause 262** provides that the Group will have the duty of drawing up a draft strategy document containing proposed policies with respect to culture, media and sport in Greater London and submit this to the Mayor. It also provides that as soon as reasonably practicable thereafter, the Mayor must prepare and publish a document to be known as the *"culture strategy*", having made such modifications (if any) that he or she considers appropriate. It provides for the Group to keep the strategy under review and to have the power to submit proposed revisions of it to the Mayor. The Clause sets out the range of policies that may be contained in the culture strategy :

- The arts, tourism and sport
- Ancient monuments and sites
- Buildings or other structures which are of historical or architectural interest or which otherwise form part of the heritage of Greater London
- Museums and galleries
- Library services
- Treasure, and antiquities of a moveable nature
- Broadcasting, film production and other media of communication

The Mayor's culture strategy is a strategy for the purposes of **Clauses 33-36** of the Bill (see above). **Clause 34** provides that when preparing or revising a strategy, the Mayor is required to consult various bodies. **Clause 262** adds the Cultural Strategy Group to this list for the purposes of the culture strategy.

# Appendix: London Referendum Results

Table 1

**London Referendum: "Are you in favour of the government's proposals for a Greater London Authority, made up of an elected mayor and separately elected authority?"**

| Borough | Yes | | No | | Total valid votes | Turnout[(a)] |
|---|---|---|---|---|---|---|
| | Number | *Per cent* | Number | *Per cent* | | |
| Barking & Dagenham | 20,534 | *73.5%* | 7,406 | *26.5%* | 27,940 | 24.9% |
| Barnet | 55,487 | *69.6%* | 24,210 | *30.4%* | 79,697 | 35.3% |
| Bexley | 36,527 | *63.3%* | 21,195 | *36.7%* | 57,722 | 34.7% |
| Brent | 47,309 | *78.4%* | 13,050 | *21.6%* | 60,359 | 35.5% |
| Bromley | 51,410 | *57.1%* | 38,662 | *42.9%* | 90,072 | 40.2% |
| Camden | 36,007 | *81.2%* | 8,348 | *18.8%* | 44,355 | 32.8% |
| City of London | 977 | *63.0%* | 574 | *37.0%* | 1,551 | 30.6% |
| Croydon | 53,863 | *64.7%* | 29,368 | *35.3%* | 83,231 | 37.2% |
| Ealing | 52,348 | *76.5%* | 16,092 | *23.5%* | 68,440 | 32.5% |
| Enfield | 44,297 | *67.2%* | 21,639 | *32.8%* | 65,936 | 32.8% |
| Greenwich | 36,756 | *74.8%* | 12,356 | *25.2%* | 49,112 | 32.3% |
| Hackney | 31,956 | *81.6%* | 7,195 | *18.4%* | 39,151 | 33.7% |
| Hammersmith & Fulham | 29,171 | *77.9%* | 8,255 | *22.1%* | 37,426 | 33.5% |
| Haringey | 36,296 | *83.8%* | 7,038 | *16.2%* | 43,334 | 29.6% |
| Harrow | 38,412 | *68.8%* | 17,407 | *31.2%* | 55,819 | 36.0% |
| Havering | 36,390 | *60.5%* | 23,788 | *39.5%* | 60,178 | 33.9% |
| Hillingdon | 38,518 | *63.1%* | 22,523 | *36.9%* | 61,041 | 34.4% |
| Hounslow | 36,957 | *74.6%* | 12,554 | *25.4%* | 49,511 | 31.8% |
| Islington | 32,826 | *81.5%* | 7,428 | *18.5%* | 40,254 | 34.1% |
| Kensington & Chelsea | 20,064 | *70.3%* | 8,469 | *29.7%* | 28,533 | 27.9% |
| Kingston upon Thames | 28,621 | *68.7%* | 13,043 | *31.3%* | 41,664 | 41.0% |
| Lambeth | 47,391 | *81.8%* | 10,544 | *18.2%* | 57,935 | 31.6% |
| Lewisham | 40,188 | *78.4%* | 11,060 | *21.6%* | 51,248 | 29.7% |
| Merton | 35,418 | *72.2%* | 13,635 | *27.8%* | 49,053 | 37.5% |
| Newham | 33,084 | *81.4%* | 7,575 | *18.6%* | 40,659 | 27.8% |
| Redbridge | 42,547 | *70.2%* | 18,098 | *29.8%* | 60,645 | 34.9% |
| Richmond upon Thames | 39,115 | *70.8%* | 16,135 | *29.2%* | 55,250 | 44.5% |
| Southwark | 42,196 | *80.7%* | 10,089 | *19.3%* | 52,285 | 32.7% |
| Sutton | 29,653 | *64.8%* | 16,091 | *35.2%* | 45,744 | 34.9% |
| Tower Hamlets | 32,630 | *77.5%* | 9,467 | *22.5%* | 42,097 | 33.8% |
| Waltham Forest | 38,344 | *73.1%* | 14,090 | *26.9%* | 52,434 | 33.6% |
| Wandsworth | 57,010 | *74.3%* | 19,695 | *25.7%* | 76,705 | 38.7% |
| City of Westminster | 28,413 | *71.5%* | 11,334 | *28.5%* | 39,747 | 31.5% |
| London | 1,230,715 | *72.0%* | 478,413 | *28.0%* | 1,709,128 | 34.1% |

Notes: (a) Valid votes as percentage of electorate. Including rejected ballot papers would increase turnout to 34.6%

*Sources: DETR web-site (www.london-decides.gov.uk); press reports*